

Policy for Responding to Harassment and Bullying (Employees)

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POLICY FOR RESPONDING TO HARASSMENT AND BULLYING (FOR EMPLOYEES)

1 Introduction and college commitment to students and staff

- 1.1 The college is proud to be a welcoming and inclusive community which provides a positive and safe environment for everyone to be able to study and work.

The Principal, Governors and all staff are asked to demonstrate a commitment and proactive approach to eliminating unfair treatment and to tackling bullying when concerns or complaints are raised. This includes a zero tolerance of any kind of discrimination and harassment against students or staff on the grounds of someone's sex, age, ethnicity/nationality, a disability, their marital status, their sexual orientation, their transgender or gender reassignment status and their religious belief or non-belief or their political opinion or affiliation.

It is the right of every member of staff and all students to be able work or study without fear of bullying and harassment and related discrimination or victimisation.

- 1.2 If a complaint is brought to the attention of management, it will be investigated promptly and appropriate action taken. This policy follows guidance issued by ACAS which can be found at www.acas.org.uk and further information is included at appendix 1.
- 1.3 Where following investigation an allegation is found to be proven or there is a case to answer, the college will take appropriate action under the disciplinary procedure, which could include dismissal from employment. In addition, serious matters where there is a potential criminal offence will be referred to the police for investigation and possible legal action.
- 1.4 Where there are safeguarding concerns, including the suitability for an individual to continue to work with people aged under 18 or vulnerable adults, the matter may also be referred to the Local Authority Designated Officer (LADO) and the Disclosure and Barring Service (DBS). This could lead to an individual being barred from working with these groups in the future.
- 1.5 Separate arrangements are in place setting out the college's approach to tackling bullying and harassment for students and the potential disciplinary action that may be taken.

2. What is bullying, harassment, discrimination and victimisation at work?

2.1 Harassment and bullying can include any conduct which is unwanted by the recipient, or any such conduct which is classed as discrimination or victimisation and which affects the dignity of any individual, or group of individuals based on the protected characteristics (which are set out in detail on the next page). The unfair treatment may be repetitive, or an isolated occurrence and can be experienced in many different ways. For example, depending on the type of treatment, it might:

- be a regular pattern of behaviour or a one-off incident
- happen face to face, on social media, in emails or phone calls
- be spoken or written words, imagery, graffiti, gestures, jokes, pranks or unwanted physical behaviour
- happen in the workplace, at work social events or outside of work
- not always be obvious or noticed by others.

Bullying

2.2 Bullying is behaviour from a person or group that's unwanted and makes someone feel uncomfortable. It can include offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. It may leave the victim feeling:

- frightened
- less respected or put down
- made fun of
- upset
- in serious cases it may impact on their mental health including their confidence / ability to perform their job role or to function with other people.

2.3 Examples of bullying in the workplace could include:

- spreading a false rumour or making derogatory/abusive remarks about someone
- putting someone down in meetings or in the workplace
- not allowing someone to go on training courses, but allowing everyone else to
- giving someone a heavier workload than everyone else
- excluding someone from team social events.

2.4 Sometimes bullying is classed as harassment, which is against the law and could lead to criminal investigation and legal action being taken.

Harassment

2.5 By law, harassment is when bullying or unwanted behaviour is related to any of the following (known as 'protected characteristics' under the Equality Act 2010):

- age
- disability
- gender reassignment

- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation.

2.6 The law on harassment does not cover marriage and civil partnership.

As with bullying, the person being harassed might feel:

- disrespected
- frightened
- humiliated
- made fun of
- offended
- threatened.

2.6 For it to count as harassment, the unwanted behaviour must have either:

- violated the person's dignity, whether it was intended or not
- created a hostile environment for the person, whether it was intended or not.

2.7 The law on harassment also applies to:

- a person being harassed because they are thought to have a certain protected characteristic when they do not
- a person being harassed because they're linked to someone with a certain protected characteristic
- a person who witnesses harassment because of someone else's protected characteristic and is upset by it.

2.8 A list of examples of possible types of harassment are included at Appendix 2.

Discrimination

2.9 By law, discrimination is when someone's treated unfairly because of any of the protected characteristics that are listed above.

