

PREVENTION OF BULLYING AND HARASSMENT POLICY AND PROCEDURE

1	SUMMARY	Policy on the management of capability issues.			
2	RESPONSIBLE PERSON:	Sarah Price – Chief Officer			
3	ACCOUNTABLE DIRECTOR:	Sarah Price – Chief Officer			
4	APPLIES TO:	All staff			
5	GROUPS/ INDIVIDUALS WHO HAVE OVERSEEN THE DEVELOPMENT OF THIS POLICY:	NEL CSU HR			
6	GROUPS WHICH WERE CONSULTED AND HAVE GIVEN APPROVAL:	Joint Partnership Group - 27/07/16 Senior Management Team – 19/10/16			
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POLICY STATEMENT

This policy applies to all employees of Haringey CCG.

Haringey CCG is committed to the belief that all staff have the right to be treated with dignity and respect at work and not to be subject to any form of unacceptable behaviour from colleagues, including harassment and bullying. Such behaviour will not be tolerated by the CCG in any form, whether this is at the workplace or at work related events. Haringey CCG will view such behaviour as a serious disciplinary offence that may lead to dismissal.

Haringey CCG is an equal opportunities employer. It is the policy of the CCG to ensure that no user of the service, employee or job applicant receives less favourable treatment on grounds of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation, nor is disadvantaged by any conditions or requirements which cannot be shown to be justified in line with the Equality Act 2010.

Haringey CCG views discrimination, harassment, victimisation and bullying as serious matters, which contravene the CCG's Equality and Diversity Policy. Haringey CCG is fully committed to the elimination of all forms of discrimination, harassment, victimisation and bullying, and considers it essential that all Haringey CCG employees are also committed to the implementation of policies in this area in order for them to be effective.

Managers and employees alike should note that the CCG's liability may extend to both "official" and "unofficial" social activities, including social media. These may be deemed to be an extension of the workplace. The CCG may have a duty of care in respect of such matters and will investigate all complaints of inappropriate or improper conduct whether they are alleged to have occurred in or outside the workplace.

1. PRINCIPLES

- 1.1. Haringey CCG recognises that discrimination, harassment, victimisation and bullying can create a threatening and intimidating work environment, which can adversely affect the job performance, health and well-being of employees.
- 1.2. The purpose of this policy is to provide proper redress for individuals facing discrimination, harassment, victimisation and bullying, and to assist in identifying and dealing with these issues, in conjunction with Haringey CCG's Equality and Diversity Policy. This procedure will help to promote fair treatment and good working relations within Haringey CCG's workforce.
- 1.3. This policy and procedure is designed to ensure that all complaints of bullying and harassment are dealt with objectively, quickly, sensitively and confidentially.
- 1.4. All employees, managers, contractors, agency staff, part-time staff, temporary workers and those employed on fixed-term contracts will be

made aware of this policy on joining Haringey CCG and will be encouraged to read and understand its process.

- 1.5. This policy applies in relation to discrimination, harassment, victimisation and bullying by a Haringey CCG employee/employees against another Haringey CCG employee/employees. If an employee experiences discrimination, harassment, victimisation or bullying from patients/service users or other people in contact with them, they should discuss this with their line manager in the first instance, and may raise a formal complaint in accordance with Haringey CCG's Complaints Policy.
- 1.6. Each employee of Haringey CCG carries a responsibility for their own behaviour. However, it is recognised that the behaviour of people in the workplace can vary on a daily basis. Employees who normally appear civil can occasionally appear impatient or pre-occupied. This policy and procedure is not intended to deal with occasional lapses of good manners unless a pattern of behaviour emerges that is perceived to be offensive or intimidatory.
- 1.7. All matters relating to any part of this procedure will be treated in strict confidence. Any breach of this confidentiality may render those responsible liable to disciplinary action. However, it must be remembered that legislation requires the accused to be made aware of the allegations against them and the name(s) of those making the allegations, along with witnesses.
- 1.8. Any employee who wishes to make a complaint of harassment, should first discuss this informally with his/her line manager/other appropriate manager/HR, providing they feel able to do so. Should the issues not be resolved at this stage, or if an employee feels unable to raise the issue informally, then a formal resolution should be sought as outlined in PART 2.
- 1.9. Where a complaint of harassment is brought to the attention of management, whether formally or informally, prompt action will be taken to investigate the case. If harassment is established – corrective action will be taken in line with Haringey CCG's Disciplinary Policy.
- 1.10. Managers are required to act upon any complaint of harassment, whether formal or informal. Failure by a manager to do so will be regarded as misconduct, which if proven, will result in disciplinary action. Details of all such complaints must be notified to Human Resources for recording in compliance with legislation, i.e. the Equality Act 2010

