

UNIVERSITY OF BRIGHTON

POLICY STATEMENT ON HARASSMENT

The University of Brighton is committed to its shared values and to upholding the dignity of the individual, to creating a stimulating and supportive learning and working environment, to promoting equality of opportunity and to valuing diversity.

This Policy Statement applies to all staff and students of the University of Brighton. Its purposes are:

- to clarify that within working, learning and social environments harassment and bullying are unacceptable;
- to confirm that allegations will be considered seriously and objectively;
- to promote a culture within which individuals can have the confidence to complain about harassment and bullying, should it arise, in the knowledge that their concerns will be dealt with appropriately and fairly.

Harassment is **unacceptable** behaviour, which can range from violence and bullying to more subtle behaviour such as ignoring an individual. It is **unwanted** conduct that has the purpose or effect of violating dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. It **continues** after an objection is made (although a single incident may be serious enough to constitute harassment and justify a complaint). People experiencing harassment may have redress under legislation, e.g. sexual or racial harassment.

The University recognises that harassment can worsen working, learning and social conditions for staff and students and may constitute unlawful discrimination. Any complaints of harassment will be regarded extremely seriously, will be investigated as quickly as possible, and while attempts will be made at resolution on an informal level where appropriate, such complaints may lead to disciplinary action which may include dismissal or expulsion. Support will be provided by the University to protect the complainant from victimisation. The University recognises its equal duty of care both to the accuser and the accused and allegations will not be presumed proved until properly investigated using the appropriate complaints or disciplinary procedures. Any allegations proven to be malicious or vexatious are also likely to be the subject of disciplinary action.

All members of the University community are responsible for ensuring that they treat others with respect and for considering how their behaviour is perceived. The University expects staff with supervisory responsibility to be aware of, understand and act on this Policy Statement and associated Guidelines and Procedures, and to make them known to staff. All members of staff are entitled to work in an environment that values and promotes personal dignity, and managers must ensure that they positively contribute to the creation of such an environment by actively addressing issues of harassment.

Staff or students who are experiencing harassment will be supported by the University. A network of trained people acting as 'Harassment Contacts' will offer support and information as requested in such circumstances.

The University undertakes to publicise this Policy Statement widely, to disseminate supporting information appropriately, to provide training for those involved in advising on or dealing with complaints of harassment and bullying and to review the policy and its implementation in the light of experience.

This Policy Statement is supported by Guidance for members of staff or students involved in complaints of harassment or bullying, which includes information on the process to be used for dealing with allegations of harassment or bullying.

UNIVERSITY OF BRIGHTON

GUIDANCE FOR MEMBERS OF STAFF AND STUDENTS WHO ARE INVOLVED IN COMPLAINTS OF HARASSMENT OR BULLYING

WHAT IS HARASSMENT?

Harassment is **unacceptable** behaviour, which can range from violence and bullying to more subtle behaviour such as ignoring an individual. It subjects an individual or group to **unwelcome** attention, humiliation, ridicule, offence or loss of privacy. It may consist of a single major incident, or a pattern of behaviour which continues after an objection is raised. Harassment is behaviour which a particular individual or group of individuals finds intimidating, upsetting, humiliating, embarrassing or offensive. It is not the intention of the alleged harasser that determines whether harassment has occurred, but whether the behaviour is unacceptable by normal standards, and is unacceptable to the complainant. People can be subjected to harassment on a wide variety of grounds, including:

- race, ethnic origin, nationality or skin colour;
- sex;
- sexuality;
- religious or political convictions;
- disabilities, sensory impairments or learning difficulties;
- age;
- status as an ex-offender
- AIDS/HIV status
- willingness to challenge harassment, leading to victimisation.

Harassment can be a source of great anxiety to an individual. It may be so serious or unrelenting that the person who is being, or has been, harassed feels it necessary to consider changing his or her job or course of study. It is behaviour which may undermine a person's dignity, health and self-confidence, and reduce productivity and competence in the workplace or the learning environment. Those subjected to harassment often feel isolated and suffer stress, which can lead to depression and/or physical illness.