Victimisation

2.10 Victimisation is when someone is treated unfairly because they made or supported a complaint to do with a 'protected characteristic', or someone thinks they did or might do.

Keeping a record

2.11 It is important that anyone who believes that they have suffered from harassment should keep notes of the details outlined below for each incident and that they are made as soon after the event as possible. Detailed notes should include the following:

- date
- time
- place
- name of person harassing them
- what actually happened
- how the person actually felt at the time
- name of any witnesses
- action taken and whether reported to management
- any correspondence relating to the incidents and subsequent complaints.

3 Responsibilities of all staff

- 3.1 It is the duty of every member of the college to take responsibility for their behaviour and to challenge others or raise concerns with management if they witness incidents, as harassment and bullying is not acceptable under any circumstances. This can include incidents involving other staff, students or external parties. The college's Employee Code of Conduct and Safeguarding Policy provide further information for all staff on expectations relating to behaviour and conduct.
- 3.2 Allegations of harassment and bullying involving a member of staff will be investigated and could lead to disciplinary action, in accordance with the college's disciplinary procedure. Any allegation which is upheld may also lead to an individual being held personally liable should the person who has been harassed undertake legal proceedings or the matter be referred to the police. Both managers and individual members of staff have a responsibility to ensure that the policy is effectively applied and that harassment does not occur or is reported if witnessed.

Training and compliance

- 3.3 All new employees will be informed of the organisation's policy towards harassment and bullying at induction. The college expects all managers and supervisors to ensure that this policy and procedure are adhered to at all times. The college provides Equality and Diversity training including on harassment to all new staff as part of their induction and also provides refresher training on specific issues to all staff at least every 3 years. Specific training will also be provided for managers where appropriate to ensure they gain the knowledge, skills and awareness necessary to operate the college's policy and relevant legislation efficiently and effectively and to communicate this to their staff and students.

4 Harassment and bullying by third parties

The college will not tolerate any form of harassment of its workforce by third parties (e.g. customers, suppliers or members of the public). All contractors, suppliers and other third parties will be informed of the organisation's policy and action will be taken against those who subject any of the workforce to any form of harassment. Any employee who is the victim of harassment by a third party, or who becomes

aware that another employee is suffering such harassment, should report the matter immediately to a manager or a member of the Human Resources team.

5 Review and monitoring of the procedure

The procedure will be reviewed at least once every two years or sooner to reflect changes in legislation or best practice.

6 Procedure for dealing with a complaint or concern regarding harassment or bullying

- 6.1 The procedure follows the principles of the college's grievance procedure and has been designed to deal with complaints of harassment and bullying in a sensitive manner. The objective of the procedure is to try and ensure minimal stress for the complainant, timely resolution of complaints and a degree of flexibility which is appropriate to individual circumstances.
- 6.2 It is recognised that in bringing a complaint, the complainant must be protected from further harassment, victimisation or detriment arising from the alleged incident and associated complaint. At all stages of the procedure, the need to maintain confidentiality will be paramount. Information circulation will be minimised to that which is necessary to ensure a fair investigation and hearing. If at any stage in this procedure an employee does not receive a response to a formal complaint in accordance with the specified or agreed time limits, or where the response is inadequate or inappropriate, the employee is entitled to raise the matter under the college's grievance procedure.
- 6.3 A complaint or concern might come from:
- an employee about something they've experienced
 - an employee who's witnessed unacceptable behaviour or treatment
 - a trade union or employee representative on behalf of an employee.
- 6.4 The college will look into the complaint in a way that's fair and sensitive to:
- the person who made the complaint
 - anyone who witnessed it
 - anyone accused of bullying, harassment, discrimination or victimisation.
- 6.5 The college will follow the below process:

Talking to the person who raised the issue

- 6.6 An appropriate manager with HR support will talk to the person raising the issue. This will allow the college to understand more about the issue, and what might help resolve it. The manager would not be anyone who is directly involved in the complaint / concern and the individual making the complaint / raising a concern can raise with HR any issues they have with the manager appointed to look into the matter. An

individual can be accompanied to any informal meetings in these circumstances by their trade union representative or a work colleague.

