

Harassment and Bullying Policy and Procedure

LANCASTER & MORECAMBE COLLEGE

Date: February 2023



Lancaster &
Morecambe
College



Policy name: Harassment and Bullying Policy and Procedure

Policy Owner:	Director of HR Strategy and Support
Date of Review:	February 2023
Date Approved:	
Next Review:	February 2025
Responsibility for Review:	Vice Principal: Finance and Resources
Policy Review Frequency:	2 years
Applicable to staff:	Yes
Applicable to students:	No
Published on website:	No
Published on intranet:	Yes
Notes:	

HARASSMENT AND BULLYING POLICY AND PROCEDURE

POLICY STATEMENT

In line with its values of creating a sense of belonging and personal wellbeing, and of working together to make a positive difference, Lancaster & Morecambe College is committed to the development and promotion of a positive workplace culture that is free from harassment and bullying, and aims to ensure that any allegation of harassment or bullying at work is taken seriously, properly investigated, and dealt with effectively.

The College will have regard for ACAS guidance, EHRC technical guidance on the prevention of workplace sexual harassment and relevant employment legislation. This policy and procedure has been written in consultation with the College's recognised trade unions.

DEFINITIONS & PRINCIPLES

Harassment

Harassment relating to age, sex, race, disability, religion, sexual orientation, nationality, or any other personal characteristic will not be tolerated. Harassment is generally defined as unwanted conduct which is viewed as demeaning and unacceptable to the recipient.

Sexual Harassment

Sexual harassment constitutes any unwelcome behaviour of a sexual nature and can often be characterised by the abuse of power (whether physical strength or position of authority). It can take place in many forms which can broadly be categorised in 3 groups:

- Verbal, including: comments about appearance, body or clothes; indecent remarks; questions or comments about an individual's sex life; requests for sexual favours; sexual demands; promises or threats concerning a person's employment conditions in return for sexual favours
- Non-verbal, including: looking or staring at a person's body; display of sexually explicit material such as calendars, pin-ups, magazines, inappropriate material online
- Physical, including: inappropriate invasion of personal space, physical touch, pinching, hugging, caressing, kissing; sexual assault; rape

Bullying Behaviour

Bullying, which may be defined as offensive, intimidating or insulting behaviour, or an abuse of power that is intended to undermine or humiliate an individual, will not be tolerated.

Effective Performance Management

Managers may at times be required to make unpopular decisions and give instructions that may not be welcomed by all their staff, or may require a member of staff to improve their work performance. However, managers are responsible for communicating these decisions and instructions in an appropriate and respectful manner.

INTRODUCTION

The aim of the policy is to deal with complaints of harassment or bullying promptly and, where possible, informally. Should the informal approach fail, or the employee feels the situation is so serious as to warrant formal action, the matter will be dealt with under the formal procedure.

Formal action may be taken under the disciplinary procedure against an employee who has been found to have bullied or harassed any of their colleagues as this is a serious breach of procedure. Where the respondent is a student of the College the relevant policy for suspension or disciplinary action will also be considered.

Commented [m1]: Just to bring consistency with paragraph on false claims.

Commented [m2]: Brings consistency with suspension paragraph and will let staff know you support them fully.

The College commits to dealing with any matters that are brought to its attention in a sensitive, timely and supportive manner and without the fear of ridicule or reprisal. Any employee who wishes to make a disclosure of this nature will be offered the relevant support and safeguarding protections as necessary while the matter is being considered.

Historic allegations

Historic allegations will be subject to any relevant legal limitations. However, they will still be a matter of concern to the College and as such will be taken seriously.

Raising a concern on behalf of someone else

Where staff are concerned about sexual harassment behaviour on behalf of another party they can raise their concern with their first line manager, Personnel, or their trade union officer in the first instance, with a view to agreeing together the best course of action in the particular circumstances.

Confidentiality

During the disclosure and/or investigation process of a complaint, the College will seek to ensure the complaint is kept confidential (subject to any legal requirements or rights).

Commented [m3]: EHRC guidance pg71 recommends a clause about confidentiality due to the sensitivities around the subject of harassment.

