

## DIGNITY AT WORK POLICY

### POLICY STATEMENT

1. PHSO aims to create a working environment in which employees, associates and customers are treated with respect, in a manner that allows them to maintain their dignity at all times and where there is zero tolerance of harassment and bullying. The emphasis of this policy is on resolving issues and mediation rather than confrontation or an adversarial process.

### PURPOSE AND SCOPE

2. PHSO has a duty of care to protect its employees from being harassed or bullied, as far as it is possible to do so, and this extends to work-related social functions, both on and off PHSO premises. This duty of care includes protecting employees against harassment or bullying behaviour from customers and callers. Procedures for dealing with such behaviour are outside the scope of this policy and further information is available in the Unreasonable Behaviour Policy.
3. This policy applies to any complaint connected to an individual's employment with regard to bullying and harassment. Complaints about other employment matters are dealt with under the Grievance policy.
4. The policy is for PHSO employees. It does not cover self-employed contractors and temporary agency workers; if they have a complaint connected to their work within PHSO this should be raised with HR, People & Talent and their agency. PHSO reserves the right to terminate the contract of any temporary agency worker or self-employed contractor who is suspected of harassment or bullying behaviour, without notice and without recourse to any PHSO policy or procedure.
5. The policy does NOT apply to any complaint which is covered by a specific process in another employment policy or procedure such as:
  - recruitment;
  - appeals procedures in other policies such as Performance Development & Review System, Flexible Working and Disciplinary.
6. The policy should NOT be used to:
  - raise a complaint on behalf of another employee;
  - deal with issues which may be raised under the Whistleblowing Policy;
  - make a complaint that relates to a group of employees.

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### PRINCIPLES

7. The following principles apply:
  - PHSO expects that employees will be treated, and will treat each other, with respect, in keeping with PHSO core values. Further information on the standards of behaviour expected of PHSO employees is available in the Code of Conduct, the Equality & Diversity Policy and the Competency Framework;
  - everyone has the right to work in an environment free from harassment and bullying and PHSO will not tolerate such unacceptable behaviour in any form;
  - PHSO values its employees and believes that people act with respect and regard of others but recognises that sometimes offence can be given unwittingly and/or through a lack of knowledge or awareness. If offence is given deliberately or knowingly, disciplinary action will be taken;
  - managers will make decisions based on the 'balance of probabilities', meaning they will consider, having weighed up the evidence, whether it is more likely than not that the complaint has been substantiated;
  - PHSO recognises that being accused of harassment and bullying is a difficult experience and will extend the same support to both parties;
  - no assumption of guilt will be made, however all complaints will be investigated;
  - PHSO will assume that all harassment and bullying complaints are raised in good faith. In the unlikely event that a complaint is found to be frivolous, malicious or vexatious, the employee making the complaint may be subject to disciplinary action.

### OUTCOMES

8. The outcomes of this policy are that:
  - employees are aware how to formally raise a Dignity at Work related complaint and there is trust that they will be dealt with appropriately;
  - managers are aware of the procedure to deal with Dignity at Work related complaints and do so effectively;
  - Dignity at Work related complaints are resolved without recourse to the formal procedures, wherever possible.

### MONITORING AND REVIEW

9. HR, People & Talent will monitor the implementation of the formal stages of this policy for compliance and consistency.
10. A formal review of this policy will take place if there is a significant change in relevant legislation or business need which triggers a review.

## Dignity at Work Procedure

### 1. Stages:

1.1 The Dignity at Work procedure has the following stages:

- Informal Stage
- Formal
  - Raising a complaint
  - Investigation
  - Decision
  - Appeal, as appropriate

1.2 PHSO reserves the right not to pursue Dignity at Work complaints that are frivolous or vexatious, or that merely repeat complaints that have already been considered.