2. DEFINITIONS

For the purposes of this code of practice:

- 2.1 **"Discrimination"** is defined as an act which has the effect of treating a person less favourably than another on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. Haringey CCG

also recognises that part-time workers and those employed on fixed term contracts should not be treated less favourably than a full time or permanent worker.

- 2.2 **"Harassment"** is defined as unwanted conduct related to a relevant protected characteristic such as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation, which is unreciprocated or unwanted or affects an individual's dignity at work or creates an intimidating, hostile, degrading, humiliating or offensive environment for an individual. It could also include any personal characteristic of the individual, and may be persistent or an isolated incident.
- 2.3 **"Victimisation"** is defined as an act of discrimination or harassment against a person because it is suspected or known that the person has made an allegation on any of the grounds stated in paragraph 2.1 or given evidence or information regarding the allegation.
- 2.4 **"Bullying"** may be characterised as persistent offensive, abusive, intimidating, malicious or insulting behaviours, which may amount to an abuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. It does not include the legitimate and appropriate exercise of management responsibility where this is exercised in a reasonable manner.
- 2.5 Examples of discrimination, harassment, victimisation and bullying covered by this policy are provided, but are not limited to, in Appendix 1.

3. RESPONSIBILITIES UNDER THIS PROCESS

- 3.1 All staff in managerial positions are responsible for seeking to prevent any infringement of this policy amongst the staff they are responsible for (please refer to the NHS Code of Conduct for Managers October 2002):
- Ensure that all employees are aware of the content of this policy and what is acceptable and what is not acceptable behaviour at work and that harassment is a disciplinary offence
 - Ensure that there is a supportive working environment
 - Take prompt action to prevent and stop harassment by using this policy
 - If a member of staff makes a complaint of harassment or bullying (informally or formally) ensure they execute their duty to consider it and take appropriate action and inform the Human Resources Department.
 - Ensure that they attend any training sessions instigated by the organisation.
- 3.2 All employees of Haringey CCG are responsible for helping to ensure that individuals do not suffer any form of harassment and they are encouraged and supported in any legitimate complaint. Every individual will be accountable for the operation of this policy, as they carry

responsibility for their own behaviour and actions on or off site. All employees of the CCG will ensure:

- They are aware of their own behaviour and the affect this may have on others around them
- They understand that harassment will not be tolerated by the organisation.
- Treating colleagues with respect and dignity
- They use the procedure responsibly and only in situations where they genuinely believe that harassment is taking place. Malicious usage of this policy is a disciplinary offence.

Employees will be notified of the definition and forms of discrimination, harassment, victimisation and bullying through training and through the distribution of this policy. New employees will be informed through the induction process.

4 RELATIONSHIP WITH THE CCG DISCIPLINARY POLICY

- 4.1 This policy is separate from the disciplinary process. It is to be used in all cases outlined in section 2 and appendix 1, and an investigation will normally be carried out into a complaint made under this procedure, as outlined in part 2. The disciplinary procedure may then be used, following the results of the investigation under this procedure. Alternatively, an incident may be so serious, or may have been witnessed personally by the manager, or there may be sufficient evidence that she/he may wish to go straight to the disciplinary hearing.
- 4.2 Where an individual makes a complaint in good faith, regardless of whether or not the complaint is upheld, the person raising the complaint, or any person giving evidence in respect of a complaint, must not be treated less favourably as a result of this. If, however, there is reasonable cause to believe that the complainant, or other, acted maliciously, or the allegation was vexatious, then where the complainant is a member of staff the matter may be investigated under Haringey CCG's disciplinary procedures.