Harassment may occur where the harasser has a position of authority (for example, where a teacher, supervisor or administrator is able to affect another person's job, career, grade or opportunities), but harassment in other contexts (for example by students of fellow students or of staff members by colleagues, or of managers by their staff) may also occur.

Harassment may be deliberate or unintentional, and differences of attitude or culture and the misinterpretation of social signals can mean that what is perceived as harassment by one person may not seem so to another.

EXAMPLES OF HARASSMENT

Some of the following examples may cause mild irritation if occurring only once, but if repeated are likely to constitute harassment. Other examples are very clearly harassment even if they occur only once.

- Offensive remarks, gossip or jokes; obscene gestures or language;
- The display or electronic transmission of offensive pictures, graffiti or other visual material;
- Physical contact (ranging from touching to serious assault), to which a person has not consented, or which he/she has not been given the opportunity to reject;
- Intrusion by pestering, spying or following;
- Pressing people to accept unwelcome invitations;
- Promises made in exchange for sexual favours;
- Obtaining sexual or other favours through threat;

- Isolation or non-cooperation and exclusion from social activities.

BULLYING

Bullying is persistent offensive, malicious, intimidating, insulting or humiliating behaviour, often associated with the misuse of power or position, which aims to undermine the confidence and self-esteem of the recipient. Examples are:

- Setting arbitrary or unachievable workloads in an unreasonable manner, and making threats associated with failure to achieve;
- Excessive supervision;
- Verbal and/or physical intimidation;
- Ostracism;
- Public reprimand, ridicule, sarcasm or humiliation;

It is unacceptable to condone bullying under the guise of 'strong management'. However, a concern to avoid practices that could be construed as bullying should not restrict those who have responsibility for supervising staff and/or students from engaging in acceptable forms or styles of management and/or teaching or implementing the academic requirements of a programme of study. Legitimate activities associated with delegating work or getting a job done will not in themselves constitute bullying, provided that they are carried out in a way that respects others, are justified by the working relationship or are part of a programme for tackling poor performance. In addition, requirements made of members of staff to follow reasonable management instructions or to work with people who they do not like do not in themselves constitute bullying.

THE LAW ON HARASSMENT AND BULLYING

- Harassment may constitute unlawful discrimination within the workplace and in vocational training (including Higher Education) contrary to the following Acts of legislation:
 - Sex Discrimination Act, 1975,
 - Race Relations Act, 1976,
 - Disability Discrimination Act, 1995.
 - Employment Equality (Religion or Belief) Regulations 2003
 - Employment Equality (Sexual Orientation) Regulations 2003
 - Employment Equality (Age) Regulations 2006

Employers can be held liable for the harassing behaviour of employees, and employees can also be held personally liable.

- Harassment on grounds of race, sex or disability or on other grounds not covered by these Acts could lead to a claim under the Employment Rights Act, 1996.
- The Health and Safety at Work Act, 1974, places a duty on the employer to ensure, so far as is reasonably practicable, the safety and welfare at work of employees.
- Under the Criminal Justice and Public Order Act, 1994, the use of threatening, abusive or insulting and disorderly behaviour intended to cause harassment, alarm or distress is a criminal offence.
- The Protection from Harassment Act, 1997, makes a course of conduct amounting to harassment both a civil wrong and a criminal offence. It also introduces a further criminal offence of putting a person in fear of violence.

- The Human Rights Act, 1998, includes the right not to be subjected to degrading treatment or punishment, and protects individuals from discrimination on grounds that are not covered explicitly elsewhere in the domestic legislative framework (for example on grounds of sexuality).

