



## ANTI HARASSMENT AND ANTI BULLYING – STUDENT POLICY AND PROCEDURE

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This policy is available in different formats and other languages from the Head of ALS on request.



## 1. Introduction

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- 1.1. The College is committed to ensuring equal opportunities and fair treatment in the workplace for all its students. One of the key aims of the policy is to enable the College to provide a working environment in which all students feel comfortable and in which everyone is treated with respect and dignity, regardless of gender, sexual orientation, transgender status, marital, civil or family status, colour, nationality, ethnic or national origins, creed, culture, religion or belief, age, disability or any other personal factor or quality.
- 1.2. This policy should be read in conjunction with the College's Equality and Diversity Policy and Policy Statements, and aims to ensure that no students within the organisation are subjected to any form of harassment or bullying. The purpose of this policy is to provide a route for students who believe that they have been harassed or bullied to raise a complaint either informally or formally.
- 1.3. The College will treat all complaints of harassment and bullying seriously and will investigate them promptly, efficiently and in confidence. The main aims of this policy are to provide a framework for resolving complaints of harassment or bullying and for stopping any behaviour that is causing offence or distress.
- 1.4. As part of the College's commitment to its zero tolerance to bullying and harassment the College is a member of Stonewall.

## 2. Background

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- 2.1 Equality of opportunity means more than disregarding differences such as gender, disability, race or nationality, religious or political belief, sexuality, or age. It means ensuring that the College understands how different students will be affected by our activities so that our provision is appropriate and accessible to all and meets their different needs. This means recognising, accommodating and valuing diversity across the College and the community with which we work.
  - Equality means ensuring that everyone is treated equally i.e. that all students have the same right of access to resources. Consequently to ensure equality of opportunity, individuals / groups may be treated differently.
  - Diversity is recognising that individuals and groups of people are different and that it is important to value and celebrate difference.
  - Direct Discrimination is treating someone less favourably than he/she would treat others because of a protected characteristic.  
[The individual does not need to possess the protected characteristic]
  - Indirect Discrimination is where an employer/provider has a condition, rule, policy or practice that applies to everyone but particularly disadvantages people who have a protected characteristic. [It can be justified if it is a proportionate means of achieving a legitimate end]



- Associative Discrimination is direct discrimination against someone who associates with another person that possesses a protected characteristic.
- Perspective Discrimination is direct discrimination against some one because they are thought (wrongly) to possess a protected characteristic.
- Harassment is unwanted conduct related to a protected characteristic that has the purpose or effect of violating an employee's dignity, or creating an intimidation, hostile, degrading, humiliating or offensive environment for that individual.
- Victimisation is where an individual is subjected to a detriment because they make, or are suspected of making, or supporting a complaint or grievance under the Equality Act 2010. [No protection if a complaint has maliciously made or supported an untrue complaint].
- Third Party Harassment Individuals are protected from being harassed by clients, contractors of the employer/provider. An employer is liable if the conduct has occurred on two previous occasions, is aware of it had taken place and has not taken reasonable steps to prevent it occurring.

2.2 Harassment is a serious problem, which has often been dismissed as individuals being over sensitive. It can affect a student's health and performance.

### **3. Harassment**

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- 3.1 This is where person A engages in unwanted conduct that has the purpose or effect of violating person B's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for person B.
- 3.2 Conduct shall be regarded as having this effect only if, having regard to all the circumstances, including in particular the perception of B, it should reasonably be considered as having that effect.
- 3.3 Harassment may be repetitive, or an isolated occurrence against one or more individuals and be based on the grounds of gender, sexual orientation, transgender status, marital, civil or family status, colour, nationality, ethnic or national origins, creed, culture, religion or belief, age, disability or any other personal factor or quality.

Harassment can be physical, verbal or non-verbal and a wide range of different types of behaviour in College may potentially be perceived as harassment. Examples of behaviour that may be perceived as harassment:



## Sex-Related Harassment

- Telling jokes about women
- Making derogatory sexist remarks
- Deliberately placing tools or materials that a woman needs to do her job on a high shelf to make it harder for her to reach them.

## Harassment of a Sexual Nature

- The display of sexually explicit material on computer screens or in calendars
- Leering at a woman in a manner that is overtly sexual
- Physically touching someone in a sexual manner where such conduct is not welcome
- Remarks, banter or jokes of a sexual nature
- Making sexual suggestions or persisting with sexual advances after it has been made clear that such approaches are unwelcome.