Check how the person might like the issue handled

- 6.7 The manager will ask the person who has raised the issue what they'd like to happen. For example, and depending on the seriousness of the issues they might prefer:
- that management keep an eye on the issue
 - advice and support on how to handle it
 - an apology
 - someone to have a quiet word with the person they are complaining about
 - to try mediation
 - to make a formal complaint.
- 6.8 The college will where possible try to take what the individual would prefer into account. If the manager feels that what the individual would like to happen is not appropriate, they will:
- talk to the person and explain why they think it needs to be handled differently
 - try to agree on the approach together.

For example, if an individual wants the matter handled informally but the manager determines that it is an extremely serious matter, the manager may suggest handling it formally instead. If it cannot be agreed on the most appropriate approach, the manager will need to make a recommendation with HR advice and if there is any doubt the matter should be dealt with through a formal procedure.

If the individual would like the matter dealt with via informal resolution

- 6.9 Depending on the nature of the allegation it may be possible to try to resolve the issue through informal action in the first instance, if this is appropriate. Sometimes people are not aware that their behaviour is unwelcome and an informal discussion can lead to greater understanding and an agreement that the behaviour will cease.
- 6.10 It may be that the individual will choose to do this themselves, or they may need support from HR, a manager or a union representative. This could include an appropriate manager or HR speaking to the individual to make them aware of the concerns raised and agree actions to ensure this does not happen in the future. The action taken will be confirmed in an email to both parties involved.
- 6.11 Any discussions will be confidential and no action will be taken without the consent of the complainant or unless the manager considers the incident so serious, in which case they will inform the employee of their need to take action against the alleged harasser, following consultation with the employee concerned. The employee may have a colleague or recognised trade union representative present at all stages of the procedure.

6.12 If the individual is not satisfied with the proposed course of action or if the harassment continues then the employee has the right at any stage to submit a formal complaint.

If the individual would like the matter dealt with as a formal complaint

6.9 If the individual wishes to make a complaint this should be put in writing to their line manager, or to HR, or to a more senior manager if their immediate manager is implicated. The letter/email needs to specify that it is a formal complaint giving details of the incident(s).

6.10 Where the complaint involves another staff member(s), the matter will be investigated under Disciplinary Procedure by an Investigation Officer (IO) who has had no previous involvement in the matter under the guidelines set out in the Staff Disciplinary Procedure. The IO is required to protect the rights of both parties involved and ensure that both are entitled to a full and fair opportunity to put their version of events. This will include individual interviews and statements from other witnesses where required.

6.11 In cases of sexual harassment, in no circumstances will evidence of the complainant's appearance and sexual attitudes be taken as relevant information. In some cases, there will not be any witnesses and it will be one person's word against another's. In these cases, they will consider whether on the balance of probabilities, the incidents/actions occurred.

6.12 Following their investigation IO may make a recommendation as follows:

- take no action, that is the allegation has not been substantiated; or
- initiate a formal hearing under disciplinary procedure to be heard by a separate Hearing Officer; or
- make other recommendations for management action. This could include:
 - with agreement of both parties, measures to enable conflict resolution and the restoration of working relationships;
 - a recommendation of redeployment of one or both parties, either on a temporary or permanent basis. In relation to redeployment the complainant should be given the choice, though normally the alleged harasser would be redeployed first. Should a transfer take place, this must not be on any less terms and conditions of employment, unless action is taken within the disciplinary procedure to demote an individual;
 - setting up arrangements to monitor the situation;
 - required attendance on training courses;

Possible suspension or redeployment during the investigation

- 6.13 In order to relieve the stress and pressure on one or both parties; to prevent the risk of further incidents and to prevent victimisation it may be necessary in very serious cases to suspend or temporarily redeploy the alleged harasser. Suspension or redeployment under this procedure does not constitute part of the disciplinary procedure and will be on full pay. It is purely a holding measure to enable the investigation and in no way implies guilt.

Attendance at a disciplinary hearing

- 6.14 The normal disciplinary procedure should be applied; however, the following points should be considered:
- The complainant may be required to attend the disciplinary hearing as a witness, although every effort should be made to avoid this whenever possible.
 - If they are required to attend, then they should be allowed to bring a trade union representative or colleague to support and represent them where appropriate.

