

STAFF POLICY AGAINST BULLYING, HARASSMENT & VICTIMISATION

May 2023

APPROVED BY SELT April 2023

Applies to:	
Harrogate College	✓
Keighley College	✓
Leeds City College	✓
Leeds Conservatoire	✓
Leeds Sixth Form College / Pudsey Sixth Form College	✓
Luminate Group Services	✓
University Centre	✓

CHANGE CONTROL

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ELC (Conservatoire)	Sept 2023	
Name of author:	HR Policy & Process Manager	
Name of responsible committee:	SELT	
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	<input checked="" type="checkbox"/> Full <input type="checkbox"/> Part <input type="checkbox"/> Not required	
Environmental Impact Assessment Completed	Date:	
	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not required	
Policy will be communicated via:	Website, all staff email, through working parties, as part of induction process	
Next review date:	May 2025	

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1. POLICY STATEMENT

- 1.1. This Policy and Procedure applies to all employees of the group regardless of length of service. However, contractors, volunteers and other individuals who attend the group'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 group's premises on an ad hoc basis must be fully supervised.
- 1.2. This document sets out the group's standard Bullying, Harassment and Victimisation Policy and Procedure. It has been drafted to comply with statutory requirements and in consideration of Association of College guidance. This Policy and Procedure should be read together and in accordance with other relevant group policies, procedures and local guidance.
- 1.3. This Policy and Procedure does not form part of any employee's contract of employment.

2. POLICY AIMS/OBJECTIVES

- 2.1. The group has a statutory and moral duty to ensure a safe, non-threatening and inclusive learning and working environment.
- 2.2. The group aims to develop and maintain an environment where all individuals can feel safe and work together effectively, confidently and competently, where all staff contribute proactively to the creation of a culture of mutual respect, where everyone is treated with dignity.
- 2.3. The Governors and Management of the group are fully committed to ensuring that this policy is as effective as possible in preventing bullying and harassment from occurring and that where allegations are made that they are treated seriously and addressed promptly.
- 2.4. This Policy and Procedure sets out the group'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. It is the expectation that all members of staff, including others who may be working on behalf of the Luminate Education Group (such as contractors, temporary workers, volunteers and visitors), will behave in an acceptable manner at all times, treating others with respect and consideration and conducting themselves professionally when interacting with members of the Luminate community. Unacceptable behaviour including bullying, harassment and victimisation or discrimination will not be tolerated. All allegations will be taken seriously and dealt with appropriately. This also applies to staff representing the Luminate Education Group whilst off site.
- 3.2. The group undertakes to publicise this policy fully and to ensure rights and responsibilities are understood by all staff.
- 3.3. 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.
- 3.4. Where a member of staff is found to have engaged in bullying or harassment, appropriate disciplinary action may be taken. Serious cases may be viewed as gross misconduct, which could result in summary dismissal.

3.5. The group will not tolerate retaliation against or victimisation of any person involved in the bringing of a complaint of bullying or harassment. Such retaliation or victimisation will itself constitute an offence, which will be investigated and appropriate action will be taken.

4. LEGISLATION

4.1. Harassment and bullying are covered by the following legislation:

The Equality Act 2010

The Equality Act protects people from discrimination, harassment and victimisation related to a protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy or maternity, race, religion or belief, sex, and sexual orientation)

Harassment occurs where unwanted conduct related to a protected characteristic violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment, or where a person is treated less favourably because he or she has either submitted to, or rejected, harassment which has this purpose or effect.

An employee may be held individually liable for an act of harassment, as well as the Group being held vicariously liable for that employee's act. 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.

Protection from Harassment Act 1997

It is a criminal offence for a person inside or outside the workplace to pursue a course of conduct, on **at least two occasions**, which he or she knows, or ought to know, amounts to harassment.

The offence carries a fine of up to £5,000 or imprisonment for up to six months, or where there's a fear of violence, up to five years in prison, and/or an unlimited fine.

Where the act of harassment is closely connected with the employment relationship, there may also be a civil claim for damages against the harasser and the employer.

5. RESPONSIBILITIES

5.1. Governors Responsibility

Governors are responsible for ensuring that they:

- are familiar with the Staff Bullying and Harassment Policy;
- are aware of the group's legal responsibilities as an employer in relation to bullying and ensure that the group is compliant; and
- receive and respond to any monitoring information collated in relation to this policy.

5.2. Senior Managers Responsibility

Senior Management, that is those in the group 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 group community.

5.3. Line Management Responsibility

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;
- are aware of the group's legal responsibilities as an employer in relation to harassment and bullying;
- set examples as positive role models through their own words and actions; and
- provide a safe space and appropriate support for any employee wishing to report an incident under this policy.

5.4. Employee Responsibility

All staff are responsible for ensuring that:

- they familiarise themselves with the Bullying, Harassment and Victimisation Policy;
- they participate in any relevant training;
- they 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 harassment and bullying;
- they support colleagues where possible and report unacceptable behaviour where it is observed; and
- discretion is applied at all times when involved in any capacity in a bullying and harassment case.

