

NLTG’s Dignity and Respect Policy (Incorporating Harassment, Bullying and Violence) (GDPR)

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Introduction

We believe that having a culture that is diverse, equitable and inclusive is core to everything that we strive to achieve and to the environment we wish to protect. We do a lot to support our inclusive culture and you can read more about this in our Equality, Diversity and Inclusion Policy.

One key to protecting our culture and our people is seeking to eradicate bullying or harassment throughout NLTG settings. This policy supports this aim by setting out the steps we will take to investigate and deal with complaints of bullying or harassment and how we support those affected.

The policy accompanies our Equality, Diversity and Inclusion Policy.

This policy does not form part of your (NLTG Team Members) contract of employment and we reserve the right to amend or withdraw it at any time.

The scope of this policy

This policy covers bullying, violence and harassment of any kind by Directors, Managers, Employees, Contractors, Agency staff and anyone else engaged to work / learn within / or by the company, whether by direct contract with the company or otherwise. The policy also relates to job applicants and is relevant to all stages of the employment / learner relationship. The policy also applies to bullying or harassment by third parties.

In addition to bullying and harassment, it also in part includes violence within NLTG settings and in any work-related setting outside the workplace / classrooms, e.g. business trips and work-related social events, outward bound, learning / visiting excursions etc. It also serves to support NLTG apprentices as guidance / best practice.

Our commitment to you

We believe that a culture of equality, diversity and inclusion not only benefits NLTG but supports wellbeing and enables our people to work / learn better because they can be themselves and feel that they belong. We are committed to promoting a working / learning environment based on dignity, trust and respect, and one that is free from discrimination, harassment, bullying, victimisation or violence.

A toxic workplace / learning culture, where bullying or harassment is tolerated, is harmful to the wellbeing of the workforce as well as the wider organisation.

Such acts can have very serious consequences for individuals and the company. Harassment, violence and bullying may make people unhappy, may cause them stress which in turn could affect their health, family and social relationships, their work / learning performance and could cause them to leave their job / programme. Severe cases of harassment, violence and bullying can even lead to mental illness and suicide.

Effects on the company can include loss of morale, poor work / study performance, increased turnover of staff, increased leavers, legal claims and damage to the company’s reputation. Employees / Learners found guilty of harassment, violence or bullying may face disciplinary penalties, up to and including dismissal / removal from programme and could also be personally liable to pay compensation in legal claims. Serious harassment / violence may also be a criminal offence.

We therefore adopt a zero-tolerance approach to instances of bullying or harassment whether that be staff or learners. All allegations of bullying, violence and harassment will be investigated and, if appropriate, disciplinary action will be taken. Where NLTG employees are concerned and where external companies are involved, prohibition of those companies could occur. The company will also not tolerate victimisation of a person for making allegations of bullying, violence or harassment in good faith or supporting someone to make such a complaint.

Learners - NLTG strive to prevent all forms of abuse, and in particular cases of sexual violence / peer on peer abuse (learners). This must be reported directly to the Designated Safeguarding Officer within North Lancs Training Group in the first instance who will follow guidance from the Department Of Education and Safeguarding Policy. This is applicable to learners only. Any staff complaints of this nature should be raised through their Line Manager or our HR Manager.

For the purposes of clarity, when referring to sexual violence, under the Sexual Offences Act 2003, these are defined as:

- **Sexual Assault:** A person (A) commits an offence of sexual assault if: s/he intentionally touches another person (B), the touching is sexual, B does not consent to the touching and A does not reasonably believe that B consents.
- **Assault by Penetration:** A person (A) commits an offence if: s/he intentionally penetrates the vagina or anus of another person (B) with a part of her/his body or anything else, the penetration is sexual, B does not consent to the penetration and A does not reasonably believe that B consents.
- **Rape:** A person (A) commits an offence of rape if: he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis, B does not consent to the penetration and A does not reasonably believe that B consents.

What we expect from you

We expect you, and every one of our people, to take personal responsibility for observing, upholding, promoting and applying this policy. Whatever your job or position is, this is part of your role.

