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# Dignity and Respect

## Policy and Procedure

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## 1. PURPOSE AND SCOPE

- 1.1** The College has a strong commitment to equality, diversity and inclusion and aims to promote a positive culture which advocates difference, challenges prejudice and ensures fairness. Our staff and students are our greatest assets and all members of the College community should expect to be able to excel, and be respected and valued for their unique perspectives and contributions.

The College, in partnership with its recognised trade unions (EIS and Unison), strives to make this a reality in all areas of its work through the development and implementation of policies, culture and training on the avoidance of bullying and harassment.

- 1.2** The College is responsible for setting out the framework for raising, addressing and resolving concerns about individual and/or organisational behaviour. In addition, it regards any incident of bullying, harassment and/or discrimination as a serious matter and will respond promptly and sensitively to complaints, and where appropriate take formal action.

Everyone should be free to work and study in an environment free from harassment and intimidation in a culture of openness.

- 1.3** The College is aware of the stress, anxiety and health problems that bullying and harassment can cause, whether it is by actions, behaviour, verbal, in writing or by electronic means, including text messaging, email or social media.

Being respectful, trustworthy and responsible, with a focus on working together are central to the College's values. In accordance with these values the College is committed to providing an environment in which all of the people in our College community treat each other with dignity and respect, and where bullying, harassment and/or discrimination are known to be unacceptable.

- 1.4** The College believes all employees have the following rights:
- to work in an enabling and inclusive environment in which they are protected;
  - to be treated with dignity and respect;
  - to be treated in a fair and equitable manner;
  - to know that occurrences of bullying, harassment and/or discrimination are taken seriously, and dealt with promptly and with due sensitivity;
  - to be protected from victimisation or retaliation if they have, in good faith, brought a complaint of harassment, bullying and/or discrimination.

- 1.5** This policy and procedure applies to all College employees.

- 1.6** This policy and procedure focuses on conduct and behaviour in the workplace but may also apply to work related functions outside of normal working hours, either on or off a College campuses, such as festive parties, leaving celebrations and working events, etc., where an employee feels that unacceptable behavior (see section 5.2) has taken place.

- 1.7 This policy complies with current legislation and aims to follow best practice.
- 1.8 Promoting good management and workplace practices is more effective than attempting to remedy the effects of a hostile and threatening workplace culture. Therefore training will not solely focus on the definitions and effects of bullying and harassment and the operation of this policy and procedure but will enable the development of interpersonal, behavioural, workplace, organisational and management skills. Training opportunities will be provided for all employees and will be supported by the recognised trades unions.

The College will also provide confidential counselling support for all employees through the employee assistance programme [MCL Medics](#).

- 1.9 The College will continue to monitor absence of employees due to stress and other mental health conditions and will provide this information, where relevant and appropriate, to managers and the Health and Safety Committee so that preventative and remedial action can be taken in order to support employees and minimise absence.

## 2. POLICY

- 2.1 This policy sets out the expectations placed on all employees who work at the College and aims to promote a working environment that respects the rights of each individual employee, where colleagues treat each other with the utmost respect.
- 2.2 The College recognises that harassment, bullying and/or discrimination impacts on employees and the College. Employees can be subjected to fear, stress, and anxiety which can put great strains on personal and family life as well as working life. Harassment and bullying can lead to sickness, absenteeism, poor performance and resignations. The College will not tolerate this type of behaviour.
- 2.3 Implementing and upholding this policy is the duty of all our employees, with an emphasis on all of our managers and team leaders to ensure bullying, harassment and/or discrimination have no place in the workplace.
- 2.4 This procedure has been designed to inform employees about the type of behaviour that is unacceptable and provides employees who are the recipients of bullying, harassment and/or discrimination with a means of redress.
- 2.5 The examples of harassment and bullying given in this policy are not exhaustive. Any allegations of bullying, harassment and/or discrimination if upheld may result in a referral to the disciplinary procedure.
- 2.6 The College will not tolerate bullying or harassment of employees by other employees or third parties and will take appropriate action to deal with all instances which are reported.
- 2.7 Harassment of students by teaching/support employees is an intolerable infringement of rights and betrayal of trust. Bullying and harassment of support

or lecturing employees by students is equally unacceptable and will be dealt with under the Positive Behaviour and Anti-Bullying and Harassment Guidance and Procedures for Students.

