

Cover Sheet

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Board Lead: Chief Nursing Officer and Chief People Officer

Author: Hamira Ghafoor, Enhanced Recovery Facilitator

Hosnieh Djafari-Marbini, Consultant Anaesthetist

Patient Experience Team

OUH BAME Network Discrimination and Inequalities Lead

Office

Confidential: No

Key Purpose: Assurance

Executive Summary

1. In August 2020 the Trust's Black Asian and Minority Ethnic (BAME) support colleagues invited network members to share their stories. This paper is the result of collaborative work between the BAME network and members of the Workforce Directorate and Patient Experience Team to ensure that the staff members voice is heard.
2. The aim of this paper is to share the staff members experience and to provide assurance to the Trust Board and our employees of what has been learnt, remedial actions that have already been taken and the actions to be progressed. The staff members lived experience has helped us rethink how we support our staff at all times in line with our Trust Values and Behaviours, particularly in regard to compassion and respect.
3. This paper details a staff member's experience of racism and bullying in the Trust. The staff member agrees to their experience being published but wishes to remain anonymous. However, their identity has recently been made known to a small number of senior staff within the Trust in order that a review of the case and any appropriate remedial action can be taken and recommendations made and implemented.
4. The staff member's health and personal circumstances have been significantly affected, and they have had to change job role accordingly.
5. A review of the staff member's experience has been undertaken by the Assistant Director of Workforce – Employee Relations. The review's recommendations for support for the staff member and learning points for the Trust are included in this paper, as well as details of actions already taken to prevent other employees having a similar experience.
6. Current and future work plans are in place to ensure that the Trust meets its commitment to the Trust's People Strategy, to make the Trust a place where:
 - People are proud and excited to work.
 - Teams and individuals are trusted with responsibility and are accountable for what they do.
 - The development and care of our people is recognised as being as important as the care of our patients.
7. The BAME staff network continues to support members who have experienced bullying.

Recommendations

8. The Public Trust Board is asked to:
 - Support the recommendations in this report.
 - Note the contents of this report.

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Staff story

1. Purpose

1.1. The purpose of this paper is to present an anonymous staff member's experience of racism and bullying, to increase awareness of the issues, make recommendations for ways to prevent this occurring again and detail actions already taken. The staff member is referred to as "P" throughout the story.

2. Background

2.1. There are 3,052 Black, Asian and Minority Ethnic (BAME) staff who work for the Trust (22.6%).

2.2. The Trust's long established Race Equality Action Group re-formed as the BAME staff network in July 2020. The BAME staff network was set up to provide a safe, confidential and supportive space for staff to connect with fellow BAME staff; share experiences; celebrate diversity; seek support, signposting or guidance on individual or collective needs. The BAME Staff network is supported by the Trust's EDI steering Group.

2.3. The network's aim is to work collaboratively with the Trust to promote Equality, Diversity and Inclusion (EDI) and highlight existing inequalities that impact BAME staff experiences. The work of the network includes working on the Trust's equality agenda, raising awareness on race equality, challenging discrimination and removing barriers for growth and development of our BAME staff.

2.4. Two of the BAME network support colleagues invited network members to share their stories in August 2020.

2.5. The story presented in this report links to Trust's strategic objective of improving staff health and wellbeing, specifically including and valuing everyone and keeping our staff. The Trust's strategy was presented to Trust Board in March 2020.

2.6. This story demonstrates the staff members experience of behaviours which are unaligned to the Trust's values: the bullying and harassment behaviours themselves (compassion and respect), and how the bullying and harassment behaviours were managed (compassion, respect, learning and improvement).

2.7. The story also demonstrates the staff members experience of behaviours which are aligned with Trust values, such as the excellent work completed by P (delivery and excellence), P's first manager in the Trust (respect), and other staff members supporting P and speaking out on their behalf (respect).