False or malicious complaint / accusation

Making a deliberately false or malicious complaint about harassment or bullying is regarded as a serious breach of procedures and, if, after investigation, there is found to be evidence to this effect, disciplinary action may be taken against the complainant. Staff will only face disciplinary action if it is found that the allegation is false and made in bad faith.

Commented [m4]: I've taken this phrase from the EHRC guidance pg 58 as it suggests clarity here is supportive.

INFORMAL APPROACH

In some cases, it may be possible to resolve matters informally. If the employee feels able, they should raise the problem with the alleged harasser/bully, either verbally or in writing, describing the particular behaviour including examples, making it clear that the behaviour is offensive and unwelcome and asking for it to stop.

They may if they wish, choose to address the matter directly with the alleged harasser/bully with the support and in the presence of a trusted manager, union or HR representative, or person of confidence. Alternatively, the issue may be discussed with the Director HR

Strategy & Support (DHRSS) or Deputy Personnel Manager, who can raise the allegations informally on behalf of the complainant.

In some cases, an informal approach may be sufficient to clarify appropriate behaviour in the workplace, clear up misunderstanding between individuals or underline expected management and/or student behaviours and communications. As part of an informal approach, the DHRSS may recommend some training, coaching/mentoring or other conflict resolution strategies for one or both individuals and in which the individual(s) will be expected to participate as part of the informal process.

Where appropriate, a process of informal review may also be scheduled in order to monitor progress and ensure there are no ongoing issues.

FORMAL PROCEDURE (See *summary flowchart below*)

Where an employee feels that the informal approach has failed, or feels the matter is serious enough to warrant an immediate formal complaint, they should put their concerns in writing to the DHRSS, stating that this is a formal complaint under the Harassment & Bullying policy, and providing specific examples of the unwanted behaviour. Alternatively, the complainant has the right to make a complaint under the College's *Resolution and Grievance Policy* if they believe this to be more appropriate.

The person against whom the complaint has been made will be informed by the DHRSS in writing of the allegations made against him/her.

Suspension from work

In cases of a more serious allegation of harassment or bullying, the College may decide to suspend a member of staff whilst investigations are carried out. The suspension, which is on full pay, is not a disciplinary sanction nor does it automatically follow that a disciplinary hearing will be called. Where the respondent is a student of the College, the relevant student policy for suspension or disciplinary action will also be considered.

In the event of a potential criminal offence

The College must also have regard for an individual's right of protection from harassment, discrimination and victimisation under the Equality Act, and in the most serious cases of potential criminal behaviour, including some sexual harassment complaints, may determine that the matter should be referred to the police.

Investigation

As soon as it is reasonably practicable, separate formal investigation meetings will be arranged with the complainant and with the alleged harasser/bully, both of whom will be

advised of their right to be accompanied by an acknowledged trade union/staff representative or workplace colleague. Each meeting will normally be conducted by a manager (investigating officer) who has been tasked with conducting the investigation. A notetaker will be present to take notes of the meetings. Any witnesses concerned with the alleged incident(s) will also be interviewed. Written statements will be taken at the meetings, which the parties will be asked to sign.

As soon as is reasonably practicable the investigating officer will evaluate the evidence collected and decide on the course of action to be taken. Both parties will be notified, in writing, of the outcome and any following action to be taken.

The Outcome

The investigation will lead to one of three possible outcomes:

(1) Complaint not upheld

If the complaint is not upheld at this investigation stage, the reason will be explained and the complainant informed of their right of appeal (See 'Right of Appeal' section below). Appropriate support will be provided for both parties and consideration given to managing the ongoing working relationship.

(2) Some evidence of unacceptable behaviour without formal action

In cases where unacceptable behaviour is substantiated, but does not warrant formal action, it may be possible to agree an acceptable resolution. This may be through counselling, training, coaching/mentoring, measures to keep the parties separate or other support. (See also potential measures outlined in the *Resolution & Grievance Policy*.) In such cases the manager will make it clear that the behaviour is unacceptable and any further similar instances may lead to disciplinary action.

Commented [m5]: I think its helpful to name this measure as its very helpful in this type of situation.

Where appropriate, a process of informal review may also be scheduled in order to monitor progress and ensure there are no ongoing issues. To be successful, there should be agreement by both parties to the proposed actions and resolution; the complainant will be informed of their right of appeal should they believe the proposed action is insufficiently robust (see 'Right of Appeal' section below).

