

Bullying and Harassment Policy

Formal Review Cycle:	Annual		
Latest Formal Review (month/year):	2017-10	Next Formal Review Due (month/year):	2018-10
Policy Owner:	Director of Human Resources		
Impact Assessed by:	C Baker	Impact Assessment Date:	

APPROVAL REQUIRED:

SMT Y/N	Y	SMT Date approved:	2017-10-24	
Governor Y/N	Y	Committee:	FRI	Governor Date approved:

PUBLICATION:

Website Y/N	Y	Intranet Y/N	Y	Student VLE Y/N	Y	Other:	
Area/s of Staff Intranet:	Human Resources						

Policy description:

Bullying and Harassment are serious issues and can affect people's health and work performance. Bullying and Harassment is unacceptable within the College, whether it is unlawful or not.

The Policy supports the College's overarching policy on safeguarding students and staff. This policy outlines the procedure to be followed if a complaint is brought to the attention of the College. The complaint will be investigated promptly and appropriate action taken.

This policy will be reviewed on an ongoing basis in line with new legislation and government guidelines.

Supporting documentation:

- Procedure Flow Chart

Links to other policies:

- Equality and Diversity Policy
- Staff Code of Conduct
- Social and Electronic Media Policy
- Complaints Policy
- Grievance Procedure
- Student Disciplinary Policy
- Disciplinary and Dismissal Procedures
- Safeguarding Policy and Safeguarding Children and Vulnerable Adults

1) Executive Summary

This policy provides definitions of bullying and harassment however this is not exhaustive and complaints will be investigated sensitively on an individual basis.

The policy then outlines the steps that need to be taken when making a claim of bullying or harassment or when investigating claims.

The policy outlines the legal context underpinning bullying and harassment and how we discharge our duties for safeguarding.

The Policy applies to staff, students, partners and others who may use our facilities or come into contact with users of the College.

2) Context

The Bullying and Harassment Policy replaces all other bullying and harassment policies within the College. The policy aims to provide a robust means of ensuring we fulfill our moral and legal responsibilities to protect our employees and students from bullying and harassment from others within the College. Employees and students have a right to be treated with respect and dignity in a work environment where opportunities for personal and career development are open to all.

Bullying and harassment can have an effect on health and performance and erode self-esteem. Work place bullying is linked to a host of physical, psychological, organisational and social costs.

Stress is the most predominant health effect associated with bullying in the workplace, which has significant negative effects which could result in increased absence or in extreme cases leaving.

The College is committed to safeguarding its employees and students and removing any harmful effects within the workplace and maintaining high levels of retention and low absenteeism.

3) Legal Responsibility

3.1) Certain types of harassment are covered by statute and claims from individuals may be brought under the following legislation:

- Equality Act 2010
- Sex Discrimination Acts 1975 and 1986
- The Equality Act (Sexual Orientation) Regulations 2007
- Race Relations Act 1976
- Health and Safety at Work Act 1974
- Employment Rights Act 1996
- Disability Discrimination Act 1995
- The Criminal Justice Public Order Act 1994
- EC Resolution 1990 on the protection of dignity of women and men at work: A Code of practice on measures to combat sexual harassment

3.2) The College therefore has a legal responsibility and common law duty towards staff and students in the workplace to ensure that everyone is able to work in a safe environment of mutual trust, free from any form of harassment whether it may be termed sexual, racial or otherwise.

4) The College Policy

4.1) Harassment or bullying at whatever level in whatever form will not be tolerated. The College regards any form of harassment or bullying whether unlawful or otherwise as unacceptable under any circumstances and it will be treated as serious misconduct which may lead to disciplinary action and even dismissal. All Managers have a duty to ensure the Policy is properly implemented and that every employee/student takes responsibility for his/her own behaviour and modifies it if necessary. If a complaint is brought to the attention of Management, it will be taken seriously, investigated promptly and appropriate action taken.

4.2) This Policy links closely with the College's UNITED values of Democracy, Rule of Law, Individual Liberty, Mutual Respect, Tolerance and Understanding of other faiths and beliefs.

4.3) Any form of intimidating behaviour will be treated seriously since this can lead to undermining confidence, under performance at work and destruction of morale and teamwork.