2.8. The Trust's Workforce Race Equality Standard (WRES)¹ also consistently identifies that BAME staff are disproportionately affected by bullying, harassment and discrimination. This is particularly relevant at the time of the Covid-19 pandemic and the disproportionate impact on BAME staff. Safety of BAME staff directly depends on appropriate relationships between staff and line managers. The most recent Combined Equality Standards Data for 2021 shows:

- 25.54% of our workforce are BAME
- 28.1% of BAME staff reported experiencing harassment, bullying or abuse from staff in the last 12 months (compared to 25.3% of white staff)
- 16% of BAME staff reported personally experiencing discrimination at work from a manager, team leader or other colleague in the last 12 months (compared to 5.9% of white staff)

3. Staff member's story

'Why do you want to become a nurse?' I was asked by the Head of the School of Nursing in 1979. 'Because I care about people and want to help make them better' was my reply as a naive 17-year-old.

Nursing wasn't my first choice of career; I wanted to be a dancer and was accepted into the London Contemporary Dance School at Goldsmiths College a year earlier, but my parents wouldn't allow me to go to London on my own at 16. My mum had worked in the NHS as a ward orderly prior to having children, and my aunt was a nurse, so my course had been steered towards the NHS.

I remember the milestones, such as my first day as a student, putting on my broad stripe cap as a newly qualified Registered General Nurse (RGN), and my first navy blue Sister's uniform. I had to work hard, harder than my peers to get where I was.

At 29-years-old I had pledged to myself that I would get that navy blue Sister's uniform before I was 30. I worked and studied hard and felt that I deserved it. Why would I not be able to achieve this? Because I was of Caribbean heritage and there was only one other person who looked like me in navy blue, my aunt, and she was on permanent nights, out of sight.

1. NHS Workforce Race Equality Standard

Implementing the Workforce Race Equality Standard (WRES) is a requirement for NHS commissioners and NHS healthcare providers including independent organisations, through the [NHS standard contract](#).

The [NHS Equality and Diversity Council](#) announced on 31 July 2014 that it had agreed action to ensure employees from black and minority ethnic (BME) backgrounds have equal access to career opportunities and receive fair treatment in the workplace. This is important because studies shows that a motivated, included and valued workforce helps deliver high quality patient care, increased patient satisfaction and better patient safety. [NHS England » NHS Workforce Race Equality Standard](#)

I had been brought up by my parents to be as good as anybody else and never ever recognised that I was different from my white friends and colleagues. I didn't segregate myself into black only groups or only have black friends. I never used the term 'It's because I'm black'. I never had to. I was married to a white man for over 10 years and all our friends and his colleagues treated me with respect and dignity. Maybe I was lucky?

I worked hard, and my ward was recognised as having excellent patient care with a multi-disciplinary approach second to none. The acknowledgements in the newspaper spoke for themselves. I was proud; I still cared and still helped to make people better. Patients were happy and my staff and students enjoyed working on the ward. They knew exactly what was expected of them, and I knew I could trust them to provide the best care without micromanaging them.

I applied for a Department Manager's post in the Oxford University Hospitals Trust. The role was mostly non-clinical, but I was to also implement a training programme for nurses. I had never been to Oxford until the day I came for interview. I was 40 and needed to be challenged. I was shocked when I was offered the post, but relished the new opportunities that were to come my way. I left a town where I had been born, brought up, had all my family and friends and worked most of my life, where it was 'safe', to start again. I was brave in this new world.

I was to start a new service and manage an established one. I was soon ensconced in the Trust and its culture. I with my funny accent and funny expressions, but people warmed to me.

My group manager was a wonderful woman, who spoke in a lovely Oxford accent, until she talked to me, and then the same accent came out. She was originally from the next town to me, we laughed many times about it. She was encouraging, supporting, would tell me if I was wrong, but in a way that I felt I was learning from. I expanded both services under her management, which led to improved patient safety and cost savings for the Trust. I also began to be nominated and recognised across the Trust for the work I was doing.

Five years ago, it all changed. My manager had retired, and my department was moved into another team. I was further amalgamated into another team. Here the fairy tale ended, and the nightmare began.

I was systematically bullied on a daily basis by three team members. I went from being an award winning manager to someone who was useless, wasn't as good as the others, whose work was rubbish regularly and couldn't do anything right. Including the work I had been doing for 25 years, won a national patient safety award for, and which was benchmarked and used by other Trusts.

