



**Learning Development (Quality)**

# **Procedure for Dealing with Harassment**

<b>PROCEDURE NO</b>	<b>QAL/027/000</b>
<b>MANAGEMENT AREA</b>	<b>Personnel</b>
<b>APPROVED BY</b>	<b>Corporation</b>
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## **1. Principles**

- 1.1 This procedure has been designed to deal with complaints of harassment, which need to be handled in a sensitive manner. The procedure, therefore, seeks to ensure minimal stress for the complainant, timely resolution of complaints and a degree of flexibility appropriate to individual circumstances.
- 1.2 At all stages of the procedure, the need to maintain confidentiality will be paramount. Information circulation will be minimised to that which is necessary to ensure a fair investigation, hearing, and resolution.
- 1.3 The rights of all parties are acknowledged and unless, or until proven otherwise, a person complained against will not suffer any detriment in their employment and will be treated with respect and courtesy as if no offence has occurred.
- 1.4 This procedure is separate from the disciplinary procedure, which may be used following the results of the investigation under this procedure. Alternatively, an incident may be so serious, or there may be sufficient evidence to proceed straight away with the disciplinary procedure.
- 1.5 If at any stage in this procedure an employee does not receive a response to a formal complaint in accordance with the specified or agreed time limits, or where the response is inadequate or inappropriate, the employee is entitled to raise the matter under the College's Grievance Procedure.
- 1.6 It is recognised that in bringing a complaint, the complainant must be protected from further harassment or detriment arising from the alleged incident and associated complaint.

Guidelines on:

- the process and approach for dealing with complaints are in Appendix 2
- a manager' conduct are in Appendix 3
- responding to evidence are in Appendix 4
- instigating an investigation are in Appendix 5
- time limits are in Appendix 6
- the rights of complainants are in Appendix 7
- dealing with those complained against are in Appendix 8
- the role of witnesses to harassment are in Appendix 9

## **2. Keeping a record and use of this Information**

- 2.1 It is important that anyone who believes that they have suffered from harassment should keep notes of the details outlined below for each incident and that they are made as soon after the event as possible.

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2.2 Detailed notes should include the following:

- date;
- time;
- place;
- name of person harassing them;
- what actually happened;
- how the person actually felt at the time;
- name of any witnesses;
- action taken and whether reported to management;
- any correspondence relating to the incidents and subsequent complaints.

2.3 A member of staff who is subject to a complaint has a right to know the substance of the complaint, the details of who has made the complaint and should have access to any information held against them. Without this the right to natural justice does not occur. Furthermore staff should be provided with all the information that is relevant to enable them to make an appropriate response to the complaint against them.

There are exceptions to this such as cases of extreme intimidation or where the complainant has a reasonable fear that they will unduly suffer personally or professionally as a result of making the complaint. The ability to proceed with a complaint or the full extent of a complaint would be considered in such circumstances.

2.4 There are occasions when an incident is so serious that no action by the College is not an option whether or not an individual proceeds with a complaint.

### 3. Stage 1: Informal Resolution

(see flow chart in Appendix 1)

3.1 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. If a member of staff is too embarrassed to speak directly, this could be done by writing, or by asking a colleague or trade union representative to do this for them. A note should be made of the action taken.

3.2 Stage 1 may not always be appropriate and depending on the nature of a complaint it may be necessary to follow stage 2 of this procedure.

3.3 If the action continues, or the individual cannot take personal action, then they are advised to contact their line manager or the Personnel Manager.

3.4 Mediation may be appropriate which should be organised by the Personnel Manager.

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- 3.5 If the line manager is the person against whom the complaint is being made, the matter should be reported to the next manager above. Where the employee indicates that they would prefer to discuss the matter with a person of the same sex/race etc, this should be arranged if possible.
- 3.6 Any discussion will be confidential and no further action will be taken without the consent of the complainant. An exception is if the manager considers the incident so serious that they will inform the employee of their need to take action against the alleged harasser, following consultation with the employee concerned.
- 3.7 The employee may have a friend/colleague/trade union representative present at all stages of the procedure.
- 3.8 At the end of Stage 1, one of the following courses of action may then be followed:
  - 3.8.1 to 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 employee to seek further advice in the future if necessary;
  - 3.8.2 if the offender has not already been approached, then ask the person to stop the offending behaviour and again keep the situation under review;
  - 3.8.3 make a formal complaint.