GUIDANCE FOR STAFF AND STUDENTS WHO FEEL THEY ARE HARASSED

- 1 Members of staff and students who are experiencing or who have experienced harassment should not feel that they are to blame, and concern over what constitutes harassment should not deter them from discussing the situation with an appropriate person.
- 2 Wherever possible, individuals should keep a written record of incidents, to include:
 - Date and time
 - Location
 - Nature of incident
 - Their response
 - Their feelings
 - Any action taken by them
 - Names of any witnesses
- 3 Individual members of staff and students can at any stage consult one of the University's Harassment Contacts who will provide confidential support and information on possible ways forward for dealing with the problem (including information on the University's procedures for dealing with allegations). Harassment Contacts are trained, supported and monitored volunteers who provide a 'listening ear' and remain neutral rather than give advice or recommend a particular course of action. They do not have a role in representing a complainant during a formal grievance process, but may be called upon to provide information by an investigating officer or in the context of disciplinary action. Harassment Contacts will provide information on sources of specialist support where appropriate but will not undertake 'counseling' of individuals. The names of Contacts can be found on the staff and student intranets and will be advertised widely across the University. Up-to-date lists will be held in the Personnel Department and Student Welfare.
- 4 Confidentiality will be respected and maintained by anyone dealing with a complaint of harassment, unless there is an unacceptable risk to the complainant, another person or the institution. It should be recognised that a satisfactory resolution is more likely if the complainant also maintains confidentiality and does not discuss the situation widely with colleagues.
- 5 In dealing with complaints, the University's focus will be on informal and local resolution wherever possible. The process for dealing with complaints broadly reflects the Staff Grievance and Disciplinary Procedures, although staff are not required to use the formal grievance procedure in order to pursue allegations of harassment.
- 6 An individual has the opportunity to make a formal complaint at any stage, and is not obliged to pass through the personal and local resolution stages prior to this, although this would be strongly recommended unless the allegation is very serious.
- 7 Members of staff or students who feel that they have experienced harassment should be aware that a satisfactory resolution is more likely to be achieved if a complaint is made as soon as possible after the alleged incident(s). If some time has passed since the alleged incident occurred the University may consider that it is inappropriate to take disciplinary action.
- 8 It is recognised that 'joint' or 'collective' complaints may be raised. These would be investigated using the grievance and/or disciplinary procedures as appropriate. Other guidance provided here is also relevant in such a case.

- 9 While it may be appropriate for complaints to be raised initially by a Trade Union/Student Union representative or other 'third party', it should be acknowledged that progress in resolving the complaint could be severely limited unless the 'victim(s)' of harassment is able and willing to participate in the resolution process.
- 10 Individuals making a complaint of harassment will be protected from victimisation and retaliation.

GUIDANCE FOR STAFF INVOLVED IN HANDLING COMPLAINTS OF HARASSMENT

Any manager approached by a member of staff who wishes to discuss a complaint of alleged harassment should respond in the following ways:

- 1 Deal swiftly with the issues.
- 2 If possible, seek advice from Personnel or Student Welfare in advance of a meeting with the complainant, unless this would involve an unacceptable delay. Consider requesting the presence of a representative from Personnel or Student Welfare at the initial meeting with the complainant.
- 3 Find an appropriate place, (in private surroundings and free from interruptions) to discuss the issue quietly and supportively.
- 4 Reassure the complainant that the problem will be taken seriously.
- 5 Be receptive and sympathetic. Do not trivialise the problem that the person feels they have.
- 6 Clarify that confidentiality will be respected unless there is an unacceptable risk to the complainant, another person or the institution. Explain that a satisfactory resolution is more likely if the complainant also maintains confidentiality.
- 7 Advise the person that you will be taking notes as a personal record, but that these notes will not, unless the complainant wishes, form the basis of a formal complaint. The interview should be seen as a meeting to establish what has happened, and, if possible, achieve a local and informal resolution.
- 8 Listen carefully to the complainant and ensure that the full facts of the situation have been understood.
- 9 Remain objective and do not make assumptions or pass judgement.
- 10 As a general principle, be guided by the wishes of the complainant regarding progress in dealing with the complaint.
- 11 Discuss the options open to the complainant. These may be, as appropriate:
 - Encouraging the complainant to speak or write to the alleged harasser to clarify that the unacceptable behaviour must cease;
 - Proposing that the manager meets with the alleged harasser to discuss how their behaviour is perceived and the implications of this;
 - Facilitation of a meeting between the complainant and the alleged harasser to resolve the matter, with the manager present;
 - Arranging the intervention of a trained mediator to facilitate a resolution;
 - Discussing the possible submission of a formal complaint, if the severity of the allegation warrants this;
 - Referring the complainant to a Harassment Contact or other appropriate source of support.