Any dealings you have with third parties, including customers, fellow learners, suppliers, contractors, agency staff and consultants, must be free from discrimination, harassment, victimisation or bullying.

If anyone within NLTG settings is found to have committed, authorised or condoned an act of bullying, harassment or violence, we will take action against them (for those to whom it applies) under our Disciplinary procedure where applicable which can include, up to and including dismissal / removal from programme,

There is no justifiable reason to bully or harass someone else. For example, observing a particular religion is not a legitimate reason for bullying or harassing a colleague / fellow learner because of their sexual orientation. Even if you do not intend to bully or harass someone else, this does not legitimise your behaviour as it is the impact on the recipient that is important.

You should be aware that you can be personally liable for harassment.

If you experience bullying or harassment, we encourage you to speak up without delay and to ask for appropriate support.

What is bullying and harassment?

Bullying: There is no legal definition of bullying. However, we regard it as conduct that is offensive, intimidating, malicious, insulting, or an abuse or misuse of power, and usually persistent, that has the effect of undermining, humiliating or injuring the recipient.

Bullying can be physical, verbal or non-verbal conduct. It is not necessarily face to face and can be done by email, phone calls, online (cyber-bullying) or on social media. Bullying may occur within and outside NLTG settings / Work.

If the bullying relates to a person's protected characteristic, it may also constitute harassment and, therefore, will be unlawful.

Harassment is unwanted conduct related to relevant protected characteristics, which are age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation that:

- has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person; or
- is reasonably considered by that person to have the effect of violating his/her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for him/her, even if this effect was not intended by the person responsible for the conduct.

Harassment can occur where someone perceives another person to have a protected characteristic, for example a perception that someone is transgender even if they are not.

Harassment can also arise by association, where someone is harassed because they are associated with someone with a protected characteristic, for example having a family member of a particular religion.

Conduct may be harassment whether or not the person behaving in that way intends to offend. Something intended as a "joke" may offend another person. Different people find different things acceptable. Everyone has the right to decide what behaviour is acceptable to him/her and to have his/her feelings respected by others. Behaviour that any reasonable person would realise would be likely to offend will be harassment without the recipient having to make it clear in advance that behaviour of that type is not acceptable to him/her, e.g. sexual touching or upskirting (unauthorised photographing under a woman's skirt or a man's kilt capturing an image of the crotch area underwear or genitalia).

It may not be so clear in advance that some other forms of behaviour would be unwelcome to, or could offend, a particular person, eg certain "banter", flirting or asking someone for a private drink after work. In these cases, first-time conduct that unintentionally causes offence will not be harassment, but it will become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to him/her. Staff are expected to challenge all behaviours regardless of level ensuring that it is never disregarded as 'just a joke' or 'banter'.

Harassment may also occur where a person engages in unwanted conduct towards another because he/she perceives that the recipient has a protected characteristic (for example, a perception that he/she is gay or disabled), when the recipient does not, in fact, have that protected characteristic. For example, it would be harassment for an individual to tease repeatedly an individual because of an incorrect belief that the recipient is deaf. Similarly, harassment could take place where an individual is bullied or harassed because of another person with whom the individual is connected or associated, for example if his/her child is disabled, wife is pregnant, or friend is a devout Christian.

A person may feel harassed even if the unwanted conduct is not directed towards him/her or related to his/her actual or perceived protected characteristic. For example, it may be harassment where a male or female employee is offended by the display of a topless calendar within their working / learning setting.

There may also be circumstances in which an individual is subjected to unwanted conduct from a third party, such as a client or customer. For example, it might be that a client makes a series of racist remarks to a black employee. If an employee or learner (within NLTG setting) feels that he/she has been bullied or harassed by customers, suppliers, vendors or visitors, he/she should report any such behaviour to his/her manager / tutor who will take appropriate action in line with this policy. In the cases of external learners, this should be reported to their employer with the Tutor made aware of the allegation.

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

All bullying, harassment and violence is misconduct and is a disciplinary offence that will be dealt with under the company's disciplinary policy within NLTG settings. Bullying, violence and / or harassment will often be gross misconduct, which can lead to dismissal without notice / removal from programme.