Keeping management records

- 6.15 After a complaint has been heard, the following storage arrangements should be followed:
- Where the complaint is informal, no record will be kept on personal HR files, but it is recommended that the complainant makes a note of their meeting
 - Where the complaint is not substantiated, then no record will be kept on the alleged offender's HR file
 - Where the matter proceeds to a disciplinary hearing, then the storage of records should be in accordance with the disciplinary procedure.

Time limits for investigating a complaint

- 6.16 The investigation should normally be completed within 10 working days of the complaint being received. Following this further time may be required to convene a disciplinary hearing if required. On occasions, it will not be possible to keep within this timescale. In such cases, the complainant and the alleged offender must both be kept informed of any need for an extension and the likely timescale for completion.

Complaints regarding the process followed

- 6.17 If the employee who has complained is not satisfied with the process being followed then they have the right to:

- institute grievance proceedings against management for failing to investigate and take appropriate action;
- institute grievance proceedings against management for failing to meet their responsibilities under the college's policy and procedure on harassment.

6.18 If the alleged harasser disagrees with any decisions taken, then they have the right to raise this matter under the college's grievance procedure or the appeal process of the Disciplinary Procedure where formal action has been taken.

Serious or potential criminal / safeguarding matters

6.19 In cases of behaviour that is considered to be a criminal offence or of concern under safeguarding procedures, the college will refer the matter to the Police and/or the Local Authority Designated Officer (LADO) or the Disclosure and Barring Service (DBS) for further consideration.

Supporting the individual who has raised a concern / complaint

6.20 The college recognises that making a complaint is likely to be a distressing experience and that it may be difficult for employees to raise complaints directly with their line managers. Accordingly, employees may approach a colleague, other manager or trade union representative to raise the issue with management on their behalf in line with this procedure and to support them through the process. This includes employees being accompanied at meetings for support. The manager and HR will also ensure the individual is made aware of other support available throughout the process. This will include:

- 24/ 7 counselling and support through an employee assistance programme (EAP), for example if they are feeling stressed
- HR advice and support
- A named manager or other trusted colleague to act as a support buddy through the process.
- trade union or employee representatives who can offer advice
- specialist external organisations and charities that provide bullying, harassment and discrimination support.

Appendix 1 – ACAS principles for considering allegations of bullying or harassment

When considering a concern or complaint the college will work to the following principles as identified in ACAS guidance.

Keep an open mind - You should always keep an open mind when dealing with a complaint about unacceptable behaviour or treatment. What someone thinks is unfair is usually down to their individual experience, so it's important that you:

- listen to what they say
- leave any personal feelings you may have to one side
- look at how it's made them feel, or how it's affected them
- do not make any assumptions
- look into the complaint thoroughly and fairly

Be aware of any sensitivities - Keep in mind that it can be hard for an employee to speak up about bullying, harassment, discrimination or victimisation, especially if:

- they're upset about what they've experienced or witnessed
- it's been happening for a long time
- it's affecting their mental health
- they're worried they might be treated unfairly if they make a complaint

Treat it confidentially - You should handle the complaint confidentially, including any investigation.

Consider the mental health and wellbeing of those involved - It's likely to be stressful and distressing for someone to:

- experience bullying, harassment, discrimination or victimisation
- witness someone else being bullied, harassed, victimised or discriminated against
- be accused of bullying, harassment, discrimination or victimisation
- You should look out for your employees' wellbeing and offer them support while the complaint is being handled and afterwards. This can prevent mental health issues arising or existing mental health issues getting worse

Appendix 2 - examples of bullying and harassment

The following is a list of the possible types of bullying and harassment and associated discrimination and victimisation. The examples are not exhaustive. Some of the types of behaviour listed above may, after investigation, amount to gross misconduct, punishable by summary dismissal. As described earlier in this policy they may also constitute a criminal offence and may lead to further investigation by the Police and/or may also be a safeguarding matter which could be referred to Local Authority Designated Officer (LADO) and/or the Disclosure and Barring Service (DBS).

