

**Joint Agreement on Guidance for  
Harassment and Bullying  
in Employment in Further Education Colleges**

**between**

**The Association of Colleges (AoC)**

**and**

**Association for College Management (ACM)**

**Association of Teachers & Lecturers (ATL)**

**GMB**

**Unite**

**UNISON**

**University and College Union (UCU)**

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# **Part 1: Guidelines on a Harassment and Bullying Policy**

## **1. Purpose**

The College aims to create a working environment that respects the dignity and rights of all employees, and where individuals have the opportunity to realise their full potential. The aim of the College's policy is to support this ethos and to strive to prevent harassment and bullying from occurring.

## **2. Our Commitment**

The College will not tolerate any form of harassment or bullying and is committed to ensuring that employees are able to work confidently and without fear of harassment, bullying or victimisation. Therefore, if a complaint is made to the College, it will be investigated promptly and appropriate action will be taken in line with the College's policy. Where an employee is found to have committed a serious act of bullying or harassment this will be dealt with under the disciplinary procedure and may be viewed as gross misconduct, which could result in summary dismissal. Where a student is found to have harassed or bullied an employee, the College will deal with this under the student disciplinary procedure, which could result in expulsion. Where an employee reports an incident of harassment or bullying by a third party, the College will take appropriate action.

In order to meet our commitments, the College undertakes to publicise its policy fully and to ensure that employees understand their rights and responsibilities. All employees and agency workers will be made aware how to access the policy, either via the College Intranet or in hard copy. In addition, the College will make contractors, consultants and secondees aware of its policy. Visitors to the College will also be made aware of the College's stance on bullying and harassment.

## **3. Legislation**

Individuals are protected from harassment and bullying under the following legislation:

- Sex Discrimination Act 1975
- Race Relations Act 1976
- Disability Discrimination Act 1995
- Disability Discrimination Act 2005
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Age) Regulations 2006
- Equality Act 2006
- Health and Safety at Work Act 1974
- Management of Health and Safety at Work Regulations 1999
- Employment Rights Act 1996
- Criminal Justice Public Order Act 1994
- Protection From Harassment Act 1997

Under these pieces of legislation, an employee may be held individually liable for an act of harassment, as well as the College being held vicariously liable for that employee's act.

## **4. Background**

Where harassment and bullying occur, they cause serious repercussions for the employer and employees. They can affect people's health, work performance and the success of the Corporation. Bullying, as a cause of stress at work, should be regarded as a workplace health and safety hazard.

## **5. Definition of Harassment and Bullying**

### **5.1 Harassment**

Harassment occurs when an individual is subjected to unwanted conduct which has the purpose (intentional) or effect (unintentional) of:

- violating a person's dignity, or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

Moreover, harassment is unlawful when it is on the grounds of sex, gender reassignment, race, ethnic or national origin, sexual orientation, age, religion/belief, or for a reason relating to a person's disability. It is also unlawful to subject an individual to sexual harassment, or to harassment on the grounds of that individual's membership or non-membership of a trade union, or, in Northern Ireland, on the grounds of an individual's political belief.

The College will not tolerate harassment or bullying in any form.

It is the individual's perception of whether the conduct in question was unacceptable that is important in determining whether harassment occurred. Where the conduct in question is found to have been unintentional, it will be viewed as having the effect of harassment if this could be regarded as a reasonable conclusion when taking into account all the circumstances, including the complainant's perception.

### **5.2 Bullying**

Bullying, although not defined legally, is described as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

### **5.3 Examples of forms of harassment and bullying**

Harassment and bullying can take many forms. Examples of unacceptable behaviour include:

- Offensive songs, remarks, jokes, emails or gestures
- Display of offensive posters, publications and graffiti
- Unwanted physical contact or advances
- Offensive remarks about a person's dress or appearance,
- Offensive remarks about a person's race, gender, marital status, disability, religion or belief, sexual orientation, gender identity or age
- Shouting, abusive or intimidating language
- Spreading malicious rumours, allegations or gossip

- Excluding, marginalising or ignoring someone
- Intrusion by pestering, spying or stalking
- Copying memos that are critical about someone to others who do not need to know
- Deliberately undermining a competent worker by overloading, taking credit for his/her work or constant criticism
- Removing areas of responsibility and imposing menial tasks
- Cyber-bullying: that is, the sending or posting of harmful, cruel or offensive text or images by email, internet, social networking websites or other digital communication devices.

The above list is intended to give a clear impression of the types of behaviour that the College considers to be unacceptable; however, it only contains examples and is not exhaustive.

