



PREVENTION OF HARASSMENT AND BULLYING POLICY AND PROCEDURES

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PREVENTION OF HARASSMENT AND BULLYING POLICY AND PROCEDURES

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EQUALITIES IMPACT ASSESSMENT

We welcome feedback on this Policy and the way it operates. We are interested to know of any possible or actual adverse impact that this Policy may have on any groups in respect of any protected characteristic.

An Equalities Impact Assessment of this Policy has been carried out. The policy has been written to fully comply with all obligations in respect of employment law and equality legislation and to take account of recommended best practice. It is therefore not anticipated that this policy will result in a negative or adverse impact on one or more groups in respect of any protected characteristic.

DATA PROTECTION

The College processes personal data collected during the Harassment and Bullying process in compliance with the Data Protection Act 2018 (DPA) and the General Data Protection Regulation (GDPR). The College is the data controller for your data, and is registered with the Information Commissioner's Office. The College will collect and process information relating to you in accordance with the privacy notice which is available on the [College website](#).

Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the [College Data Policy](#) immediately. It may also constitute a disciplinary offence, which will be dealt with under the organisation's disciplinary procedure. Employees should use College data for organisational purposes only, and should not keep personal copies of College data under any circumstances. {Employees should avoid downloading documents to mobile devices, personal PCs, and external drives. Hard copies of documents should be returned to the College for secure destruction, or shredded at home. College devices should be stored securely, at a level of security appropriate to the sensitivity of the data processed.}

If you are unhappy with any aspect of the way your data is handled, you can contact the Data Protection Officer at dataprotection@forthvalley.ac.uk.

1 INTRODUCTION

This document outlines the College policy and procedures on employee harassment and bullying, including sexual harassment. It is intended to underpin the need to provide a safe and secure learning and working environment for employees where everyone is treated with dignity and respect. In particular, it is the duty and policy of the Board of Management to provide a safe working and learning environment free from harassment and intimidation. The College and the trade unions recognise that harassment or bullying in the workplace is unacceptable and are committed to ensuring that any incidents are quickly and positively dealt with and treated with the utmost confidentiality. A toxic workplace culture, where bullying or harassment is tolerated, is harmful to the wellbeing of the workforce as well as the wider organisation. We therefore adopt a zero-tolerance approach to instances of bullying or harassment. This includes all forms of sexual harassment.

There is no justifiable reason to bully or harass someone else. Even if you do not intend to bully or harass someone else, this does not legitimise your behaviour as it is the impact on the recipient that is important.

We therefore adopt a zero-tolerance approach to instances of bullying or harassment. This includes all forms of sexual harassment.

You should be aware that you can be personally liable for harassment.

If you experience bullying or harassment, we encourage you to speak up without delay and to ask for appropriate support (see section 8 complaints procedure).

2 THE POLICY

The policy document is written to take account of all forms of harassment and bullying including that which is based on discrimination as outlined in the College's Equalities Policy. The aim is to ensure that employees are made aware of the types of behaviour which may constitute harassment. It also aims to ensure that employees are aware of their responsibilities to prevent harassment and bullying in the College and to deal with any complaints promptly, fairly and confidentially.

In particular this document details:

- Definitions of harassment and bullying and examples of unacceptable behaviour
- Definitions of sexual harassment and examples of unacceptable behaviour
- Support and advice available to those who feel they are the victim of harassment
- The informal complaint procedure
- The investigation and appeal processes

3 WHO DOES THE POLICY APPLY TO?

This policy applies to all members of College staff who are currently working within / or on behalf of the College.

4 PROVISIONS OF THE POLICY

This procedure is designed to allow individuals who believe they have been subject to discriminatory treatment, bullying or harassment to take action to stop it. It is hoped that the majority of cases can be resolved through informal discussions, as quickly and effectively as possible. If informal action proves ineffective or if the bullying or harassment is of a very serious nature, formal action can be taken.