### 2. Roles in the Dignity at Work Procedure

2.1 As a general rule, those involved in a Dignity at Work procedure are as follows:

Stage in procedure	Manager taking action	HR, People & Talent' role
Informal Stage	Discussion usually involving the line manager, or where the complaint relates to the line manager then the countersigning manager.	Available for advice and guidance to line management.
Formal Meeting(s)/ Investigation	A manager who is unconnected to the case will be appointed as the Dignity at Work Manager.	HR, People & Talent will provide support and guidance to the DAW Manager.  HR, People & Talent will ensure procedural regularity.
Appeal	Conducted by a manager at the same Pay Band, or above, as the original Dignity at Work Manager and who was not involved with any previous stage of the procedure.	To ensure procedural regularity.

2.2 For the purposes of this policy, the person who alleges they have been at the receiving end of harassment or bullying is called the complainant.

2.3 All employees taking part in the formal stages of a Dignity at Work procedure (including investigation meetings) may be accompanied at the formal meetings by a PHSO colleague or Trade Union representative. For further information on the right to be accompanied, see section 12.

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### 3. Support for individuals

- 3.1 PHSO recognises that being involved in a Dignity at Work case can be a difficult situation for both parties.
- 3.2 Support is available from:
- the line manager
  - the Employee Assistance Programme (EAP);
  - the Dignity at Work Network (DAWN);
  - the Trade Union.
- 3.3 The Dignity at Work Network (DAWN) aims to support PHSO in striving to maintain a harassment and discriminatory free working environment for all employees. The role of its members is to provide an independent, confidential source of advice and anyone may approach them if they believe they are being harassed, discriminated against or bullied, or if they believe someone else is being harassed, discriminated against or bullied. See Ombudsnet for further information.
- 3.4 A DAWN adviser will treat the matter as confidential unless there:
- may be a serious risk to an individual's health;
  - is a risk that a criminal offence has been or is likely to be committed; or
  - has been a serious breach of PHSO rules.

In such a case the DAWN adviser has a duty to report the matter to the Director of HR, People & Talent but will inform the complainant of the action they intend to take.

### 4. Informal stage

- 4.1 In the first instance employees should raise any issues with the individual(s) concerned and try to reach a resolution. However, if the employee does not feel able to do this they should discuss the issue/concern with their line manager, with a view to working towards an informal resolution. Where the concerns relate to their line manager, it may be appropriate to approach the countersigning manager or another relevant manager informally, or to seek advice from HR, People & Talent regarding the informal approach.
- 4.2 At the informal stage every effort should be made by all parties involved, including the employee who raised the concern, to resolve these matters without recourse to the formal procedures. However, PHSO recognises that this may sometimes be difficult in harassment and bullying cases and therefore an employee may proceed directly to the formal stage of the procedure if they believe there are good reasons why it is not possible or appropriate to raise their complaint informally.

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- 4.3 If an employee is informed by the complainant (or by another colleague on their behalf) that their behaviour has given offence, they should:
- ask for details of the alleged incident or behaviour;
  - apologise promptly if they consider this appropriate;
  - explain their viewpoint as calmly as possible and try not to get defensive;
  - consider whether training, mediation or conciliation would be a helpful course of action for them.
- 4.4 It is useful for those involved in the informal stages to keep a note of the actions/discussions in case they are needed to inform any subsequent formal stages. If any specific actions are agreed at the informal stage these should be noted and agreed by the parties.
- 4.5 Actions agreed at the informal stage may include additional training for the employee who has been complained about, the complainant or both. The employee and/or the manager may explore mediation as an option (see section 14).
- 4.6 PHSO has a duty of care towards its employees. The first priority of the manager receiving the complaint is to ensure that the complainant is protected from harassment and suffers no victimisation or detriment for making the complaint (eg. by speaking with the employee who has been complained about or through close supervision of the situation). Note that this does **not** imply any decision at this stage or that the employee was responsible for the complained of behaviour.
- 4.7 Line managers must seek advice from HR, People & Talent at an early stage when they become aware of a Dignity at Work complaint or potential complaint.
- 5. Anonymous complaints**
- 5.1 As a general rule, employees may not raise a Dignity at Work complaint anonymously as this hampers consideration of the case. In exceptional circumstances where an employee has a genuine fear of the consequences of being identified as the complainant, they should contact HR, People & Talent for advice.
- 6. Formal stages - making a complaint**
- 6.1 To initiate the formal procedure, the employee must submit their complaint in writing, to their line manager with a copy to HR, People & Talent. If the subject of the complaint is the employee's line manager, the complaint should be submitted to their countersigning manager with a copy to HR, People & Talent.
- 6.2 Where it is inappropriate for either the line manager or the counter-signing manager to consider the complaint, an employee may submit a written complaint direct to HR, People & Talent who will determine the best way to

