

NHS FORTH VALLEY

Gender-Based Violence Employee Policy



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1. INTRODUCTION

Staff working across NHS Forth Valley have a clear entitlement to be 'provided with improved and safe working environment' monitored through the explicit commitment in the Staff Governance Standard. This 'Gender-based Violence' policy is designed to contribute to such a safe working environment and provide a clear framework for a partnership approach. This policy has been developed to meet the requirements of the Chief Executive's Letter on Gender-based Violence (CEL-41, 2008)¹. http://www.sehd.scot.nhs.uk/mels/CEL2008_41.pdf. The CEL, issued to NHSScotland Boards in September 2008, outlined 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 meets the Domestic Abuse (Scotland Act 2018)

Given the disproportionate impact on women and girls, gender-based violence is one of the most sensitive indicators of gender inequality. As such, implementation of this policy will assist NHS Forth Valley to meet their legislative obligations to promote gender equality under the Equality Act 2010.

As well as being rooted in gender inequality, gender-based violence cuts across boundaries of age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy & maternity, race/ethnicity, religion/belief, sexual orientation. The policy will therefore also contribute to Boards' legal requirements in relation to these other aspects of the Equality Act.

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.

This policy has accordingly been created to promote the welfare of staff affected by **current** or **previous** experience of such abuse or stalking. It further aims to ensure that as an organisation we respond effectively to staff members who may be perpetrators of such abuse (page 19).

Further information can also be obtained from the NHS Scotland Partnership Information Network '[Gender Based Violence' PIN policy 2011](#).

2. AIM

- 2.1 The aim of this policy is to ensure that any employee experiencing gender-based violence is dealt with supportively and given appropriate information and support to deal with the effects of the abuse.
- 2.2 Although research identifies that Domestic Abuse is predominately experienced by women all of the guidance in this policy can and should be applied to men who

experience domestic abuse, who deserve the same respect and support when they request help.

3. POLICY STATEMENT

- 3.1** This policy applies to all employees and people working within NHS Forth Valley. NHS Forth Valley should through its procurement process ensure that 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.
- 3.2** NHS Forth Valley recognises that gender-based violence is a serious issue within our society and affects many people, the vast majority being women but not excluding men.
- 3.3** NHS Forth Valley will aim to remove fear of stigmatisation at work for employees experiencing domestic violence and abuse.
- 3.4** The organisation has a responsibility for employee welfare and will seek to support its employees during times of trouble, addressing the issue of gender-based violence (GBV) in that context.
- 3.5** NHS Forth Valley will ensure that appropriate awareness raising is provided for managers and members of staff working in a supervisory capacity at the implementation of this policy.
- 3.6** Managers will respond to employees experiencing gender-based violence sympathetically, confidentially and effectively.
- 3.7** Employees experiencing gender-based violence have the option to make contact with any of the agencies listed in **Appendix 7** and/or contact the Occupational Health Service, Equality and Diversity Manager and/or the Employee Counselling Service.
- 3.8** NHS Forth Valley acknowledges that employees may have to take sickness absence leave because of gender-based violence and the effects this may have on their wellbeing. The organisation's special leave arrangements may apply, where appropriate, to an employee experiencing gender-based violence.
- 3.9** Where gender-based violence impacts upon the workplace e.g. by unwelcome visits from an abusive partner, supportive action will be taken in terms of the organisation's health and safety responsibilities towards its employees.

4. THE DEFINITION OF GENDER BASED VIOLENCE

- 4.1** 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.