4.34 Everyone has the right to decide what behaviour is acceptable to him/her and to have his/her feelings respected by others. Behaviour which any reasonable person would realise would be likely to offend will be harassment. It may not be so clear in advance that some forms of behaviour would be unwelcome to, or could offend, a particular person, e.g. "banter". In these cases, first-time conduct which unintentionally causes offence may not be harassment but it will be harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to him/her.

The College will address each case on an individual basis and will ensure investigations are carried out promptly and sensitively.

5) Definitions of Harassment and Bullying

5.1) Harassment

5.1.1) Harassment can take many forms and can be defined as *unwanted conduct related to sex, gender assignment, race or ethnic/national origins, disability, sexual orientation, religion or belief, age or any other personal characteristic* which:

- **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 or her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for him or her, even if this was not intended by the person responsible for the conduct.**

5.1.2) Behaviour may be physical, verbal and/or non-verbal. It may be repetitive or an isolated incident against an individual or a group. Conduct may be harassment whether or not the person behaving in that way intends to offend.

5.1.3) Examples of harassment would include:

- **Physical conduct** ranging from unwelcome touching to serious assault.
- **Sexual Harassment** may be directed at both men and women and can be described as unwanted conduct of a sexual nature or other conduct based on sex which affects *the dignity of women and men at work. Such behaviour may be physical, verbal or non-verbal conduct which includes intimidation, humiliation, hostility or even sexual assault. Such incidents may be categorised as:*
 - o **Unwelcome sexual advances** such as leering, advances or propositions, physical or verbal sexual approaches which are deliberate, persistent, unreciprocated and unwelcome.
 - o **Sexual Mockery and Innuendo:** Unnecessary touching, suggestions that sexual favours are a condition of working hours, promotion or other benefits; ridicule, tricks or jokes or comments of a sexual nature; the use of obscene gestures, or exclusion and the open display of pictures or objects with sexual overtones, even if not directed at any particular person, e.g. magazines, calendars or pin-ups.
- **Racial Harassment** can be recognised through racial mockery, innuendo, abusive terminology and any unwanted racially derogatory remarks, unwelcome jokes or comments of a racial nature. This can include non-verbal harassment such as racist graffiti or offensive material and exclusion/ignoring at work. The most serious incidents can include physical assault.
- **Disability Harassment** is unwanted behaviour based on disability, impairment or additional need. Such behaviour may include comments that are patronising or objectionable to the recipient or which creates an intimidating, hostile, or offensive environment for people with disabilities. Disability harassment includes inappropriate reference to disability, unwelcome discussion of the impact of disability, refusal to work with and exclusion of people with disabilities from social events or meetings.

- **Radicalisation and Extremism** in drawing often vulnerable people into terrorism.

5.1.4) Demeaning comments about a person's appearance or about an individual's age.

These examples are neither exclusive nor exhaustive and each case will be investigated and addressed on an individual basis.

5.2) **Bullying**

5.2.1) Workplace bullying is the repeated less favourable treatment over time of a person by another or others, which may be considered unreasonable and inappropriate. Such behaviour can be verbal, physical and/or anti-social. Bullying behaviour is persistent and can be offensive, intimidating, malicious, insulting, humiliating; or an abuse or misuse of power which is meant to undermine self-confidence, threaten, or injure another person. Examples of bullying may include picking on someone or setting him up to fail or making threats or comments about someone's security without good reason.

5.2.2) Bullying may also take the form of singling out a member of staff or student because they belong to a particular group. This is termed **prejudice based bullying**. These may include:

- **Racist and religious bullying**

Racist bullying can be defined as 'A range of hurtful behaviour, both physical and psychological, that makes a person feel unwelcome, marginalised, excluded, powerless or worthless because of their colour, ethnicity, culture, faith community, national origin or national status'. Under the Race Relations (Amendment) Act 2000, all public bodies have a duty to eliminate discrimination, promote equality of opportunity and promote good race relations.

- **Sexual, sexist and transphobic bullying**

Sexual bullying includes any behaviour, whether physical or non-physical, where sexuality is used as a weapon by males or by females. It can be carried out to a person's face, behind their back or by use of technology. Sexist bullying refers to bullying simply because the victim is a female or a male, based on singling out something specifically gender linked. Transphobic bullying refers to bullying because someone is, or is thought to be, transgender.

