

Harassment Policy

2014

Harassment Policy

1.0 Introduction

The college is committed to equal opportunities and to providing an environment in which all staff (both employees), students and those for whom the college has a special responsibility (for example visiting academics and students – henceforth referred to as "visitors") are treated with dignity and respect and in which they can work and study free from any type of discrimination, harassment, or victimization. All members of College are responsible for upholding this policy and should act in accordance with the policy guidance in the course of their day-to-day work or study, ensuring an environment in which the dignity of other staff, students, and visitors is respected. Offensive behavior will not be tolerated. Harassment is a serious offence which is punishable under the College's disciplinary procedures.

This Policy, and the Code of Practice which accompanies it, apply to the academic, office and domestic staff of the College, undergraduate and graduate students, and all others for whom the College is responsible. References to 'academic staff' include Principal, Fellows, lecturers, and outside tutors who teach students of the College. Complaints will be considered under this Policy from any person whose relationship with any other person makes the College potentially responsible, whether or not the complainant is a member of the College.

The College is committed to making all staff and students aware of this policy and the accompanying guidance and to providing effective guidance and briefing on it. The College takes steps to ensure that both the policy and guidance are fully understood and implemented. The policy and guidance will be brought to the attention of all staff and students and are available on the College web-site. The policy forms a part of every employment, and student contract, or relationship, or contract for services. The College encourages a culture of non-tolerance of any form of harassment.

Management of College and all in positions of responsibility or seniority, including students who fall into these categories, have specific responsibilities. These include setting a good personal example, making it clear that harassment will not be tolerated, being familiar with, explaining, and offering guidance on this policy and the consequences of breaching it, investigating reports of harassment, taking corrective action if appropriate, and ensuring that victimisation does not occur as a result of a complaint.

Definition of Harassment

Harassment is unwanted conduct on the grounds of sex, marital status, gender reassignment, race, disability, religion/belief, sexual orientation or age that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.

Harassment may involve repeated forms of unwanted and unwarranted behaviour, but a one-off incident can also amount to harassment. Acts of harassment may be unlawful.

Harassment on grounds of sex, race, religion, disability, sexual orientation or age may amount to unlawful discrimination. Harassment may also breach other legislation and may in some circumstances be a criminal offence. Harassment may occur through the use of internet, email, or telephone

The other person's motives are not the main factor in deciding if behaviour amounts to harassment. Just because certain behaviour may be acceptable to the alleged harasser or another person does not mean it is not harassment. Being under the influence of alcohol or otherwise intoxicated will not be admitted as an excuse for harassment, and may be regarded as an aggravating feature.

Bullying may be characterised by offensive, intimidating, malicious or insulting behaviour, or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. It includes any behaviour which makes someone else feel threatened, frightened, humiliated or taken advantage of. Some common forms of verbal abuse include verbal abuse; taunting; setting impossible deadlines or objectives; withholding key information or giving false information.

Victimisation occurs specifically when a person is treated less favourably because he/she has asserted his/her rights under this guidance, either in making a complaint or in assisting a complainant in an investigation. The College will protect any member of staff, student, or visitor from victimisation for bringing a complaint or assisting in an investigation. Victimisation is a form of misconduct which may in itself result in a disciplinary process, regardless of the outcome of the original complaint of harassment.

Sexual harassment has been characterised as a particularly degrading and unacceptable form of treatment, and is unacceptable to the College, as well as being unlawful, such that a victim may bring legal proceedings. If the conduct amounts to assault it may also constitute a criminal offence. All those to whom this Policy and the accompanying Code of Practice apply are under a duty not to engage

in sexual harassment. Complaints that sexual harassment has occurred between persons to whom this Policy and the accompanying Code of Practice apply will be taken seriously by the College, and where appropriate may result in disciplinary proceedings. The College will monitor the incidence of sexual harassment in the College, and the resolution of complaints, by means of an annual statistical report to Governing Body from the appointed Advisors.