5.5. Equality and Diversity Committee Responsibility

The Equality and Diversity Committee are responsible for ensuring that appropriate training and development is available to support understanding of the Bullying, Harassment and Victimisation Policy. The EDI Committee will undertake monitoring to ensure that the group meets our public sector equality duty.

5.6. HR Department Responsibility

The HR Department are responsible for ensuring that:

- this policy is monitored and reviewed, in consultation with trade unions, the EDI team, and staff forums as necessary;
- timely advice and support is provided to line managers in regard to any allegations made; and
- adequate support is available for both the person reporting and the alleged perpetrator as necessary.

6. FORMS OF BULLYING AND HARASSMENT

6.1. 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, threats, 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;
- sexual comments, jokes or taunting, including unwanted sexual messaging, including on social media;
- unwanted physical behaviour, such as inappropriate touching or brushing against someone;
- sexual exploitation, coercion and threats;
- obstructing professional development/blocking promotion; and
- excessive monitoring

See also further examples of Sexual Harassment and Violence in the glossary (Appendix 1)

- 6.2. The above list is intended to give a clear impression of the types of behaviour that the group considers to be unacceptable; however, it only contains examples and is not exhaustive.
- 6.3. In addition, the group will not tolerate acts of bullying either at other people's workplaces, or at group related functions, such as conferences, or social gatherings, such as after-work drinks.
- 6.4. It is accepted that vigorous debate and occasional raised voice or argument, of itself may not necessarily constitute bullying.
- 6.5. 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 member of staff'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.

7. SUPPORT FOR EMPLOYEES

- 7.1. The group 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 group recognises that this may not always be appropriate, in which case, staff can also approach an alternative manager, or a member of Human Resources, both

for informal support and to make a formal complaint. If you are a member of a trade union, support can also be provided by your trade union representative. Other sources of external support are available at the end of this policy.

- 7.3 Support will be provided for both the person making the allegation and the alleged perpetrator, as appropriate to the circumstances of the case.
- 7.4 Where appropriate, the alleged perpetrator will be allocated an impartial nominated person that they can go to for support. They may also approach their trade union representative for support.
- 7.5 It may be deemed appropriate to make changes to work arrangements (including work location or redeployment) in order to safeguard both parties; these will be discussed and agreed as necessary with the involvement of HR.

8. CONFIDENTIALITY & RECORD KEEPING

- 8.1 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.
- 8.2 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 group reserves the right to investigate the situation and act in accordance with its duty of care to ensure the safety of all who may be affected by the alleged behaviour.
- 8.3 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. Records should be kept confidential and disclosed on a 'need to know' basis.
- 8.4 The group 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 group will keep such records for 6 years from the end of employment. Where a complaint was unsubstantiated, this will be clearly stated in the group's record. All sensitive information will be treated confidentially and in compliance with the requirements of the Data Protection Act 2018 and the General Data Protection Regulations.

9. PROCEDURE

It is important that whether the informal or formal approach is used, that issues are raised as soon as they arise, in order to ensure that the matter can be dealt with effectively.

Informal Approach

- 9.1 Depending upon the seriousness of the allegation and the wishes of the complainant, it may be preferable to deal with complaints informally. 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

- 9.2 In many cases it will be sufficient for the member of staff to raise the problem with the alleged perpetrator as soon after the incident as possible, stating clearly that the behaviour is unacceptable.
- 9.3 If the complainant does not feel able to do this alone, he/she can obtain support as outlined in section 7. Where both parties agree, the group may consider addressing the unacceptable behaviour through mediation, which can be arranged through the HR Department.
- 9.4 Where appropriate and where agreed with the member of staff reporting the allegation, managers will use a restorative approach to resolve the situation. A restorative approach involves perpetrators of bullying focussing on their unacceptable behaviour in an emotionally intelligent way and ensures that anyone causing harm is held to account for their behaviour by enabling them to:
- Accept responsibility for the harm caused to the individual being bullied
 - Accept responsibility for the harm caused to others (for example staff, friends or family)
 - Recognise the need to take action to begin to repair the harm caused
 - Agree on a range of helpful actions to repair the harm caused.

The member of staff reporting the allegation will only be asked to participate in this process if they feel safe and secure in doing so. They will never be pressurised into participating.

Formal approach

- 9.5 If a member of staff wishes to make a formal complaint of bullying or harassment, or does not feel safe raising the issue informally, or if the allegation is considered sufficiently serious, the matter can be raised as a formal grievance in accordance with Stage 2 of the Luminare Grievance Policy and Procedure (Formal Stage 1 of the Conservatoire equivalent). Under this procedure a full investigation will be carried out in conjunction with HR to establish the nature of the case and to establish whether bullying or harassment has occurred.
- 9.6 The manager, in conjunction with the Senior HR Business Partner, will decide if there is sufficient evidence to warrant the case being referred for consideration under the Disciplinary Policy and Procedure. In the event of Disciplinary action being considered, the investigation carried out under clause 9.5 of this policy will form the basis of the case and a second investigation will not be required.
- 9.7 Details of the group's Grievance and Disciplinary Policies are available on the staff intranet or on request from the OD & HR Department
- 9.8 Unfounded allegations of bullying for malicious reasons will not be tolerated by the group. Any such cases will be dealt with under the group disciplinary procedure. Where a witness is found to have deliberately misled an investigation, the group will treat this as a serious disciplinary offence.
- 9.9 The group reserve the right to refer any case to the appropriate authorities (eg police or social services) if it is deemed appropriate to do so.