Bullying or harassment will constitute unlawful discrimination where it relates to one of the protected characteristics, which are age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Serious bullying or harassment may amount to other civil or criminal offences, eg a civil offence under the Protection from Harassment Act 1997 and criminal offences of assault.

Examples of bullying or harassment

Bullying and harassment may be misconduct that is physical, verbal or non-verbal, eg by letter or email (so-called "flame-mail") or through posting on social media, typically referred to as "Cyber Bullying".

Examples of unacceptable behaviour that are covered by this policy include (but are not limited to):

- physical conduct ranging from unwelcome touching to serious assault;
- posting comments about another person on Social Media to deliberately upset that person;
- unwelcome sexual advances;
- the offer of rewards for going along with sexual advances, e.g. promotion, access to training;
- threats for rejecting sexual advances, eg suggestions that refusing advances will adversely affect the employee's employment, evaluation, pay, advancement, assigned work, or any other condition of employment or career development;
- demeaning comments about a person's appearance;
- unwelcome jokes or comments of a sexual or racial nature or about an individual's age, disability, sexual orientation, religion or beliefs and questions about a person's sex life;
- unwanted nicknames related to a person's age, race or disability;
- the use of obscene gestures;
- excluding an individual because he/she is associated or connected with someone with a protected characteristic, e.g. his/her child is gay, spouse is black or parent is disabled;
- ignoring an individual because he/she is perceived to have a protected characteristic when he/she does not, in fact, have the protected characteristic, eg an employee is thought to be Jewish, or is perceived to be transgender;
- the open display of pictures or objects with sexual or racial overtones, even if not directed at any particular person, e.g. magazines, calendars or pin-ups;
- spreading malicious rumours or insulting someone;
- picking on someone or setting him/her up to fail;
- making threats or comments about someone's job security without good reason;
- ridiculing someone; isolation or non-cooperation at work, and excluding someone from social activities.

It is important to understand that legitimate, reasonable and constructive criticism of a person's performance or behaviour, or reasonable instructions given to people in the course of their employment / programme, will not of themselves amount to bullying.

Microaggressions

Microaggressions - sometimes called micro-incivilities - are statements, actions, or incidents that are regarded as indirect, subtle, or unintentional discrimination against members of a marginalised group such as a racial or ethnic minority. They are sometimes referred to as "death by a thousand cuts". Microaggressions generally take one of three forms:

- *Micro-assaults*: Conscious and obvious insults made verbally or non-verbally to a marginalised individual or group, for example directing limp-wristed hand gestures towards a gay colleague and saying "It's just a joke".
- *Micro-insults*: Unintentionally insensitive remarks or assumptions based on stereotypes, for example saying to a person with a disability "You don't look disabled to me".
- *Micro-invalidations*: Where a person denies, or seeks to cancel, the feelings and lived experiences of a marginalised individual or group, for example a white person saying "I don't think the UK has a problem with racism - some people are just too sensitive".

Serious microaggressions can amount to unlawful harassment, bullying or discrimination but even less serious microaggressions can negatively impact the health and wellbeing of the person experiencing them.

Meaning of sexual harassment

Harassment may be sexual in nature. The law defines sexual harassment as:

- conduct of a sexual nature that has the purpose or effect of violating someone's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment; and

- less favourable treatment related to sex or gender reassignment that occurs because of a rejection of, or submission to, sexual conduct.

Examples of sexual harassment

Sexual harassment can occur in many forms. While this is not an exhaustive list, examples include:

- physical conduct of a sexual nature, unwelcome physical contact or intimidation;
- persistent suggestions to meet up socially after a person has made clear that they do not welcome such suggestions;
- showing or sending offensive or pornographic material by any means (eg by text, video clip, email or by posting on the internet or social media);
- unwelcome sexual advances, propositions, suggestive remarks, or gender-related insults;
- offensive comments about appearance or dress, innuendo or lewd comments;
- leering, whistling or making sexually suggestive gestures; and
- gossip and speculation about someone's sexual orientation or transgender status, including spreading malicious rumours.

What is victimisation?