5. ADVICE AND SUPPORT

- 5.1 It is recognised that being the subject of discrimination, harassment, victimisation and bullying and making a complaint can both be an extremely distressing experience. No employee needs to suffer in silence and all employees are urged to seek help, support and advice available within Haringey CCG.
- 5.2 Employees are recommended to seek advice from their line manager, Human Resources, or their Trade Union in the first instance.
- 5.3 Support and advice is also available from the Occupational Health Service and Employee Assistance Programme (AXA PPP Healthcare), details of

which are available on your local intranet site or from your line manager or Human Resources.

- 5.4 Copies of this policy can be obtained from the local intranet or the line manager/Human Resources.

6. MONITORING AND REVIEW

- 6.1 Haringey CCG will review the outcomes of cases where complaints of bullying and harassment have been made to check that the proper procedures have been followed and to identify any points that can be learnt from those cases and implement necessary changes. The CCG will also monitor how successful it is being in creating a workplace free of bullying and harassment by other means, including staff survey.
- 6.2 The policy and procedure will be reviewed periodically by Human Resources in conjunction with operational managers and Trade Union representatives. Where review is necessary due to legislative changes, this will happen immediately.

PART 2: PROCEDURE

1. KEEPING A RECORD

1.1 To make sure that it is possible to be accurate later on, it is important that anyone who feels they have suffered from discrimination, harassment, victimisation or bullying should keep note of the details outlined below for each incident: .

- Date, time and place of incident
- Name of person who is harassing them
- What actually happened
- How person being harassed felt at the time
- Name of anyone present at the time, including witnesses
- Action taken, including whether the matter was reported to management
- Any correspondence relating to incidents/subsequent complaints.

These notes should be made as soon as possible after an incident.

2. STAGE 1: INFORMAL RESOLUTION

2.1 Every effort will be made to resolve the issue informally in the first instance if this is appropriate.

2.2 As soon as possible after an employee considers that an incident of discrimination/harassment/victimisation/bullying has occurred, the employee should make it clear to the person (s) against whom the complaint has been made that s/he does not like the behaviour and if possible ask the individual(s) to stop behaving in this way. This should be done verbally or, if the employee feels too embarrassed or upset to speak to the individual, it could be done in writing. Alternatively, s/he could arrange for a work colleague to be present when the matter is discussed if s/he does not wish to be alone with the individual. A note should be kept of the action taken and a copy of any letter(s).

2.3 If an employee being harassed or discriminated against

- feels unable to take action personally
or
- wishes to consider making a formal complaint immediately
or
- has asked the individual to stop their behaviour yet it continues.

He or she is advised to contact either their Trade Union representative or a member of Human Resources., or the line manager if appropriate.

- 2.4 If the employee has not already done so s/he should then contact Human Resources or the line manager (if appropriate) for advice on the next stage. If the complainant's line manager is the person alleged to have carried out the discrimination, harassment, victimisation or bullying, the matter should be reported to the next-in-line manager above her/him. Where the employee indicates that s/he would prefer to discuss the matter with a person of the same sex/race etc., this should be arranged whenever possible.
- 2.5 Where the employee seeks the advice from Human Resources, the matter remains at the informal stage. The discussion will be confidential and no further action will be taken without consent of the employee concerned unless a criminal act has occurred.
- 2.6 The employee may have a work colleague/Trade Union representative present at this and at all stages of the procedure.
- 2.7 The employee should be given a copy of this procedure and it should be explained to her/him.
- 2.8 The employee will then be advised of appropriate courses of action, which will generally be one of the following:
- 2.8.1 To take no further action at this stage but to record any further incidents as recommended in paragraph 1.1 and to keep the situation under review, enabling the employee to seek further advice in the future if necessary.
- 2.8.2 If this has not already been attempted, either the employee, or someone acting on her/his behalf (e.g. a colleague or Trade Union representative), should ask the person against whom the complaint has been made to stop the offending behaviour and to keep the situation under review, enabling her/him to seek further advice in the future if necessary.
- 2.8.3 Mediation is a voluntary process and may be considered as an informal approach in resolving the issues between the individuals. It may be used in situations such as:
- Dealing with conflict between colleagues or between a line manager and staff;
 - Rebuilding relationships after a formal dispute has been resolved
 - Addressing a range of issues including relationship breakdown, personality clashes, communication problems, etc.