Proven harassment or bullying, including sexual harassment, is a disciplinary offence which may constitute gross misconduct and result in the offender's dismissal. However, it is an equally serious offence to raise an unfounded and malicious allegation against any other person.

Every employee has a responsibility to ensure by their actions, remarks or suggestions that they do not offend others. Managers have a particular responsibility to make their employees aware, to be alert to conduct or behaviour which may contribute to incidents of harassment and to take prompt action aimed at stopping harassment or bullying as soon as it is identified.

The College will take reasonable steps to help ensure that no employee is victimised for raising a complaint of harassment or bullying in good faith or for acting as a witness to harassment and or a bullying incident. A similar responsibility exists in respect of the alleged harasser while the matter is under investigation and a fair hearing will be provided for both parties.

It is recognised that the alleged harasser may not be an employee or learner of the College but nevertheless such action as is possible will be taken by the College to protect employees.

The Equality Act 2010 makes harassment unlawful across all the protected characteristics, (age, disability, gender reassignment, race, religion or belief, sex, sexual orientation) with the exceptions of marriage and civil partnership, and pregnancy and maternity.

The College has a common law duty of care, and responsibilities under health and safety legislation to take action, as well as responsibilities under discrimination law.

Over and above any legal requirements the College accepts its responsibilities in respect of any form of harassment in the workplace and while it is committed to dealing effectively with any cases which arise, its overall aim is to encourage attitudes which create a working environment where harassment does not occur in the first place.

Individuals who harass others, could find that their actions break criminal as well as civil law and they could be personally liable and have to pay compensation themselves.

5 PROCEDURES

5.1 Definitions

There are many definitions and perceptions of what constitutes such behaviour, i.e. behaviour which may be distressing to an individual, may be quite acceptable to another. The key is that the actions or comments are viewed as demeaning and unacceptable by the recipient. All complaints will be taken seriously and a full investigation will take place, if appropriate.

Bullying and harassment may happen in one isolated incident or be repeated over a period of time.

Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the individual.

Harassment is defined as unwanted conduct related to a relevant protected characteristic that has the purpose or effect of:

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

Sexual harassment is defined as:

- unwanted conduct of a sexual nature that has the purpose or effect of violating a person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment; and
- less favorable treatment related to sex or gender reassignment that occurs as a result of a rejection of or submission to sexual conduct.

Employers are legally obliged to take reasonable steps to prevent sexual harassment of their workers in the course of their employment and by third parties.

Harassment based on association & perception.

It is unlawful to discriminate against or harass any individual based on perception that he or she has a particular protected characteristic or for association with another individual who has a protected characteristic.

5.2 Unacceptable Behaviour

Examples of unacceptable behaviour that may amount to bullying and harassment include:

- Spreading malicious rumours or insulting someone (particularly on the grounds of race, sex, disability, sexual orientation and religion or belief or age).
- Threatening behaviour to another person e.g. aggressive body language, inappropriate or hurtful looks.
- Copying written communication that are critical about someone to others who do not need to know
- Ridiculing (including the telling of unwelcome jokes) or demeaning someone – picking on them or setting them up to fail
- Exclusion or victimisation (including deliberately ignoring someone who is addressing you and / or encouraging others to do the same)
- Addressing another person inappropriately e.g. shouting
- Unfair treatment
- Overbearing supervision or other misuse of power or position
- Unwelcome sexual advances – touching, standing too close, displaying offensive materials
- Making threats or comments about job security without foundation
- Undermining the confidence of an employee and affecting their ability to carry out their duties, e.g. by overloading them with work or by constant criticism
- Preventing individuals progressing by intentionally blocking promotion or training opportunities unjustifiably

5.3 Sexual Harassment

Sexual harassment can happen to men, women and people of any gender identity and sexual orientation. It can be carried out by anyone of the same sex, different sex or any gender identity.