Victimisation is subjecting a person to a detriment because he/she has, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing him/her or someone else, or supported someone to make a complaint or given evidence in relation to a complaint. This would include isolating someone because he/she has made a complaint or giving him/her a heavier or more difficult workload.

Provided that you act in good faith, i.e. you genuinely believe that what you are saying is true, you have a right not to be victimised for making a complaint or doing anything in relation to a complaint of bullying, harassment or violence and the company will take appropriate action to deal with any alleged victimisation, which may include disciplinary action against anyone found to have victimised you / prohibition of a company. Making a complaint that you know to be untrue, or giving evidence that you know to be untrue, may lead to disciplinary action or removal from the programme being taken against you.

What can I do to help stop bullying and harassment?

We all have a responsibility to help create and maintain a work / learning environment free of bullying, harassment and violence.

You can help to do this by:

- being aware of how your own behaviour may affect others and changing it if necessary. You can still cause offence even if you are "only joking";
- treating your colleagues / learners with dignity and respect;
- taking a stand if you think inappropriate jokes or comments are being made;
- making it clear to others when you find their behaviour unacceptable, unless it should be obvious in advance that this would be the case;
- intervening, if possible, to stop harassment or bullying and giving support to recipients;
- making it clear that you find harassment, violence and bullying unacceptable;
- reporting harassment, bullying or violence to your manager / tutor or senior management and supporting the company in the investigation of complaints; and
- if a complaint of harassment, violence or bullying is made, not prejudging or victimising the complainant or alleged harasser.

All NLTG personnel have a particular responsibility to consistently:

- set a good example by their own behaviour;
- ensure that there is a supportive working and learning environment;
- make sure that staff / learners know what standards of behaviour are expected of them;
- intervene to stop bullying or harassment; and
- report promptly to a Director / Senior Manager / HR any complaint of bullying or harassment, or any incident of bullying, harassment or a violent act witnessed by them in relation to staff

How to make a complaint

Before raising a formal complaint, the employee / learner is encouraged in the first instance to talk directly and informally to the person whom he/she believes is harassing him/her and explain clearly what aspect of the person's behaviour is unacceptable, or is causing offence, and request that it stop immediately. It may be that the person whose conduct is causing offence is genuinely unaware that his/her behaviour is unwelcome or objectionable and that a direct approach can resolve the matter without the need for formal action. The

employee / learner may want to add that, if the behaviour continues, the employee / learner intends to make a formal complaint.

The employee / learner should keep a note of the date and what was said and done. This will be useful evidence if the unacceptable behaviour continues and the employee / learner wishes to make a formal complaint. Where an employee / learner would like support to make such an approach, he/she should contact their Line Manager / Senior Manager / our HR Manager or in the case of a learner, their Tutor or Coach. Alternatively, the complainant can seek support from another party to make an initial approach.

If, however, the employee / learner feels unable to take this course of action, or if he/she has already approached the person to no avail, or if the harassment is of a very serious nature, he/she may elect to raise a formal complaint. The company will ensure, where possible, that the employee / learner can bring the complaint in the first instance to someone of his/her own sex, if he/she chooses. If the complaint refers to an allegation from a learner against a member of staff, then the learner / representative should contact the company's SOFA (Senior Officer For Allegations), in line with the company's safeguarding policy.

In very serious cases, a criminal offence may have been committed and the employee / learner may wish to report matters to the police. Support from the company can be arranged for an appointed person to accompany the employee / learner to make a complaint to the police.

In bringing a complaint of harassment / bullying, the employee / learner should be prepared to state:

- the name of the person whose behaviour he/she believes amounts to harassment or bullying;
- the type of behaviour that is causing offence, together with specific examples if possible;
- dates and times when incidents of harassment, violence and /or bullying occurred, and where they occurred;
- the names of any persons who witnessed any incidents, or who themselves may have been the victims of harassment or bullying by the same person; and
- any action that the employee / learner has already taken to try to deal with the harassment.