- 2.8 All employees will be made aware of College policies and procedures during their induction. This includes completing a suite of e-learning, which is reviewed every three years and includes training on equality and diversity. Line managers will be required to familiarise themselves with the details of these policies and training and to request further training if needed.

### 3. KEY DEFINITIONS

#### 3.1 Protected characteristics

The Equality Act 2010 defines nine protected characteristics: age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity. It also defines unlawful actions in relation to these protected characteristics that are defined as discrimination:

- Direct discrimination
- Indirect discrimination
- Victimisation
- Harassment
- Discriminations by association

Employees need not possess the relevant protected characteristic themselves but may be subjected to unacceptable behaviour/discrimination because they are wrongly perceived to have a protected characteristic, or because of their association with a person who has a protected characteristic.

#### 3.2 Bullying

Examples of bullying include:

- shouting or swearing at someone;
- ignoring or deliberately excluding someone;
- persecution through threats and instilling fear;
- constantly undervaluing effort;
- spontaneous rages over trivial matters.
- spreading malicious rumours.

Examples of less obvious bullying include:

- deliberately withholding information or supplying incorrect information;
- deliberately sabotaging or impeding work performance;
- constantly changing targets without good reason;
- setting an individual up to fail by imposing impossible deadlines;
- removing areas of responsibility and imposing menial tasks;
- blocking applications for holiday, promotion or training.

These examples are not exhaustive, and it is the perception of the recipient that determines whether any particular behaviour can be reasonably considered to be viewed as bullying, and whether it is reasonable for the victim to feel that way.

### 3.3 **Cyberbullying**

Cyberbullying can be defined as the use of information and communication technologies to support deliberate, repeated and hostile behaviour by an individual or group that is intended to harm others.

Typically cyberbullying involves the use of the internet, email or mobile phones to send or post text or images intended to hurt or embarrass another person. In many cases, the spreading of offensive jokes or shocking or sexual material via phone or email may also constitute cyber-harassment.

### 3.4 **Harassment**

Harassment is defined as 'unwanted conduct' and must be related to a relevant protected characteristic or be 'of a sexual nature'. It must also have the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. Generally, harassment:

- includes bullying, nicknames, threats, jokes, 'banter', gossip, inappropriate questions, excluding an employee (for example - ignoring them or not inviting them to meetings), insults or unwanted physical contact.
- can be verbal, written or physical.
- is based on the victim's perception of the unwanted behaviour rather than that of the harasser, and whether it is reasonable for the victim to feel that way.
- can also apply to an employee who is harassed because they are perceived to have a protected characteristic, whether they actually have it or not.
- can also apply to an employee who is harassed because they are associated with someone with a protected characteristic.
- can also apply to an employee who witnesses harassment because of a protected characteristic and that has a negative impact on their dignity at work or the working environment, irrespective of whether they share the protected characteristic of the employee who is being harassed.

Examples of harassment include (but are not restricted to):

#### ***Verbal harassment***

- Crude language, offensive jokes, suggestive or offensive remarks, innuendoes, rude or vulgar comments, malicious gossip, offensive songs etc.

#### ***Non-verbal harassment***

- Wolf-whistles, obscene gestures, sexually suggestive posters/calendars, pornographic material, graffiti, offensive letters, emails, text messages etc.

#### ***Physical harassment***

- Unnecessary and unwanted touching, patting, pinching, or brushing against another employee's body, assault and physical coercion etc.

**Sexual harassment;**

- The making of unwanted sexual advances, obscene remarks, pressure for sexual favours (e.g. for job or promotion) or victimisation on account of the rejection of such pressure;
- Isolation, non-cooperation or exclusion from social activities for a reason related to a protected characteristic.

**3.5 Third party harassment**

Protection from third party harassment was removed from the Equality Act 2010 in 2013. However, the College will not tolerate harassment of employees by external people and will take seriously any complaints raised by employees in line with this Policy.

**3.6 Victimisation**

Victimisation is when an employee suffers what the law terms a 'detriment' – something that causes disadvantage, damage, harm or loss because of:

- making an allegation of discrimination, and/or
- supporting a complaint of discrimination, and/or
- giving evidence relating to a complaint about discrimination, and/or
- raising a grievance concerning equality or discrimination, and/or
- doing anything else for the purposes of (or in connection with) the Equality Act 2010.

