

Policy against Bullying, Harassment and Victimisation (Incorporating Dignity at Work)

Version: Version 1

Aim / Scope: The College believes that every member of staff has the right to work in a supportive environment, free from bullying, harassment and victimisation. There is an expectation that all staff will:

- strive to prevent harassment and bullying from occurring
- be treated with dignity and respect
- have confidence to raise any instances of unacceptable behaviour.

Policy Owner: Organisational Development and Human Resources Department

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Related Policies:

- Code of Conduct
- Equality and Diversity Policy
- Disciplinary Policy and Procedure
- Grievance Policy and Procedure

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1. INTRODUCTION

- 1.1. This Policy and Procedure applies to all employees of Leeds City College (the "College") regardless of length of service. However, contractors, volunteers and other individuals who attend the College's premises on a regular basis (more than three times per month) are expected to read this Policy and Procedure and abide by its terms. Individuals who attend the College's premises on an ad hoc basis should be fully supervised.
- 1.2. This document sets out the College's standard Bullying, Harassment and Victimisation Policy and Procedure. It has been drafted to comply with statutory requirements and in consideration of Association of Colleges guidance. This Policy and Procedure should be read together and in accordance with other relevant College policies, procedures and local guidance.
- 1.3. The Policy and Procedure may be reviewed at the request of Management or Trade Unions by giving four weeks' written notice with reasons for the review.
- 1.4. This Policy and Procedure does not form part of any employee's contract of employment and it may be amended at any time, subject to the provisions in section 1.4.

2. PURPOSE

- 2.1. The College aims to develop and maintain a working environment where all individuals can work together effectively, confidently and competently and where:
 - all staff contribute proactively to the creation of a culture of mutual respect and an environment where everyone is treated with dignity.
 - staff have the confidence to challenge any instances of unacceptable behaviour and where necessary take appropriate action to bring such behaviour to an end.
- 2.2. The Governors and Management of the College are fully committed to ensuring that this policy is as effective as possible in preventing bullying and harassment from occurring and that where complaints are made that they are treated seriously and addressed promptly.
- 2.3. This Policy and Procedure sets out the College's approach to creating a working culture of mutual respect and dignity and explains the procedure that will be followed in the event of allegations of bullying, harassment or victimisation.

3. GUIDING PRINCIPLES

- 3.1. The College will not tolerate any form of bullying, harassment or victimisation.
- 3.2. The College undertakes to publicise this policy fully and to ensure rights and responsibilities are understood by all staff.
- 3.3. In order to support the College's aim of preventing bullying, training and guidance will be provided to all staff. The College will also provide specific training and guidance to managers in the correct operation of the Bullying, Harassment and Victimisation Policy and Procedure
- 3.4. The College acknowledges that where harassment and bullying occurs it causes serious repercussions. It can affect people's health, work performance and the

success of the organisation. Bullying, as a cause of stress at work, should be regarded as a workplace health and safety hazard.

- 3.5. It is important to recognise that what one person may find acceptable, another may find totally unacceptable and that the essence of harassment and bullying is that the words or behaviour are unwelcome to the particular person who is the target of the words or behaviour.
- 3.6. If a complaint is made to the College, it will be investigated promptly in accordance with the Grievance Policy and Procedure in the first instance. The manager will decide if there is sufficient evidence to warrant the case being referred for consideration under the Disciplinary Policy and Procedure. Where an employee is found to have engaged in bullying or harassment, appropriate disciplinary action will be taken. Serious cases may be viewed as gross misconduct, which could result in summary dismissal.
- 3.7. The College will not tolerate retaliation against or victimisation of any person involved in the bringing of a complaint of bullying. Such retaliation or victimisation will itself constitute an offence, which will be investigated and appropriate action will be taken.

4. RESPONSIBILITIES

4.1. Governors Responsibility

4.1.1. Governors are responsible for ensuring that they:

- Are familiar with the Bullying, Harassment and Victimisation Policy;
- Are aware of the College's legal responsibilities as an employer in relation to bullying;
- Ensure training and guidance is provided in relation to the policy; and
- Receive and respond to any monitoring information collated as part of the reviews of the policy.