Responsibility on Line Managers / Tutors to deal with complaints

Managers / Tutors who receive a complaint, have a duty to ensure it is investigated promptly, thoroughly and objectively and, where necessary, to take action in line with company procedure in order to ensure that the company's dignity at work policy is complied with. Line managers / Tutors should be responsive, sensitive and supportive towards any employee / learner who raises a complaint of harassment, violence or bullying. Managers / Tutors will maintain confidentiality to the maximum extent possible. Investigation of allegations will normally require limited disclosure on a "need to know" basis. For example, the identity of the employee / learner complaining of harassment, violence or bullying, and the nature of the allegations must be revealed to the person he/she is complaining about, so that person is able to respond to the allegations.

Some details may also have to be given to potential witnesses, but this will be limited as far as possible, while ensuring a fair and sufficiently thorough investigation. The importance of confidentiality will be emphasised to witnesses.

In the case of internal staff complaints, the company can assist any Line Manager in dealing with complaints of harassment, violence or bullying. All incidents of harassment, bullying or violence should, in any event, be reported to a member of the Senior Management Team and in the case of learner complaints the DSO/ DSL a member of the SG Team or their Tutor.

Dealing with the complaint

Wherever possible, NLTG will try to ensure that the employee / learner complaining of harassment or bullying and the alleged harasser are not required to work / learn together while the complaint is under investigation. In the case of a staff complaint this could involve giving the employee complaining of harassment or bullying the option of working from home, where possible or remaining at home on special leave, if agreed.

In the case of serious allegations, the company may suspend any employee / learner who is under investigation for harassment or bullying for a temporary period while investigations are being carried out and any disciplinary proceedings are underway. Such suspension will be for as short a time as possible and will be on full pay (Staff). Suspension in these circumstances does not constitute disciplinary action.

Any employee / learner accused of harassment or bullying will be informed of the complaint against him/her and afforded a full opportunity to challenge the allegations and put forward an explanation for his/her behaviour in a confidential interview, with a companion present if he/she wishes. No employee / learner will be presumed guilty following an allegation of harassment or bullying against him/her.

If the complaint is upheld, and the person found to have bullied or harassed remains in the company's employment / programme, every effort will be made to ensure that, where possible, the complainant does not have to continue to work / learn alongside the harasser, if the complainant does not wish to do so. The company will discuss the options with the complainant. These may include the transfer of the harasser or, if the complainant wishes, the complainant may be able to transfer to another post / area.

Bully/harasser is a third party

If you are experiencing bullying or harassment by a third party (someone out of NLTG settings), for example a client or a supplier, we encourage you to report this to your Manager or a Tutor without delay so that they can advise and support you on the best course of action.

What happens if I am accused of bullying, harassment or aggression?

If someone approaches you informally about your behaviour, do not dismiss the complaint out of hand because for example you were only joking or think the complainant is being too sensitive. Remember that different people find different things acceptable and everyone has the right to decide what behaviour is acceptable to him/her and to have his/her feelings respected by others. You may have offended someone without intending to. If that is the case, the person concerned may be content with an explanation and an apology from you and an assurance that you will be careful in future not to behave in a way that you now know may cause offence. Provided that you do not repeat the behaviour that has caused offence, that may well be the end of the matter.

If a formal complaint is made about your behaviour, this will be fully investigated, and the company may bring disciplinary proceedings, if appropriate (NLTG setting). The company will follow its disciplinary procedure and you will have the rights set out in that procedure. In a situation regarding allegation against employees, they will have the right to be informed of the allegations against you and to put your side of the story and to be accompanied to meetings by a trade union official or fellow worker. The procedure will be implemented at the appropriate stage for the seriousness of the allegation. Complaints of bullying, violence and harassment will often be allegations of gross misconduct that, if proved, could lead to dismissal without notice.

NLTG will treat complaints of bullying and harassment sensitively and maintain confidentiality to the maximum extent possible. Investigations of allegations and future management of risk, if complaints are upheld, will normally require limited disclosure on a "need to know" basis. For example, some details may have to be given to potential witnesses, but this will be limited as far as possible, while ensuring a fair and sufficiently thorough investigation. The importance of confidentiality will be emphasised to witnesses.

Wherever possible, the company will try to ensure that you and the complainant are not required to work / learn together while the complaint is under investigation. For employees, if the allegation is of gross misconduct, you may be suspended on full pay during the investigation and, if a disciplinary hearing is to be called, until disciplinary proceedings have been concluded. Learners may be temporarily removed from Programme whilst investigations are undertaken.