#### **4. Stage 2: Formal Complaint**

(see flow chart in Appendix 1)

- 4.1 Any individual is entitled to:
  - 4.1.1 expect managers to instigate formal investigation/proceedings;
  - 4.1.2 instigate grievance proceedings against management for failing to investigate and take appropriate action;
  - 4.1.3 instigate grievance proceedings against management for failing to meet their responsibilities under the College's policy and procedure on harassment or failing to achieve appropriate outcomes.
- 4.2 If the individual wishes to make a complaint this should be put in writing to their line manager or, if their immediate manager is implicated, to the next level of management. The letter needs to specify that it is a formal complaint giving details of the incident(s).

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4.3 Ideally a member of staff will have a nominated person to support them throughout the process of dealing with a complaint. The person undertaking this role could be a trade union representative or work based colleague and will be someone not involved in the complaint.

## **5. Investigating a complaint**

5.1 The College will seek to identify a number of staff who will be trained or guided in handling investigations prior to taking on a case in the role of Investigating Officer. The investigating officer be will selected by the Personnel Manager and will be someone who is a member of staff, be able to be neutral to the complaint and able to deal with the matter in a sensitive, efficient and confidential manner. Information collected by the Investigating Officer will be submitted to an identified member of SMT (Senior Management Team).

5.2 If the complainant is unhappy with the identified investigating officer , the Personnel Manager will review the nature of their concerns and consider appointing an alternative person.

5.3 An investigating officer will be required to protect the rights of both parties involved and ensure that both are entitled to a full and fair opportunity to put forward their version of events. This will be undertaken by the investigating officer who will meet with both parties separately.

5.4 The investigating officer will advise all relevant parties of the timescales that will apply in dealing with the complaint.

5.5 The investigating officer will produce statements to be signed by the complainant and any witnesses who have been identified as part of the complaint. The signed statements will be submitted to the person(s) complained about, unless an agreement is reached that the statements will be submitted on an anonymous basis due to a reasonable concern of personal safety. In these circumstances the member of SMT reviewing the case will have the original statements with the names included in order to verify that the statements have not been falsified.

5.6 If evidence in support of a complaint is not made available within a reasonable timescale, as identified by the investigating officer, it may be necessary and relevant not to proceed with the complaint. This would be determined in liaison with the Personnel Manager and all related parties would be notified of this decision accordingly.

5.7 Cases of sexual harassment, rape or racial harassment may warrant the member of staff complained about being suspended or moved to alternative work location for the duration of the investigation. This action will not be taken lightly and would not assume the person complained about is guilty of the alleged offence. It is an action that will be taken with

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the best interests of all concerned and is a decision that will be taken by the Personnel Manager in liaison with the Principal.

- 5.8 The investigating officer will produce a report summarising the nature of the concern(s), which will include evidence referred to or gained in support of the concern(s), which will be presented to an identified member of SMT for their assessment. The member of SMT will review the information provided, seek further information if necessary and determine an appropriate conclusion or course of action relevant to the complaint. A concluding statement will be produced by the member of SMT and will be made available to the relevant parties, respecting the sensitivity and confidentiality of the information.
- 5.9 All associated paperwork produced as a result of the complaint will be stored appropriately and securely as determined by the Personnel Manager.

## **6. Outcome of the Investigation**

- 6.1 The findings from the investigation process will be presented to a member of SMT to establish what if any further actions are necessary.
- 6.2 The timescales by which the information will be received and reviewed will have been identified at the stage an investigating officer is identified and all parties will be advised of the timescales that will apply.
- 6.3 The member of SMT will relay the outcome of the investigation to both parties in writing. If either party is dissatisfied with the outcome they may make representation against the findings in writing to the member of SMT within five working days of having the outcome confirmed.
- 6.4 The outcome of any further consideration of the case by the member of SMT will be confirmed to the party(ies) dissatisfied. This further consideration is the final level the member of staff may invoke as part of the policy and procedure. Personnel will advise staff of any other course of redress that may be available to them through for example the Staff Grievance Procedure.

## **7. Records Produced**

- 7.1 Findings of the investigating officer.
- 7.2 Outcome notes/action plan produced by the identified member of SMT.