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manage the complaint. In such situations, the employee will be expected to be able to justify the departure from normal procedure.

6.3 The written complaint should provide as much information as possible, as it is on this information that the complaint will be considered. It should include:

- the details of the complaint, including a chronology of dates and events/incidents etc. where applicable;
- the details of attempts to resolve the matter informally - where applicable; and
- what outcome is sought.

6.4 On receipt of a formal complaint PHSO reserves the right to make an initial assessment as to whether the Dignity at Work complaint raises a genuine concern about the way in which the employee has been treated. An initial assessment may involve the manager and/or HR, People & Talent reviewing the details of the complaint raised and considering whether, based on the information available, it appears that informal resolution may be able to achieve the complainant's desired outcome.

6.5 On receipt of a formal complaint PHSO reserves the right to make an initial assessment as to whether the complaint raises a genuine concern about the way in which the employee has been treated. An initial assessment may involve the manager and/or HR, People & Talent reviewing the details of the complaint raised and considering whether, based on the information available, there is a legitimate concern which informal action may be able to resolve.

### 7. Formal stages - appointment of a Dignity at Work Manager

7.1 On receipt of a formal written complaint HR, People & Talent, in conjunction with relevant managers, will appoint a Dignity at Work Manager. Both the employee who raised the complaint and any person complained about will be notified. Once appointed the Dignity at Work Manager is responsible for ensuring the prompt progress of the grievance and for keeping all relevant parties informed as to progress.

7.2 The Dignity at Work Manager will initiate an investigation to establish the facts and gather information. Depending on the particulars of the complaint the Dignity at Work Manager may decide to appoint an Investigator to carry out the investigation on their behalf. In complex cases it may be appropriate for more than one person to investigate the complaint, but this is the exception. The employee who raised the grievance and those grieved against should be notified in writing of the estimated timescales.

### 8. Formal stages - investigation

8.1 The Investigator (this may be the Dignity at Work Manager but for clarity through the investigation stages of this procedure this person will be called the Investigator) will work with HR, People & Talent to carry out the

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investigation which will typically involve:

- examining the detail of the complaint;
- gathering and reviewing relevant documentation;
- speaking to the person who has complained;
- speaking to the person complained about;
- speaking to others (witnesses) who may have information about the complaint.

8.2 Investigation meetings are formal meetings which should be noted.

8.3 PHSO cannot guaranteed complete confidentiality to witnesses as statements may be required to be made public if the complaint progresses.

8.4 On completion of the investigation a report must be prepared. This report should detail the thorough investigation which has taken place and set out the facts of the investigation. The report is expected to identify: key pieces of evidence; areas where evidence is not available or cannot be substantiated; and conflicting evidence. If the Investigator is not the Dignity at Work Manager, the report will be submitted by the Investigator to the Dignity at Work Manager. See Grievance and Dignity at Work Investigation Guidance for further information.

8.5 The Dignity at Work Manager will consider the investigation report and reach a decision.

### 9. Formal stages - decision meeting

9.1 The Dignity at Work Manager will invite the complainant to a decision meeting, giving sufficient notice and advising them of their right to be accompanied.