4.2 Gender-based violence is an umbrella term that encompasses a spectrum of abuse experienced mostly by women and perpetrated mainly by men including: gender-based violence including physical and mental 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. For further information & definitions please see **Appendix 1**

4.3 Although primarily experienced by women, the policy recognises that men too can experience abuse. For example:

- Of 53,681 gender-based violence incidents reported to Scottish police in 2008/09, 84% of victims were female and 16% male. (Statistical Bulletin 2008/9)
- In 2006, a study found that gender-based violence within same sex relationships could be as high as 1 in 3. (Donovan, Hester, Holmes & McCarry)
- 21% of girls and 11% of boys have experienced childhood sexual abuse (Cawson et al, 2000)
- 37% of aggravated stalking against women was by a partner or ex partner and 8% was against men.(Walby & Allen, 2000)
- In 2009, the UK Forced Marriage Unit dealt with 1682 cases of forced marriage, 86% of these were women and 14% men.(Forced Marriage Unit)

4.3.1 These are some of the things that can occur to someone who is experiencing Domestic Abuse:

- Hitting
- Threatening
- Humiliating
- Forcing sex
- Threatening the children
- Abusing the children
- Destroying possessions in the house
- Keeping a person financially insecure
- Abusing emotionally
- Accusing the partner of being unfaithful
- Ridiculing the partners beliefs
- Isolating the partner from friends and family
- Using contact with the children to abuse the person or them
- Stalking

Any of the above could lead the person being abused to feeling:

- Frightened
- Insecure

- Degraded
- Unable to make even basic decisions
- Trapped

4.3.2 The policy includes guidance for managers to assist them implement its aims.

5. PRINCIPLES & VALUES

5.1 The principles and values of this policy reflect those within other NHS Forth Valley 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.

5.2 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
- To train staff to be aware of and respond appropriately to GBV both in regards to staff and service user.

5.3 NHS Forth Valley 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 different needs of staff who may require additional support due to the impact of various forms of inequality age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy & maternity, race/ethnicity, religion/belief, sexual orientation.

5.4 All disclosures of abuse experienced by employees will 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, local child/adult protection procedures should be followed.

5.5 NHS Forth Valley is committed to creating an environment in which employees are safe to disclose their experience of abuse or stalking in order to access support and increase safety for themselves and others. The right of staff not to disclose, however, will be respected and no-one should feel pressured into sharing this information if they do not wish to do so.

5.6 As is the case with other criminal convictions, employees (and prospective employees) are 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 and General Medical Council, require registered professionals to disclose not only any convictions, but also any charges which are being brought against them.

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.

6. ORGANISATIONAL CONTEXT

6.1 Responding to Gender-based Violence

This section covers the impact of gender-based violence in the workplace and details the ways in which managers can support staff with experience of abuse. Responding to allegations about employees who may be perpetrators is also covered.

6.2 Impact on the workplace

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

6.3. 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/stalking 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. In extreme cases, employees have been murdered at their place of work
- Risk to children: If the employee uses workplace childcare facilities, children may be in danger of abuse or abduction whilst on the premises

6.2.2 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

6.2.3 How gender-based violence may affect staff

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 gender-based violence 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, children, colleagues and others.

Flexibility around working arrangements may also be needed and the provision of information on what support can be provided by NHS Forth Valley.

Past abuse

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. Their current reaction might have been triggered by working with patients on these issues, requiring some flexibility and sensitivity around their case management. 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.

6.3 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. 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 or if the perpetrator is also an NHS employee, can 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 gender-based violence, 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 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.'
- 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 gender-based violence 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).

6.4 What managers can do to support staff?

6.4.1 As a manager you have the overall responsibility for the welfare, health and safety of NHS Forth Valley employees but particularly those you manage.

6.4.2 You should be aware that domestic abuse could influence the health and self-confidence of people who may be unable to confide in others or seek help. You should be alert to the possibility of domestic abuse if an employee is depressed, distracted, lacking in self-confidence or visibly injured.

6.4.3 The welfare of employees is important. By providing support you not only assist the individual but also where domestic abuse has impacted on work performance, service delivery is likely to improve and good management/employee relations are reinforced.

6.4.4 You should ensure that the employees dealing with staff experiencing domestic abuse are trained in this area and are also supported.