4.2. Senior Managers Responsibility

4.2.1. Senior Managers, that is those in the College Management Team and above, are responsible for taking the lead in creating a positive, open culture that challenges inappropriate behaviour on the part of members of the College community.

4.3. Line Management Responsibility

4.3.1. All Line Managers, that is those with direct responsibility for managing staff, are responsible for ensuring that they are:

- Familiar with the Bullying, Harassment and Victimisation Policy and that it is followed correctly;
- Aware of the College's legal responsibilities as an employer in relation to harassment and bullying;
- Setting examples as positive role models through their own words and actions.

4.4. Equality and Diversity Committee Responsibility

4.4.1. The Equality and Diversity Committee are responsible for ensuring:

- The policy is monitored and reviewed;

- Appropriate training and development is provided to support understanding of the Bullying, Harassment and Victimisation Policy.

4.5. **Employee Responsibility**

4.5.1. All staff are responsible for ensuring that they:

- Familiarise themselves with the Bullying, Harassment and Victimisation Policy;
- Take part in any relevant training;
- Participate in an investigation when asked by an investigating officer, where a member of staff has observed or has evidence that another member of staff is being bullied or harassed;
- Their own behaviour supports a positive work environment free from bullying.

5. **DEFINITIONS OF BULLYING AND HARASSMENT**

5.1. **Bullying**

5.1.1. 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.

5.2. **Harassment**

5.2.1. Harassment occurs when an individual is subjected to unwanted conduct which has the purpose (intentional) or effect (unintentional) of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual".

5.2.2. 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.

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

5.3.1. Bullying and Harassment 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.
- 5.3.2. 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.
- 5.3.3. In addition, the College will not tolerate acts of bullying either at other people's workplaces, or at College-related functions, such as conferences, or social gatherings, such as after-work drinks.
- 5.3.4. It is accepted that vigorous debate and occasional raised voice or argument, of itself may not necessarily constitute bullying.
- 5.3.5. Bullying must be distinguished from the right of, and obligation placed on, managers to exercise proper supervision of staff 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 staff in the normal course of their duties will not be viewed as acts of bullying.

6. **LEGISLATION**

- 6.1. Individuals are protected from bullying under the Equality Act 2010.
- 6.2. The Equality Act has strengthened the legislation in relation to bullying, harassment and discrimination in respect of all the Protected Characteristics specified in the Act. (Age, Disability, Gender Reassignment, Marriage/Civil Partnership, Pregnancy/Maternity Leave, Race, Religion or Belief, Sex, Sexual Orientation).
- 6.3. 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.

6.4. **Types of discrimination:**

6.4.1. **Direct Discrimination**

Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have (see perception discrimination below), or because they associate with someone who has a protected characteristic (see discrimination by association below).

6.4.2. **Discrimination by Association**

Already applies to race, religion or belief and sexual orientation. Now extended to cover age, disability, gender reassignment and sex. This is direct discrimination against someone because they associate with another person who possesses a protected characteristic.

6.4.3. **Perception Discrimination**

Already applies to age, race, religion or belief and sexual orientation; now extended to cover disability, gender reassignment and sex. This is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic.

6.4.4. **Indirect Discrimination**

Already applies to age, race, religion or belief, sex, sexual orientation and marriage and civil partnership; now extended to cover disability and gender reassignment.

Indirect discrimination can occur when you have a condition, rule, policy or even a practice that applies to everyone but particularly disadvantages people who share a protected characteristic. Indirect discrimination can be justified if you can show that you acted reasonably, i.e. that it is 'a proportionate means of achieving a legitimate aim'. A *legitimate aim* might be any lawful decision you make in running your business or organisation, but if there is a discriminatory effect, the sole aim of reducing costs is likely to be unlawful.

Being proportionate really means being fair and reasonable, including showing that you've looked at 'less discriminatory' alternatives to any decision you make.