9.2 At the meeting the Dignity at Work Manager will advise the employee of the decision he/she has reached on their complaint which will be confirmed in a detailed decision letter. A note should be made of the meeting.

9.3 Following the meeting the Dignity at Work Manager will prepare a decision letter which should contain:

- the decision on the complaint, explaining whether it is fully, partly or not upheld;
- the reasons for the decision;
- a detailed summary of the investigation;
- any further action; and
- how to appeal against the decision (if appropriate).

9.4 The Dignity at Work Manager should also write to any person(s) complained against, setting out the findings in relation to the allegations made about them. If the outcome of the complaint is that some form of action (disciplinary or otherwise) should be considered against another person, the

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detail of this will not be discussed with the employee who raised the complaint.

9.5 Where the matter is to be considered under the Disciplinary policy, as the investigation has already taken place it is likely that the disciplinary process will move directly to Formal Stage 2, Disciplinary Hearing. Any relevant details from the investigation will be provided to both the individual concerned and each of the Hearing panel members, one of whom will normally be the Dignity at Work Manager.

9.6 PHSO recognises that it is not always possible to arrive at a decisive finding of 'upheld' or 'not upheld' since employment situations are not necessarily clear-cut. Sometimes the outcome may include an acknowledgement of the complainant's concerns and/or an agreed action plan (including mediation or conciliation, if appropriate) to address them.

### 10. Formal stages - appeal

10.1 The employee who raised the complaint may submit an appeal, in writing, within 10 working days of the date of the decision letter.

10.2 The letter should set out the full grounds of appeal as the content of this letter will be the basis on which the appeal is considered. All documentary evidence which the employee considers relevant to the appeal should accompany the appeal letter or be submitted within 5 working days of the appeal being lodged.

10.3 An Appeal Manager will be appointed by HR, People & Talent, in consultation with the relevant managers. The Appeal Manager will consider the content of the appeal. In some cases it may be possible to carry out a paper based appeal but where they consider it necessary, the Appeal Manager will invite the employee to an appeal meeting.

10.4 The Appeal Manager will consider the representations made by the employee. The purpose of the appeal is not to re-hear the case. The Appeal Manager will consider:

- whether the procedure has been followed;
- any new evidence that was not previously available;
- whether the decision was reasonable in the circumstances.

10.5 The Appeal Manager will be supported through the appeal process by a member of HR, People & Talent. The Appeal Manager will consider whether there is a need to call for further evidence or interview the employee who has been complained about, before reaching a decision.

10.6 Following consideration of the evidence, the Appeal Manager will communicate their decision to the employee in writing. The letter will include:

- the outcome of the appeal and the reasons for the decision;
- any actions to resolve the situation if the appeal is upheld;

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- a reminder that there is no further appeal.

10.7 The outcome of the appeal may be one of three options:

- the appeal is fully upheld and no further action to be taken;
- the appeal is partially upheld and further action may be taken;
- the appeal is dismissed and the outcome stands.

## 11. Impact and Intention

11.1 Conduct may be harassment whether or not the person behaving in that way intends to offend. Behaviour that any reasonable person would realise would be likely to offend, will be harassment without the recipient having to make it clear in advance that behaviour of that type is not acceptable to them.

11.2 If a complaint is substantiated, the intention of the employee being complained about may be considered in mitigation. It may be appropriate to apply a test of reasonableness to the question of whether they could have, or should have, known they were causing offence.

11.3 First-time conduct that unintentionally causes offence may not be harassment but could become harassment if the conduct continues after the recipient has made it clear that such behaviour is unacceptable to them.

11.4 Ignorance or lack of awareness is not a defence in itself but if the Dignity at Work Manager is satisfied that the offence was committed out of **genuine** ignorance or lack of awareness, they may decide that training, counselling or mediation is a more appropriate outcome than disciplinary action.