- 6.4.5** If you are approached by a member of staff who is experiencing domestic abuse please be as sympathetic as possible. Provide flexible support, tailored to meet the circumstances of each individual, taking account of any additional needs that they may have; this information is recorded to support you deal with this situation.
- 6.4.6** Employees who are experiencing domestic abuse may want to discuss the impact this is having on their work performance and other related problems. When considering work performance assessments or monitoring sickness you should take into account the effects of stress arising from the abusive relationship.
- 6.4.7** There may be a need for a flexible approach to the work patterns of the employee during this difficult period. Whilst the policy provides an option for special leave for employees in an abusive situation, it would be hoped the manager and employee will be able to agree to a flexible arrangement regarding working hours. Time off may be required, for example, for visits to solicitors, banks, schools or support agencies. Sickness absence may be a consequence of an abusive relationship.
- 6.4.8** 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.
- 6.4.9** 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.
- 6.4.10** 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. Managers should refer to local 'Management of Employee Conduct', 'Management of Employee Capability' and 'Promoting Attendance' policies, developed in line with national policy, as appropriate.
<http://policies.staffnet.fv.scot.nhs.uk/wp-content/uploads/sites/4/2016/11/Business-Conduct.pdf>
<http://policies.staffnet.fv.scot.nhs.uk/wp-content/uploads/sites/4/2016/11/Management-of-Capability.pdf>
<http://policies.staffnet.fv.scot.nhs.uk/wp-content/uploads/sites/4/2016/11/Attendance-Management.pdf>

6.4.11 Confidential contacts

Given the sensitive nature of this issue, and the challenges it may present for managers, NHS Forth Valley can offer additional support to managers and NHS Forth Valley employees through Occupational Health, Employee Counselling and Equality and Diversity Manager who is also Gender Based Violence Operational Lead.

Their role is namely, to provide an initial point of contact for private discussion. They will primarily act as a signposting service for employees, providing independent, confidential support to employees who may be affected by or accused of gender-based violence, either currently or in the past. They will meet to listen to an

employee's concerns and help them explore the options available, including enabling them to access the provisions of local policies or agencies as appropriate.

Apart from the Employee counselling services their role would **not** involve providing counselling or advice.

It should be noted that, while representatives of trade's unions/professional organisations may undertake this function, it would negate any representation role in the same case.

Further information on supporting employees, Potential Signs of Abuse, can be found in **Appendix 6**. Contact details of local and national organisations can be found on the [NHS Forth Valley Gender Based Violence](#) web page.

6.5 Asking about abuse and responding to disclosure

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

6.5.1 Should you suspect that a staff member 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 your member of staff. 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.....”
- 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 that you or Occupational Health will be available to provide support in the future if required.

6.5.2 Responding to a disclosure of abuse

- Be aware of some of the barriers to disclosure for employees e.g. not recognising/wanting to recognise their experience as abusive, fear of bringing shame or dishonour to their family, fear that they might lose their children, belief that the abuse is their fault, concerns about confidentiality.
- Treat staff with respect and dignity. Be non-judgemental, supportive and sympathetic. Reassure them that the abuse is not their fault, that no-one deserves to be abused and acknowledge it's not always easy to know what to do.
- Be clear about the parameters of your role i.e. providing information and practical support but not offering opinions or advice or adopting a counselling role,

- Take account of any additional cultural & inequalities needs.
- Risk assessment: carry out a work place risk assessment to minimise any potential risk to staff members and colleagues. (see section 6.5.3)

Ascertaining risk involves taking account of the information provided by the staff member. 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/children? Is there sexual violence? What is the employee's assessment of the threat from the perpetrator? Are there child protection issues?

If you have reason to believe that the perpetrator presents a risk to other employees, then you should consider taking police advice to protect the workplace. Note: For more information on risk assessment and safety planning, please refer to the [GBV Good Practice Guides](#).

6.5.3 Safety planning:

Speak to the staff member 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 aid, rape crisis.

