

Harassment and Bullying Policy (Staff)

Author: David Hodgkins

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POLICY ON HARASSMENT AND BULLYING (FOR EMPLOYEES)

1 Introduction and College commitment to staff and students

- 1.1 The college is committed to the elimination of unfair discrimination on any grounds including gender, marital status, sexual orientation, gender reassignment, race, skin colour, nationality, creed, religious belief, ethnic or national origins, political opinion or affiliation, age and disability. It is the right of every member of staff and student to work or study without fear of bullying, harassment or victimisation.
- 1.2 Any form of harassment and bullying can reduce the effectiveness of the organisation by creating a threatening environment, and increasing sickness absence and labour turnover. All employees have the right to work in an environment free from all forms of harassment.
- 1.3 The college and recognised trade unions recognise the problems associated with bullying harassment and are committed to providing an environment in which all individuals can operate effectively, confidently and competently. 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 and further information for employees can be found at www.acas.org.uk.

What is bullying and harassment?

- 1.4 There are many definitions of bullying and harassment. Bullying may be characterised as:

Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

- 1.5 Harassment is defined in the Equality Act 2010 as:

“Unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.”

The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation.

In addition, the complainant need not possess the relevant characteristic themselves and can be because of their association with a person who has a protected characteristic, or because they are wrongly perceived to have one, or are treated as if they do. Harassment applies to all protected characteristics except for pregnancy and maternity where any unfavourable treatment may be considered discrimination, and

marriage and civil partnership where there is no significant evidence that it is needed.

- 1.6 Behaviour that is considered bullying by one person may be considered firm management by another. Most people will agree on extreme cases of bullying and harassment but it is sometimes the 'grey' areas that cause most problems.
- 1.7 Harassment is a serious problem, which has often been dismissed as individuals being over sensitive. It can affect people's health, work performance, promotion, job prospects and thereby, the success of the organisation. Claims from individuals may be brought within the tribunal system as well as the court system.
- 1.8 For practical purposes those making a complaint usually define what they mean by bullying or harassment – something has happened to them that is unwelcome, unwarranted and causes a detrimental effect. If employees complain they are being bullied or harassed, then they have a grievance which must be dealt with regardless of whether or not their complaint accords with a standard definition.

Harassment is unacceptable in the college, whether or not it is unlawful.
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2 Examples of bullying and harassment

Harassment and bullying can include any conduct which is unwanted by the recipient, or any such conduct based on the above protected characteristics which affects the dignity of any individual, or group of individuals at work. Harassment and bullying may be repetitive, or an isolated occurrence against one or more individuals. The following is a list of the possible types of harassment and examples but is not an exhaustive list.

- 2.1 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:

- insensitive jokes and pranks that contain a sexual element
- remarks or banter that have a sexual content
- lewd comments about appearance
- unnecessary and unwelcome body contact
- displays of sexually offensive material, eg pin-ups, e-mails with offensive attachments

- 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 of a sexual nature.

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

- demeaning jokes, remarks or banter about women or men in the workplace
- pranks played on women or men, 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).

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

- insensitive jokes related to race, colour or nationality
- remarks or banter 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 of a racist nature
- insulting a colleague because he or she is married to someone of a minority racial group.

2.4 Harassment relating to disability could take many forms, including:

- insensitive jokes relating to disability or disabled people
- remarks or banter about disabled people
- abusive or insulting remarks or gestures on the grounds of a person's disability
- emails with unnecessary references to a person's disability
- mimicking a disabled person's mannerisms.

2.5 Harassment on the grounds that a person is intending to undergo, is undergoing or has undergone gender reassignment can take many forms including:

- insensitive jokes 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.

2.6 Harassment relating to sexual orientation could take many forms, including:

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

2.7 Harassment relating to religion or belief could take many forms, including:

- insensitive jokes or pranks linked to religion or belief or to absence of religion or belief
- remarks or banter 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 making unnecessary reference to a person's religion or belief
- foisting religious beliefs on others
- derogatory treatment of any kind because of a mistaken perception that the employee adheres to a particular religion.

2.8 Harassment relating to age could take many forms, including:

- insensitive jokes that make fun of younger or older people
- remarks or banter about older or younger people
- pranks perpetrated on age grounds
- 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 making unnecessary reference to age
- offensive age-related birthday cards.

The examples above are not exhaustive. Some of the types of behaviour listed above may, after investigation, amount to gross misconduct, punishable by summary dismissal.

3 The College environment

The College has a strong and positive approach to promoting equality and diversity with both students and staff. The college prohibits the display of any offensive material, e.g. pin-ups and posters, and will if necessary ensure that workplaces are inspected and offending material removed.

4 Responsibilities of all staff

It is the duty of every member of the college, to take responsibility for their behaviour, 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 provides further information for all staff on expectations relating to behaviour and conduct.

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. 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.

4.1 Training

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.

4.2 Supportive framework

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 procedure. Employees may also wish to be accompanied at meetings and this will be facilitated where possible.

4.3 Compliance

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.

5 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 have been 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.

6 Counselling

The college will provide support including access to a confidential counselling service to employees who believe they have been, or are being, harassed at work; the service is also available to any employee who is alleged to have harassed a colleague.

7 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.

8 Procedure for dealing with harassment

8.1 Introduction

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, appropriate to individual circumstances.

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.

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. Harassment against a member of staff by an external person will not be tolerated and appropriate action will be taken to prevent this occurring.

8.2 Keeping a record

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.

8.3 Stage 1: Informal resolution

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.

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.

Where the individual seeks support they should set out clearly the nature of the incident. HR and management will provide advice and support, including on possible means to resolve the matter.

Any discussion will be confidential and no further 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.

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.

The employee may have a colleague or recognised trade union representative present at all stages of the procedure.

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.

8.4 Stage 2: Formal Complaint

Any individual is entitled to:

- expect managers to institute formal investigation/proceedings. If the allegation is founded then action will be taken under the Disciplinary Policy against the individual;
- 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.

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

8.5 Serious or alleged criminal offences

In cases of an alleged assault or alleged behaviour that is considered to be a criminal offence, the college should contact the Police/LADO for appropriate action, if the complainant so wishes and/or if the college considers the incident to be potentially a criminal offence.

8.6 Time limits for investigating a complaint

The investigation should normally be completed within 20 working days of the complaint being received. 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.

9. Process for investigating and resolving a formal complaint

9.1 Disciplinary Procedure

A formal the complaint will be investigated under Disciplinary Procedure by an Investigation Officer (IO) who has had no previous involvement in the matter. 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. 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. 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;
 - making arrangements for both parties to work as separately as possible within the same workplace.
 - Counselling will be available where individuals require further support.

9.2 Possible suspension or redeployment during the investigation

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. In relation to redeployment the complainant should be given the choice, though normally the alleged harasser would be redeployed first.

9.3 Consideration of Information

The Investigating Officer will review the material collected and decide whether the complaint is substantiated. 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.

9.4 The disciplinary process

The normal disciplinary procedure should be applied, however the following points should be taken into account:

- The complainant will normally 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.

9.5 Keeping management records

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 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 file
- Where the matter proceeds to a disciplinary hearing, then the storage of records should be in accordance with the disciplinary procedure.

9.6 Action when the complainant is dissatisfied

If the complainant or alleged harasser disagrees with the decision, 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.