Gender Reassignment Harassment
<ul style="list-style-type: none"> <li>• Calling someone a nickname linked to the fact that he or she has undergone gender reassignment, for example 'gender bender'</li> <li>• Inappropriate touching designed to check whether or not an individual has undergone reconstructive surgery</li> <li>• Leaving items specifically associated with the individual's old or new gender on his or her desk.</li> </ul>
Racial Harassment
<ul style="list-style-type: none"> <li>• Calling someone a nickname linked to his or her skin colour or nationality, for example calling an Asian student 'Paki'</li> <li>• Remarks, banter or jokes about people from different racial backgrounds.</li> </ul>
Disability Harassment
<ul style="list-style-type: none"> <li>• Using insulting terminology, such as 'mong', 'retard' or 'spastic', when referring to a disabled student</li> <li>• Excessive staring, for example at someone with a facial disfigurement</li> <li>• Mimicking a disabled student's mannerisms or speech.</li> </ul>
Religious Harassment
<ul style="list-style-type: none"> <li>• Remarks, banter or jokes about particular religious beliefs or religious practices</li> <li>• Derogatory remarks made about a particular item of clothing or jewellery worn by someone as a symbol of his or her religion.</li> </ul>
Sexual Orientation Harassment
<ul style="list-style-type: none"> <li>• Deliberate isolation of someone on grounds of his or her sexuality or perceived sexuality</li> <li>• Deliberately behaving in an effeminate manner in the presence of someone who is gay</li> <li>• Calling someone a nickname based on his or her sexuality or perceived sexuality.</li> </ul>
Age Harassment
<ul style="list-style-type: none"> <li>• Banter and jokes that make fun of older people or demean their abilities.</li> <li>• Calling someone a name linked to his or her age, for example 'daft old bat' or 'young whippersnapper'.</li> <li>• Ignoring someone, or treating his or her views as worthless, just because he or she is younger or older than other student.</li> </ul>

3.4 Even where conduct does not have that purpose but could reasonably be considered to have that effect including; in particular the perception of the complainant it constitutes harassment.



- 3.5 Sex-based harassment is where unwanted conduct related to the sex of a person occurs with the purpose or effect of violating the dignity of that person, or of creating an intimidating, hostile, degrading, humiliating, or offensive environment.
- 3.6 Sexual harassment is where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, or of creating an intimidating, hostile, degrading, humiliating, or offensive environment.

## 4. Bullying

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- 4.1 Bullying may manifest itself as persistent, offensive, abusive, intimidating or insulting behaviour, abuse of power or unfair sanctions which makes the recipient feel upset, threatened, humiliated or vulnerable, which undermines their self-confidence and which may cause them to suffer stress.

Examples of bullying include:

- Displays of rage or shouting at a student in public and/or in private
- Personal insults and name calling
- Persistent unjust criticism and public humiliation
- Persistent undermining or work designed to humiliate or cause distress
- Setting objectives with impossible deadlines
- Constantly changing working guidelines
- Excessive and unreasonable supervision
- Excessive monitoring
- Unnecessary invoking of disciplinary or capability procedures
- Unreasonable allocation of additional workload
- Ignoring or excluding an individual, or talking only to a third party to isolate another.

## 5 Reporting Harassment/Bullying

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- 5.1 All students within the organisation have an absolute right to complain if they are treated in a manner that they believe constitutes harassment or bullying. This will include behaviour that has caused offence, humiliation, embarrassment or distress.

5.1.1 It is worth noting, in terms of identifying an 'informal resolution' that in some instances individuals can simply be 'rude', and there is a balance to consider:

- something being roughly or clumsily done
- something lacking in subtlety
- or simply impoliteness.

This may not amount to bullying and harassment (taken within context) and should at least be explored as part of the informal resolution stage by the course tutor i.e. an apology made in terms of a lapse of good judgement (at an early stage) may satisfy the situation.

- 5.2 However, any student within the organisation who raises a genuine complaint under this policy will be treated seriously and under no circumstances be subjected to any unfavourable treatment or victimisation as a result of making a complaint.
- 5.3 Similarly if a counter allegation is raised in response to an initial complaint, the original complaint will take precedence and taken to its logical conclusion and an outcome determined. Following completion of this process the counter allegation will then be investigated and considered on its own merit and dealt with accordingly in line with due process. (see 5.4)
- 5.4 If it is established that a member of the student body has made a deliberately false, malicious or vexatious complaint against another person about harassment or bullying, disciplinary action will be taken against that student.
- 5.5 A malicious or vexatious complaint or false allegation of harassment or bullying is defined as a complaint which is patently unsustainable, having been put forward so as to abuse the process of this policy or, for example, to attempt to defame the names or characters of another person(s).
- 5.6 This policy requires all students to act in eliminating any harassment and bullying in the College of which they are aware.
- 5.7 Any student member who witnesses an incident that he/she believes to be the harassment or bullying of another individual should report the incident in confidence either to his/her course tutor, Academy Director or any other member of College staff. The College will take all such reports seriously and will treat the information in strict confidence as far as it is possible to do.

## **6 Supportive Framework**

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- 6.1 The College recognises that making a complaint of harassment/bullying is likely to be a distressing experience and that it may be difficult for individuals to raise complaints. Accordingly an individual may approach a Counsellor **or** a member of the Student Union.
- 6.2 The counsellor has no role in formal investigations and neither are they a source of evidence in any proceedings, since all discussions between counsellor and individual are confidential.
- 6.3 Individuals who have been accused of harassment/bullying may also access a confidential Counsellor to receive appropriate support as the allegation is investigated.
- 6.4 The emphasis should be on rebuilding relationships and as such the Counselling Service may provide mediation for students experiencing bullying and harassment. This will not be facilitated by a counsellor who also has a working relationship with the student who has raised or is being accused of bullying harassment.