You can also experience sexual harassment from a customer, client or member of the public. The college will take steps to prevent this.

Sexual harassment can occur in many forms. While this is not an exhaustive list, examples include:

- physical conduct of a sexual nature, unwelcome physical contact or intimidation;
- persistent suggestions to meet up socially after a person has made clear that they do not welcome such suggestions;
- showing or sending offensive or pornographic material by any means (e.g. by text, video clip, email or by posting on the internet or social media);
- unwelcome sexual advances, propositions, suggestive remarks, or gender-related insults;
- offensive comments about appearance or dress, innuendo or lewd comments;
- leering, whistling or making sexually suggestive gestures; and
- gossip and speculation about someone's sexual orientation or transgender status, including spreading malicious rumours

5.3.1 Who is responsible for sexual harassment?

The college will do everything they can to try to prevent sexual harassment happening in the first place.

Anyone who sexually harasses someone at work is responsible for their own actions.

5.4 Support and Advice

As an alternative to the immediate raising of a formal complaint, a pool of Harassment and Bullying advisers is maintained by the College to provide informal advice and assistance to any employee who believes he/she is a victim of harassment and/or bullying. A contact list of Harassment and Bullying Advisors are available on the HR page of SharePoint. Harassment and Bullying advisers may be contacted directly for support. In addition staff may also seek support from either the HR Department and / or the Employee Counselling Service which is confidential. (See section 6 below for more information on the specific role of the Harassment and Bullying advisors).

Any person who feels that they are the victim of harassment or bullying may be accompanied by a colleague when meeting with the advisor. If an interpreter is required, the College will take all reasonable steps to arrange such a person provided adequate notice is given (normally 5 working days).

Victims of harassment or bullying may contact their trade union representative for help or support and are entitled to such representation in line with grievance or disciplinary procedure.

Support and advice is provided on a confidential basis. Where however, it is evident that the law has been broken every effort will be made to encourage the individual to make a complaint to the relevant authorities.

6 ROLE OF HARASSMENT AND BULLYING ADVISERS

On being contacted the adviser will arrange to meet with the employee at the earliest opportunity or in any case within five working days. The complainant can confidentially discuss the details of

their experiences with the adviser who will discuss the options available, including procedures and next steps

These options may include:

- Approaching the alleged harasser and tell him/her to refrain from harassment or, to ask a colleague or trade union representative, line manager or harassment and bullying adviser to make this approach on their behalf;
- To make a formal complaint as outlined below – the decision to make a complaint will always rest with the individual;
- Certain forms of harassment, e.g. indecent or sexual assault should be reported to the Police;
- The complainant may want to also report the incident to the Police;
- Referral to another form of support may be offered internally or by an external agency / body;
- For the complainant to take no action and to be aware of the possible consequences of this. Should this option be taken, the individual will continue to be offered the appropriate support from the College.

7 INFORMATION AND TRAINING

Information and training will be provided to ensure that all line managers, harassment and bullying advisors, and employees, understand what harassment and bullying are, their rights and duties to take action to stop such behaviour and the procedures to be followed where such cases occur.

The College will make this Policy & Procedures available to all members of staff via SharePoint. Where necessary, copies will be provided in a suitable accessible format.

The college will undertake risk assessments to determine reasonable measures that can be implemented to minimise the risk of exposure to sexual harassment in the workplace and by third parties.

The college will ensure that our zero tolerance approach to all forms of discrimination, and bullying and harassment, is communicated to all workers and third parties.

8 COMPLAINT PROCEDURE

8.1 INFORMAL PROCEDURE

Employees who consider that they are being harassed or bullied should maintain a diary of incidents of alleged harassment which includes the time, date, place and nature of the incidents, how they felt at the time and the names of any witnesses present.

Whenever possible the employee should ask the alleged harasser to stop and / or make it clear that the behaviour is unwelcome. In circumstances where it is too difficult or embarrassing for the individual to approach the alleged harasser directly the initial approach may be made by a harassment and bullying adviser, line manager or trade union representative or work colleague.