The College will not tolerate acts of harassment or bullying during work, including at other people's workplaces, but also at work-related functions, such as conferences, or at social gatherings, such as after-work drinks.

It is accepted that vigorous academic debate and occasional raised voice or argument, of itself may not necessarily constitute harassment or bullying.

Bullying must be distinguished from the right of, and obligation placed on, managers to exercise proper supervision of employees in the course of their duties, which may include legitimate, constructive and fair criticism of an employee's performance or behaviour at work. Managers will exercise this supervision in a fair, constructive, consistent and reasonable manner that does not compromise the employee's dignity. Similarly, reasonable (but perhaps unpopular) requests by a manager of his/her employees in the normal course of their duties will not be viewed as acts of harassment or bullying.

## **6. Responsibilities**

### **6.1 Corporation Members/Governors**

Corporations Members are responsible for ensuring that:

- They are familiar with the harassment and bullying policy;
- Training on the College's policy features as part of the College's operational policies stemming from the College's strategic plan;
- They are aware of the Corporation's legal responsibilities as an employer in relation to harassment and bullying;
- They receive and respond to any monitoring information collated as part of the reviews of the policy; and
- The College meets its public sector equality duties.

### **6.2 Managers**

Managers are responsible for ensuring that:

- The College Principal/Chief Executive and senior management team are responsible for taking the lead in creating a positive, open culture that challenges inappropriate behaviour on the part of managers, employees or learners;

- They are familiar with the harassment and bullying policy, and that it is followed correctly;
- They are aware of the Corporation's legal responsibilities as an employer in relation to harassment and bullying;
- Monitoring in relation to the policy (see section 11) is carried out and the policy is reviewed accordingly; and
- Appropriate training and development is provided to support managers' and employees' understanding of the harassment and bullying policy.

### **6.3 Employees**

Employees are responsible for ensuring that:

- They familiarise themselves with the harassment and bullying policy;
- Their behaviour supports a positive work environment free from harassment and bullying; and
- They participate in an investigation when asked by an investigating officer, where the employee has observed or has evidence that another employee is being harassed or bullied.

## **7. Training**

In order to support the College's aim of preventing harassment and bullying, awareness training will be provided to all staff. The College will also provide specific training to managers in the correct operation of the harassment and bullying policy.

## **8. Support Available**

The College recognises the sensitive nature of harassment and bullying. Employees who believe they are being harassed or bullied may wish to discuss their particular situation in confidence before deciding what action to take. Employees are encouraged to discuss workplace problems openly and informally with their line manager. However, the College recognises that this may not always be appropriate and provides the following support:

*[Provide details of the support available in such circumstances. For example, the College may have one or more of the following support mechanisms:*

- Employees can discuss the situation with the next level manager or with a member of the HR department;
- Employees can obtain support from their trade union representative (please refer to Appendix 1 for further details);
- Employees can discuss the situation with a trained Contact Officer (please refer to Appendix 1 for further details); or
- the College provides a specialist counselling service which can be contacted as follows (*insert contact details and details of any arrangements for time off*).

Confidentiality will be maintained as far as possible. However, if an employee decides not to take any action to deal with the problem and the circumstances described are very serious,

the College reserves the right to investigate the situation in accordance with its duty of care to ensure the safety of all employees who may be affected by the alleged behaviour.

## **Part 2: Guidelines on the Procedure for dealing with complaints of harassment or bullying**

### **9. Procedure for dealing with complaints of harassment or bullying**

#### **9.1. Introduction**

If an employee wishes to make a complaint of harassment or bullying the matter should be raised as a grievance in accordance with the College's grievance procedure. The procedure should aim to investigate such grievances to establish whether or not harassment or bullying has occurred and make recommendations for action where necessary. Such action could include disciplinary action, in which case the College will refer to the relevant stage of the College's disciplinary procedure.

#### **9.2. Confidentiality**

Grievances about bullying and harassment should be dealt with in a confidential manner to respect the privacy of all parties and to ensure the matter is dealt with sensitively and effectively. Any breach of confidentiality may result in disciplinary action against those concerned.

Where a formal grievance is raised under the grievance procedure, it should be made clear to all involved that any documentary evidence or subsequent statement taken during the investigation may form part of evidence in any disciplinary proceedings. In the event that disciplinary procedures are invoked, the investigation report, together with any witness statements, should be made available to the alleged harasser prior to any disciplinary hearing in accordance with college procedures.

#### **9.3. Keeping records of incidents**

It is helpful for anyone who believes they have been subjected to harassment or bullying to make a note of the details of the incidents as soon afterwards as possible, as memories can fade. For example: dates; times; places; the name of the person involved; what actually happened; how the person felt at the time; the names of any witnesses; action taken at the time and whether the incident was reported to management.