Victimisation may also occur because an employee is suspected of doing one or more of these things. An employee is protected under the Equality Act if they make, or support, an allegation of victimisation in good faith – even if the information or evidence they give proves to be inaccurate. However, an employee is not protected if they give, or support, information or evidence in bad faith – in other words maliciously.

**3.7 Discrimination**

Discrimination means treating an individual unfairly because the individual has, or is perceived to have a protected characteristic, or because of their association with someone who has a protected characteristic. Discrimination can be direct, indirect or by association.

**3.8 Direct discrimination**

Direct discrimination occurs where someone is treated less favourably directly because of:

- a protected characteristic they possess – this is ordinary direct discrimination; and/or
- a protected characteristic of someone they are associated with, such as a friend, family member or colleague – this is direct discrimination by association; and/or
- a protected characteristic they are thought to have, regardless of whether this perception by others is actually correct or not – this is direct discrimination by perception.

Direct discrimination in all its forms could involve a decision not to employ someone, to dismiss them, withhold promotion or training, offer poorer terms and conditions or deny contractual benefits because of a protected characteristic

### **3.9 Indirect discrimination**

This type of discrimination is usually less obvious than direct discrimination and can often be unintended. In law, it is where a provision, criterion or practice is applied equally to a group of employees/job applicants, but has (or will have) the effect of putting those who share a certain protected characteristic at a particular disadvantage when compared to others without the characteristic in the group, and the employer is unable to justify it.

An employee or job applicant claiming indirect discrimination must show how they have been, or could be, personally disadvantaged. They must also show how the application of the 'provision, criterion or practice' has or might disproportionately disadvantage other employees or job candidates with the same protected characteristic. The Equality Act does not define a 'provision, criterion or practice'. However, in the workplace, the term is most likely to include an employer's policies, procedures, rules and requirements, whether written down or not. Examples might include recruitment selection criteria, contractual benefits, a redundancy scoring matrix or any other work practice.

### **3.10 Discrimination by association**

Discrimination by association occurs when an individual is treated less favourably because of their association with a person or people who have (or whom are believed to have) a protected characteristic.

### **3.11 Workplace mediation**

Workplace mediation is a confidential, informal and voluntary process whereby an impartial mediator facilitates communication between those in dispute to assist them in developing mutually acceptable agreements to improve their future working relationship.

## **4. RESPONSIBILITIES**

- 4.1** The Executive team and where relevant the Policy and Resources Committee are responsible for approving this policy.
- 4.2** The College's policy committee have responsibility for reviewing this policy and making recommendations to the appropriate approver.
- 4.3** The Director of HR and OD is responsible for the monitoring, application and review of this operational policy and its associated procedure.
- 4.4** All managers and key users are responsible for the consistent application of this operational policy and procedure.
- 4.5** All employees are responsible for ensuring that they are aware of their responsibilities/obligations under this policy and procedure.



#### **4.6 All employees are responsible for:**

- demonstrating respect and integrity in all their interactions with others;
- working collaboratively, collegiately and effectively in teams, in their own area and across the college;
- identifying and challenging unacceptable behaviour when it occurs, even if it is not directed at them;
- addressing and resolving matters by themselves, where reasonably possible, in a positive and constructive way;
- raising more serious concerns with management and HR and participating positively in approaches to resolve them;
- modifying their behaviour should they become aware that they have behaved unacceptably in relation to this policy, even if no complaint has been raised.

#### **4.7 Managers are also responsible for:**

- leading in promoting a culture of dignity and respect, and
- taking timely, relevant action to resolve concerns.

#### **4.8 As an employer, the College is also responsible for:**

- fostering a positive culture for working which permits freedom of thought and expression within a framework of mutual respect.
- treating employees with openness, respect and dignity at all times.
- taking seriously, and managing with discretion, complaints of harassment, bullying or discrimination.
- employees feeling safe and listened to when raising concerns about behaviour.
- dealing with malicious or vexatious allegations in line with the College's Disciplinary Policy and Procedure.