- **Homophobic bullying**

Homophobic bullying targets someone because of their sexual orientation (or perceived sexual orientation). The term 'gay' is sometimes used as a proxy for racist or disablist bullying because someone may believe they can get away with using these words in an abusive way, whereas racist insults would be more likely to be challenged.

5.2.3) ***Bullying behaviour can be distinguished from other isolated behaviours and forms of job stress in the workplace in that it occurs regularly, it is enduring, it increases with aggression, the target lacks the power to successfully defend themselves and it is associated with intent.***

5.2.4) **Cyberbullying**

Cyberbullying is the use of Information and Communications Technology, particularly mobile phones and the internet deliberately to upset someone else. Cyberbullying can take different forms such as threats and intimidation; harassment or 'cyberstalking', defamation; exclusion or peer rejection; impersonation; unauthorised publication of private information or images; and manipulation. The person being bullied will usually have examples of texts, emails and should be encouraged to keep these to aid any investigation. A person experiencing cyberbullying should not reply or retaliate, should use 'blocking' or removing from 'friends' contact and take steps to identify the person responsible.

5.2.5) These examples are neither exclusive nor exhaustive and each case will be investigated and addressed on an individual basis.

6) **Procedures**

Every effort should be made to resolve the issue satisfactorily on an informal basis in the first instance if this is at all possible. This is better for all concerned since solutions can be reached speedily with the minimum embarrassment and risk to confidentiality. If an informal resolution cannot be reached, there is the facility and structure in place to accommodate a formal procedure.

6.1) **Informal Procedure**

6.1.1) Employees/students who believe they are victims of harassment should bring it to the attention of the alleged harasser as soon as possible and make it clear verbally that certain conduct or behaviour is causing concern or offence, is UNACCEPTABLE and must stop. In the event the complainant is too nervous to speak to the alleged harasser then communication may be in writing.

6.1.2) If the complainant is unable to speak directly to the harasser, for whatever reason, assistance and advice should be sought in confidence from an Equality & Diversity Committee member, Union Representative, Director of Human Resources (staff); Student Services Manager, Learner Mentor, or Course Tutor (students). The Line Manager may also be contacted informally for help and advice. If the Line Manager or Course Tutor is the person against whom the complaint is being made, the individual may refer the matter to a Senior Manager.

6.1.3) Any discussion will be strictly confidential and no further action will be taken without the consent of the individual concerned, unless the allegation is so serious that it involves a criminal offence or serious misconduct which will require immediate action without individual consent.

6.1.4) In cases of alleged assault or alleged behaviour that is considered to be a criminal offence, the College may decide to contact the Police.

6.1.5) It is recommended that the complainant keeps detailed notes from the outset. A review of the options open to the individual should take place which include:

- Take no action at this stage, but to record any future incidents, keeping the situation under review and seeking further advice in the future if necessary.
- If the harasser has not yet been approached, then ask the person to stop the offending behaviour, keep a record of this and again keep the situation under review.

- Approach an Equality and Diversity Committee Member, Union Representative (staff); or Learner Mentor, Course Tutor (students) to speak to the harasser on your behalf. If this individual is the person against whom the complaint is being made, the complainant may refer the matter to the Line Manager. If the Line Manager is the person against whom the complaint is being made the individual may refer the matter to a Senior Manager.
- The complainant can approach a College Counsellor who will provide support and assistance. This also extends to the alleged harasser, if requested. However, the same Counsellor should not advise the alleged harasser. The Counsellor has no role in the formal investigation and neither are they a source of evidence in any proceedings since all discussions between counsellor and employee or student are confidential.
- If the behaviour does not cease, the complainant can make a formal complaint.

6.2) Formal Procedure

- 6.2.1) A formal complaint may be made in cases where either informal attempts of resolution have been unsuccessful or in more serious situations where the individual regards informal resolution as inappropriate. A formal complaint must be put in writing to the immediate Line Manager/Head of School, specifying clearly that it is a formal complaint of harassment or bullying with accompanying specific details. If the Manager is implicated, a Manager at the next level should receive the complaint as follows:

Students/Staff:

Line Manager/Head of School ⇒ Senior Manager ⇒ Principal ⇒ Governing Board via the Director of Governors.