## 7 Investigating Claims

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- 7.1 The College is committed to providing an environment for all its students within the organisation that is comfortable and free from all forms of bullying and harassment. The College adopts a zero-tolerance approach towards bullying and harassment and any member of the student body who is found to have harassed or bullied an individual will be subject to the disciplinary procedure, with sanctions up to and including dismissal or exclusion.

## 8 Stage 1: Informal Resolution

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- 8.1 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.
- 8.2 Time should be taken to reflect and consider events and whether the “offence” was caused as a result of something being roughly or clumsily done, or lacking in subtlety or simply impolite. The question should be asked: can the offence be resolved through discussion or an apology at an early stage?
- 8.3 If the individual is too embarrassed to speak directly to the offender, this could be done by writing, or asking a tutor, Pastoral Support Worker or member of the Student Union Team. A note should be made of the action taken.
- 8.4 If the action continues, or the individual cannot take personal action, then they should contact their course tutor or a member of the Student Union for advice on the next stage. Where the student indicates that they would prefer to discuss the matter with a person of the same sex/race etc, this should be arranged whenever possible, taking into account any special circumstances that may exist.
- 8.5 Any discussion will be confidential and no further action will be taken without the consent of the complainant unless it is considered that the incident is serious; in which case they will inform the student of their need to take action against the alleged harasser, following consultation with the student concerned.
- 8.6 The student may have an acknowledged student, a friend or parent/guardian representative present at all stages of the procedure.
- 8.7 One of the following courses of action may then be followed:
- 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 student 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.



- 8.8 If the College has grounds to believe that a student may have been bullying or harassing another student, whether or not there has been a formal complaint, the College will instigate an investigation into the alleged bullying or harassment.
- 8.9 Any student who believes that another person's conduct amounts to bullying or harassment has the absolute right to complain.
- 8.10 All students are encouraged to report any incidents of bullying or harassment that they experience or witness so that the College can investigate and resolve the matter. The College will take all such complaints seriously and any student who makes a genuine complaint of bullying or harassment will be protected and will not be penalised or victimised in any way.

## **9 Stage 2: Formal Complaint**

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- 9.1 Any student is entitled to expect College management to institute formal investigation proceedings.
- 9.2 Individuals making a formal complaint should do so in writing, forwarding the details of the complaint to their course tutor or the next level of management, if their course tutor is implicated. (The complainant needs to specify that it is a formal complaint and provide details of the incident/s).

### **9.3 Investigating a complaint**

The investigation will be carried out by a panel comprising: The Manager who received the complaint, a senior manager, and an independent manager, none of whom should be connected with the case in any way.

9.3.1 The Investigating Panel is required to protect the rights of both parties involved and ensure that both are entitled to a full and fair opportunity to present their version of events.

9.3.2 The person against whom the complaint has been made should be informed of the nature of the complaint and sent a copy of the letter and details of the procedure involved and advised to seek representation.

### **9.4 Time Limits**

9.4.1 The investigation should normally be completed within 15 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.



## 9.5 Possible suspension during the investigation

- 9.5.1 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.
- 9.5.2 Suspension under this procedure does not constitute part of the disciplinary procedure.
- 9.5.3 Temporary separation of one or both parties may also be considered. The complainant should be given the choice, though normally the alleged harasser would be moved first.

## 9.6 Meeting the parties involved

- 9.6.1 The panel will meet with the complainant and the alleged harasser separately and with their respective representatives. Detailed written statements will be taken. Both parties should be given the opportunity to nominate witnesses whom they wish to be interviewed.
- 9.6.2 The panel will meet anyone else who was present or who has information which is relevant to the issue. Notes of this meeting will also be taken and the individuals called will be able to be accompanied by a friend or student union representative.

Further interviews may need to take place to clarify or gain more information. The panel will also need to ensure that they have collected all relevant written materials.

- 9.6.3 The panel will, on completion of the investigation, 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 or any other personal characteristic (protected characteristic) be taken as relevant information).
- 9.6.4 In some cases, there will not be any witnesses and it will be one person's word against another's. In these cases, the panel will consider whether on the balance of probabilities, the incidents/actions occurred.
- 9.6.5 The Panel will consider the facts and will decide either to:
  - a) Take no action, in that the allegation has not been substantiated.
  - b) Refer the matter to the College agreed Learning and Behaviour Procedure.

Note: under point (b) above, the normal disciplinary procedure should be applied. However the following points should be taken into account:



- The complainant may 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 student union representative, colleague or friend and have any questions directed through this person
- Any disciplinary proceedings will, where possible, be conducted by a different manager from the person who conducted the investigation
- If the matter is referred to disciplinary procedures and an outcome reached, the normal disciplinary appeal process will apply.

## **10 Serious Criminal Offences**

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- 10.1 In cases of an alleged assault or alleged behaviour that is considered to be a criminal offence the College should contact the Police for their appropriate action, if the complainant so wishes and/or if the College considers the incident to be a serious criminal offence.

## Harassment and Bullying Process

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Students have an absolute right to complain if they are treated in a manner that they believe constitutes harassment or bullying. This will include behaviour that has caused offence, humiliation, embarrassment or distress.