10. COMPLAINTS AGAINST THE PRINCIPAL OR OTHER SENIOR POST HOLDER

- 10.1 Where the allegation is made against the CEO/Principal or another senior post-holder, the same principles will apply in investigating the matter.

- 10.2 The Governors will appoint an appropriate investigating officer to investigate the allegation. This may be the Principal, CEO, Deputy CEO, a Governor, or an external investigator, depending on the circumstances.
- 10.3 If the allegation is upheld and it is decided that there is sufficient evidence to warrant consideration under the Disciplinary Policy and Procedure, the matter must be referred to the Governors who will follow the appropriate policy.

11. REVIEW AND MONITORING

This policy will be reviewed on a 3 yearly basis, but can be reviewed earlier by agreement between the group and Recognised Trade Unions.

APPENDIX 1 – GLOSSARY OF TERMS

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.

Harassment

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".

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.

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).

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.

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.

Indirect Discrimination

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.

Victimisation

Victimisation occurs when a person is treated badly because they have made or supported a complaint or raised a grievance 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.

Sexual Harassment

Sexual harassment is unwanted behaviour of a sexual nature. This may be physical or verbal or involve the denigration of an individual on sexual grounds or by sexual means. To be sexual harassment, the unwanted behaviour must have either:

- violated someone's dignity, whether it was intended or not, or;
- created an intimidating, hostile, degrading, humiliating or offensive environment for them, whether it was intended or not

Sexual harassment may consist of:

- sexual comments, such as: telling sexual stories, making lewd comments, making sexual remarks about clothes and appearance and calling someone sexualised names
- sexual “jokes” or taunting;
- physical behaviour, such as: deliberately brushing against someone, interfering with someone’s clothes and displaying pictures, photos or drawings of a sexual nature;
- online sexual harassment. This may be standalone, or part of a wider pattern of sexual harassment and/or sexual violence. It may include:
 - consensual and non-consensual sharing of nude and semi-nude images and/or videos
 - sharing of unwanted explicit content;
 - upskirting;
 - sexualised online bullying;
 - unwanted sexual comments and messages, including, on social media;
 - sexual exploitation; coercion and threats.

This is not an exhaustive list.

Sexual Violence

Sexual violence, categorised as sexual offences in the Sexual Offences Act 2003, falls under the following categories:

- Rape or Assault by Penetration: A person (A) commits an offence if they intentionally penetrate the vagina or anus of another person (B) with a part of their body or anything else, the penetration is sexual, B does not consent to the penetration and A does not reasonably believe that B consents. This can also include non-consensual condom removal (sometimes known as stealthing).
- Sexual Assault: A person (A) commits an offence of sexual assault if: they intentionally touch another person (B), the touching is sexual, B does not consent to the touching and A does not reasonably believe that B consents. This covers a range of behaviours, and could include a single act of kissing someone without consent or touching someone’s bottom/breasts/genitalia without consent.
- Causing someone to engage in sexual activity without consent: A person (A) commits an offence if: they intentionally cause another person (B) to engage in an activity, the activity is sexual, B does not consent to engaging in the activity, and A does not reasonably believe

that B consents. This could include forcing someone to strip, touch themselves sexually, or to engage in sexual activity with a third party.

Hate incidents

A Hate Incident is any incident, which may or may not be a crime, that an individual or any other person perceives to be motivated by hostility or prejudice towards that person's race, religion, disability, sexual orientation or transgender identity or perceived transgender identity. Please see the group [Hate Crime Policy](#) for more information in this area.

Hate Crimes

When hate incidents become criminal offences, they are known as hate crimes. A criminal offence is something which breaks the law of the land. Hate crimes are any crimes that are targeted at a person because of hostility towards that person's race, religion, disability, sexual orientation or gender identity. Anyone can be a victim of a hate crime.

At Luminare, if a hate incident/crime is suspected to have taken place, the Hate Crime Policy will be followed.

APPENDIX 2: SOURCES OF FURTHER INFORMATION AND ASSISTANCE

Members of staff can use our Employee Assistance Programme for support. Details of how to access can be found [HERE](#)

The internal link to report a staff allegation can be found [HERE](#)

Further information regarding restorative practice can be found [HERE](#)

Useful guidance for managers on how to handle a bullying and harassment complaint can be found [HERE](#)

Below are some further useful sources of external assistance for staff:

National Bullying Helpline - <https://www.nationalbullyinghelpline.co.uk/contact.html>

Mind - <https://www.mind.org.uk/information-support/tips-for-everyday-living/how-to-be-mentally-healthy-at-work/difficult-work-relations/>

Support Line <https://www.supportline.org.uk/problems/bullying-in-the-workplace/>