## **8. Review of Procedure**

This Procedure will be reviewed after its application to 3-6 complaints of harassment.

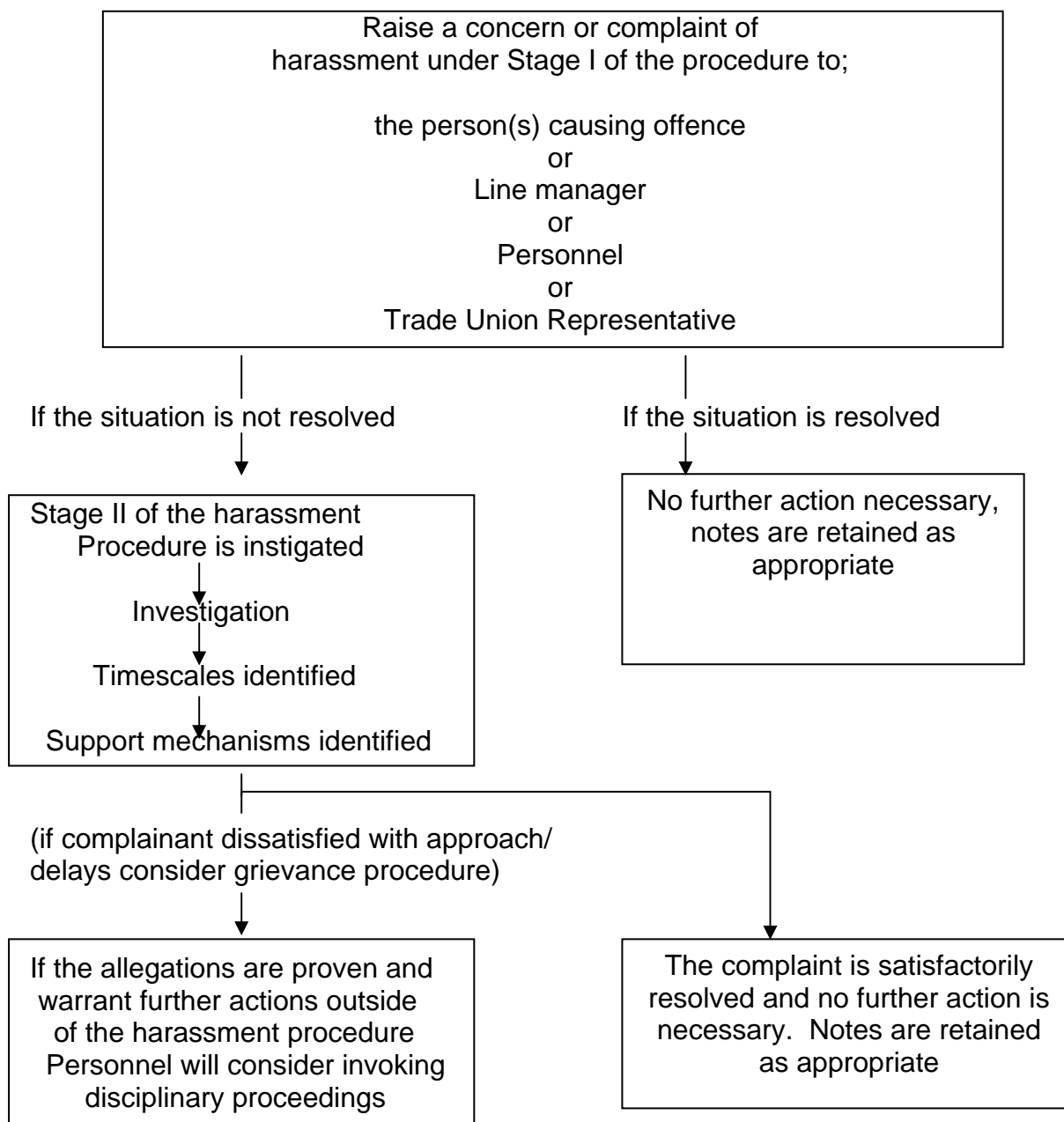
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**9. Related Documents**

Harassment Policy for Employees (POL/034/000)  
Staff Grievance Procedure ) in the Staff Handbook  
Staff Disciplinary Procedure)

