

# GENDER-BASED VIOLENCE POLICY

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Approved By:	Area Partnership Forum
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Other Relevant Policies	<ul style="list-style-type: none"> <li>Policy on Stalking</li> <li>Policy on Stress in the Workplace</li> <li>Health &amp; Safety Policy</li> <li>Attendance Management Policy</li> <li>Dignity at Work Policy</li> <li>Work:Life Balance Policy</li> <li>E-mail Acceptable Use Policy</li> <li>Personal Use of Social Media</li> <li>Disciplinary Policy and Procedure</li> <li>Grievance Policy &amp; Procedure</li> <li>Forced Marriage Policy</li> <li>Adult Support and Protection</li> <li>Guidance and Procedures</li> <li>Child Protection Procedures</li> <li>Mental Health &amp; Wellbeing Policy</li> <li>Alcohol &amp; Substance Misuse Policy</li> </ul>

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## **1. Organisational context**

- 1.1** This policy applies to all employees and people working within NHSGGC. NHSGGC will also ensure that employers of sub-contracted and agency staff have policies and procedures in place which meet the standards outlined in this policy. Furthermore, where contractors are the perpetrators of abuse, they must be advised that their contract may be terminated prematurely.

## **2. Definition**

- 2.1** Gender-based violence refers to the continuum of emotional, psychological, economic, physical and sexual abuse, which is experienced disproportionately by women and children and perpetrated predominantly by men. It includes, but is not limited to domestic abuse, child sexual abuse, rape and sexual assault, sexual harassment, female genital mutilation, forced marriage, so-called 'honour' crimes, and commercial sexual exploitation through prostitution and pornography. Discrimination in relation to ethnicity, (dis)ability, sexual orientation, poverty, age, migrant or refugee status etc. can increase and intensify vulnerability to abuse.

## **3. Principles & Values**

- 3.1** The principles and values of this policy reflect those within NHSScotland PIN Policies, which value all employees and acknowledge that employees have a right to work in an environment that is safe, promotes equality, dignity at work and encourages individuals to treat each other with respect. The policy is underpinned by legislation as detailed at Appendix 1.
- 3.2** To uphold the above principles, the organisation has an ethical and legal responsibility to:
- Take reasonable steps to promote equality and reduce the risk of Gender-Based Violence;
  - Take action where incidents occur or allegations of abuse are raised; and
  - Support individuals experiencing gender based violence by facilitating access to specialist services where appropriate.

- 3.3** NHSGGC is committed to ensuring that all employees have equitable access to the provisions of this policy. Given this, the policy takes account of the barriers and differential needs of employees who may require additional support due to the impact of various forms of inequality, i.e. gender, race, disability, sexual orientation, age, socio-economic status, religion and belief.
- 3.4** All disclosures of abuse experienced by employees should be treated confidentially, the key exception being situations where there is reason to believe that there may be a risk to others, including harm to children and adults at risk under the terms of Adult Support and Protection legislation. In these circumstances, local child/adult protection procedures and guidance should be followed.
- 3.5** NHSGGC is committed to creating an environment in which employees are safe to disclose their experience of abuse in order to access support and increase safety for themselves and others. The right of employees not to disclose, however, must be respected and no-one should feel pressured into sharing this information if they do not wish to do so.
- 3.6** As is the case with other criminal convictions, employees (and prospective employees) would be required to disclose any unspent convictions related to abuse. Furthermore, depending on the nature of the role, prospective employees may also be required to disclose spent convictions as part of the application process. It is presently the case that a number of professional bodies, such as the Nursing & Midwifery Council (NMC) and Health and Care Professions Council (HCPC) require registered professionals to disclose not only any convictions, but also any charges which are being brought against them. Membership of the Protection of Vulnerable Groups Scheme will be required for posts that fall within the scope of regulated work. Further guidance is provided later in the policy regarding the approach to be taken where disclosures of charges or convictions are made, either by prospective or existing employees. (See Section 13 and Appendix 2).