Sexual harassment is a form of sex discrimination. Direct sex discrimination is less favourable treatment on the grounds of sex. Sexual harassment is direct sex discrimination by way of uninvited conduct based on the sex of the recipient which is intimidating, hostile or offensive to the recipient. It can include harassment which has not been directed at them specifically, but that they have witnessed and which violated their dignity. It may include unwelcome behaviour of a sexual nature which the recipient finds intimidating, hostile or offensive, ranging from unwelcome sexual advances, unpleasant or denigratory remarks, to the display of offensive material of an explicitly sexual nature. Such conduct may be physical, verbal or nonverbal. An aggravating feature of some cases of sexual harassment may be the abuse of a position of authority or trust. In general, the starting point for the determination of what is intimidating, hostile or offensive to the recipient will be the perceptions of the recipient of the alleged conduct. The College's policy dictates that the provisions of the Sex Discrimination Act and the Equality Act cover homosexual as well as heterosexual harassment.

Reasonable and proper management instructions administered in a fair and proper way, or reasonable and proper review of a member of staff's or a student's work and/or performance will not constitute harassment. Behaviour will not amount to harassment if the conduct complained of could not reasonably be perceived as offensive.

In summary, examples of behaviour that may constitute harassment are:

- verbal or physical threats;
- insulting, abusive, embarrassing or patronising behaviour or comments;
- offensive gestures, language, rumours, gossip or jokes;
- humiliating, intimidating, demeaning and/or persistent criticism;
- open hostility;
- suggestive comments or body language;
- isolation or exclusion from normal work or study place, conversations, or social events;

- publishing, circulating or displaying pornographic, racist, sexually suggestive or
- otherwise offensive pictures or other materials;
- unwanted physical contact, ranging from an invasion of space to a serious assault

(The above list is not intended to be exhaustive.)

Advice to individuals who may be suffering one or more forms of harassment

Individuals may be unsure whether certain behaviour amounts to harassment. The first step may be to discuss the matter in confidence with a friend or colleague who is familiar with the College setting. Members of staff may want to discuss the matter with immediate superiors, College Management, colleagues or trade union representative. Students may want to discuss the matter with the Dean, Senior Tutor or another college officer with pastoral responsibilities. Student Welfare Officers and Peer Supporters may be a good people to talk to.

2.0 Written Complaints

Format of Complaints

Written complaints take the form of a letter or memorandum describing the conduct on which the complaint is based. It will include:

- the date(s) and place(s) on which the offensive conduct occurred, the names of any witnesses, and the name of the respondent
- any efforts to resolve the complaint and the results of these efforts
- if appropriate, the specific outcome the complainant seeks

Filing of Complaints

Students: As noted above, complaints against undergraduate or post graduate students should be filed with the Office of the Dean/Vice Principal of Students and will be treated as disciplinary matters in accordance with the Student Conduct Procedures. Complaints against graduate students for conduct that occurs when they are performing as teaching or research assistants should be filed with the head of the departments.

Employees (union or nonunion): Complaints against employees should be filed with the dean/vice principal/head of the departments responsible for the respondent's department. In cases where the complainant is uncertain with whom to file the complaint, the Harassment Coordinator will advise the complainant as to the appropriate administrator.

Faculty: Complaints against faculty should be filed with the respondent's dean/vice principal/head of the department. In the case of respondents who serve both graduate and undergraduate programs, the complaint should be filed with the dean responsible for the program in which the complainant is enrolled.

If the person with whom a complaint would ordinarily be filed is the respondent, the Harassment Coordinator will advise the complainant as to the appropriate administrator to receive the complaint.

Notification of Respondent

Within five (5) working days of the receipt of the complaint, co-ordinator after receiving the complaint will notify the respondent in writing, advise the respondent of the name of the complainant, the nature of the allegations, refer the respondent to this policy, and provide a copy of the complaint. The Harassment Coordinator will receive a copy of this correspondence, and, upon its receipt, will confer with the complainant and the respondent independently to review options for resolution of the complaint. The complainant, with the assistance of the Harassment Coordinator, will choose the option he or she prefers, subject to the right of the respondent to request mediation or the right of the respondent or the dean or director to request the appointment of a Harassment Hearing Committee (see Hearing Committee, below). The respondent will also be advised that any speech or conduct threatening or constituting retaliation against the complainant will be regarded as a serious and separate infraction

Options for Resolving Written Complaints Mediation

Either the complainant or the respondent may request the Harassment Coordinator to attempt resolution of the complaint through mediation. Either party may decline to participate, and the Harassment Coordinator/Principal reserves the right to decline mediation if the Harassment Coordinator deems that it is not appropriate as to the particular complaint. If the parties agree to mediate and good faith efforts to mediate the complaint are ongoing, the Harassment Coordinator may suspend other complaint resolution options. If, through mediation, a settlement is agreed to by both parties and approved by the Harassment

Coordinator, no further option for resolution will be available. The case will be recorded in the institutional tally and institutional memory file. If no settlement is reached, the complainant may choose either the Administrative Resolution or the Hearing Committee option.