## **5. PROCEDURE**

### **5.1 Unacceptable Behaviour**

The College expects all employees to treat others with dignity and respect, and regards bullying, harassment or discrimination as unacceptable behaviour. The College will respond promptly and sensitively to formal complaints, and where appropriate take disciplinary action. Examples of unacceptable behaviours in the workplace can include, but are not limited, to:

- unwelcome physical contact ranging from unnecessary touching to serious assault;
- intimidating or threatening behaviour, or language;
- unwelcome attention or advances of a sexual nature;
- disparaging, ridiculing or insulting behaviour, language or gestures;
- inappropriate communication or visual displays;
- isolation, non-cooperation, or deliberate exclusion of an individual from a work situation (including work-related social events);
- undermining of an individual through unfair work allocation or persistent
- unjustified criticism.

## **5.2 Resolution**

### **5.2.1 Informal stage**

An employee who believes they are being bullied should, where possible, indicate directly to the person concerned that the behaviour in question is unacceptable. In circumstances where the employee finds it difficult to approach the person directly, they should seek help and advice from a contact person nominated by the employee i.e. manager (if deemed appropriate), trade union representative, a colleague, or HR.

A method should be agreed to progress the issue to resolution so that both parties can return to a harmonious working environment without bullying. This may include mediation.

Where an employee does not wish to take a complaint of bullying or harassment further, they should be aware that no further action is likely to be taken, unless their complaint forms part of a pattern of similar, or linked, issues with other employees.

### **5.2.2 Formal stage**

The formal stage follows the established grievance procedure/s in terms of the number and level of stages, timescales, recording and reporting. In operating the procedure the College will provide a manager who is at the same level or at a more senior level than any of the parties involved and from out with the work area/faculty to chair a hearing. Where a request is made for the manager chairing the hearing to be of the same sex as the complainant, this will be accommodated where possible.

Where sufficient evidence exists, action should be taken under the Disciplinary Policy.

### **5.2.3 Absence due to stress and bullying and/or harassment**

Where an employee has been absent due to an issue related to bullying and/or harassment then the following actions may apply where appropriate.

- A phased return to work may be appropriate, in line with the College's Attendance Management Policy.
- A risk assessment will be carried out with the employee and appropriate measures taken to ensure that where bullying and/or harassment has taken place, this will not be repeated. The wishes of the employee will be taken into consideration in any decision regarding their working arrangements.
- Where a complaint is not upheld it is important that employers, managers and supervisors monitor the situation to ensure there is no victimization or appearance of victimization of a complainant. Equally, appropriate support should also be offered to the person who has been complained about.

#### **5.2.4 Reporting concerns to the police**

Where an employee is subject to actions which constitutes a criminal offence or an immediate threat to safety, they should report the matter to the police. Employees should also inform the Director of HR and OD, so that appropriate steps can be taken and support provided.

#### **5.2.5 Malicious or vexatious complaints**

Where a complaint is found to be vexatious or malicious, disciplinary action may be taken against the complainant.

### **6. ASSURANCE**

- 6.1** This policy and procedure will be reviewed following any relevant changes to employment law or once every three years.
- 6.2** The Senior Management Team will review and monitor this Policy and Procedure every 3 years, unless a legislative change or change to identified good practice requires an earlier review.

### **7. USEFUL LINKS**

The Equality and Human Rights Commission <http://www.equalityhumanrights.com/>

ACAS <http://www.acas.org.uk>

Equality Advisory Support Service For wider equality issues the ACAS helpline does not cover, call the EASS helpline on 0808 800 0082 (Text phone: 0808 800 0084)

MCL Medics <https://www.mcl-medics.com/edinburgh-college/> (Password: WelcomeEDBC)

Guidance and support when investigating formal procedures with students

[Positive Behaviour and Anti-Bullying and Harassment - Guidance procedure for staff](#)

[Health and Safety Policy](#)

The Prevention and Management of work related stress (awaiting publication of policy).

## 8. APPENDIX 1 – GUIDANCE WHEN PROVIDING SUPPORT

The person who gives advice and support should:

- Ensure the conversation(s) remains confidential\* as far as possible.
- Listen sympathetically.
- Help the person consider objectively what has happened.
- Discuss what outcome the person wishes to see.
- Draw attention to available procedures and options.
- Support the person to weigh up alternatives, but without undue pressure to adopt any particular course.
- Assist the person in dealing with the situation if they wish them to do so.

\*Confidentiality will be maintained as far as possible. However, if the circumstances described are very serious the College reserves the right to investigate the situation in line with its duty of care towards all employees.