I went from a confident, happy, productive, effective manager in the Trust, to someone who was shouted at in front of the team, made to cry, belittled, and a pathetic version of my former self. I recognised the signs, but wasn't prepared to let them beat me. I was after all a bullying and harassment support colleague, and was still supporting others across the Trust.

I was suffering migraines, had numerous chest infections, my asthma became worse; I suffered two retinal tears and was rundown, burnt out.

I used to sit on the edge of my bed in the morning, and burst into tears, because I knew what the day held, more of the same. Self-doubt crept in, I stopped smiling, stopped talking. I felt there was no point as I was either ignored or shouted down if I made any suggestions. Two of my supportive colleagues went to the Head of Department to complain about the way I was being treated. It was ignored. Instead I was then dealt with 'under the policies' of sickness and absence and performance and conduct. Why? Because I wouldn't let them win and make me walk away. I was scared, and didn't feel that I could talk to anyone about what I was going through. I felt my friends and family had heard enough of it, and so I internalised my feelings. This was racism in its vilest form.

I was depressed. I waited daily for the torture to begin, and it did. Eventually I felt so worthless I went to see my GP, who prescribed anti-depressants, and suggested counselling. I was put on sick leave. I was seen by occupational health who referred me to a counsellor in Oxford. It was then suggested that I was now suffering from PTSD due to the bullying and harassment.

On return to work the team had a mediation session, which basically turned into a witch hunt by the perpetrators. Two weeks later I was removed from the team under a duty of care for my mental health. The mediator was not happy at what she had observed. She had asked HR to remove me. I had 36 years of continuous NHS service and experience.

I was offered three choices

- Redeployment
- Resign from the Trust
- Retire

I had moved to Oxford for work, and now had a hefty mortgage. It was not possible for me to not work. I chose redeployment. I was then told that under the policy I had eight weeks to find another role or I could be dismissed. I hadn't done anything wrong! Why was I under threat of dismissal?

I had to take a lower band role on pay protection for just one year. I joined a wonderful supporting team, just before COVID and the lockdown. I am now starting to face the fact that in three months' time I will lose £6,000 a year salary. My pension will also be reduced. There are no suitable and available roles at my previous band at present.

Bullying and harassment has affected me financially, physically and emotionally. Instead of feeling confident that the Trust policy would protect me, I feel very let down. How can the victim be treated in this way by the organisation?

To this date the perpetrators have not been dealt with and have in fact moved on to other victims. How can this be allowed to happen and even continue? The Respect and Dignity Policy does not work when victims are too scared or depressed to take formal action.

Who cares for the carers? No one is the truth of the matter. 40 years' service and loyalty to the NHS and public. It is such a shame that at the twilight of my career, and an unblemished, record my career may end with a very bitter taste.

Why do you want to become a nurse?

4. Key points in the Staff Story

4.1. There are key experiences and observations emerging from the story, and these are highlighted below.

- P commented that they wondered whether they had been just been lucky to be treated with respect and dignity before this experience. The Trust's expectation is that all staff should be treated with dignity and respect at all times.
- P reflected on a lack of equality of opportunity for career progression within the NHS for BAME staff.
- P initially had a good experience of working for the Trust. P had a supportive manager and was recognised within the Trust and nationally for improvements to patient safety and making cost savings.
- After P's manager retired the team was moved into a new Department. It was here that P experienced bullying and harassment on the basis of race. P was shouted at in front of the team.
- This treatment greatly affected P's mental and physical health, as well as confidence and performance. As a result of the bullying, P had to take sick leave, and has since been diagnosed with Post Traumatic Stress Disorder (PTSD). P described going into work as "daily torture".
- P was managed under the 'Sickness Absence Management Procedure', and 'Managing Work Performance Procedure'

- As a bullying and harassment support colleague, P was still supporting others, but was too scared to take action about their own situation.
- Following mediation and advice from the Occupational Health Department P was eventually redeployed into another team due to the impact the situation had had on P's mental health.
- P had to face the possibility of dismissal if redeployment was not successful. P has now been redeployed but faces moving to a much lower salary when pay protection ends. P feels undervalued and let down after 40 years' loyalty to the NHS.

