



Birkenhead Sixth Form College

Bullying and Harassment Policy

1 Introduction

1.1 The College deplores all forms of harassment or bullying whether related to a relevant protected characteristic (defined by the Equality Act 2010 as - age, disability, gender reassignment, race, religion or belief, sex or sexual orientation) or otherwise and seeks to ensure that all employees are treated with dignity at work.

1.2 Harassment in the course of employment is unlawful. The College and the harasser may be held liable for such unlawful actions.

1.3 Harassment and bullying can reduce the effectiveness of the College by creating a threatening environment and increasing sickness absence and employee turnover.

1.4 All employees have the right to work in an environment free of intimidation.

1.5 The following procedure informs employees of the type of behaviour that is unacceptable and provides employees who are the victims of harassment with a means of redress. Implementation of the policy is the duty of the Principal although all employees have a personal responsibility to comply, and to ensure compliance with this policy.

1.6 Any employee found to be harassing a colleague will be disciplined in accordance with the disciplinary procedure. Harassment can amount to gross misconduct and could lead to summary dismissal (i.e. dismissal without notice.)

1.7 The College takes its obligations to provide all employees with a working environment free of bullying and harassment of any kind very seriously. Whilst the policies in place have been designed to enable the College to achieve an environment free of intimidation, the College is unable to address any form of harassment or bullying that arises if the victim (or anyone else aware that such behaviour is taking place) does not bring such behaviour to the attention of the College. Therefore, every employee is expected to take on some responsibility to assist the College in maintaining a working environment free of bullying or harassment. This is why every employee, whether a victim or not, is encouraged to report harassment or bullying of any nature as soon as it has occurred.

2 Third Party Harassment

2.1 An employer may be liable for the harassment of its employees by third parties, such as suppliers, contractors etc. over whom an employer does not have direct control.

2.2 Whilst the College takes all reasonable steps to prevent third party harassment and deplores any such conduct, all employees are encouraged to bring any unwanted conduct of a third party to the attention of the College immediately, in order that the College can take all appropriate and reasonable steps to protect all employees from such behaviour reoccurring.

3 Meaning of Harassment

3.1 A person (A) harasses another (B) if A engages in unwanted conduct related to a relevant protected characteristic (defined in the Equality Act 2010 as age, disability, gender reassignment, race, religion or belief, sex or sexual orientation), and the conduct has the purpose or effect of violating B's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

3.2 It is not possible to provide a complete list of conduct which amounts to harassment. The following are examples of the type of conduct which will not be tolerated:

3.3 Sexual Harassment

Sexual Harassment takes many forms, from relatively mild sexual banter to actual physical violence. Employees may not always realise that their behaviour constitutes sexual harassment but they must recognise that what is acceptable to one person may not to be

acceptable to another. Sexual harassment is unwanted behaviour of a sexual nature by one employee towards another.

Examples would include:

- a) Physical conduct of a sexual nature including unwanted physical contact, unnecessary touching or brushing against another employee's body, assault or coercing sexual intercourse.
- b) Verbal conduct of a sexual nature including unwelcome sexual advances, invitations for social activities outside the workplace when these are unwelcome, offensive flirtations, suggestive remarks, insensitive jokes and pranks, innuendoes, lewd comments or foul language.
- c) Non-verbal conduct of a sexual nature including the display of pornographic pictures or materials (although this will not normally include mildly suggestive images in wide circulation such as in the national press), leering, wolf-whistling or making sexually suggestive gestures.

3.4 Harassment related to sexual orientation

This occurs, when a person engages in unwanted conduct which has the effect of violating another person's dignity or creates a hostile, degrading, humiliating or offensive environment for that person. Conduct that ridicules or is intimidatory or physically abusive of an employee related to another's or their actual or perceived sexual orientation, such as derogatory or degrading abuse or insults which are based on sexual orientation or offensive comments about appearance.

Examples would include:

- a) Physical conduct based on sexual orientation including unwanted physical contact, unnecessary touching or brushing against another employee's body, assault or coercing sexual intercourse.
- b) Verbal conduct based on sexual orientation including name calling, unwelcome sexual advances, invitations for social activities outside the workplace when these are unwelcome, offensive flirtations, suggestive remarks, insensitive jokes and pranks, innuendoes, lewd comments or foul language.
- c) Non-verbal conduct based on sexual orientation including ignoring a person, leering, or making sexually suggestive gestures.

3.5 Racial Harassment

This would include conduct which ridicules or is intimidatory or is physically abusive to an employee relating to race. Race includes colour, nationality, ethnic or national origins.

Examples would include:

- a) derogatory, degrading or abusive insults which are related to a person's race.
- b) offensive comments about dress or appearance.
- c) Non-verbal comments of a racial nature including the display of racial offensive pictures or materials.

3.6 Disability Harassment

Disability based conduct including conduct which ridicules or is intimidating or is physically abusive of an employee because of their disability, such as derogatory or degrading abuse or insults that are related to disability and offensive comments about appearance.

3.7 Harassment related to religion or belief

This occurs when a person engages in unwanted conduct which has the effect of violating another person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for that person. Conduct that ridicules or is intimidatory or physically abusive of an employee related to religion or belief, such as derogatory or degrading abuse or insults which are based on religion or belief.

Examples would include:

- a) Verbal conduct based on religion or belief including name calling, abusive or offensive comments, remarks, insensitive jokes and pranks, innuendoes or foul language.
- b) Non-verbal conduct related to religion or belief including ignoring a person, or making derogatory gestures.