It is advisable that the employee and alleged harasser should keep a note of the details including time and date of the approach. Anonymous complaints on sexual harassment can be submitted by mail. A Sexual Harassment Incident form is available to all staff to simplify reporting.

Bully/harasser/sexual harasser is a third party

If an employee is experiencing bullying or harassment by a third party, for example a client or a supplier, the college encourages the employee to report this to their manager or the HR team without delay so that they can advise and support them on the best course of action.

8.2 FORMAL PROCEDURE

If an alleged harassment persists or the complainant believes the circumstances warrant it, the case will be taken forward under the formal procedure.

Firstly, the circumstances of the alleged harassment should be discussed with the complainant's line manager or, if not appropriate, a member of the HR Team. After this discussion, if the employee wishes to continue with a formal complaint, they should put this in writing to their line manager (unless their line manager is involved in the alleged harassment, in this case they would raise their formal complaint with the next level of College management). The formal complaint will then effectively be dealt with **as a formal grievance (under the College's Grievance Policy)**.

The appropriate manager shall make arrangements to discuss the allegations with the complainant to determine how best to proceed, normally within 5 working days.

Even if the complainant does not raise it formally or wish to proceed with their complaint the college has a duty to protect its employees and may take formal action through the disciplinary process if the situation warrants it.

8.3 GRIEVANCE ADDITIONAL POINTS

When there is a need to apply a suspension or temporary redeployment during an investigation into harassment/bullying, the alleged harasser should normally be the employee who is suspended or moved. Where there are special circumstances to take into consideration, advice should be sought from the Human Resources Business Manager. If, in addition to any disciplinary action taken against the harasser, redeployment is seen as part of the solution to the problem then the harasser should normally be the employee to be moved. Any departure from that arrangement should be agreed in consultation with the Human Resources Business Manager.

9 CONFIDENTIALITY

Complainant and witness statements will remain confidential as far as is reasonably practicable. However, confidentiality cannot be guaranteed in all occasions as it is dependent on the individual circumstances.

It may be necessary for the College to rely on the use of information provided as part of the investigation (this may include witness statements) in any subsequent disciplinary process.

10 FURTHER ACTION

Provided the relevant line manager is satisfied after the investigation that harassment has taken place based on the conclusion of the investigation report, the harasser will be dealt with in accordance with the College Disciplinary procedure. If a disciplinary hearing is convened, care will be taken that the victim does not have to state unnecessarily or repeatedly in evidence the particulars of the complaint.

Where the complaint is shown to be unfounded and there are grounds for believing that the complaint is frivolous or mischievous, disciplinary action will be taken against the complainant in accordance with the College Disciplinary Procedure.

11 APPEALS

If the complainant considers that the complaint of harassment or bullying has not been satisfactorily resolved they can appeal against the decision in writing to the Vice Principal for Finance and Corporate Affairs. The appropriate manager will hold an appeal hearing and confirm the decision of the hearing in accordance with the College's Grievance procedures.

12 VICTIMISATION

Anyone who complains or takes part in good faith in a bullying or harassment investigation must not suffer any form of detrimental treatment or victimisation. If anyone feels they have suffered such victimisation, they should inform their line manager or HR as soon as possible.

If it is found that someone has victimised anyone in this way, the college will instigate disciplinary action against them up to and including dismissal (or other appropriate action for non-employees) under our [Disciplinary procedure](#).

13 RELATED DOCUMENTS

[Grievance Policy and Procedure](#)
[Disciplinary and Dismissal Policy and Procedure](#)
[Whistleblowing Policy and Procedure](#)
[Personal Relationships at Work Policy and Procedure](#)
[Mental Health Ambassadors Standards of Conduct](#)
[Preventing Sexual Harassment \(sharepoint.com\)](#)