6.4.5. **Harassment**

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

Harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership. People will now be able to complain of behaviour that they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristic themselves.

Employees are also protected from harassment because of perception and association.

6.4.6. **Third Party Harassment**

Already applies to sex; now extended by the Equality Act to cover age, disability, gender reassignment, race, religion or belief and sexual orientation.

The Equality Act makes an employer or individual potentially liable for harassment of employees and students by people who are not employees of the college (third parties), such as customers or clients. Liability arises when harassment has occurred on at least two previous occasions, you are aware that it has taken place, and have not taken reasonable steps to prevent it from happening again.

6.4.7. **Victimisation**

Victimisation occurs when a person is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act; or because they are suspected of doing so. A person is not protected from victimisation if they have maliciously made or supported an untrue complaint.

There is no longer a need to compare treatment of a complainant with that of a person who has not made or supported a complaint under the Act.

7. SUPPORT FOR EMPLOYEES

- 7.1. The College recognises the sensitive nature of bullying and harassment. Anyone who believes they are being bullied may wish to discuss their particular situation in a confidential setting before deciding what action to take.
- 7.2. 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 in which case:
 - Staff can discuss the situation with the next level manager, a member of the counselling team, or with a member of Human Resources.
 - Staff can also obtain support from their trade union representative.

8. THE PROCEDURE FOR DEALING WITH COMPLAINTS OF BULLYING & HARASSMENT

8.1. Confidentiality

- 8.1.1. Complaints about bullying 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.
- 8.1.2. Confidentiality will be maintained as far as possible. However, if an individual 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 who may be affected by the alleged behaviour.

8.2. Keeping records of incidents

- 8.2.1. It is helpful for anyone who believes they have been subjected to 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.

8.3. Making a complaint

- 8.3.1. If a member of staff wishes to make a complaint of bullying the matter should be raised as a grievance in accordance with the College's Grievance Policy and Procedure in the first instance. Under this procedure there will be an investigation to establish the nature of the case and to establish whether bullying or harassment has occurred. The manager will decide if there is sufficient evidence to warrant the case being referred for consideration under the Disciplinary Policy and Procedure.
- 8.3.2. In most cases it is preferable to deal with complaints informally in accordance with the informal stage of the College's Grievance Policy and 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.

- 8.3.3. 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.
- 8.3.4. If the complainant does not feel able to do this alone, he/she could seek support from a colleague, Trade Union Representative, Line Manager or an appropriate member of the OD & HR Department. Where both parties are in agreement, the College may consider addressing the unacceptable behaviour through mediation.
- 8.3.5. If the matter is very serious, the individual feels the matter has not been resolved at this stage, or in other circumstances where the individual does not wish to raise the matter informally, the individual may proceed to the formal stage of the College's Grievance Policy and Procedure.
- 8.3.6. Details of the College's Grievance Policy and Procedure are available on the staff intranet or on request from the OD & HR Department.

8.4. Records of complaints

- 8.4.1. 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.

8.5. Malicious allegations and false statements

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

8.6. Complaints against the Principal or other Senior Post-holder

- 8.6.1. Where the complaint is against the Principal or another senior post-holder, the same principles will apply in investigating the matter.
- 8.6.2. The Governors will appoint an appropriate Investigating Officer to investigate the complaint. This may be the Principal, a Governor, or an external investigator, depending on the circumstances.
- 8.6.3. If the complaint is upheld and it is decided that there is sufficient evidence to warrant the case being referred for consideration under the Disciplinary Policy and Procedure, the matter must be referred to the Governors who will follow the College's Disciplinary Policy and Procedure, Appendix 1.

9. REVIEW AND MONITORING

- 9.1. It will be the responsibility of the Equality and Diversity Committee to review and monitor the Bullying, Harassment and Victimisation Policy on a regular basis, using information such as the number of complaints of bullying raised, feedback, employee attitude surveys, training feedback, the views of recognised trade union representatives and comments made in return-to-work and exit interviews. The Equality and Diversity Committee will then recommend changes where necessary to the senior management team.