### **3.7 Access to the policy**

- An employee with a past or current experience of abuse should be aware that help is available. In the first instance, where possible, they should raise the matter with their line manager, HR or Occupational Health. All of these key workers have a role to support employees in line with the provisions of this policy.
- Employees can self-refer to external support agencies including the Employee Counselling Service and/or local and national support services such as Women's Aid, Rape Crisis, Men's Advice Line, Victim Support Scotland, trade unions/professional organisations etc. Information about support services available can be accessed via [www.equalities.scot.nhs.uk](http://www.equalities.scot.nhs.uk).

## **4. Supporting employees with experience of abuse**

**4.1** This policy covers historical, recent and ongoing abuse. It is important to recognise that some employees may have experience of more than one form of Gender-Based Violence.

**4.2** Concerns that an employee is experiencing abuse may come to the attention of managers, HR staff or occupational health as a result of:

- Direct disclosure by the employee;
- Disclosure in response to a direct enquiry by the manager: and
- Concerns raised with the manager about an employee by a colleague or colleagues

**4.3** Current abuse may be in the context of domestic abuse from a partner or ex-partner; it may involve ongoing physical and psychological abuse, threats, and/or stalking and harassment. In such instances, there may be an urgent need for a workplace risk assessment and safety planning to assess the potential risks to the employee, children, colleagues and others.

**4.4** Employees may have experienced abuse in the past e.g. sexual abuse in adulthood or childhood, which is currently interfering with their ability to cope, and they may need support to deal with this. It may also be that they are involved in legal

proceedings around the abuse and need to have both practical and supportive line management during this period.

## **5. What managers can do**

- 5.1** Managers have a role to address the needs of employees who have experience of abuse. In responding to employees, they are expected to be available and approachable; to listen and reassure; respond in a sensitive and non-judgemental manner and discuss how the Board can support them.
- 5.2** In cases where an employee raises their experience of abuse, managers should endeavour to provide flexible support, tailored to meet the circumstances of each individual, taking account of any additional needs that they may have. Managers should be aware of the potential barriers that make it difficult for employees to seek support and should be conscious not to make judgements or to provide counselling or advice. See Appendix 4 for further information regarding the barriers to seeking support.
- 5.3** When responding to employees, managers should refer to the Board's policies developed in line with national PIN policies and act in accordance with child/adult protection procedures and guidance, referring to Occupational Health and Human Resources as appropriate.
- 5.4** Managers should be as supportive as possible, while ensuring that employees have a clear understanding of what is expected of them in relation to performance and attendance.
- 5.5** If an employee discloses experience of abuse during procedures in relation to performance, absenteeism, etc, this should be taken into account. If it is felt that the issue can be resolved by addressing the support/safety needs of the employee, then the process may be suspended. Managers should refer to the Board's HR policies, developed in line with national policy, as appropriate.
- 5.6** As a manager, you can support employees by:
- Being aware of the possibility that employees could be affected by past or current abuse;

- Recognising potential signs of abuse;
- Initiating discussion if you have concerns about abuse;
- Responding sensitively to disclosure;
- Helping your employee assess their level of risk and devise a safety plan in cases of domestic abuse or where the abuse actually occurs in the workplace;
- Considering what workplace supports you could provide within the scope of current NHS policy provisions;
- Providing information about other sources of help;
- Keeping good records, documenting discussion and actions taken, ensuring that information is stored confidentially; and
- Being sensitive to the impact of social circumstances and inequalities on the individuals' choices and decisions.

## **6. Potential signs of abuse**

**6.1** Given the barriers that can make it difficult for employees to disclose abuse, they may not necessarily approach you as their manager in the first instance. It is more likely that you will become aware of any problems through associated issues such as absence monitoring, poor performance or uncharacteristic changes in an employee's behaviour.

**6.2** Some of the signs that an employee could be affected by their experience of abuse are outlined below. Keep in mind, however, that this is not an exhaustive list nor should these factors be seen in isolation. Also, they may be indicative of other concerns unrelated to abuse. The context within which they occur is therefore an important consideration.