(3) Formal Meeting

A formal meeting will be arranged and will be chaired by an experienced manager who has not participated in the investigation process. The formal meeting will include the opportunity for the complainant to make representation in support of their complaint either in person, or in writing. Both parties present will be informed of their right to be accompanied by an acknowledged staff representative or workplace colleague.

Prior to the meeting, the DHRSS will discuss with the complainant what evidence and documentation provided should be released to the respondent in preparation for the formal meeting, and will take a decision balancing the protection and concerns of the

complainant and/or witnesses with the rights of the respondent to understand fully the allegation(s) being made.

If the chosen representative of either party is not available, the employee can suggest an alternative date, as long as this is within five working days of the original date.

The manager conducting the formal meeting, after consideration of all the available evidence, and of the representation made by both parties at the meeting, will determine whether or not there is a case to be answered at a formal disciplinary hearing. If the decision is that there is no case to answer, the complainant will be informed of their right of appeal (see 'Right of Appeal' section below). Further consideration may be given at this stage to the need for informal resolution strategies and/or ongoing monitoring.

If it is confirmed that there is a case to be answered by the respondent at a disciplinary hearing, this will be arranged by the DHRSS and will be conducted by an appropriate senior manager who has not been involved in procedures to date. Details of this procedure are to be found in the College's *Disciplinary Policy*. (See from section in this policy titled 'formal disciplinary meeting')

Right of Appeal

Up to the point where it is identified there is a case to be answered at a disciplinary hearing, and the procedure becomes subject to the College's *Disciplinary Policy*, the claim is owned by the complainant, who has the right of appeal at one or both of two stages: the outcome of the initial investigation and/or the outcome of the formal meeting (but not against the outcome of any subsequent disciplinary hearing). The purpose of the appeal is to consider whether the outcome was fair and reasonable under the circumstances. The grounds for an appeal should fall into one or more of the following categories:

- New facts or evidence that were not considered;
- College procedures were not followed correctly;
- The decision not to proceed with formal processes was insufficiently robust, or was unfair.

The complainant should outline the grounds for their appeal, in writing, to the DHRSS within five working days of being notified of the outcome. The appeal will be heard by an appropriate manager appointed by the DHRSS within 10 working days of the request. The employee will be advised that they can be accompanied at the meeting by an acknowledged trade union / staff representative or workplace colleague.

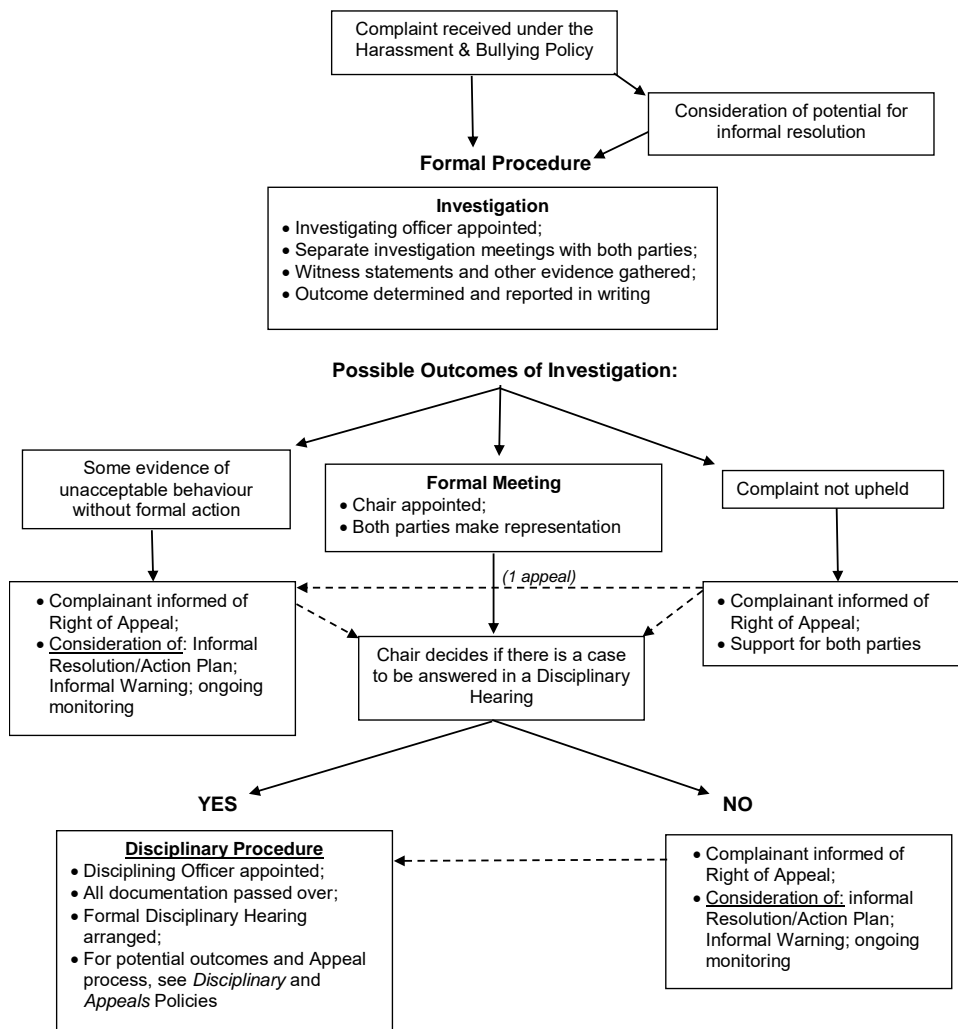
If the complainant lodges an appeal at the end of the investigation stage, where the original outcome was 'complaint not upheld', and the manager who hears the appeal changes the outcome, there will be no further right of appeal should the outcome still not result in a formal meeting.