It should be noted that not all cases will be suitable for mediation, and that both parties must be in agreement for it to go ahead.

Should mediation be considered as an option, please discuss it with a HR Representative who may suggest an independent mediator to take the matter forward.

The mediator is in charge of the process of seeking to resolve the issue but not to determine the outcome, which will be agreed by the individuals.

2.8.4 To make a formal complaint.

3. STAGE TWO: MAKING A FORMAL COMPLAINT

- 3.1 Any individual suffering discrimination, harassment, victimisation or bullying is entitled to request managers to institute formal investigation/proceedings where appropriate.
- 3.2 If the individual wishes to make a formal complaint, this should be put in writing to his/her line manager. (If the line manager is involved in any of the incidents, then the complaint should be given to the next-in-line manager. Alternatively, the complainant can raise the issue with their Human Resources Business Partner who will advise the individual on what steps should be taken next.)
- 3.3 The letter should make it clear that it is a formal complaint under this procedure and should be fully explicit stating dates, times etc, of incidents. The letter should be marked "confidential" and preferably be delivered by hand to either the relevant manager or member of Human Resources. The employee is advised to seek early contact with her/his Trade Union or Human Resources to obtain advice and support in presenting a formal complaint.
- 3.4 The individual making the complaint should be made aware of the process of investigation and their role in disciplinary proceedings, if instituted.
- 3.5 Employees need to be advised that, once a formal complaint is made, management will investigate the circumstances and take appropriate action. In general, proceedings based on the individual's complaint will not be instituted unless s/he wishes. However, in certain circumstances, the manager may wish to proceed with action against the person against whom the complaint has been made even where the complainant does not give evidence if the situation is of a serious nature (e.g. physical assault). In such cases, the manager will need to take into account any other evidence/witnesses in deciding whether or not they have sufficient evidence to proceed.
- 3.6 In relation to some professions, the professional head might wish to consider reporting the incident to a professional body.

4. POLICE INVOLVEMENT

- 4.1 In cases of alleged assault or alleged behaviour that is considered to be a criminal offence, Haringey CCG will contact the Police for their appropriate

action if the complainant so wishes and/or if the incident is considered to be a serious criminal matter.

5. INVESTIGATING A COMPLAINT UNDER THIS PROCEDURE

5.1 In general

5.1.1 A complaint under this procedure presents a particularly sensitive problem for those responsible for investigating the allegations. The investigator is required to protect the rights of the person against whom the complaint has been made as well as protecting the rights of the individual making the allegations. Both employees are entitled to a full and fair opportunity to put their version of the events.

5.1.2 All departments/Directorates are expected to co-operate in releasing staff from their normal duties to participate in the investigation as required.

5.2 Time limits

The investigation should normally be completed within twenty-eight days of the complaint being made where practicable. On occasions it will not be possible to keep within the timescale. In such cases the complainant and the person against whom the complaint has been made must both be kept informed of any need for an extension and the likely timescale for completion.

6. HOW THE COMPLAINT WILL BE INVESTIGATED

6.1 Step one: initial response

6.1.1 Having received a formal complaint from an individual, the manager will arrange for the matter to be investigated. This will normally be carried out by the manager, or an officer nominated by her/him and a member of Human Resources. Those investigating the complaint should not be connected with the allegation in any way.

6.1.2 The person against whom the complaint is made should be informed at the outset of the complaint against them and given a copy of the letter of complaint.

6.2 Step two: possible suspension or redeployment during the investigation

6.2.1 The relevant manager should give consideration as to whether or not action needs to be taken for the duration of the investigation to relieve the stress and pressure on one or both parties to prevent the risk of further incidents occurring. The manager must also take steps to prevent any victimisation of the complainant or the person

against whom the complaint has been made. Such action should be taken following advice from Human Resources and can include the following:

- Suspension of the person against whom the complaint has been made may be considered where a manager feels that it is in the interest of either the individual or the organisation or both. It may be appropriate in some cases for both parties to be suspended. It will be made clear at all times that suspension under this procedure does not constitute part of HARINGEY CCG's disciplinary procedure. Suspension will be on full pay. Temporary redeployment of one or both parties can also be considered. In normal circumstances, it is appropriate that the person against whom the complaint has been made should be redeployed rather than the complainant. The complainant could, however, be offered the option of redeployment where appropriate. In some circumstances both parties may be redeployed.
- Granting of compassionate leave in appropriate circumstances.