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## Complaints of Harassment - Flow Chart



### Support mechanisms available:

- A work colleague identified to act as a point of contact
- Access to confidential advice and support organised by Personnel

### Related guidance notes available:

- Definition of harassment
- Definition of bullying
- Instigating an investigation
- Witnessing harassment
- Dealing with complaints of harassment

### Need more information?

Contact Personnel, a Trade Union Representative or a Manager

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**Guidelines on the Process and Approach for Dealing with Complaints of Harassment**

**The purpose of these guidelines is to outline the process and provide advice to assist those staff involved to act appropriately, sensitively and efficiently in responding to a complaint.**

- a) they should ensure they are familiar with the Harassment Policy and Procedure
- b) they should see the staff member as soon as possible;
- c) they should go through the Harassment Procedure document with the staff member, explaining the steps to be taken;
- d) they should tell the staff member that the nature of the complaint will have to be explained to the alleged offender and should ensure that the staff member is kept informed of the progress of such discussions;
- e) they should give the alleged offender, as quickly as possible, details of the complaint and the opportunity to reply. He/she will have the opportunity to be represented by a College-based colleague or union representative;
- f) they should consider and organise, in liaison with the Personnel Manager, mediation where appropriate;
- g) they should ensure that the event(s) are fully documented and that all corroborative evidence has been gathered in the shortest possible time. It is essential that the manager conducting the investigation should not prejudge. Both parties must be given the opportunity to present their case, and if necessary bring witnesses;
- h) where the complaint is subject to a formal investigation the manager must inform both parties. In the case of alleged sexual harassment, each of them is entitled to request a senior staff member of the same sex to carry out the investigation. It may be appropriate in cases of racial harassment that an ethnic minority member of staff is involved in the investigation where possible. Care must be taken to ensure the investigation does not cause unnecessary distress to either party;
- i) Managers should be aware of the disciplinary procedures available to them if this proves appropriate.

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### Guidelines on a Manager's Conduct

When dealing with such complaints, managers should be aware that their own conduct is important and should be aware of the following potential problems:

Managers or staff must be seen to be listening in an open way and must give credence to the complaint. They must not dismiss the complaint as fanciful or as an attack on the integrity and professionalism of staff.

The emotions of the complainant may appear to be out of proportion to the nature of the complaint. If this does appear so, remember that for example many black people, women and those with disabilities have been subject to discrimination or patronising treatment on many occasions. This action may just be the last straw and pent up anger explodes.

Occasionally managers may find that the level of anger expressed by a complainant or person complained against can significantly impede communication because it is threatening, abusive and/or provokes in them high levels of anxiety. It is suggested that the following steps may be helpful:

- Managers must try to ensure that their tone or attitude is not inflaming the anger. Speaking in a level, pleasant tone of voice may ease the situation.
- Managers must look at the person and acknowledge their feelings. This helps the development of understanding and may increase levels of trust (e.g. I understand that this situation has made you very angry).
- Managers must emphasise their wish to listen and must state any problems in understanding arguments put forward. They may have to tell the person that they are talking too fast for them to understand, that they cannot follow what the complainant is saying or that they are unhappy about the extreme language. Managers may be told that they are the wrong sex or ethnic background to understand the complainant's point of view. Managers should accept this anxiety and acknowledge the difficulties one person may have in fully understanding another. Managers should emphasise their wish to resolve the problem in a positive and fair way and, if relevant, to prevent its recurrence.
- If despite the above responses managers feel the situation does not improve they may wish to end the interview and ask the person to come back at a stated time. Should managers feel very threatened they may wish to leave the room themselves and reconvene the meeting at a later time.

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**Guidelines on Responding to Evidence Provided**

Usually being listened to in an open way, having their feelings acknowledged, and a clear boundary placed on the situation helps the complainant.

- Evidence may be presented in a rambling, un-sequenced or incoherent manner. The emotions involved prevent people giving a calm and dispassionate account. Sometimes the complainant does not reveal actions on their part, which contributed to the situation.
- The evidence presented may seem thin and open to differing interpretations. For example black people, women and people with disabilities learn to interpret certain types of behaviour based on their experience. If they have been given an inferior service, patronised or ignored over a lifetime then another example of such behaviour will be seen as racism or sexism or discrimination whether it is intended to be so or not. They may even mistrust the person to whom they are complaining and so find exploratory questions threatening. They may also be highly anxious about victimisation and need reassurance on more than one occasion.
- The excuse that a remark or action was "just a joke", "only a light-hearted comment" is a common one but it is not acceptable. It is not the responsibility of the complainant to have to treat insensitivity as humour.
- It is often time consuming collecting and checking evidence. Nevertheless it is important that this is done thoroughly and that the evidence is carefully recorded in writing.