There is scope for managers to consider a range of work related adjustments. For example:

- the use of an assumed name at work, provision of a temporary mobile phone, change of telephone number, divert phone calls/emails, mutual agreement of a safe, confidential method of communication etc.
- Provide information on possible supports within NHS Forth Valley Occupational Health, HR, Equality and Diversity Manager, GBV Confidential Contacts and the Employee Counselling Service as well as local and national external support agencies.
- Discuss potential options for workplace support, taking cognisance of existing NHS policy provisions i.e. extended and/or flexible leave (paid or unpaid), change of work patterns, adjustment to workload etc.
- Provide extended and/or flexible special leave to enable time off to visit solicitors, attend counselling, court etc.
- Provide job security for staff attempting to flee an abusive situation and/or where possible give favourable consideration to any request for a change of workplace/work arrangements.
- Agree periods of extended absence in line with locally developed 'Special Leave' policies.

- 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.
- 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 to ensure the safety of the employee, colleagues or patients.

6.5.4 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.

In accordance with local procedures and in line with Data Protection Legislation, 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 procedure but if they relate to gender-based violence then this can be marked as confidential 'for manager and employee access only'.

Any reason for breaching confidentiality should be detailed and organisational procedures on sharing information adhered to.

Where Health and Safety applies, there is a duty to maintain a safe place of work. This requires monitoring and recording all incidents of violence or threatening behaviour in the workplace.

This information can be used if the member of staff 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 organisation could assist the employee to apply for an interdict.

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.

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. A summary of the manager's role is included in **Appendix 2**.

6.5.5 If an employee does not wish to take up support

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.

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 staff 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.

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

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.

6.5.6 Responding to staff who may be perpetrators

It is acknowledged that a number of employees within NHS Forth Valley may 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.
- 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.

6.5.7 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 Forth employee whose partner or ex-partner is also an employee.
 - Colleagues or patients
 - MARACs (multi-agency risk assessment conferences) ⁽²⁾ or local equivalent.
 - Partners, ex-partners or others who are not NHS employees
 - Post conviction notification from the police
 - Disclosure Scotland pre-employment check

Allegations may relate to abuse perpetrated within or 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, 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.

Allegations of abuse outside of the workplace

Employees may be perpetrating various forms of gender-based violence outside of the workplace. For example, gender-based violence, 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.

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

6.5.8 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 policies as developed in line with the 'Tackling Workplace Bullying & Harassment' and 'Management of Employee Conduct' policies and seek advice from HR as necessary.

Where the source of such allegations is anonymous, or where the allegation relates to abuse out with the work environment, it may be that, as employers, NHS Forth Valley will not be 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.

NHS Forth Valley 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.

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.

6.5.9 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.
- Whether or not the alleged actions of the staff member 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 'Management of Employee Conduct' Policy. Please refer to the attached flowchart in **Appendix 3** which highlights some key points to consider during the investigation process.
- Whilst an investigation process is ongoing, employees alleged to be perpetrators will receive support from Occupational Health and HR.
- 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.

6.5.10 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, using local policies developed in line with the ['Management of Employee Conduct' Policy](#).

Where an employee has been charged 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 staff member'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.

Notification of perpetrators, post conviction

There is a list of professions, including health, 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 GBV, 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 organisation would then consider the charges that had been proved against the employee and instigate disciplinary proceedings where appropriate.

Assisting perpetrators

Where staff members are found to be assisting colleagues to use work resources knowingly to harass and abuse others, this will be viewed as a serious disciplinary offence and action will be undertaken using local policies developed in line with the ['Management of Employee Conduct' POLICY](#).

Malicious allegations

Where there is clear evidence that an employee has made a malicious allegation that another employee is perpetrating abuse, then this will be treated as a serious disciplinary offence and action will be undertaken using local policies developed in line with the ['Management of Employee Conduct' POLICY](#).

Victimisation

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 as a serious disciplinary offence and action will be undertaken using local policies developed in line with the ['Management of Employee Conduct' POLICY](#).

Good practice in working with perpetrators

When responding to a direct disclosure from a member of staff or where it has been established that an employee has perpetrated abuse, it is important to adopt good practice when responding. Engaging with perpetrators of abuse in a positive, respectful way does not mean excusing the abuse. This is an area that requires sensitivity and an awareness of how this might affect the safety and well being of those experiencing the abuse. Your response could affect the extent to which perpetrators accept responsibility for their behaviour and, therefore, the need to change.