## 12. Right to be accompanied

12.1 All employees taking part in the formal stages of a Dignity at Work procedure (including investigation meetings) can be accompanied to a meeting by a PHSO colleague or Trade Union representative. This applies to an employee:

- who has raised the complaint;
- who is the subject of the complaint;
- who is a witness during the investigation.

12.2 The colleague or Trade Union representative, may:

- address the meeting but not answer questions on behalf of the employee;
- confer with the employee during the meeting, requesting an adjournment, if necessary.

12.3 Managers arranging formal meetings should advise employees that they may be accompanied. Every effort will be made to accommodate the availability of the colleague/trade union representative accompanying the employee. However, where this causes the process to be unduly delayed, the employee may be requested to seek an alternative.

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### 13. Timescales

- 13.1 In the best interests of both the employee who has raised the complaint and the person complained about it is important that the investigation and resolution of the complaint are completed as promptly as possible.
- 13.2 All those involved in the Dignity at Work process must give appropriate priority to the complaint to enable expedition of the process.

### 14. Mediation

- 14.1 Mediation can provide a constructive way of resolving disputes and difficult situations. However, in order to work successfully it requires agreement from both parties involved before the mediation process can begin.
- 14.2 Mediation will generally be carried out by independent, trained mediators from an external organisation, such as the Employee Assistance Provider. The process is flexible to meet individual needs but will usually involve discussions with the individuals with the aim of bringing both parties together to talk the matter through.
- 14.3 Mediation is most appropriate when both parties:
- are genuinely willing to communicate and agree a course of action;
  - feel able to communicate openly and without fear of victimisation or reprisal;
  - are prepared to focus on the future;
  - are prepared to seek a constructive solution and do not wish for a punitive outcome.
- 14.4 To initiate the mediation process, please contact HR, People & Talent in the first instance. If mediation is not successful, the employee who has raised the complaint retains the right to revert back to the Dignity at Work procedure.

### 15. Confidentiality

- 15.1 All participants in a Dignity at Work procedure, including those accompanying employees, are required to observe the strictest confidentiality. All papers relating to the complaint should be marked 'Restricted' as appropriate.

### 16. Complaints during other employment procedures

- 16.1 If a complaint is raised in writing during a Disciplinary or Capability procedure, the aim will be to avoid an unnecessary duplication and to ensure that the matter is dealt with speedily and without unduly delaying the Disciplinary/Capability procedure.
- 16.2 Depending on the circumstances it may be appropriate to deal with both matters at the same hearing/meeting. For example if a complaint is raised

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before a disciplinary hearing but it relates to the substance of the hearing, it may be appropriate to deal with the matter during the disciplinary investigation and any subsequent hearing. However, each case will be considered on its merits.

16.3 In exceptional cases, where a complaint is made during the disciplinary or capability process and impacts directly on the conduct of that disciplinary/capability process, consideration will be given to halting the disciplinary/capability process while the complaint is considered independently. The decision to halt the disciplinary/capability process will be taken by Director/Head of function or above, in conjunction with HR, People & Talent.

16.4 Employees should be aware that if such a complaint is found to be vexatious or raised with the intention of disrupting the disciplinary/capability process, disciplinary action will be considered.

### 17. Sickness absence

17.1 Brief periods of sickness absence may delay the process but if there are repeated or long absences then alternative arrangements may need to be made which may include continuing in the person's absence.

17.2 HR, People & Talent will be informed and involved at an early stage by the line manager and the absent employee will be kept notified of the progress of the case. If the sickness absence appears to be directly related to the process then professional medical advice may be sought on whether the employee is well enough to participate in the process. If necessary, with medical advice and the employee's agreement, a dignity at work meeting may be held away from the workplace.

### 18. Dignity at Work procedure after employment with PHSO has ended

18.1 Whilst there is no legal requirement for PHSO to follow a complaint procedure in relation to an individual who is no longer employed with the organisation, PHSO will consider a formal complaint raised within 3 months of the last day of service. However, former employees will not have a right of appeal against the complaint decision.