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**Guidelines on Instigating an Investigation**

In identifying someone from another School or Unit to carry out an investigation, a Head of School/Unit should consult with the Personnel Manager and should have regard to the gender and ethnicity of the investigator in the context of the matter being investigated.

Members of staff requested to carry out investigations into alleged conduct on behalf of a Head of School/Unit should be aware of the guidelines set out in Appendices 2 and 3. Their responsibility is not to reach conclusions; but rather to assess the evidence, speak with those involved separately; speak with witnesses, take statements and prepare a report for the Head of School/Unit.

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**Guidelines on Time Limits**

On receiving a complaint the investigating officer will contact the complainant within **three working days** to acknowledge the complaint and advise on the approach and timescale that will apply in dealing with the complaint. The timescale may be reviewed as the case unfolds but due regard will be given to concluding the complaint as quickly as possible without compromising the approach or process.

Any member of staff involved in the complaint may raise concerns with either the investigating officer or Personnel if the timescales seem to become unreasonable.

An investigating officer would provide the member of staff complained about at least **five working days** to prepare a response to the complaint made against them.

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**Guidelines on the Rights of Complainants**

It takes courage to make a complaint and the College undertakes to treat complaints seriously and sympathetically and to act promptly.

The College undertakes to make every effort to ensure that members of staff who make complaints of harassment or bullying will not subsequently be subject to victimisation. Any complaint about such victimisation should be brought directly to the attention of the Personnel Manager or the Principal.

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**Guidelines for Dealing with those Complained Against**

Many of the principles of managerial conduct and approval also apply in dealing with those who are being complained against.

The person against whom a complaint is made may feel frightened or threatened, even that their job is at risk. Extreme defensiveness may follow and this does not help investigations and conciliation. Calmness and detached listening may help to reduce agitation. Acknowledge their feelings, if possible, and set out the reality of the situation for them if necessary.

It is sometimes difficult to deal with the defensive response of the individual complained against. Many resort to attack as the best means of defence. Outrage, hurt and incredulity are also common responses. While acknowledging these feelings managers should be aware that offence can be given unknowingly and emphasise that the aim of the investigation is to establish the right approach, not to concentrate on punishing or blaming at this stage.

It is on occasions difficult to distinguish between grossly insensitive behaviour and sexism or racism. People who are insensitive often refuse to reflect on their own behaviour and continue with a bullying/hectoring style during conciliation attempts. In order to achieve a satisfactory outcome it becomes necessary to help such a person to understand the consequences of their own behaviour and accept that the complainant's perspective has legitimacy.

In some cases, the individual who is the subject of a complaint may be totally unaware of the impact of his/her behaviour or actions and may genuinely be distressed over the complaint. He/she should be asked to reflect on his/her behaviour and the possibility that he/she might be at fault, whether consciously or not.

He/she should be reminded that any enquiry will be dealt with discretely and impartially, and that the College takes harassment very seriously.

Those who believe they have been unfairly complained of may seek advice from work colleagues, their trade union representative or staff from the Personnel Unit.

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**Guidelines on the Role of Witnesses to Harassment**

- Witnesses of harassment can provide important help and support a member of staff, especially when the member of staff appears unwilling or unable to take action. There may be several steps:
- The witness might speak informally to the member of staff to tell them what he/she has observed.
- The witness might wish to discuss the incident and agree to make notes, respecting the privacy of the member of staff concerned;
- The witness may encourage the member of staff to talk with a Staff Union Representative or the Personnel Unit.
- The witness should be prepared to give evidence of the harassment at either the informal or formal stages of the Procedure and has the right to complain of any subsequent victimisation direct to the Personnel Manager or the Principal.
- Where it is appropriate to take a statement from a witness, the statement must be produced and agreed with the witness as quickly and reasonably as possible and within no more than 10 days.

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