Sexual harassment may take many forms, from relatively mild sexual banter to physical violence. Employees may not always realise that their behaviour constitutes sexual harassment but they must recognise that what is acceptable to one person may not be acceptable to another. Sexual harassment may be physical, verbal or non-verbal.

Examples include:

- jokes, stereotyping and pranks that contain a sexual element
- remarks, banter or gossip that has a sexual content
- lewd comments about appearance
- unnecessary and unwelcome body contact
- displays of sexually offensive material, e.g. pin-ups, e-mails / social media activity with offensive content
- requests for sexual favours
- speculation or gossip about a person's private life and sexual activities
- threatened or actual sexual violence
- threat of dismissal, loss of promotion, etc. for refusal of sexual favours
- emails or social media activity of a sexual nature.

Sex-based harassment, i.e. harassment on grounds of gender, can take many forms.

Examples include:

- demeaning jokes, pranks, stereotyping, remarks or banter about women or men in the workplace
- particularly where women or men form a minority in the workforce
- deliberate exclusion of women or men from conversations
- abusive, threatening or insulting words or behaviours aimed at women (or men).

Racial harassment can also take many forms, from relatively minor abuse to physical violence. Examples of harassment include:

- jokes, pranks or stereotyping related to race, colour or nationality
- remarks, banter or gossip that have a racial content or are racist in nature
- calling someone a nickname linked to their nationality or skin colour
- pranks perpetrated on racial grounds
- deliberate exclusion from conversations on racial grounds

- abusive, threatening or insulting words and behaviour on racial grounds
- displaying racially abusive writing or pictures
- emails or social media activity of a racist nature
- insulting a colleague because he or she is married to someone of a minority racial group.

Disability – harassment could take many forms, including:

- jokes, pranks or stereotyping relating to disability or disabled people
- remarks, banter or gossip about disabled people
- abusive or insulting remarks or gestures on the grounds of a person’s disability
- emails or social media activity with unnecessary references to a person’s disability
- mimicking a disabled person’s mannerisms.

Age related harassment could include:

- jokes, pranks or stereotyping that make fun of younger or older people
- remarks or banter about older or younger people
- deliberate exclusion from activities or conversations on grounds of age
- a refusal to co-operate with someone on grounds of a perception that he or she is “too young” or “too old” to bother about
- treating someone’s ideas as inferior or worthless on account of youth or age
- making demeaning remarks (whether in fun or not) alleging that someone’s physical or mental abilities have declined on account of his or her age
- emails or social media activity making unnecessary reference to age
- offensive age-related birthday cards.

Sexual orientation harassment could take many forms, including:

- jokes, pranks or stereotyping relating to sexual orientation
- remarks, banter or gossip about gay or lesbian people
- displays of sexually offensive material relating to sexual orientation, e.g. e-mails with offensive attachments
- speculation about a person’s private life and sexual activities
- emails or social media activity making unnecessary reference to sexual orientation
- derogatory remarks about a heterosexual employee because he or she socialises with friends who are gay or lesbian.

Gender reassignment / Transgender status - Harassment on the grounds that a person is intending to undergo, is undergoing or has undergone gender reassignment. The term ‘transgender status’ is used to help positively recognise a wider range of people who may identify as being transgender or non-binary with or without undergoing gender

reassignment, including transvestism and cross-dressing and other gender /non-gender identities. Types of harassment could include:

- jokes, pranks or stereotyping about a person's transgender status
- remarks, banter or gossip about a person's transgender status
- deliberate exclusion of gender reassigned people from conversations
- abusive, threatening or insulting words or behaviours aimed at people who are intending to undergo, are undergoing or have undergone gender reassignment.

Religion, belief or non-belief harassment can include:

- jokes, pranks or stereotyping linked to religion or belief or to absence of religion or belief (for example atheist, humanist or agnostic)
- remarks, banter or gossip about religious beliefs or practices
- abusive, threatening or insulting words or behaviour on the grounds of religion or belief or absence of religion or belief
- displaying writing or pictures that are abusive towards a particular religion
- emails or social media activity making unnecessary reference to a person's religion or belief
- foisting religious or atheist / agnostic / humanist beliefs on others
- derogatory treatment of any kind because of a mistaken perception that the employee adheres to a particular religion.