

NHS Education for Scotland

Gender Based Violence Policy

This resource can be made available in full or summary form, in alternative formats and community languages. Please email altformats@nes.scot.nhs.uk to discuss how we can best meet your requirements



Document Information

| | | |
|--------------------------------|--|--|
| Issue Date | 21/4/11 | |
| Version/Issue Number | 1 | |
| Effective From Date | | |
| Document Status | DRAFT | |
| Consultation | | |
| Scope of Document | | |
| Objective | To establish NES policy on supporting staff who experience gender based violence and on dealing with staff who may be perpetrators of GBV, in accordance with the requirements of the CEL. | |
| Linked Documentation | Guidance document, PIN Guideline | |
| Document Sponsor | Name | Dorothy Wright |
| | Job Title | Director, Human Resources and Organisational Development |
| | Division | HR |
| Approved by/ & Date | | |
| Author | Name | Kristi Long |
| | Job Title | Equality and Diversity Adviser |

Amendment History

| Date | Issue No. | Details of Change | Authorised By: |
|-------------|------------------|---|-----------------------|
| | 1 | Initial draft policy. | - |
| | 2 | Draft revised to incorporate elements of final PIN guideline and to clarify references to NES policies and processes. | |
| | 3 | Sections transferred from main policy document into a Manager's Guide, which will accompany the policy | |

1. Introduction

The Staff Governance Standard commits NHSScotland to ensuring that all staff are treated fairly and consistently and that the minimum standards, as described in Partnership Information Network (PIN) policies, are met or exceeded.

Staff working across NHSScotland have a clear entitlement to be '*provided with an improved and safe working environment*' monitored through the explicit commitment in the Staff Governance Standard.

This '*Gender-based Violence*' PIN policy is designed to contribute to such a safe working environment and provide a clear framework for a partnership approach.

The policy has been developed to meet the requirements of the Chief Executive's Letter on Gender-based Violence (CEL-41, 2008)¹. The CEL, issued to NHSScotland Boards in September 2008, outlines a 3 year programme of work to improve the identification and management of gender-based violence across the NHS in Scotland.

The impact of gender-based violence (GBV) on the health and well-being of NHSScotland staff is a serious, recognisable and preventable problem like many other health and safety issues that affect NHSScotland organisations. This policy has therefore been created to promote the welfare of staff affected by **current** or **previous** experience of such abuse. It further aims to ensure that NHS Education for Scotland (NES) responds effectively to staff members who may be perpetrators of such abuse.

This policy is based on the PIN guideline *Gender Based Violence Employee PIN Policy*, published by Scottish Government Health Directorate in February 2011. The policy is supported by the Manager's Guide, which assists line managers in implementing its aims. The Guide can be found on the NES Intranet under the HR Policies section: <http://intranet.nes.scot.nhs.uk/policies/HR/>

2. What is Gender Based Violence?

Gender-based violence is a major public health issue which cuts across the whole of society. It is also a fundamental violation of human rights.

Gender-based violence is an umbrella term that encompasses a spectrum of abuse experienced mostly by women and perpetrated mainly by men including: domestic abuse, rape and sexual assault, childhood sexual abuse, sexual harassment, stalking, commercial sexual exploitation and harmful traditional practices such as female genital mutilation (FGM), forced marriage and so-called 'honour' crimes.

¹ http://www.sehd.scot.nhs.uk/mels/CEL2008_41.pdf.

Although primarily experienced by women, the policy recognises that men too can experience abuse e.g. domestic abuse from female and male partners and historic experience of childhood sexual abuse.

Given the disproportionate impact on women and girls, gender-based violence is one of the most sensitive indicators of gender inequality. As well as being rooted in gender inequality, gender-based violence cuts across boundaries of class, ethnicity, age, disability, sexual orientation, religion and belief.

3. Aims

Whether it takes place within or outside of the workplace, the employment implications for employees who experience abuse are significant. It can have a detrimental impact on health and well-being, which may affect attendance, performance and productivity.

Allegations of abuse against employees could have potential implications for their employment role and could, if upheld, breach organisational and professional codes of conduct.

The aims of this policy are to demonstrate the commitment of NES to improving the safety and welfare of all staff affected by abuse. Having an explicit policy enables NES to:

- Raise awareness of GBV as a serious health and social issue, highlighting its hidden nature and the impact on those affected by it;
- Send a positive message to employees with experience of abuse that they will be listened to and supported;
- Project a clear signal that the actions of employees who perpetrate abuse, within or outside the workplace, is unacceptable;
- Provide a framework for addressing the behaviour of employees who may be perpetrators of abuse and who may pose a risk to other employees, patients, service users, trainees or others within the context of their work;
- Clarify the scope for managers to interpret and apply provisions within existing NES policies when responding to gender-based violence;
- Create a potential cost benefit for NES, by contributing to the reduction of absence related costs and increased productivity.