If the complaint against you is upheld, on a balance of probabilities, a disciplinary penalty (warning) may be imposed up to and including dismissal, having regard to the seriousness of the offence and all relevant circumstances. If you are an employee of the company and complaint is upheld, but you are not dismissed, the company could decide to transfer you to another post.

You must not victimise a person who has made a complaint in good faith against you or anyone who has supported him/her in making the complaint or given evidence in relation to such a complaint. Action may be

taken against you if the company has good reason to think that you may have victimised the complainant or someone else.

Some types of bullying or harassment may constitute unlawful discrimination and allegations may give rise to the possibility of other civil claims or criminal proceedings against you, which would proceed independently of the company. You could be personally liable to pay compensation to the complainant if a successful claim in the courts was brought against you. Criminal proceedings could lead to conviction and criminal penalties.

If a complaint is not upheld:

If the complaint is not upheld, the company will support the complainant, the alleged harasser and the complainant's manager(s) (within NLTG) in making arrangements for both employees / learners to continue or resume working / learning together and to help repair relationships. NLTG will consider making arrangements to avoid the complainant and the alleged harasser having to continue to work / learn alongside each other, if either of them do not wish to do this. Further information regarding NLTG's ongoing safeguarding and support for the victim (and alleged perpetrator) and other children / vulnerable adults is available via the Learner Hub.

False Allegations:

If a complaint is made that is not upheld and the company has good grounds for believing that the complaint was not made in good faith, the company will further investigate and, if appropriate, will take action against the person making the false complaint.

Making this policy work

The company will provide through this policy training to all existing and new employees and others engaged to work / learn at NLTG to help them understand their rights and responsibilities and what they can do to help create a working / learning environment free of bullying and harassment.

The company will review the outcomes of all cases where complaints of bullying, harassment and violence have been made to check that the proper procedures have been followed and to identify any points that can be learned from those cases and implement any necessary changes.

When carrying out any reviews or monitoring, NLTG will ensure that individuals' personal data is handled in accordance with its data protection policy.

Support for those affected or involved

We understand that anyone affected by, or involved with, a complaint of bullying, harassment or violence may feel anxious or upset and we will do what we can to support you. If you feel you cannot continue to work in close contact with the alleged bully/harasser/aggressor, we will consider seriously any requested changes to your working / learning arrangements during our investigation into the matter.

For emotional support, you can access free, confidential counselling from our EAP service (Staff only). Learners can access support via signposting available on the Learner Hub.

Sensitivity and confidentiality

Anyone involved with an informal or formal complaint about bullying, harassment or violence, including witnesses, must keep the matter strictly confidential and act with appropriate sensitivity to all parties.

If you are found to have breached confidentiality or acted without due care or sensitivity in a case of bullying, harassment or violence, we may take disciplinary action against you up to and including dismissal (or other appropriate action for non-employees).

Consequences of breaching this policy

If, following a formal investigation, we find that you have committed, authorised or condoned an act of bullying or harassment, we will deal with the issue as a possible case of misconduct or gross misconduct.

We may take disciplinary action against you, up to and including dismissal (or other appropriate action for non-employees).

Anyone who complains or takes part in good faith in a bullying or harassment investigation must not suffer any form of detrimental treatment or victimisation. If we find that you have victimised anyone in this way, we

will instigate disciplinary action against you up to and including dismissal (or other appropriate action for non-employees).

Associated Documentation:

To be read in conjunction with NL0500 e (xii) NLTG Whistle Blowing Policy, NLE1509 Sexual Violence and Harassment, NL0500 i (iv) The Prevent Duty, NL0500 s (i) NLTG Safeguarding Policy, NL0500 e (xiii) NLTG Disciplinary Procedure, NL0500 e (xv) Grievance procedure.

Data Protection

NLTG processes any personal data collected during within the procedure within this policy in accordance with its data protection policy. Any data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the capability procedure.

Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the companies' data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the companies' disciplinary procedure.



GARETH LINDSAY
NLTG Managing Director