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
- Be clear that you might have to speak to other agencies if there are grounds to breach confidentiality
- Assist the perpetrator to be aware of the likely costs of continued abuse (arrest/loss of relationship/impact on children)

Providing information to enable change

You could provide information to alleged perpetrators of gender-based violence on Respect, an organisation which supports and develops effective interventions with perpetrators of abuse across the UK.

This service is 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 Phone line is 0845 122 8609 and the website can be visited at: www.respectphoneline.org.uk.

Support could also be provided through referrals to occupational health, counselling or local perpetrator programmes, where these exist.

APPENDIX 1 AN OVERVIEW OF GENDER-BASED VIOLENCE, PREVALENCE AND HEALTH IMPACT

This information is supplemented by a package of resources on Gender-based Violence developed by NHS Scotland for staff. This includes a generic guide 'What health workers need to know about gender-based violence: an overview', outlining the nature of gender-based violence, its health impact and how to respond. It is accompanied by a series of more detailed practice guides about the following specific forms of such abuse:

- Gender-based violence
- Childhood sexual abuse
- Rape and sexual assault
- Commercial sexual exploitation
- Stalking and harassment
- Harmful traditional practices (for example female genital mutilation, 'honour' crimes and forced marriage)

The guides can be accessed on www.gbv.scot.nhs.uk and hard copies should be available across health settings in all health settings.

What is gender-based violence?

Gender-based violence is endemic in society. Defined by the United Nations as: 'violence that is directed against a woman because she is a woman, or violence that affects a woman disproportionately', it encompasses a spectrum of abuse experienced mostly by women and perpetrated mainly by men i.e. gender-based violence, 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.

Given the disproportionate impact on women and girls, gender-based violence is one of the most sensitive indicators of gender inequality.

Definitions and Prevalence:

Gender-based violence is a pattern of assaultive and coercive control, including emotional, sexual, psychological and physical abuse that affects between 1 in 3 and 1 in 5 women over the course of their lives. ²

- Of 53,681 gender-based violence incidents reported to Scottish police in 2008/09, 84% of victims were female.³ Although men too experience gender-based violence, women are much more likely to experience repeated incidents over time, have greater injuries, and suffer more psychological and sexual violence.⁴
- Central Scotland Police had over 3500 cases reported during 2010
- In around 2 in 5 gender-based violence cases, there is also childhood physical and sexual abuse by the same perpetrator.

- There is evidence that gender-based violence within same sex relationships is common and could be higher than 1 in 3 according to a 2006 study. 5

Child sexual abuse is defined as exploitation of a child/young person for their own or other's sexual gratification. It is physically and emotionally abusive and often involves serious and degrading assault.

- 21% of girls and 11% of boys have experienced child sexual abuse.⁶

Rape and sexual assault is defined as unwanted or coerced sexual activity, including anal, oral or vaginal penetration, sexual touching; usually committed by a man known to the victim.

- In 54% of rape cases women are raped by a current or ex-partner⁷

Commercial sexual exploitation includes prostitution, pornography, lap dancing and sex trafficking.

- One in two women in prostitution become involved at the age of 18 or younger⁸
- There are 4,000 victims of trafficking for sexual exploitation in the UK⁹

Harassment and stalking is defined as unwanted, persistent often threatening attention e.g. following someone, constantly phoning, texting or e-mailing at home or work.

- There are clear links between stalking and gender-based violence: 37% of aggravated stalking against women was by a partner or ex-partner compared with 8% of men¹⁰

Harmful traditional practices includes: female genital mutilation, forced marriage and so-called 'honour' crimes which are culturally condoned as part of a tradition. These are likely to be a form of gender-based violence or the basis for it.

Forced marriage is a marriage which takes place against the wishes of either or both parties. This is not the same as an arranged marriage, where the individuals have a free choice as to whether to proceed.

Honour crimes constitute violence excused as a form of punishment for behaviour which is perceived as deviating from what the family or community believes to be the 'correct' form of behaviour, sometimes referred to as 'family honour'.