4. Scope

This policy applies to all employed and contracted staff within NHS Education for Scotland. NES should 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.

5. Principles

The principles and values of this policy reflect those within other NES policies i.e. valuing all employees and acknowledging that they 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.

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.

NES 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 staff who may require additional support due to the impact of various forms of inequality. i.e. gender, race, disability, sexual orientation, age, socio-economic, religion and belief.

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. In these circumstances, the matter should be referred to the relevant HR Business Partner, who will seek expert advice on any statutory requirements.

NES 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 staff 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.

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 NMC, require

registered professionals to disclose not only any convictions, but also any charges which are being brought against them.

NES adheres to the Legal Framework as outlined in Appendix 1.

6. Confidential Contacts

An independent, confidential support service is available to employees who may be affected by or accused of gender based violence, either currently or in the past. This is available through the Independent Counselling and Advisor Services (ICAS). Contact details as follows:

ICAS

Tel: 0800 072 7 072

Web: www.icasxtra.com

7. Responding to Staff Disclosing Gender-based Violence

This section outlines the ways in which staff who have experienced abuse can be supported by NES, and the roles and responsibilities of employers and managers in this regard.

7.1 Supporting Staff who are Experiencing/have Experienced Abuse

NES is committed to creating a working environment that enables employees affected by abuse to feel safe and confident in seeking support and advice from a range of sources i.e. Line Managers, Occupational Health, HR staff, ICAS and/or Trade Unions and external agencies. Further contact details can be found in Appendix 2.

Impact on the workplace

The following section covers the potential impact of gender-based violence on employees and work colleagues.

- *Impact on employees at work*
 - Negative impact on an employee's ability to attend or function effectively at work e.g. they may have mood swings, be constantly tired or preoccupied, have difficulty concentrating, be withdrawn and have a strained relationship with colleagues
 - Absenteeism due to long term physical injuries and/or psychological symptoms such as anxiety/depression and using drugs/alcohol as a coping strategy – these may be linked to former abuse in childhood or adulthood
 - Time off as a result of having to seek help from solicitors, doctors and support agencies

- Lateness as a result of the abuser attempting to prevent an employee from going to work
- Harassment/abuse at the workplace: such behaviour can include numerous telephone calls, faxes or emails or the abuser turning up. Employees may be stalked, or subjected to verbal or physical abuse at the workplace or while they are travelling to and from work.
- *Impact on work colleagues*

Gender-based violence can also affect other staff members who may:

 - Have to fill in for absent or less productive colleagues
 - Try to protect a colleague experiencing abuse from unwanted phone calls or visits
 - Feel helpless and unsure about how to intervene
 - Be distracted from their own work
 - Experience a negative impact on their own mental and emotional health, especially if they too are/have been affected by abuse
 - Fear for their own safety

Understanding how staff might be affected

This policy covers historical, recent and ongoing abuse. It is important to recognise that some staff may have experience of more than one form of gender-based violence.

All forms of abuse can have an adverse impact on both physical and mental health. Although the actions required to support staff may vary depending on the nature and timing of the abuse, the core principle of offering a supportive and flexible response remains consistent. For example:

- *Current / ongoing abuse*

This 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 work place risk assessment and safety planning to assess the potential risks to the staff member, colleagues and others.

Flexibility around working arrangements may also be needed and the provision of information on what support can be provided by the NHS and other national/local agencies such as the Domestic Abuse Helpline, Women's Aid, Rape Crisis and Trade Unions etc. Further details can be found in Appendix 2.

- *Past abuse*

Employees may have experienced abuse in the past e.g. sexual abuse as a child or adult, which is currently interfering with their ability to cope, and they may need support to deal with this.

Barriers as to why staff may not seek 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. The covert nature of abuse and the impact it has on individuals can act as barriers to disclosure. For example:

- 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, can also make it difficult for individuals affected to come forward
- 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 the diversity within the workforce, and that staff may have other experiences of discrimination or inequality which could affect, or indeed compound, the impact of abuse. For example:

- 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.
- Whilst gender-based violence is predominantly experienced by women, it does impact on a minority of men. Disclosing abuse can be difficult for men who may fear being seen as 'weak' or 'unmanly'.
- 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.
- Forms of domestic abuse can vary e.g. forced marriage or so-called 'honour' based violence, which may be perpetrated by extended family members as well as a husband/partner.

Further details regarding the potential impact on employees, can be found in the supporting Manager's Guide document, which can be found on the NES Intranet, under the HR Policies section: <http://intranet.nes.scot.nhs.uk/policies/HR/>

7.2 Managers' Responsibilities

Managers have a role to address the needs of employees who have experience of abuse and a separate Manager's Guide accompanies this policy.

7.3 Employee's Responsibilities

Although managers should try to be as supportive as possible, employees should, nonetheless, have a clear understanding of what is expected of them in relation to performance and attendance.