6.3 Step three: meeting with the complainant

- 6.3.1 The manager or designated investigating officer and HR Business Partner will meet with the complainant and will take a detailed written statement of the incident. The complainant may be accompanied by their Trade Union representative or a work colleague. The complainant should be given the opportunity to nominate witnesses whom they wish to be interviewed.

6.4 Step four: meeting with the person against whom the complaint has been made

- 6.4.1 The manager or designated investigating officer and Human Resources Business Partner will then meet the person against whom the complaint has been made and hear what she/he has to say about the alleged incident(s) - having been previously informed of the allegation against them. They may be accompanied by a Trade Union representative or by a work colleague. The person against whom the complaint has been made should be given the opportunity to nominate any witnesses whom they wish to be interviewed.

6.5 Step five: meeting with anyone present during incident(s)

- 6.5.1 The manager or designated investigating officer and HR Business Partner will meet anyone else who was present when the alleged incident(s) took place. Employees will be able to be accompanied by their Trade Union representative or a colleague not acting in an official capacity. Notes will be taken of the meeting.

6.6 **Step six: further clarification**

- 6.6.1 The manager or designated investigating officer and HR Business Partner may then wish to meet any of those in steps 3-5 again to clarify or gain further information. They will also need to ensure that they have collected any relevant written materials. This may include asking for additional written statements from relevant parties.

6.7 **Important notes**

- 6.7.1 **Note 1** - The purpose of the meetings is to establish the facts. They are not a disciplinary hearing of any sort. All those giving information to the manager or designated investigating officer will do so privately and not in the presence of any other person involved in or present during the alleged incident(s).
- 6.7.2 **Note 2** - Whilst the manager or designated investigating officer will seek to resolve the matter as quickly as possible, the meetings with all those involved will not necessarily follow immediately after each other and the manager or designated investigating officer may at any time adjourn.
- 6.7.3 **Note 3** - Notes will be taken at the meetings and will be available to those involved in their particular meeting and comments can be made if appropriate.
- 6.7.4 **Note 4** – The individuals invited to attend the meetings should be given a five working days' notice of the meeting. If the individual, or their chosen companion, is not available to attend on the date proposed, the CCG will endeavour to offer an alternative reasonable date within 10 working days of the original date wherever possible. The meeting will normally only be re-arranged once, except in exceptional circumstances.

6.8 **Step seven: consideration of information**

- 6.8.1 Having obtained all the information possible, the manager or designated investigating officer and Human Resources Business Partner, will review this information and decide whether the complaint is substantiated. In cases of sexual harassment, in no circumstances will evidence of the complainant's experience, sexual attitudes or behaviour be taken as relevant information.
- 6.8.2 In some cases there will not be any witnesses and it will be one person's word against another's. In these cases the manager and Human Resources Business Partner will consider whether on the balance of probabilities the incidents/actions occurred.

6.9 Step eight: further action

6.9.1 The manager or designated investigating officer and Human Resources Business Partner will consider the facts and will decide either:

6.9.1.1 To take no action, that is the allegation has not been substantiated.

or

6.9.1.2 To initiate Haringey CCG's disciplinary procedure (the acts may be considered to be acts of gross misconduct; however, the manager should consider all the facts and adopt the usual process outlined in the CCG's Disciplinary Policy).

or

6.9.1.3 To take management action other than to initiate Haringey CCG's disciplinary procedure. This could include:

- A recommendation for redeployment of one or both parties, either on a temporary or permanent basis;
- Setting up arrangements to monitor the situation;
- Required attendance on training courses (e.g. equal opportunities, or awareness courses).
- Making arrangements for the complainant and the person against whom the complaint has been made to work as separately as possible within the same workplace with regular monitoring from the line manager
- A (further) period of special leave.

6.10 Step nine: keeping management records

6.10.1 The arrangements for storing information after a complaint should be as follows: Where the matter proceeds to a disciplinary hearing, the disciplinary policy should be followed for keeping a record and subsequently removing the record from the file. Where a complaint has been made and not substantiated by an investigation, no record will be kept on the file of the person against whom the complaint has been made. If a person raises an incident with their manager/Human Resources but does not wish to proceed with a formal complaint at that stage, no record will be kept on the file of the person against whom the complaint has been made. It is recommended that the manager advises the complainant to make a note of their meeting.