3.8 Harassment related to age

This occurs where a person subjects another to unwanted conduct related to age and where such conduct has the purpose of violating that person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.

4 Meaning of Bullying

4.1 Bullying covers a wide range of conduct which intimidates or undermines the recipient. It may take place in public or in private. Examples include:

- a) Insulting or verbally abusing a colleague
- b) Provoking a colleague
- c) Criticising a colleague in an overaggressive or inappropriate manner
- d) Undermining a colleague's work or contribution
- e) Excluding a colleague from activities in which they would normally be included

5 Making a Complaint

5.1 It may not always be possible to apply the procedure below in the event that an employee is subjected to harassment or bullying by a third party.

5.2 In the event that you encounter harassment or bullying as a consequence of the actions or behaviour of a third party, you must bring this to the attention of your Line Manager immediately, in order that an appropriate investigation can take place which may include the person assigned to investigate the incident approaching the third party directly.

5.3 The College will endeavour to treat any complaint raised under this policy sensitively.

6 Principles of the Procedure

6.1 The College takes the issue of confidentiality extremely seriously and any matter raised by you or by anyone else as to assist in any investigation under this procedure will be treated in the strictest confidence.

6.2 If you decide to make a formal complaint of harassment or bullying or if you take part in an investigation into any allegation of harassment or bullying, the College will seek to ensure that you are protected from intimidation, victimisation or discrimination.

6.3 Any retaliation taken against an employee for making a complaint under this procedure or for assisting in an investigation under the procedure will be treated as a serious disciplinary offence and may amount to gross misconduct.

7 Informal Procedure

7.1 If you are a victim of minor harassment or bullying by a colleague you are advised to make it clear to your harasser that the behaviour is unacceptable and must stop. It may be inappropriate for you to take such action in the event that you are the victim of minor harassment or bullying by a third party and in such circumstances, you should discuss the situation with your Line Manager. However, even if you are able or it is appropriate to make it clear to your harasser that the behaviour is unacceptable and must stop, you must also make your Line Manager aware that this has occurred to enable the College to have knowledge of the circumstances so that such behaviour can be avoided in the future.

7.2 The matter will be discussed with you in confidence and help offered to you to decide how best to deal with the problem. If you have not already spoken to the harasser informally, you may feel more confident in doing so if someone accompanies you. Alternatively, you may decide to make a formal complaint. In such a case the Director of HR will help you with this process.

7.3 The aim of the College is not to force you into making a formal complaint if you do not wish to do so. If, after discussing the matter, you decide not to proceed with the formal complaint, the College will respect your wishes. You should be aware, however, that in deciding not to ask the College to deal with the harassment the unwanted conduct may continue either against you or against other members of staff. The College takes all allegations of harassment extremely seriously and aims to ensure that where allegations are founded appropriate disciplinary action is taken against the harasser in the event that the harasser is an employee of the College.

7.4 Disciplinary action may be taken against the harasser (where they are an employee of the College) even if the victim does not wish to take the matter further.

8 Formal Procedure

8.1 Where informal methods fail, or serious harassment occurs, you may decide you wish to bring a formal complaint and should seek assistance, as above, in doing so.

8.2 The complaint should be made in writing and, where possible, state:

- a) The name of the harasser or bully
- b) The nature of the harassment or bullying
- c) Dates and times when harassment or bullying has occurred
- d) Names of witness to any incidents of harassment or bullying
- e) Any action already taken by you to stop the harassment or bullying.

8.3 The complaint should be sent in confidence to the Director of HR who will arrange to meet with you to clarify the allegations made. You may, if you wish, be accompanied to this meeting by a workplace colleague or recognised trade union representative.

8.4 Your allegations will then be investigated fully as quickly as possible and in confidence.

8.5 The alleged harasser will be interviewed, where they are an employee of the College and where possible and appropriate in the event that the harasser is a third party, as part of the investigation process. Where the harasser is an employee of the College they have the right to be accompanied at any interview by a workplace colleague or recognised trade union representative.

8.6 All employees involved in the investigation are expected to respect the need for confidentiality. Failure to do so will be considered a serious disciplinary offence.

8.7 Following the investigation a further meeting will be arranged with you. You have the right to be accompanied by a workplace colleague or recognised trade union representative.

8.8 The purpose of the further meeting with you is to discuss the findings of the investigation before any decision is made. This meeting may be adjourned to another date if further investigations are necessary.

8.9 You will then be told what decision has been reached. In most cases when the complaint has been upheld, this will include the implementation of the disciplinary procedure against the alleged harasser (where they are an employee of the College) to decide what action should be taken against them. Where the alleged harasser is a third party, the person conducting the investigation will discuss any appropriate response or action points with you.

8.10 The outcome of any disciplinary procedure against the harasser (where they are an employee of the College) will be explained to you, as will any further steps which the College decides to take to eliminate the harassment (where the harasser was an employee or a third party). Where the harasser remains in the employment of the College, this may include relocating them to another department or area. If relocation is not feasible, or if you wish to relocate, the College will discuss with you what other steps can be taken.

8.11 If you are not satisfied about the way in which your complaint has been handled, you may ask for it to be reconsidered. Request for reconsideration of the complaint should be made in writing within 10 working days of the communication of the decision. Any request for reconsideration will be dealt with in the same way as an appeal in the Grievance Procedure. The decision of this appeal will be sent, in writing, to both parties and will be final.

8.12 If any complaint is found to be untrue or has been brought in bad faith disciplinary action may be taken against the employee making the complaint. This could amount to gross misconduct.