- In 2009 the UK Forced Marriage Unit dealt with 1682 cases of forced marriage 86% of these were women and 14% men¹¹
- An estimated 66,000 women living in the UK have undergone female genital mutilation.¹²

Health impact

The physical, emotional and psychological consequences of all forms of abuse can be profound and damaging. i.e.

Physical & sexual health

- Medical attention for injuries – in around 50% of cases according to one UK study¹³
- Greater risk of chronic health problems: Sexually Transmitted Infections, chronic pelvic pain, urinary tract infection, irritable bowel syndrome etc
- Women experiencing abuse are 15 times more likely to misuse alcohol and nine times more likely to use drugs than non-abused women¹⁴
- Higher rates of health risk behaviour such as smoking, risky sexual behaviour, unwanted teenage pregnancies and greater vulnerability to sexual exploitation.¹⁵
- Abuse during pregnancy significantly increases the risk of poor maternal and infant health outcomes¹⁶

Mental health

- Around 35-40% of women experiencing gender-based violence report depressive symptoms¹⁷
- Childhood sexual assault is associated with poor mental health including depression, anxiety, eating disorders, post traumatic stress disorder, self-harm, psychosis and suicidal ideation¹⁸

APPENDIX 2 GBV POLICY SUMMARY OF “THE MANAGER’S ROLE IN SUPPORTING STAFF”

Actively promote the policy to staff



Be alert to possible indicators of abuse



Ask if the employee is experiencing abuse



Create an environment where employees feel safe and able to discuss issues of abuse that are affecting them



Take time to talk, listen to the employee and make sure the discussion takes place in private



Respect confidentiality and advise of the limits of this at the outset i.e. risk to the safety of others, child protection etc



Reassure the employee and acknowledge their experience



Provide a sensitive, supportive response that takes account of any additional cultural & inequalities needs



Discuss potential options for support (internal and external), taking cognisance of existing provisions within relevant NHS policies



Risk assess & safety plan and work in partnership with other relevant agencies as appropriate



Advise of the parameters of the manager’s role and make clear what can and cannot be provided



Where appropriate, keep a proper record of discussions, ensuring that any information is stored confidentially