### **6.2.1 Work productivity**

- Persistently late without explanation; needing to leave work early;
- Constraints on work schedule; employee may be dropped off and picked up from work and unable to attend work related events;
- High absenteeism rate without explanation;
- Needing regular time off for 'appointments';
- Changes in quality of work performance for unexplained reasons, e.g. may start missing deadlines and show additional performance difficulties despite a previously strong record;

- Interruptions at work, e.g. repeated upsetting calls/texts/ e-mails; Reluctance to turn off mobile phone at work; and
- Increased hours being worked for no apparent reason, e.g. very early arrival at work or working late.

### **6.2.2 Psychological indicators**

- Changes in behaviour: may become quiet and withdrawn, avoid interaction, making acquaintances or friends at work; may always eat alone;
- Uncharacteristic distraction, problems with concentration;
- May cry at work or be very anxious;
- Obsession with time;
- May exhibit fearful behaviour such as startled reactions;
- Fear of partner/references to anger;
- Is seldom or never able to attend social events with colleagues;
- Expresses fears about leaving children at home alone with partner;
- Secretive regarding home life; and
- Appears to be isolated from friends and family.

### **6.2.3 Physical indicators**

- Repeated injuries such as bruises that are explained away;
- Explanations for injuries that are inconsistent with the injuries displayed;
- Frequent and/or sudden or unexpected medical problems/sickness absences;
- Sleeping/eating disorders;
- Substance use/dependence;
- Depression/suicide attempts;
- Fatigue; and
- Change in the way the employee dresses, e.g. excessive clothing in summer; unkempt or dishevelled appearance, change in the pattern or amount of make-up worn.

## **7. Vicarious Trauma**

7.1 Many employees experience stress at work which sometimes can be related to the particular role they have in responding to the distress of others. For example, working with people who have experienced trauma such as childhood abuse or



rape. In some cases, employees may feel overwhelmed by this and experience difficulties in coping, e.g. they can't 'switch-off' from work; they may have intense feelings of horror, shock or sadness or pictures that they can't get out of their mind. They may have nightmares or be hyper-vigilant. They may have strong feelings and reactions to what they've heard, or perhaps over-identify with the suffering of patients.

7.2 This is known as vicarious trauma, sometimes referred to as 'secondary trauma', 'burnout' or 'compassion fatigue' and can arise when practitioners over empathise and take on the pain and suffering of others. For some employees, the experience of supporting survivors of abuse may also trigger emotions relating to their own experience of abuse which they may find difficult.

7.3 It is important for managers to be aware of the possibility of vicarious trauma and support staff to address its effects. Evidence suggests that such trauma diminishes where employees work in a sensitive and supportive environment with good supervision.

## **8. Asking about abuse and responding to disclosure**

8.1 Creating an environment where employees are aware of this policy and feel able to seek support is important in helping to meet the needs of employees experiencing abuse.

8.2 Although some people don't ask about abuse because they are afraid of being intrusive or causing offence, there is evidence that most people experiencing domestic abuse and other forms of gender-based violence wish somebody had asked them about it.

8.3 Should you suspect that an employee may have experienced some form of abuse:

- Provide a private space, reassure them about confidentiality and advise of the limits of this at the outset, i.e. risk to the safety of others, child protection;
- In instances when you pick up on possible signs of abuse, proactively initiate a discussion with the employee. Ask non-threatening, open questions - for example: "*how are things at home?*" or "*How are you feeling generally?*";

- If there is obvious bruising/injuries, then ask direct questions: *"I'm worried about you because....."* or *"I'm concerned about your safety....."*; and
- Non-disclosure: you should be aware that an employee may choose not to share information about abuse during a first discussion. If this is the case, advise them of this policy and that you will be available to provide support in the future if required.