5. Review and Findings from P's Case

- 5.1. There were no records of the Managing Work Performance or Long Term Sickness procedures on the Trust Employee Relations (ER) Tracker so information available in the staff electronic files was relied on to complete the review of P's case. As P wished to remain anonymous the review has not included any discussion with staff named by P or with relevant HR team members so the findings have been drawn without the benefit of full exploration of all the facts of this case. However, the recommendations made in this paper include alternative ways to address the need to investigate P's case.
- 5.2. P was the subject of multiple procedures (sickness, grievance, organisational change, managing work performance and medical redeployment) and it appears that there was inadequate consideration given to how all these cumulatively impacted on P.
- 5.3. P's story refers to the 'nightmare' beginning when their team was moved into another team under a new line manager. There was no formal consultation regarding this move. Advice given at the time was that the changes were 'minor' and the 'biggest thing that needs doing is agreeing a new job description for P'. This advice was subsequently challenged by an HR Consultant but the service lead was not in agreement with revisiting organisational change. There should have been full consultation on the new role and consideration of whether this was suitable alternative employment if her previous role no longer existed.
- 5.4. A little over 12 months' after P was moved into the new department, informal performance management commenced. P's Performance Improvement Plan mentions awareness that as P has had various personal and work related pressures to deal with, the discussion about her performance was delayed. It was not supportive to delay initiating this type of discussion as early intervention is key to supporting performance and addressing issues rather than allowing them to develop.

- 5.5. P's Performance Improvement Plan (PIP) was clear and detailed but could be considered overwhelming to a staff member who has recently returned from sick leave and has been facing acknowledged work and personal challenges. The PIP sets out what is to be achieved and reference is made to providing P with support but this support is not detailed in the PIP.
- 5.6. P was given a 12 month formal warning regarding their performance and unsuccessfully appealed against this decision. Shortly after this P went on a further episode of long term sickness absence and advice was received that they should be redeployed on medical grounds.
- 5.7. P engaged with the redeployment and put forward suggestions of roles they were interested in and adjustments to these which could be considered. The review found a negative focus on why roles were unsuitable for P and what P could not do rather than proactively and positively looking at how P could be supported to succeed. This is particularly pertinent given the successful and lengthy work history that P had with the Trust.

6. Actions Already Taken

- 6.1. **EDI:** The EDI Function was moved from the Trust's Resourcing Team to the newly created Culture and Leadership Service. This move better enables EDI to be embedded within the Trust's cultural change initiatives, reflecting the Trust's strategic objective to create a compassionate and inclusive culture.
- 6.2. **BAME network:** The BAME network has supported members in the following ways:
- BAME network officers are in post.
 - Raising the profile of the network to widen and strengthen the network and increase membership.
 - An online group for members.
 - Interview skills workshops – the second of these was run in November 2020.
 - Offering one-to-one support with interview skills, coaching and mentoring.
 - Working with allies who want to be a visible support for our BAME colleagues and want to address Bystander Syndrome when they witness racism.
- 6.3. **Health and Wellbeing:** The Health and Wellbeing impact on P and others in similar situations can be overwhelming and clear signposting and access to support is key. The Trust has introduced a new role of a BAME Health and Wellbeing Lead to enhance our culturally sensitive health and

wellbeing offer for our diverse people. This is funded for 12 months thanks to the 'Charities Together' Fund.

