

HARASSMENT POLICY (Staff)

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POLICY ON HARASSMENT FOR EMPLOYEES

1 Introduction

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 to work or study without fear of harassment or victimisation. The college and recognised trade unions recognise the problems associated with 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.

Generally, harassment is unwanted conduct related to a protected characteristic which has the purpose or effect of violating the person's dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.

2 Background

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.

<p>Harassment is unacceptable in the college, whether or not it is unlawful.</p>

3 What is harassment?

Harassment is defined as any conduct which is unwanted by the recipient, or any such conduct based on the above characteristics which affects the dignity of any individual, or group of individuals at work. Harassment 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.

3.1 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.

3.2 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).

3.3 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.

- 3.4 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.
- 3.5 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.
- 3.6 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.
- 3.7 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.

3.8 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.

4 The environment

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.

5 Responsibilities

It is the duty of every member of the college and those visiting the college premises, to take responsibility for their behaviour and to modify it if necessary, as harassment is not acceptable under any circumstances. In the event of a failure to do so, disciplinary action in accordance with the college’s disciplinary procedure may be a consequence and anyone found responsible may also be held personally liable should the person who has been harassed undertake legal proceedings. Managers are required to ensure that the policy is effectively applied and that harassment does not occur.

5.1 Training

Training will be provided to all staff, as appropriate, including as part of the induction process. Specific training will also be provided for managers 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. Failure to do so could result in disciplinary action.

5.2 Supportive framework

The college recognises that making a complaint of harassment 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, or trade union representative to raise the issue with management on their behalf in line with procedure.

5.3 Compliance

All new employees will be informed of the organisation's policy towards harassment at induction training, when it will be stressed that all complaints of harassment will be treated very seriously. The college expects all managers and supervisors to ensure that this policy and procedure are adhered to at all times. The college recognises the sensitive nature of complaints of harassment. Employees may wish to be accompanied at investigatory meetings and this will be facilitated where possible.

6 Harassment 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 member of the Human Resources team.

6.1 Consequences

Harassment at work on the grounds of sex or of a sexual nature, transgender status, race, sexual orientation, disability, religion or belief, or age is unlawful, and both the organisation and the harasser may be held liable for such unlawful actions, and be required to pay compensation to the person who has suffered the harassment. Any form of harassment 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.

7 Counselling

The college will provide access to a free and 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.

8 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.

9 Procedure for dealing with harassment

9.1 Introduction

This procedure has been designed to deal with complaints of harassment, which need to be handled in a sensitive manner. The procedure, therefore, seeks to 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.

9.2 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.

9.3 Stage 1: Informal resolution

Every effort will be made to resolve the issue informally in the first instance, if this is appropriate. As soon after the incident as possible, the individual should make it clear to the offender that the incident is not welcomed and should stop. If too embarrassed to speak directly, this could be done by writing, or asking a colleague to do this for them. A note should be made of the action taken.

If the action continues, or the individual cannot take personal action, then they are advised to speak to the HR Manager and/or their own manager, or a more senior manager if they are unable to speak to their line manager.

Any discussion will be confidential and no further action will be taken without the consent of the complainant. 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.

One of the following courses of action may then be followed:

- to take no further action at this stage, but to record any future incidents as recommended above and to keep the situation under review, enabling the employee to seek further advice in the future if necessary;
- if the offender has not already been approached, then ask the person to stop the offending behaviour and again keep the situation under review;
- make a formal complaint.

9.4 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 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).

9.5 Serious 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 for appropriate action, if the complainant so wishes and/or if the college considers the incident to be a serious criminal offence.

9.6 Investigating a complaint

9.7 Time limits

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.

10 How the complaint will be investigated and resolved

10.1 Disciplinary Procedure

The complaint will be investigated under Disciplinary Procedure by an Investigation Officer (IO). 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.

10.2 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 to suspend the alleged harasser. Suspension 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. Temporary redeployment of one or both parties may also be considered. The complainant should be given the choice, though normally the alleged harasser would be redeployed first.

10.3 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.

10.4 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.

10.5 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.

10.6 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.

10.7 Pathway for dealing with complaints of harassment

Please see flowchart overleaf.