Administrative Resolution

The complainant has the exclusive prerogative of choosing the administrative resolution option, subject to the right of the Harassment Coordinator to determine that administrative resolution is not appropriate in the given case or the right of the respondent or the dean or director to request the appointment of a Harassment Hearing Committee (see Hearing Committee, below). In an Administrative Resolution, the dean or director with whom the complaint is filed will review the complaint with the Harassment Coordinator and the complainant and will also meet with the respondent. The co-ordinator will then seek to resolve any factual disputes by interviewing witnesses and reviewing documents in order to establish the credibility of the parties. The co-ordinator will ordinarily complete this investigation within fourteen (14) days of notification of the respondent and determine whether the preponderance of evidence indicates that harassment occurred

After completing the investigation, the dean or director will meet with the complainant and respondent, either together or separately, to discuss an appropriate resolution of the complaint. After this meeting(s), the dean or director will prepare a statement of the facts and a conclusion.

Possible Findings

If harassment is the finding, the Harassment Coordinator will inform the co-ordinator of any prior history of infractions in the institutional memory file. The dean or director will then recommend a resolution in writing and deliver the recommendation to the appropriate vice president:

- for employee respondents -- to the principal and the Vice President for college
- for faculty respondents –to the Principal

The principal will review and accept or reject the co-ordinator recommendation. If the vice president disagrees with the dean or director's factual findings or recommendation, the vice president may, in consultation with the Harassment Coordinator, request the dean or director to review the case in whole or in part. A

decision is ordinarily made within ten (10) working days of the receipt of the dean or director's recommendation. The vice president will inform in writing the complainant, the respondent, the dean or director, and the Harassment Coordinator of the decision. The case will be recorded in both the institutional tally and the institutional memory file.

If it is determined that there are insufficient grounds to support the claim of harassment, the parties will be so informed in writing and the complaint will be dismissed. The complaint will be recorded in the institutional tally and in the institutional memory file

Hearing Committee

At the request of either party, or at the co-ordinator request, principal responsible for the respondent will appoint a Harassment Hearing Committee to review the case and, after determining the facts, to make a recommendation.

Composition

The vice president will appoint a five-member committee and two alternates to hear the case. The vice president will choose individuals from one or more of the following pools faculty members who serve on school educational policy committees

- professional staff from a pool maintained by the Vice Principal/Principal

The Committee will include at least one member of the same status (e.g., graduate student, faculty member) as the respondent and at least one of the same status as the complainant. The vice president will designate a chairperson and will inform the Harassment Coordinator of the formation of the Committee.

Committee Procedures

- The Harassment Coordinator will provide Committee members with copies of the complete policy on Discriminatory Harassment; deliver to the Chairperson of the Hearing Committee a complete set of documents in the case; assist the Chairperson in scheduling a hearing, ordinarily within fourteen (14) days of the request for a hearing; assist the Chairperson in identifying the witnesses whom the complainant and respondent intend to call; and identify other persons who might assist the Committee

- The Chairperson will notify the complainant and respondent not less than five (5) days prior to the hearing of its location, time, and date. The Chairperson will also identify the members of the Committee and inform the parties that challenges for bias must be made not less than two (2) days prior to the hearing. The Chairperson will determine the sufficiency of the challenges, and, if appropriate, choose a replacement from the alternates. If the Chairperson is challenged, the vice president who appointed the Committee will determine the sufficiency of the challenge
- The hearing will be held, if possible, on consecutive working days and will be closed to persons other than those participating. However, either party may be accompanied by an advisor and/or legal coordinator, with whom he or she may consult, upon request, at reasonable times during the hearing. The intention to be accompanied by legal counsel or an advisor must be communicated to the Chairperson at least two (2) days prior to the hearing. Advisors and legal counsel may neither address the Committee nor question witnesses.
- The hearing will begin with the presentation of the complainant's case and be followed by the respondent's response. The Committee will then question both parties and give the parties an opportunity to question each other, provided, however, that upon the request of the complainant, the Committee shall establish an alternative questioning procedure if the complainant elects not to directly confront the respondent
- Witnesses will not be present except during their testimony. Witnesses, beginning with those of the complainant, will relate their knowledge of relevant facts through questions posed both by the Committee and by both parties. Once the Committee is satisfied that all relevant information has been presented, both parties may present summary statements and/or briefs to the Committee
- The Committee will meet privately to determine the facts and the extent to which they constitute discriminatory harassment under a preponderance of evidence standard.