## **9. Work related adjustments**

**9.1** Within the Board's policies, developed in line with the current Supporting the Work-Life Balance Policy, there is scope for managers to consider a range of work-related adjustments. For example:

- Agree periods of extended absence in line with the Board's Special Leave policies (such as time off to visit solicitors, to attend counselling or to attend court etc.);
- Make every effort to maintain job security for employees attempting to flee an abusive situation and/or where possible give favourable consideration to any request for a change of workplace/work arrangements;
- Change work patterns or adjust workload for a temporary period to make it more manageable;
- At times when the employee needs to be absent from work, mutually agree a safe, confidential method of communication and consider any safety implications that may arise when working from home;
- Review the security of information held such as temporary or new addresses, bank or healthcare details;
- With consent, advise colleagues of the situation on a need to know basis and agree the response should the perpetrator/alleged perpetrator contact the workplace;
- Approve requests for an advance of pay;
- Agree that an employee can use an assumed name at work;
- Provide a temporary mobile phone;

- Change telephone numbers, divert phone calls and e-mails;
- Alert reception and security staff where the alleged abuser is known to come to the workplace, ensure the employee does not work alone or in an isolated area;
- Implement particular security arrangements that may have to be put in place in and around the workplace to ensure the safety of the employee, colleagues or patients which could include accompanying the employee when moving between sites or getting to their car. Where there are serious concerns about an employee's well-being/personal safety, contacting the Police may be necessary; and
- Record any threatening or violent incidents by the perpetrator in the workplace, including visits, abusive/persistent phone calls, e-mails and other forms of harassment which can be used by the police or the employee at a future date if they wish to seek a court order.

This list is not exhaustive and there may be other measures that managers can tailor to the individual circumstances of the employee.

9.2 Depending on their situation, some employees affected by abuse may refuse support or only take up partial support. This can be concerning, especially if the employee has begun to accept assistance and then decides to go back to an abusive situation or tries to minimise their abuse.

9.3 Dealing with abuse is a process that takes time and it is important to be aware of the reasons that can make it difficult for employees to access support, i.e. they may have pressure from family or community to remain silent/stay in their relationship or financial pressures, especially if children are involved.

9.4 It is the choice of the employee whether to accept support and the Board cannot share what they have disclosed with anyone unless there are reasons to break confidentiality.

9.5 Respect their decision, reassure them that your primary concern is for their safety and remind them that support is available if they need it in future.

## **10. Risk Assessment**

10.1 Ascertaining risk involves taking account of the information provided by the employee. The level of risk is likely to vary depending on whether the abuse is past or current and on the behaviour of the alleged perpetrator, e.g. is there any immediate danger? Are there threats of harm to her/him/others? Is there sexual violence? What is the employee's assessment of the threat from the perpetrator? Are there child/adult protection issues?

10.2 If you have reason to believe that the perpetrator presents a risk to other employees, then management should consider a range of interventions including regularly changing access codes to work areas, reinforcing the need for vigilance with employees, the provision of an additional level of security where security staff/contractors are engaged and even considering whether the situation necessitates contacting the police.

10.3 NHS Services and Safety planning: Speak to the employee about their immediate and future safety and assist them to think through their options. For example, agree a safety plan, discuss support networks, protection strategies and provide phone numbers for organisations that can help including the police, women's aid, men's advice line, rape crisis.

10.4 Provide a range of practical workplace safety measures such as the use of an assumed name at work, provision of a temporary mobile phone, mutual agreement of a safe, confidential method of communication etc.

**10.5** Discuss potential options for workplace support, taking cognisance of existing Board policy provisions, i.e. extended and/or flexible leave (paid or unpaid), change of work patterns, adjustment to workload, etc.

10.6 Provide information on supports within the NHS, i.e. Occupational Health, HR, and the Employee Counselling Service as well as local and national external support agencies.

10.7 Recording: It is good practice to keep detailed records if an employee discloses abuse. Any discussions and actions agreed should be documented to provide as full a picture as possible. Disclosure should be recorded as an allegation, not fact. Maintaining confidentiality is paramount. (See Appendix 3 entitled Manager File-note)

## **11. Data protection**

11.1 In accordance with local procedures and in line with the Data Protection Act 1998, records should be kept strictly confidential. It should be made clear that recording information on abuse will have no adverse impact on the employee's work record. You should document all absences in line with normal procedures, but if they relate to Gender-Based Violence then they can be marked as confidential 'for manager and employee access only'.