If the employee's representative is unavailable on the date set for the appeal, the appeal meeting may be delayed once, up to ten working days, to enable the chosen representative to attend.

The employee will be notified of the outcome of the appeal in writing, normally within five working days of the hearing. The appeal decision is final.

The respondent will not have the right of appeal unless or until it reaches a formal disciplinary hearing stage under the College's *Disciplinary Policy*.

SUMMARY: HARASSMENT & BULLYING COMPLAINT PROCEDURE



Initial Screening for Equality Impact Assessment (including Safeguarding)

To be completed prior to a Policy, Procedure being introduced/renewed.



PART ONE: INITIAL SCREENING

Name of policy/Plan/Procedure being assessed: HARASSMENT & BULLYING POLICY	Name of manager/group carrying out the assessment: Angela Bathgate
Is this a new or existing policy/function? Existing <input checked="" type="checkbox"/> New <input type="checkbox"/>	
1. In which of the listed areas could the new/amended policy, plan or procedure have an impact? These areas follow the College SES NB: This could be positive as well as negative. (please tick box)	<input checked="" type="checkbox"/> Gender <input checked="" type="checkbox"/> Race and Ethnicity <input checked="" type="checkbox"/> Disability <input checked="" type="checkbox"/> Sexual Orientation <input checked="" type="checkbox"/> Age <input checked="" type="checkbox"/> Religion/belief <input type="checkbox"/> Socio-Economic <input type="checkbox"/> <input checked="" type="checkbox"/> Pregnancy/Maternity <input checked="" type="checkbox"/> Gender Reassignment <input type="checkbox"/> None expected <input type="checkbox"/> Marriage/Civil Partnership
2. What are the risks of introducing this change to any of the above groups?	No risks identified. Updates to the policy provide greater protection for staff and encompass a wide range of potential scenarios, with a clearer process for informal and formal procedures all of which should lead to appropriate outcomes.
3. What are the expected benefits of introducing this change to any of the above groups?	See above
4. Are there any areas or issues that could impact on the safety of staff or learners?	None
5. What evidence do you have for the listed areas.	Case evidence to be monitored
6. Is this policy/plan/procedure deemed to have a of High, Medium or Low risk?	Low
7. Is there any further action to be taken as a result of completing this screening form? For example, a need to complete a full Equality Impact Assessment or to set the date of a review.	Is a full screening Impact Assessment required? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please move to complete Part 2 overleaf Date of review: 2 years

Signed (completing Officer) <i>Angela P Bathgate</i> Job Title: Director HR Strategy & Support	Date of completion of Impact Assessment: 15.7.20
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This document should be securely stored with the relevant policy/procedure