Possible Findings

If the Committee determines that discriminatory harassment has occurred, the will be given access to the record of any prior infractions by the

respondent. The Committee will then assess the seriousness of the case based on the severity of the harassment, the extent to which it was a single or repeated incident, and any record of past infractions. In consultation with the Harassment Coordinator, the Committee will develop a recommendation on sanctions. (Possible sanctions include: letter of warning, letter of reprimand, mandatory counseling or training, reparation, suspension, dismissal or termination, any combination of these sanctions, as well as other appropriate alternatives.)

The Committee will communicate its report and recommendation on sanctions to the vice president who convened the Committee and to the Harassment Coordinator. The vice president will then accept or reject the report, or refer the case back to the Hearing Committee for additional review. If the vice president accepts the report, the vice president, after consultation with the Vice President for College in cases involving employees, will determine and impose the sanctions.

Where appropriate, the necessary steps will also be taken to reverse actions which the respondent may have taken in the harassment of the complainant (e.g., restoration of rights or privileges, review of academic or personnel evaluations). The vice president will send written notice of the resolution of the complaint to the respondent, the dean or director, the Chairperson of the Harassment Hearing Committee, and the Harassment Coordinator within ten (10) working days after receiving the Committee's recommendation. The Harassment Coordinator will inform the complainant of the final disposition and will record the case in the institutional tally and the institutional memory file. A copy of the decision will be placed in the respondent's file; no record will be made in the complainant's file

If it is determined that there are insufficient grounds to support the claim of harassment, the parties will be so informed in writing and the complaint will be dismissed. The complaint will be recorded in the institutional tally and in the institutional memory file.

If it is determined that a claim of harassment is knowingly false, the Hearing Committee will recommend appropriate sanctions to the vice president of the complainant's area and a notation will be made in the complainant's file. This action will be recorded in the institutional tally and in

the institutional memory file.

Procedures for Appeal

- lacked a factual basis
- it did not conform to the procedural requirements of this policy
- it was based on bias
- it violated the respondent's academic freedom

A formal appeal must be filed in writing within fourteen (14) days after the respondent is informed of the decision. Formal appeals are available to members of the University in the following manner.

Students: Students may appeal to the Harassment coordinator who will either sustain or reverse the decision, or refer the case back to the Vice President for Student Affairs for further review and resubmission.

Faculty: For a sanction other than dismissal, faculty may appeal to the Principal. If the sanction is dismissal by the President during the term of a contract, faculty may appeal to the Faculty Hearing Committee.

Employees: Employees may appeal to the Principal, who will either sustain or reverse the decision, or refer the case back to the vice president for further review and resubmission.

Summary of Record Keeping

Institutional Tally: Once a year, the Harassment Coordinator will report upon the number of discriminatory harassment complaints filed in the previous twelve (12) months. This report will not include names or identifying facts, but will include: the nature of the allegation; the status of the parties involved (e.g., faculty, staff); and whether or not discriminatory harassment was the finding.

Institutional Memory: The need to identify repeat offenders requires that the Harassment Coordinator keep a central file, separate from individual files. This file will include the names of individuals involved in written or unwritten harassment complaints.

Individual Records: No notations or records will be placed in individual files in the case of unwritten complaints, whether or not the situation is resolved. In written complaints, a guilty finding and/or the sanctions imposed will be recorded in the respondent's file. Similarly, a finding that a knowingly false charge has been filed will be recorded in the complainant's file.

Policy Dissemination

The substance of this policy is included in the college website and handbook.

Education and Awareness

Students and faculties are briefed about the harassment policy during induction program. In addition, the information is also available in

The college notice board.