11.2 Any reason for breaching confidentiality should be detailed and the Board's procedures on sharing information adhered to.

11.3 Employers have a legal duty to maintain a safe place of work. This requires monitoring and recording all incidents of violence or threatening behaviour in the workplace.

11.4 This information can be used if the employee wishes to press charges or apply for an injunction. If the actions of an alleged perpetrator affect the health and safety of the employee, the Board could assist the employee to apply for an interdict.

11.5 Good records may be used to assess risks to children/others and might also be used in criminal proceedings or if the employee wants to apply for a court order. As such, it is important that records are clear and accurate and should include dates, times, locations and details of any witnesses.

## **12. Notification of perpetrators, post conviction**

12.1 There is a list of professions, including NHS staff, whereby the police are required to notify the employer and any relevant professional body of a conviction. In the case of a conviction for a charge or associated charge relating to Gender Based Violence, it is possible that such a conviction could compromise the individual's ability to fulfil their duties and damage the relationship of trust and confidence between employer and employee. The Board would then consider the charges that had been proven against the employee and instigate disciplinary proceedings where appropriate.

## **13. Good practice in working with perpetrators**

13.1 Where it has been alleged or established that an employee has perpetrated abuse, it is important to engage with the alleged perpetrator in a positive, respectful way. This does not, however, mean excusing the abuse. Engagement will require sensitivity and an awareness of how your response and the perpetrator's

response might affect the safety and well being of those experiencing the abuse. Good practice principles to observe include the following:

- Be aware that some perpetrators, even when they have sought help voluntarily, are unlikely to disclose the seriousness or extent of their abuse and may minimise it or blame it on other factors, e.g. alcohol or stress;
- Be clear that abuse is always unacceptable and that it may constitute criminal behaviour;
- Be clear that abusive behaviour is a choice;
- Be respectful but do not collude;
- Be aware that on some level, the perpetrator may be unhappy about their behaviour;
- Be positive; it is possible for perpetrators to change if they recognise they have a problem and take steps to change their behaviour; and
- Be clear that you might have to speak to other agencies if there are grounds to breach confidentiality.

## **13.2 Services for perpetrators**

**Respect” is a service** open to men or women who are worried that their own behaviour towards a partner is abusive. It helps them to consider the effects of their behaviour and take the first steps to changing it. The Respect Phoneline is 0845 122 8609 and the website can be visited at: [www.respectphoneline.org.uk](http://www.respectphoneline.org.uk).

**13.3** Support could also be provided through referrals to occupational health, counselling or local perpetrator programmes within local criminal justice services.

## **14. Assisting perpetration of abuse**

**14.1** Where staff members are found to be knowingly assisting colleagues to use work resources to harass and abuse others, this will be dealt with using the Board’s Disciplinary Policy and Procedure.

## **15. Malicious allegations**

**15.1** Where there is clear evidence that an employee has made a malicious allegation that another employee is perpetrating

abuse, then this will be treated in line with the Board's Disciplinary Policy and Procedure.

## **16. Victimisation**

**16.1** Employees should not suffer victimisation as a result of making allegations (or supporting others to do so) that another employee is perpetrating abuse. Where there is clear evidence that an employee has been victimised, then this will be treated in line with the Board's Disciplinary Policy and Procedure.

## **17. Promotion of the policy**

**17.1** The policy is available via:

<http://www.staffnet.ggc.scot.nhs.uk/Human%20Resources/Staff%20Governance/Pages/HRPolicies.aspx>

It is also available via:

[www.equalitiesinhealth.org](http://www.equalitiesinhealth.org)

The policy will be communicated to all Directors, Heads of Service and Senior managers.

The Policy will be promoted by senior staff in partnership with colleagues from trade unions/professional organisations.