Monitor and review the situation regularly



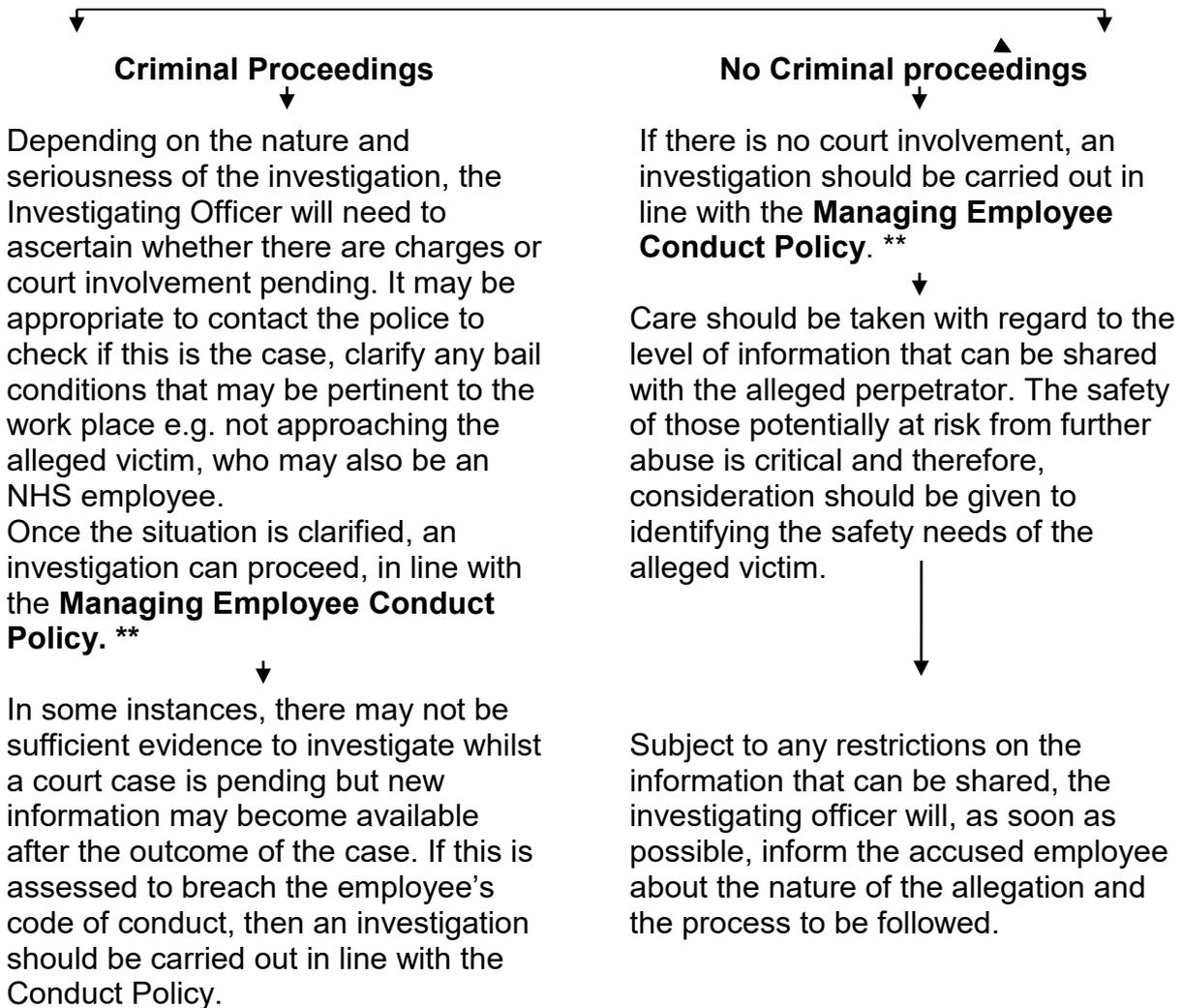
Offer ongoing support as appropriate

As a manager, you can further support staff by:

- Being aware of the possibility that staff members 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 staff member assess their level of risk and devise a safety plan in cases of gender-based violence
- 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.