- 6.4. **Just Culture:** The Trust is progressing its Just Culture programme to ensure that we place employees and their wellbeing at the centre of all workforce activities; establishing fair and transparent processes and supporting consistent, constructive and fair evaluation of the actions of staff. We are working in partnership with our Trade Union colleagues and our Staff Networks to ensure that we have a collaborative approach which will encompass the best EDI initiatives to reduce disproportionality in workforce processes. We are going to present to our EDI Steering Group in August about our work on Just Culture and are establishing a joint working group to commence our Just Culture programme.
- 6.5. **Human Resources (HR) advice:** The case review demonstrated that incorrect HR advice was given in the Division about an organisational change consultation not being required when P's team was transferred in 2016. When this was subsequently challenged by an HR Consultant in the 'new' Division the line manager did not accept the challenge and continued to follow the original HR advice that was given. The move of the Divisional HR Teams into the Workforce Directorate will help to prevent this occurring in future by the implementation of senior HR oversight and appropriate challenge to HR practice in the Trust. There was a lack of escalation by the HR Consultant when the line manager rejected their advice and the new HR structure will address this with increased opportunities for regular supervision and discussion of ER matters.
- 6.6. **HR Procedures:** The failure to follow HR Procedures appropriately was also highlighted in this case review. The centralisation of ER matters to provide senior case oversight and ensure professional advice is given and followed is essential to prevent future experiences such as P's. This centralisation connects with the development of the Trust's strategic approach to employee relations; seeking to achieve consistency of approach across the organisation and the sharing of best practice and learning.
- 6.7. **'Leading with Care':** The review found that there seems to have been a focus on 'following and documenting procedure' but there was insufficient focus on P as the person at the heart of the procedures. Our 'Leading with Care' workstream will see the introduction of a clear Leadership Behaviours Framework underpinned by a portfolio of Leadership Development Programmes that will model supportive, compassionate and collaborative leadership which in turn will promote a culture that enables confident people management practices. This work will intrinsically connect with our Trust Values, the Healthcare Leadership Model, the OUH People Plan and the NHS People Plan.

6.8. Oversight of management processes: There was a lack of oversight about the extent of different people management processes that P was the subject of. This will be addressed in different ways:

- The development of leadership competencies within the Trust which will facilitate strong leadership with the confidence and ability to understand and address the wider context in which people management situations arise.
- The full utilisation of the Trust's new case management software is enabling accurate reporting and review of cases. There will be a suite of standard reports on Employee Relations KPIs and the inclusion of a report detailing employees with multiple cases on this system will help with the early identification of potential concerns.
- Monthly Employee Relations review meetings held by the Chief People Officer and Chief Operating Officer with Divisional and Workforce representatives are ensuring that there is Board oversight of employee relations cases.
- We are reviewing how Occupational Health can provide support to employees who raise concerns regarding racism and bullying and harassment. This will include how to provide early intervention and appropriate signposting for employees who may require referral to services outside of Occupational Health e.g. the Trust Psychological Medicine Service.

7. Actions to Support P

7.1. It is essential that we consider actions we can take to rectify this situation and what that will mean in practice. The review of this case has demonstrated that the starting point for this sequence of events was a failure to correctly manage organisational change. The conclusion of the events was that P was left in a position where they accepted redeployment into a lower banded position where they received pay protection until January 2021. This has had a financial detriment on P with effect from February 2021.

7.2. A meeting has been held with the Chief Nursing Officer and Chief People Officer with P and a BAME Staff Network member to provide feedback on the review of P's case; this has allowed positive engagement with P and they have been informed of the actions we intend to take to support them and the learning points that have been identified for the Trust.

7.3. An exception to our Pay Protection policy has been made to extend P's pay protection in order to prevent any financial detriment for a further 24 months.

7.4. P will be proactively supported to return to a Band 7 role within the next 12 months; should P wish to remain in the team that they are in now as a Band 6 then this can be supported but the extended pay protection would end in January 2023.

8. Actions to be taken

8.1. A comprehensive investigation of the race discrimination and bullying and harassment concerns is required. There are two potential ways that we can investigate the concerns raised through this Staff Story:

- a. Whistleblowing Investigation – we can investigate under the Trust Freedom to Speak Up (Whistleblowing) Procedure and appoint an external Investigating Officer to undertake a broader investigation into the concerns of bullying and harassing behaviours and of racial discrimination within the service concerned. This would protect the anonymity of the employee as to date they have been adamant they do not want their identity known. However, this would be a more limited investigation; or
- b. Respect and Dignity at Work Investigation – this would mean that the employee would have to agree to their identity being known but would enable a specific investigation into the concerns raised in the staff story about the behaviours of (and responses to those behaviours by) particular people. We would need to ensure that the employee was fully supported whilst this was done and would also need to ensure that all other staff involved were equally supported through the process.