18.2 The former employee should write to the Director of HR, People & Talent providing as much detail as possible (see 6.3 above). The Director of HR, People & Talent will acknowledge receipt of the complaint letter. Following relevant enquiries, the Director of HR, People & Talent will communicate the decision to the former employee in writing.

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### Annex A - Bullying, harassment and victimisation

#### 1. Definitions

- 1.1 Bullying and harassment means any unwanted behaviour that makes someone feel intimidated or degraded or humiliated or offended. It is not necessarily always obvious or apparent to others, so it can happen in the workplace without an employer's awareness.
- 1.2 Bullying and harassment can be between two individuals or it may involve groups of people. It might be obvious or it might be insidious. It may be persistent or an isolated incident. It can also occur in written communications, by phone, email not just face-to-face actions.
- 1.3 Bullying and harassment are misconduct, likely to be gross misconduct, which can lead to dismissal without notice under the Disciplinary Policy.
- 1.4 **Bullying** is offensive, intimidating, malicious or insulting behaviour, and/or an abuse or misuse of power that is meant to undermine, humiliate or injure the person on the receiving end.
- 1.5 **Harassment** is unwanted conduct which is related to one of the following: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Harassment is unlawful under the Equality Act 2010.
- 1.6 Conduct may be harassment whether or not the person behaving in that way intends to offend. Something intended as a "joke" may offend another person. Different people find different things acceptable. Everyone has the right to decide what behaviour is acceptable to him/her and to have his/her feelings respected by others. Behaviour which any reasonable person would realise would be likely to offend will be harassment without the recipient having to make it clear in advance that behaviour of that type is not acceptable to him/her, eg sexual touching. It may not be so clear in advance that some other forms of behaviour would be unwelcome, or could offend a particular person, for example certain "banter", flirting or asking someone for a private drink after work. In these cases, first-time conduct which unintentionally causes offence will not be harassment but it will become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to him/her.
- 1.7 Harassment may also occur where a person engages in unwanted conduct towards another because he/she perceives that the recipient has a protected characteristic (for example, a perception that he/she is gay or disabled), when the recipient does not, in fact, have that protected characteristic. For example, it would be harassment for an individual to tease repeatedly an individual because of an incorrect belief that that the recipient is deaf. Similarly, harassment could take place where an individual is bullied or harassed because of another person with whom the individual is connected or associated, for example if his/her child is disabled, wife is pregnant or friend

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is a devout Christian. A single incident can be harassment if it is sufficiently serious.

- 1.8 Harassment also includes circumstances where an individual is subjected to unwanted conduct from a third party, such as a client or customer. For example, it might be that a client makes a series of racist remarks to a black employee. If an employee feels that he/she has been bullied or harassed by a customer, supplier, vendor or visitor they should refer to PHSO's Unreasonable Behaviour Policy. Employee harassment of customers, suppliers, visitors or others will be dealt with through the Disciplinary Procedure.
- 1.9 Harassment may amount to other civil or criminal offences, eg a civil offence under the Protection from Harassment Act 1997 and criminal offence of assault.
- 1.10 **Victimisation** takes place when an employee is subjected to a detriment (ie treated less favourably by others) because they have raised, in good faith, an allegation of harassment. Victimisation will be regarded as a disciplinary offence. An employee who is victimised can raise a claim under the Equality Act 2010.

## 2. Distinction between effective management and bullying

- 2.1 It is important to recognise the distinction between effective, robust management, which is necessary, and bullying, which is unacceptable. An effective manager enables employees to meet high expectations by:
  - setting clear and agreed objectives and targets;
  - recognising and rewarding good performance;
  - providing honest and constructive feedback;
  - dealing appropriately with poor performance informally and/or formally, through PHSO procedures;
  - encouraging clear and open communication;
  - accepting responsibility and sharing credit;
  - being fair and consistent in all dealings;
  - valuing diversity and difference; and
  - dealing with conduct issues promptly and decisively in accordance with PHSO's policy and procedure.