Staff will be informed of the Policy via:

Staff News, Core Brief, Managers' Team Brief and CIT e-news. It will also be posted as a Hot Topic on Staff Net

Training will be provided to Managers and other key staff to support implementation of the Policy.

## **18. Monitoring and review**

**18.1** The application of this policy will be monitored jointly by the Director of Human Resources and the Area Partnership Forum to ensure equitable treatment of all employees.

**18.2** The Board is required by Law and under the European Union Employment regulations, to gather monitoring information relating to ethnicity, religion and faith, sexual orientation, age, disability and gender for all aspects of employee relations. Employees may be asked for information relating to the above in connection with this policy.

- 18.3** Employees do not have to give the monitoring information if they do not wish to. However, for some of the above diversity strands it is a legal requirement that employees are asked for it, and good practice to ask for monitoring information for all diversity strands.
- 18.4** Any equalities monitoring information will be held separately and not used to inform any proceedings that occur in relation to this policy.
- 18.5** The operation of this Policy will be regularly reviewed by the Area Partnership Forum to ensure its continued effective operation and formally no later than 31st January 2016.



## Appendix 1

### Legal framework/relevant legislation

The policy is underpinned by the following legislation (which is not an exhaustive list):

- [Health and Safety at Work etc. Act 1974](#): Under this Act, employers have a duty to ensure, as far as is reasonably practicable, the health and safety and welfare of employees at work;
- [The Management of Health and Safety at Work Regulations 1999](#): The regulations require employers to assess the risk of violence to employees and make arrangements for their health and safety;
- [Equality Act 2010](#): This Act simplifies and harmonises existing equality legislation and extends protection to a wide range of groups to ensure that they are treated more fairly. Under the Act, people are not allowed to discriminate, harass or victimise another person on grounds relating to age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership, or pregnancy and maternity, referred to as 'protected characteristics';
- [Protection from Abuse \(Scotland\) Act 2001](#): This Act is designed to afford greater protection to individuals who have left abusive relationships by allowing for a power of arrest to be attached to an interdict;
- [European Convention on Human Rights, Article 3](#): Affords an 'absolute' right not to be tortured, or inhumanely or degradingly treated or punished;
- [Protection from Harassment Act 1997](#): Criminalises, and creates a right to protection from, stalking and persistent bullying in the workplace. Employers may be vicariously liable for harassment under the Act; and
- [Sexual Offences \(Scotland\) Act 2009](#): Criminalises a range of sexual offences including rape and sexual assault against adults and children.

## What managers can do

### Appendix 2

#### Responding to employees who may be perpetrators

1. It is acknowledged that a number of employees within NHSScotland will be perpetrators of abuse and that committing acts of Gender-Based Violence is a serious matter which:
  - Contravenes equalities and human rights legislation;
  - Could constitute a criminal offence; and
  - May breach corporate and professional codes of conduct.
  - As such, it is important for the organisation to make explicit the unacceptability of this behaviour and provide clear guidance for managers to enable them to respond effectively to allegations of such misconduct.

#### 2. Disclosures and allegations of abuse

Information about abuse may be brought to light in the following ways:

- An employee may directly disclose abuse (voluntarily or when asked by managers/colleagues);
- Managers might receive allegations of abuse from a range of sources. For example:
- An NHS employee who's partner or ex partner is also an employee;
- Colleagues or patients;
- MARACs (multi-agency risk assessment conferences) or local equivalent;
- Partners, ex-partners or others who are not NHS employees;
- Post conviction notification from the police; and
- Disclosure Scotland pre-employment check.

Allegations may relate to abuse perpetrated within or outside the workplace.

### **3. Allegations of abuse within the workplace**

Employees who are perpetrating abuse might use workplace resources such as transport, telephone, fax or e-mail to threaten, harass or abuse current/ex-partners or others. Their behaviour might also include, for example, stalking, physical assault, sexual violence or sexual harassment.

This conduct could be dangerous for those being abused and could bring the organisation into disrepute. In such circumstances, disciplinary proceedings should be considered and where appropriate, action may need to be taken to minimise the potential for employees to use their position or work resources to perpetrate abuse. This may include a change of duties or withdrawing access to certain computer programmes.