7. APPEALS

7.1 If the complainant disagrees with the decision taken above, they have the right to raise this matter under Haringey CCG's grievance procedure, which

would normally be heard at Stage 2 of the Grievance Procedure, before a panel of Haringey CCG Directors.

8. THE DISCIPLINARY PROCESS

8.1 If the manager has decided that a disciplinary hearing is necessary, s/he should consider how to deal with this matter sensitively knowing the nature of the allegations. Managers should follow the normal disciplinary procedures but take the following points into account:

- The complainant will normally be required to attend the disciplinary hearing as a witness.
- If it is necessary to call the complainant as a witness to the hearing, s/he should be allowed to bring along her/his trade union representative or a colleague not acting in an official capacity.

10. REDEPLOYMENT CONSIDERATION

10.1 Redeployment if disciplinary action is taken

10.1.1 If disciplinary action is taken, management must consider whether contact between the two parties is likely to occur during the course of their job and whether this is acceptable. Management will consult the complainant. In cases where contact is considered unacceptable, every effort should be made in the first instance to redeploy the person against whom the complaint has been made. However, it will be for the manager and Human Resources Advisor to consider which party may be most appropriately redeployed having fully considered the views of the complainant.

10.2 Redeployment when disciplinary action is not taken

10.2.1 Where disciplinary action is not taken following a full investigation, then the person who alleged the act or act(s) of discrimination, harassment, victimisation or bullying may request redeployment. In this case the manager, in consultation with Human Resources, will try to accommodate this request.

This procedure does not apply to settling differences related to:

- dismissal or disciplinary matters
- disputes appropriate to resolution in accordance with arrangements determined by collective agreements
- organisational change
- any matters for which procedures determined by reference to specific CCG handbook or CCG procedures apply.

APPENDIX 1: EXAMPLES OF DISCRIMINATION, HARASSMENT, VICTIMISATION AND BULLYING

This list is neither exclusive nor exhaustive, and other forms of behaviour can also constitute discrimination, harassment, victimisation or bullying.

Discrimination

This can occur with or without the individual's awareness that it is taking place, and would include: giving unequal consideration or treatment to people in areas such as recruitment, training or promotion; attitudes which ostracise or encourage others to ostracise; inducing or attempting to induce other employees to treat a person unfairly.

Harassment

Examples of harassment include:

- Verbal Harassment

Statements, remarks, jokes, banter or innuendoes which are derogatory, or which ridicule or insult a person on the grounds stated; the use of threatening or obscene language; making verbal sexual advances; attempts to stir up hatred or discontent against particular groups.

- Physical Harassment

Physical contact – ranging from touching to serious assault, gestures, intimidation or aggressive behaviour which are intimidatory or which ridicule, discomfort or embarrass individuals e.g. invasion of personal space, making sexual advances in a physical manner.

- Non-verbal

Displaying or distributing materials which degrade or offend or the writing/painting of insults, including pornographic pictures and magazines; badges or other insignia whose purpose is to create hatred or discontent; graffiti; the defacing of notices referring to the promotion of equal opportunities or related issues.

Victimisation

Any type of unacceptable behaviour, which is directly in retaliation against the party or parties to a complaint, is victimisation. The examples listed above would be included, as would complaints under Haringey CCG's Whistle-Blowing policy.

Bullying

Examples of bullying include:

- Physical conduct

Intimidatory, threatening behaviour, shouting and uncontrolled anger, abuse and humiliation in public or in private, blocking promotion possibilities.

- Verbal conduct

Persistent negative attacks on personal or professional performance, unreasonably criticising a colleague in the presence of others, spreading malicious rumours or making malicious allegations, refusal of reasonable work requests.

- Non-verbal conduct

Exclusion from work information with the intent of deliberately affecting a colleague's performance, setting objectives with impossible targets or deadlines, unreasonably taking credit for ideas and work, over-monitoring a colleague's performance without good reason, isolation or exclusion.
"Cyber bullying" i.e. bullying via email.