- 12 Establish what the complainant wishes to do about the alleged harassment.
- 13 Do not make promises to the complainant that may be impossible or inappropriate to keep in the face of additional information that comes to light at a later date.
- 14 Ensure that the complainant is in agreement with and understands any action that you propose to take as a result of the meeting, and when that action will take place.
- 15 Arrange a further meeting with the complainant as appropriate.
- 16 Make, (at the end of involvement with the case), an anonymised record of the complaint detailing the nature of the allegations, the department/school in which the problem occurred and how the complaint was resolved. This should be sent to the Personnel Department for monitoring purposes.

GUIDANCE FOR THOSE ACCUSED OF HARASSMENT

Members of staff or students who have been accused of harassment have a right to be informed of the complaint and will be given the opportunity to state their own case. They should take the following action:

- 1 Make sure that they read the Policy Statement and Guidelines on harassment that set out what can be expected at each stage of the procedure for dealing with the complaint.
- 2 Avoid contact with the person who has made the accusation, unless this is absolutely necessary, for example on work, teaching or study matters. If contact would normally be inevitable or unavoidable, the person accused should seek advice from their line manager or Head of School. It may be appropriate to have a third party present where it is necessary to hold work-related meetings.
- 3 Make their own notes relating to any incidents that have occurred involving the person making the allegation of harassment, and be prepared to respond to questions relating to these incidents.
- 4 Consider contacting the Students Union, their trades union or professional association for advice as appropriate.

PROCEDURE FOR DEALING WITH COMPLAINTS OF HARASSMENT

Individual members of staff and students can consult one of the University's named Harassment Contacts at any stage during this process. The Contact will provide support and information on possible ways forward for dealing with the problem.

Personal resolution stage

Individuals should consider ways in which they can resolve the situation themselves, by making it clear that they find the behaviour offensive and want it to stop. Options to consider include:

- Speaking to the person responsible for the behaviour;
- Writing to the person;
- Challenging the person accompanied by a colleague;
- Asking a colleague to speak to the person on their behalf.

Local resolution/Mediation stage

If the situation does not improve following an attempt at personal resolution, if the individual finds it impossible to raise the issue personally, or if the allegation is more serious, the complainant should contact someone with whom they feel able to discuss the situation. This could be:

- Their line manager
- Their personal tutor
- Their Head of Department, Head of School or Dean
- A member of staff from the Personnel Department
- A member of staff from Student Services
- A Trade Union/Students Union representative.

The individual may choose to be accompanied by a colleague, a Trades Union or Students Union representative or a fellow student at a meeting with one of the above people.

The focus at this stage continues to be on facilitating a local resolution, and will not in itself result in any further formal internal investigation or disciplinary action.

Action taken by the person receiving the complaint is likely to include approaching the alleged harasser to give him or her the opportunity to give their perspective on the situation. The alleged harasser may be accompanied at any meeting by a colleague, a Trades Union or Students Union representative or a fellow student.

Where appropriate, the possibility of involving someone with mediation skills may be considered.

Formal complaint stage

Where informal resolution is not appropriate (for example because of the seriousness of the allegations), or is not requested, or where the outcome has been unsatisfactory, an individual may bring a formal complaint to the Dean, the Head of Department, the Head of School, or directly to the Deputy Director or Registrar and Secretary.

In such circumstances, the person about whom the allegations have been made will be informed of the nature of the complaint.

On receipt of a formal complaint, the Dean, Head of Department or Head of School, in liaison with the Deputy Director or Registrar and Secretary will nominate an Investigating Officer as appropriate to investigate the circumstances of the case. The investigation will comply with principles set out to ensure swift, objective and appropriate consideration of the circumstances, and will focus on the facts of the complaint.

Both the complainant and the person about whom the complaint has been made may be accompanied at any meeting by a colleague, a Trades Union or Students Union representative or a fellow student.

The Investigating Officer will make recommendations (via the Dean, Head of School or Head of Department to whom the complaint was made) to the Deputy Director or Registrar and Secretary regarding action to be taken, which may include disciplinary action under either the staff or student disciplinary procedures.

If either the complainant or the person about whom the complaint has been made feel that a formal investigation involving them has not been dealt with to their satisfaction, they may raise their concerns via the staff grievance or student complaints procedure, as appropriate.