9. Improvements to take forward during 2021

9.1. The Culture and Leadership and Workforce teams will work together with the BAME staff network and EDI steering group to:

- Identify challenges with the implementation of the Trust's Respect and Dignity at Work (Preventing Bullying and Harassment) Procedure. For example; actions that should be taken when concerns are raised i.e. if colleagues raise concerns about a way in which a staff member is being treated even if the individual does not raise them directly.
- Develop a policy on zero tolerance to racism.
- Consider ways to make improvements in response to P's story; agree an action plan to ensure these are recorded and can be appropriately monitored.
- Consider engaging external expertise to help guide the process, for example, the national WRES team at NHS England and Improvement. The WRES team can be invited to work with NHS Trusts to review the

Trust's data identify which key changes could be made to improve racial equality, culture and experiences.

- Undertake an initial review of bullying and harassment incidents reported in the previous two years, to identify the number of cases and their outcomes in order before deciding whether further review is required.
- Report progress with the actions to Trust Board in 12 months, along with another staff story from another staff network.
- The EDI peer review (currently being piloted) will review how confident managers and staff feel to take action against racism. As part of this, ways for the organisation to improve will be suggested.
- As part of the leadership behaviours framework that is currently under development, the Trust will support managers to demonstrate the behaviours the Trust expects in relation to bullying and harassment.
- Clarification of the support structures for staff who are not part of a union and need individualised case support. The Trust will continue to collaborate with unions and look at innovative ways of providing safe spaces for staff to raise concerns and share experiences
- Continue to ensure that the BAME network has the resources to support members to raise their concerns.

9.2. People function objectives that are being taken forward in 2020/21-2021/22 which will positively impact on the experience of our people include:

- Development of a #OneTeamOneOUH leadership development behaviours framework, which will be based on our Trust values of compassion, respect, excellence, learning, delivery and improvement. This will explicitly define what we expect from all of our leaders and how we will hold each other to account
- Designing multi-professional, cross divisional leadership development pathways for our leaders which will have compassion at its heart and prioritise 'leading with care'. This will also integrate people management practices to equip our leaders to have compassionate conversations and appropriately and fairly apply people management policies and processes
- The Just Culture work has begun with the implementation at the end of 2020 of the suspension checklist to provide senior Workforce oversight of all suspension decisions. Two members of the Workforce Directorate have completed Restorative Just Culture training and a further 3 members of Trust staff will be trained in September. We have completed a review of our Disciplinary Procedure (which is being presented to the July Trust Board) which incorporates principles of a Just and Learning

Culture and we will continue to support and further the implementation of a Just and Learning Culture as the year progresses and intend to have reviewed further key workforce procedures by November 2021 to support the embedding of a Just Culture approach at OUH. Furthermore, with the disproportionate impact of COVID-19 on our BAME people, this has created a catalyst for change in which we in the NHS need to lead by example in bringing about positive change.

9.3. BAME network:

- A network launch is being planned to include monthly meetings to offer a space for members to share their lived experience, express their needs and what support they would like.
- Arranging a series of events for celebrating our diversity, for example working with the Trust's Chaplaincy team to develop religious calendar events.

9.4. The Chief People Officer is sponsoring an investment business case to create a fit for purpose People function; one that has the right skills, capabilities and resources to deliver our NHS People Plan commitments, our Trust Strategy and our Executive Team objectives to support compassionate excellence for our patients. A core objective of this business case is to strengthen our culture so that everyone feels they belong and are valued. We will enable an open, inclusive and just culture in which everyone is confident that their feedback, ideas and concerns will be listened to and acted upon appropriately. We will also tackle inequality and discrimination, including in relation to race, gender, and disability.

10. Conclusion

10.1. This paper tells the story from P's lived experience of racist bullying at work which has had a significant mental and physical effect on them.

10.2. Current and future work plans are in place to ensure that the Trust meets its commitment to the [Trust's People Strategy](#), to make the Trust a place where:

- People are proud and excited to work.
- Teams and individuals are trusted with responsibility and are accountable for what they do.
- The development and care of our people is recognised as being as important as the care of our patients.

11. Recommendations

11.1. The Public Trust Board is asked to

- Note the contents of this report.
- Support the recommendations in this report.