#### **9.4. Stage 1 - Informal Resolution**

In most cases it is preferable to deal with grievances informally in accordance with Stage 1 of the College's grievance procedure. 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. Solutions can be reached quickly with minimum risks of embarrassment, suffering, disruption to work and working relationships.

In many cases it will be sufficient for the complainant to raise the problem with the alleged harasser as soon after the incident as possible, stating clearly that the behaviour is unacceptable. A note should be made of the action taken (refer to paragraph 9.3).

If the complainant does not feel able to do this alone, he/she could seek support from [a colleague, trade union representative, line manager, appropriate member of the HR department, or contact officer (*where applicable*)]. Where both parties are in agreement, the

College may consider addressing the unacceptable behaviour through a recognised mediator.

If the matter is very serious, the employee feels the matter has not been resolved at this stage, or in other circumstances where the employee does not wish to raise the matter informally, the employee may proceed to the formal stage of the College's grievance procedure (Stage 2).

## **9.5. Stage 2 – Formal**

The employee must outline his/her grievance in writing, giving full details of the incidents and any action taken to date.

The investigation of the formal grievance should be conducted in a sensitive manner and without undue delay. It is recommended that no more than 28 days should elapse from the College's receipt of an employee's written grievance to the resolution of the formal procedure; unless a different timescale is agreed by both parties.

The following steps may be taken to investigate a formal grievance of alleged harassment or bullying:

- 9.5.1. The grievance should be submitted in writing to the employee's line manager. If the grievance is about the employee's line manager, it should be given to the next level of management or the HR department.
- 9.5.2. The College should appoint an appropriate manager to investigate the grievance (the Investigating Officer). The investigation should be carried out in an impartial and objective manner. The Investigating Officer should not be involved with the case in any way.
- 9.5.3. In cases which appear to involve serious misconduct, and there is reason to separate the parties, a short period of suspension of the alleged harasser may need to be considered while the investigation is carried out. Suspension should be with pay. Alternatively, the College may consider temporarily relocating either party during the investigation; the College should only relocate the complainant with his/her agreement.
- 9.5.4. The Investigating Officer must, as soon as possible, invite the complainant to a grievance hearing to investigate his/her complaint. The complainant has the right to be accompanied at this meeting by a work colleague or trade union representative. At the meeting the complainant will have the opportunity to fully explain what has happened and the Investigating Officer will have the opportunity to ask any questions and discuss any points that require further discussion.
- 9.5.5. The Investigating Officer should also invite the alleged harasser to an investigation meeting where he/she will have the opportunity to respond to the grievance and the allegations against him/her. Prior to this meeting the alleged harasser should be provided with a copy of the written grievance. The alleged harasser should be given the opportunity to be accompanied at this meeting by a work colleague or trade union representative. Reasonable notice of this meeting should be given.

- 9.5.6. The Investigating Officer should meet with any witnesses cited by either the complainant or the alleged harasser. Notes of these meetings should be taken and the Investigating Officer may take statements from the individuals.
- 9.5.7. Where there is conflicting evidence the Investigating Officer may wish to meet with any of the parties again to clarify and complete the investigation.
- 9.5.8. The Investigating Officer should assess the evidence and write a report summarising the findings of the investigation. The Investigating Officer's decision in relation to the grievance should be communicated in writing to the complainant and the alleged harasser without undue delay, giving an explanation of the outcome of the grievance and the reasons.
- 9.5.9. The report will state whether harassment or bullying occurred and will outline any recommendations for action. For example:
- ***Harassment or bullying did not occur – no or limited action required.*** In such circumstances the Investigating Officer may, if necessary, recommend steps to improve the working relationship between the parties following the complaint.
  - ***Harassment or bullying did occur – recommendations for action short of disciplinary action.*** It may be concluded in light of the facts that disciplinary action is unnecessary. In such circumstances the Investigating Officer may recommend other appropriate action to address the behaviour, such as:
    - training/coaching/mentoring;
    - re-arrangement of working conditions;
    - redeployment of one or both parties on a temporary or permanent basis on terms and conditions that are no less favourable than existing terms and conditions of employment; and/or
    - monitoring of the situation.
  - ***Harassment or bullying did occur – disciplinary action required.*** In such circumstances the alleged harasser will be asked to attend a disciplinary hearing (refer to the college disciplinary procedure).

## 9.6. Stage 3 – Appeal

If dissatisfied with the decision in relation to his/her grievance at Stage 2, the complainant has the right to appeal against the decision by proceeding to the next stage of the College's grievance procedure (Stage 3).