- 6.2.2) Support, advice and guidance will be given via the Student Services Manager (students) and the Director of Human Resources and/or Union Representative (staff).
- 6.2.3) Any allegation of harassment will be treated seriously and an investigation should be carried out quickly and confidentially by the appropriate Line Manager/Head of School in conjunction with the Student Services Manager (students) or Director of Human Resources (staff), who should not be connected with the case in any way.
- 6.2.4) No member of staff or student will be penalised/ victimised for bringing a complaint of harassment.
- 6.2.5) Investigations will be conducted thoroughly, impartially, objectively and sensitively with both parties. The alleged offender will be made fully aware of the nature of the complaint.
- 6.2.6) A special effort should be made to protect the wishes of any employee/student complaining about harassment. Support should be offered to both parties, which may involve counselling.
- 6.2.7) Both parties have the right to be accompanied and/or represented during investigation and at any stage of the formal procedure by a work colleague/union Representative (staff) or fellow student/Learner Mentor (students). They will be entitled to a full and fair opportunity to air their case.

6.2.8) Detailed signed statements should be taken from both parties separately. Both parties should be given the opportunity to nominate witnesses whom they wish to be interviewed or anyone else who may have useful information that is relevant to the issue.

Full written statements will be obtained and held confidentially with the Director of Human Resources/Student Services Manager.

6.2.9) During the investigation, in order to relieve pressure on both parties it may be appropriate to temporarily re-deploy one or both parties or grant special leave of absence.

6.2.10) The investigation should normally be completed within ten 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.

6.2.11) Full consideration will be given to all the information presented by the person dealing with the complaint before a decision is reached regarding whether the complaint is to be substantiated. In some cases, there will not be any witnesses and it will be one person's word against another. The decision reached will be based on the balance of probabilities as to whether the incidents/actions occurred as indicated by the information presented.

6.2.12) Upon consideration of the facts, a decision will be reached either to:

- take no action, since the allegation has not been substantiated, or
- initiate the College's Disciplinary Procedure, commencing with a Disciplinary Hearing or
- take management action other than initiate the Disciplinary Procedure.

6.2.13) For staff, this may include:

- a recommendation of re-deployment of one or both parties, either on a temporary or permanent basis. Should a transfer take place, this must not be on any less favourable 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 course(s)
- making arrangements for both parties to work as separately as possible within the same workplace
- a further period of special leave of absence.

6.2.14) For students, this may include:

- transfer one (or more) students to another course or class, or provide alternative study arrangements
- setting up arrangements to monitor the situation
- recommend attendance on training course(s)
- exclusion of one or more students
- a further period of authorised absence
- assign one or more parties a learner mentor.

6.2.15) The decision reached will be communicated in writing to both parties by the Line Manager/Head of School. 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 by writing to the Student Services Manager (students) or Director of Human

Resources (staff). The Manager at the next level will be responsible for dealing with the grievance. If the Senior Manager has been involved in the decision, then the grievance should be dealt with by the Principal or Senior Post holder. If the Principal has been involved in the decision, then the grievance should be dealt with by the Board of Governors via the Director of Governors. This decision will be final.

- 6.2.16) Where the complaint is informal, no record will be kept on personal files, but it is recommended that the complainant retains notes of any meetings.
- 6.2.17) Where the complaint is formal but not substantiated, then no record will be kept on the alleged offender's file. Relevant documents made during the investigation should be retained confidentially with the Director of Human Resources/Student Services Manager. Both parties will receive a written response of the outcome.
- 6.2.18) Where the matter proceeds to a Disciplinary Hearing, then the storage of records should be in accordance with the Disciplinary Procedure. A Manager at a more senior level will conduct the Disciplinary Hearing in conjunction with the Director of Human Resources.

6.3) Monitoring

If a complaint is upheld at any stage of the procedure, the College will monitor the situation to ensure that the harassment has stopped.

Pathway for Dealing with Complaints of Harassment