If an employee discloses experience of abuse during disciplinary 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 disciplinary process may be suspended.

8. Responding to Staff who May Be Perpetrators

It is acknowledged that a small number of employees within NHSScotland will be perpetrators of abuse and that committing gender-based violence is a serious matter which:

- contravenes equalities and human rights legislation
- could constitute a criminal offence
- 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. Further guidance is therefore contained within the Manager's Guide.

8.1 Responding to Disclosures and Allegations of Abuse by NES Staff

Information about abuse may be brought to light through a variety of means. Allegations may relate to abuse perpetrated within or outside the workplace. Managers are not expected to act on anonymous allegations or to detect employees who may be perpetrating abuse outside the workplace.

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 stalking, physical assault, sexual violence or sexual harassment, for example.

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.

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 a small number of cases, lead to disciplinary proceedings against an employee because of its employment implications.

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

Legal note:

The legal definition of conduct does not require something to occur in the course of the actual work, or at the actual place of work, or even to be connected with the work, so long as in some respect or other it affects the employee, or would be thought likely to affect the employee, while he or she is doing his or her work. Disciplinary action could take place on the grounds of gross misconduct or some other substantial reason.

If no criminal conviction arises, the organisation must be in a position to establish from its own investigation that the employee has been guilty of an act, clearly proved, 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.

8.2. Managers' Responsibilities

When a disclosure or allegation of abuse is brought to the attention of a manager, this should be acted on. Further details regarding Manager's responsibilities can be found in the Manager's Guide.

9. Monitoring and Review

All records in relation to staff members who have experienced abuse or allegations of abuse against employees will be maintained in the strictest confidence in accordance with the Data Protection Act (1998).

Responsibility for monitoring the application of this policy will rest with the Director of Human Resources.

An Equality Impact Assessment (EQIA) has been carried out on this policy and this will be reviewed as the policy is reviewed and updated.

This policy will be reviewed triennially by the Partnership Forum and Staff Governance Committee and in line with any updates on legislation, best practice and feedback from staff.

Ratified by the Staff Governance Committee on 19th January 2012

Appendix 1

Legal Framework / Relevant Legislation

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

- **Health & Safety at Work 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 requires employers to assess the risk of violence to employees and make arrangements for their health and safety.

- **Employment Act 2008**

The 2008 Act strengthens, simplifies and clarifies key aspects of UK employment law. The core purpose of the Act is to change and simplify the process of workplace dispute resolution.

- **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 race, sex, age, sexual orientation, religion and belief, disability, gender reassignment, marriage & civil partnership, pregnancy & 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.

- **Human Rights Act (1998), 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

- **Sexual Offences (Scotland) Act (2009):** Criminalises a range of sexual offences including rape and sexual assault against adults and children

Appendix 2

Further information

Domestic Abuse Helpline

0800 027 1234 (24 hours)

www.domesticabuse.co.uk

Rape Crisis Helpline

08088 01 03 02 (daily 6pm – midnight)

www.rapecrisisscotland.org.uk

Scottish Women's Aid

Information and training on domestic abuse and main contact for the network of local Women's Aid groups : 0131 226 6606

www.scottishwomensaid.org.uk

Women's Support Project

Information, training and support on violence against women and information around commercial sexual exploitation

www.womenssupportproject.co.uk

Men's Advice Line

A confidential helpline for men in abusive relationships.

Helpline: 0808 801 0327

Mon – Fri 10am – 1pm, 2pm – 5pm

www.mensadviceline.org.uk

Men's Aid

National charity supporting male victims of domestic abuse.

www.mensaid.org

Survivor Scotland

Scottish Government information and education resource on children sexual abuse, including the national strategy for survivors of CSA

www.survivorscotland.org.uk

information on services for survivors across Scotland can be found at

www.survivorscotland.org.uk/help-and-support/

Survivors UK

Information, support and counselling for men who have been raped or sexually abused.

www.survivorsuk.org.uk

Helpline: 0845 122 1201 Tuesday and Thursday 7pm to 10pm

Yes You Can ...

Working with Survivors of Childhood Sexual Abuse

www.scotland.gov.uk/publications/2008/04/07143029/0

Respect

Promotes, supports and develops effective interventions with perpetrators of abuse across the UK. Useful information can be found on its website : www.respect.uk.net

Broken Rainbow LGBT DV (UK)

Offers advise, support and referral services to LGBT people experiencing homophobic, transphobic and same sex domestic abuse.

Helpline : 0300 999 5428 Mon & Thurs 2-8pm; Wed 10am – 1pm

www.broken-rainbow.org.uk

Forced Marriage Unit

020 7008 0151

Email : fmufco.gov.uk

Email for outreach work :

fmuoutreach@fco.gov.uk

www.fco.gov.uk/en/global-issues/human-rights/forced-marriage-unit/

The National Gender Based Violence Team

www.gbv.scot.nhs.uk