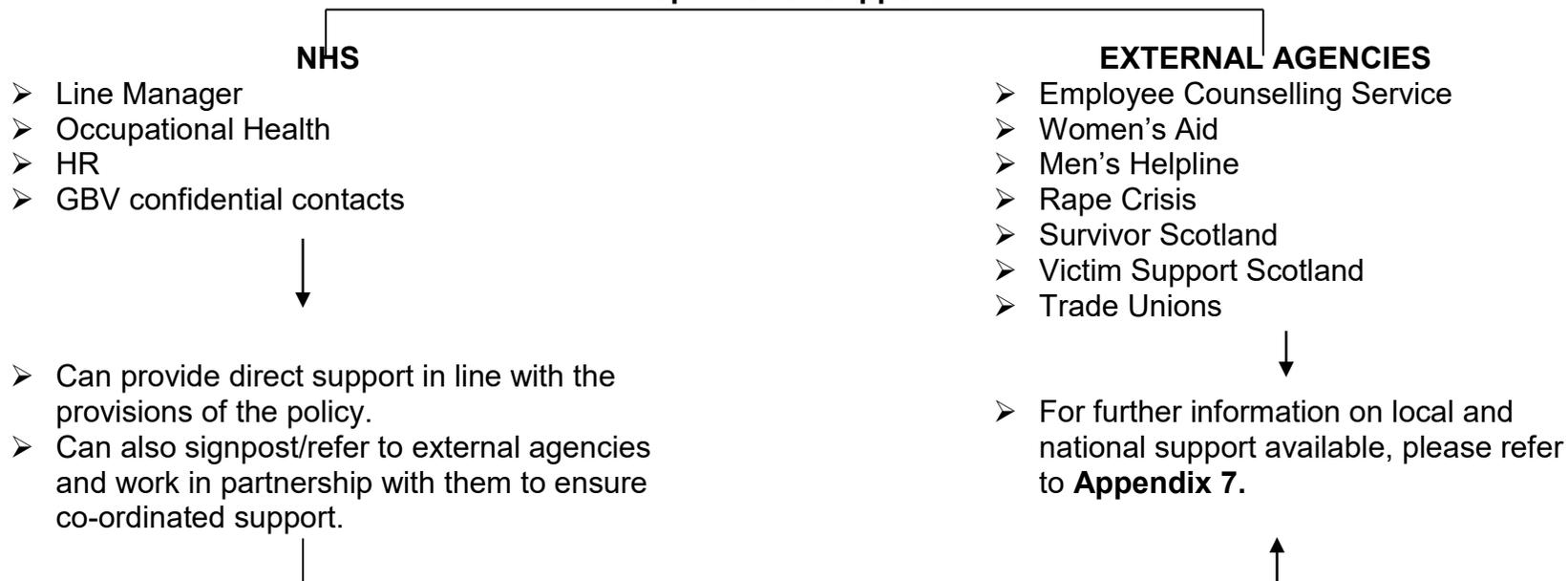
APPENDIX 3 POINTS TO CONSIDER DURING AN INVESTIGATION PROCESS

- Manager receives allegation of abuse
- Manager assesses the information available and determines whether the employee's organisational code of conduct may have been breached
- Manager proceeds to carry out an investigation, taking advice from HR
- Manager appoints an Investigating Officer



APPENDIX 4 NHS EMPLOYEE – WITH PREVIOUS OR CURRENT EXPERIENCE OF ABUSE

Options for Support



APPENDIX 5 TRAINING FOR KEY STAFF

Although managers may recognise GBV as a serious social issue, they may not necessarily feel equipped to respond appropriately to disclosures of abuse from staff. Consequently it is important that they have access to guidance and support.

To ensure this is available, it will be necessary for key staff with such a role to receive training on understanding the provisions of this policy and its implementation i.e. Line Managers, HR, Occupational Health, Learning and Development (L&D) and staff... It is recommended that training is undertaken in partnership with colleagues from trades unions and professional organisations.

Content of the training covers:

- The nature of gender-based violence and its impact on the workplace.
- Awareness of the legal context
- Why gender-based violence is a management responsibility.
- How to address the needs of staff with experience of abuse, taking account of inequalities issues and any additional support needs.
- How to risk assess and safety plan.
- How to respond effectively to allegations of abuse.
- Who to go to for support and advice.
- The importance of working in partnership with trades unions, professional organisations and external support agencies.
- Sign post attendees to additional local and national support groups and organisations.
- Inform staff about policies and procedures which may impact upon implementation of Gender Based Violence Policy including
- Managing Employee Conduct

APPENDIX 6 POTENTIAL SIGNS OF ABUSE

Note: Given the barriers that can make it difficult for staff 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 or poor work performance or uncharacteristic changes in an employee's behaviour.

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.

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
- Increased hours being worked for no apparent reason e.g. very early arrival at work or working late

Psychological indicators

- Changes in behaviour: may become quiet and withdrawn, avoid interaction, not 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
- Appears to be isolated from friends & family

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
- Sleep/eating disorders
- Substance use/dependence
- Depression/suicide attempts
- Fatigue
- 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

Vicarious Trauma

Many health workers 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, workers 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.

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 staff, the experience of supporting survivors of abuse may also trigger emotions relating to their own experience of abuse which they may find difficult

It is important for managers 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.

APPENDIX 7 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 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 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
- **Domestic Abuse (Scotland) Act 2018** – An act of the Scottish Parliament to create an offence with respect to the engaging by a person in a course of behaviour which is abusive of the person's partner or ex-partner; and to make rules of criminal procedure for that offence and also for offences subject to the statutory aggravation involving abuse of partners or ex-partners

APPENDIX 8 REFERENCES

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