The College should appoint an appropriate manager to hear the appeal (the Appeal Officer). This will usually be the Principal or another Senior Postholder to ensure that, where possible, the appeal is heard by a more senior manager than the one involved in hearing the Stage 2 grievance.

The decision following the appeal will be final (*unless the College's grievance procedure provides further stages after Stage 3*).

## 9.7. Records of complaints

The College will keep a confidential record of complaints and investigations, which will include the names of the people involved, dates, the nature of the incident(s), the action taken, and any follow-up and monitoring information. The College will keep such records for 6 years from the end of employment. Where a complaint was unsubstantiated, this will be clearly stated in the College's record. All sensitive information will be treated confidentially and in compliance with the requirements of the Data Protection Act 1998.

### **9.8. Allegations against students**

Where the allegation is that a student has harassed or bullied an employee, the same grievance procedure applies as set out in Section 9.5. If the allegation is upheld, the College should take appropriate action and may refer to the student disciplinary procedure.

### **9.9. Malicious allegations and false statements**

Unfounded allegations of harassment and/or bullying for malicious reasons will not be tolerated by the College. Any such cases will be investigated and dealt with under the college disciplinary procedure and may be serious enough to constitute gross misconduct, which may result in summary dismissal. Where a student makes an unfounded allegation of harassment and/or bullying for malicious reasons, this will be dealt with under the student disciplinary procedure and may result in the expulsion of that student.

Where a witness is found to have deliberately misled an investigation, the College will treat this as a serious disciplinary offence.

### **9.10 Complaints against the Principal/Chief Executive or other Senior Post-holder**

Where the complaint is against the Principal/CEO or another senior post-holder, the same steps as set out in section 9 should be taken to investigate the matter.

The Corporation will appoint an appropriate Investigating Officer to investigate the complaint. This may be the Principal/CEO, a member of the Corporation, or an external investigator, depending on the circumstances.

If the complaint is upheld and disciplinary action may be required, the matter must be referred to the Corporation who should follow the College's Disciplinary Procedure for Senior Post-holders.

## **10. Victimization**

Employees are protected from victimisation as a result of bringing a complaint under the harassment and bullying policy. If an employee feels that he/she has been victimised following a complaint of harassment or bullying, he/she should raise a grievance under the College's grievance procedure. Where it is found that victimisation has occurred, this will be treated as a disciplinary offence and may be serious enough to constitute gross misconduct.

## **11. Review and Monitoring**

It will be the responsibility of the senior management team to review and monitor the progress of the harassment and bullying policy on a regular basis, using information such as the number of harassment complaints raised, employee attitude surveys, training feedback, the views of recognised trade union representatives and comments made in return-to-work

and exit interviews. The senior management team will then recommend changes where necessary.

## **12. General**

The harassment and bullying policy should not be read in isolation, but cross-referenced with all relevant College employment policies.

## **13. Definition of Joint Agreement**

The agreement on this guidance is a recommendation to Colleges relating to harassment and bullying issues.

# Appendix 1: Support Available

## 1. Appointment of Contact Officers

The College may consider appointing contact officers in recognition of the difficulties employees may have in raising issues of harassment or bullying directly with their line manager.

Contact officers should receive special training to carry out their role. The role of the Contact Officer is to:

- provide a confidential, sympathetic ear for employees with complaints or questions about harassment and/or bullying;
- provide advice and guidance on the how to make a complaint in accordance with the College policy;
- help the employee establish the main details of the complaint;
- channel the complaint to the appropriate manager for action if the employee wishes to take the matter further; and
- advise the employee he/she may also contact his/her trade union if he/she wishes to be represented during the process of making a complaint.

In all cases, discussions with contact officers are undertaken in complete confidence.

A Contact Officer, with the agreement of the employee, may approach the alleged harasser on an informal basis to point out that his/her behaviour is considered unacceptable to the employee concerned.

## 2. Trade Union Representatives

Recognised trade union representatives are a source of support for their members facing bullying or harassment. The college should encourage employees who are concerned about bullying or harassment to speak to their trade union representative. The college should support activities on the part of recognised trade unions on raising awareness and tackling the issue of bullying or harassment amongst their members. If a recognised trade union identifies a representative who will be responsible for handling bullying or harassment complaints, the college should undertake to provide that individual with reasonable paid time-off to receive training in this area from the trade union.

# Joint Agreement on Guidance for Harassment and Bullying in Employment in Further Education Colleges

## Signatures of the parties to this agreement:

AoC 

ACM 

ATL 

GMB 

Unite - the Union 

UNISON 

UCU 

Date of Commencement of this Agreement:

June 2008