### **4. Allegations of abuse outside of the workplace**

Employees may be perpetrating various forms of Gender-Based Violence outside of the workplace. For example, domestic abuse, physical or sexual abuse of children, downloading child pornography, sexual violence, involvement in honour based violence, or stalking.

Given that such conduct could constitute a criminal offence, many of these examples would most likely involve criminal proceedings. However, whether or not criminal charges are involved, or there is a conviction, this behaviour may, in some cases, lead to disciplinary proceedings against an employee because of its employment implications. A clear process to assess the potential impact of the alleged abuse on the employee's role at work is detailed in paragraph 3.4.5.3.

Perpetrating these forms of abuse could also breach organisational and professional codes of conduct and potentially bring the NHS into disrepute, especially if an allegation of abuse was not acted upon and allowed to continue.

## **5. Criminal convictions**

If no criminal conviction arises, the organisation must be in a position to establish a genuine belief from its own investigation that the employee has been guilty of an act, which has such an impact on the employment relationship that it damages the trust and confidence which an employer requires to invest in every employee.

## **6. What managers can do**

When a disclosure or allegation of abuse is brought to the attention of a manager, this should be acted on. Managers should respond in the same way that they would address any other serious complaint against a staff member by following their local Disciplinary Policy and/or Dignity At Work Policy.

Where the source of such allegations is anonymous, or where the allegation relates to abuse outwith the work environment, it may be that, as employers, organisations are not in a position to take action. However, advice should be sought from HR as the circumstances of each individual case will require to be considered in order to determine whether or not such a matter can and should be investigated by the employer.

The organisation will treat any allegation, disclosure or conviction of a Gender-Based Violence related offence on a case-by-case basis, with the aim of reducing risk and supporting change. Where possible, depending on the circumstances, managers should undertake a developmental or educational, rather than punitive approach.

In other instances it may be necessary to instigate disciplinary proceedings. Each case requires to be assessed to determine whether or not an investigation should be carried out.

An allegation of abuse will not automatically result in an investigation.

## **7. Assessment process**

The information that managers gather through direct disclosures from employees or allegations, will form the basis for any decision about how best to respond to the employee and identify what kind of support or sanctions are required.

The manager should assess the potential impact of the alleged abuse on the employee's role at work to determine whether or not an investigation should be carried out.

When undertaking an assessment, the manager should take account of the following factors:

- The nature of the conduct and the nature of the employee's work;
- The extent to which the employee's role involves contact with vulnerable individuals or groups, and assessment of any potential risk that this might pose to them or other employees;
- Whether or not the alleged actions of the employee could breach their corporate/professional code of conduct; and
- Whether or not the alleged actions of the employee could bring the organisation into disrepute and into conflict with its aims and values.

The manager should then weigh up the above factors to determine whether or not there are sufficient grounds to investigate.

- If sufficient grounds are established, then the manager will proceed to carry out an investigation using local policies developed in line with the Disciplinary Policy.
- Whilst an investigation process is ongoing, employees alleged to be perpetrators will receive support from Occupational Health and HR; and
- In the event that an allegation does not result in an investigation or no formal disciplinary sanction is imposed, no record shall be kept in the employee's personnel file. Notwithstanding this, it is important that organisations keep a note of the number of allegations made. This will provide monitoring data to evidence that the policy is being implemented and will also

indicate the level of complaints/ allegations within each organisation and across NHSScotland.

## **8. Allegations of abuse - criminal proceedings pending**

Given that acts of abuse could constitute a criminal offence which could lead to caution, arrest, prosecution and criminal conviction, it is important for managers and HR to take account of the potential impact of any legal action on an employee.

Where an employee has been charged with or convicted of an abuse-related criminal offence, disciplinary action will not be taken automatically. Each situation requires to be considered individually on the basis of whether the employee's conduct warrants action because of its employment implications.

In some instances, the organisation may initiate its own internal investigation and decide whether there is sufficient information to move to disciplinary proceedings.

The organisation would only have to consider the allegation on a lower standard of proof than a criminal level of proof beyond reasonable doubt, so even if a criminal investigation were not pursued or if the employee were acquitted at trial, it could still be reasonable for the employer to take disciplinary action in respect of the allegations.

The standard of proof in a misconduct dismissal is that the employer has a genuine belief that the misconduct has occurred, has reasonable grounds for that genuine belief, and has conducted a reasonable investigation in order to reach that belief.

**Appendix 3**

Gender Based Violence  
Manager File-note

STRICTLY CONFIDENTIAL

Employee Name :

Record of conversation : (include date of conversation & who was present)

Manager Next Steps :

Manager Name :

Date :

## Appendix 4

### Barriers to Seeking Support

Although widespread, Gender-Based Violence is often hidden, generally occurring in a private or domestic setting, away from the workplace. The vast majority of cases of abuse are not disclosed to public agencies (including the police) and of those which are, relatively few result in criminal conviction. Managers should be aware that the covert nature of abuse and the impact it has on individuals can act as barriers to disclosure.

People who have experienced abuse are often silenced by the perceived shame and stigma that surround it; they may feel they will be judged or blamed for the abuse and may therefore be reluctant to seek help within the workplace;

- Issues around trust and concerns about confidentiality, especially if children are involved or if the perpetrator is also an NHS employee, can make it difficult for individuals affected to come forward; and
- Staff may fear that seeking help could impact on how they will be treated by managers or colleagues, e.g. that they may be perceived as less competent or ineffective in their post and/or that it may prejudice career advancement.

It is equally important to be mindful of diversity within the workforce, and that employees may have other experiences of discrimination or inequality which could affect, or indeed compound, the impact of abuse. For example:

- **Sex:** Whilst Gender-Based Violence is predominantly experienced by women, it does impact on some men. Disclosing abuse can be difficult for men who may fear being seen as 'weak' or 'unmanly'. Male survivors of rape or childhood sexual abuse may also fear being regarded as potential abusers given the widespread acceptance of the myth of the 'cycle of abuse':
- **Gender Assignment:** Significant numbers of transgender people experience gender based violence through either intimate partner or ex-partner abuse and wider transphobic abuse. Transgender people may experience significant barriers to disclosing due to stigma and social stereotyping.



- **Disability:** Disabled people may be fearful that disclosure may compound any negative perceptions or stereotypes of disabled people within the workplace. If people require additional leave due to their disability they may be reluctant supportive of making workplace arrangements needed to ensure their safety and wellbeing.
- **Sexual Orientation:** People in lesbian, gay or bisexual relationships who have not disclosed their sexual orientation may be reluctant to discuss domestic abuse, thereby 'outing' themselves in an environment which they may fear to be unsupportive or homophobic;
- **Race:** Black and minority ethnic (BME) staff may be concerned that they will be ostracised in their communities, or accused of bringing dishonour on their families if they disclose abuse. They may be fearful of feeding racist or stereotypical views within the workplace which may minimise or dismiss their experiences; Employers may be unaware that forms of domestic abuse can vary, e.g. forced marriage or so-called 'honour' based violence, which may be perpetrated by extended family members of both sexes as well as a husband/partner.
- **Religion and Belief:** Signs that an employee is experiencing abuse may not be fully addressed through misconceptions by the manager or employer that abuse can be justified within some religious contexts. This may in turn lead survivors to feel isolated and unable to seek the support they need through the implementation of this policy.
- **Age:** There may be a perception within the workplace that gender based violence is an issue mainly affecting younger people. This may mean that the signs of abuse against an older worker may go unnoticed or unchallenged. Experience of gender based violence may be compounded by age discrimination in the workplace.
- **Social and Economic Status:** People on low incomes are more likely to be in less powerful positions in the workplace and may be less likely to disclose or access support for fear of losing their jobs. They may also be have sole responsibility for caring for children and reluctant to disclose abuse for fear they are regarded as a burden to employer.