

STAFF ANTI-BULLYING AND HARASSMENT POLICY

POLICY STATEMENT:

The EKC Group is committed to the elimination of harassment, bullying and victimisation on any basis to include: age, disability, sex, gender reassignment, race, religion or belief, sexual orientation, marriage and civil partnership, pregnancy, maternity and caring responsibilities, physical appearance and political views.

It is the right of every member of the Group to work or study without fear of harassment, bullying or victimisation and the College recognises that the safety and wellbeing of its staff and students is central to its success and reputation.

The College is therefore committed to providing a supportive, friendly, safe and positive environment which is free from unacceptable behaviours so that students can learn and staff can work in an atmosphere which enables them to get the most out of their experience of college life and realise their potential.

Harassment, bullying or victimisation is considered unacceptable behaviour at the College: any such behaviours are considered an offence under current legislation and are counter to the College's culture and values. As such, a zero tolerance approach will be taken to any instances of such behaviour; all reports of harassment, bullying or victimisation will be investigated fully and if proven will be treated as misconduct or gross misconduct under the appropriate college disciplinary policy. Incidents of bullying or harassment that are instigated against a member of staff or a student by a third party will be pursued and resolved by the College as appropriate.

Specific reference to this issue will be made in staff induction programmes and the College will provide annual sessions for all staff on both the Policy and individual responsibilities.

Any conduct by staff outside of college which is considered to be harassment, bullying or victimisation and which directly affects a work colleague will, where evidence is available, be subject to this policy. This definition includes other people's workplaces, work-related functions such as conferences and at social gatherings including occasions such as after-dinner drinks and parties.

This policy explains the rights and responsibilities of staff. There is a separate policy for students.

PART 1

DEFINITIONS

1. What is Harassment?

1.1 The Equality Act 2010 defines harassment as 'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'.

Harassment is subject to a legal test in terms of whether it falls into the definition specified in the Equality Act 2010.

Harassment and/or bullying can be persistent or an isolated incident and may be intentional or unintentional and is unlawful when it is on the grounds of sex, gender reassignment, race, ethnic or national origin, sexual orientation, age, religion/belief or for a reason relating to a person's disability.

It is also unlawful to subject someone to sexual harassment, or to harassment on the grounds of that individual's membership or non-membership of a trade union.

The College will not tolerate harassment or bullying in any form.

2. Bullying and Cyber-bullying

2.1 What is bullying?

Though not defined in legal terms, bullying is behaviour, usually repeated over time that intentionally hurts another individual or group, physically or emotionally and may be described as offensive, intimidating, malicious or insulting and may be an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. One person or a group can bully others. There is usually a power imbalance that makes it hard for the victims to defend themselves.

2.2 Examples of forms of harassment and bullying.

Harassment can take many forms and may be directed at an individual or group of individuals. It is often subtle and therefore difficult to define. It can be conveyed in a range of ways including:

Physical - unwanted physical contact or advances, assault or gestures, physical intimidation, aggressive behaviour, intrusion by pestering, spying or stalking.

Verbal - assumptions, stereotyping, unwelcome remarks including those about a person's dress or physical appearance, suggestions and propositions, spreading malicious gossip, rumours or allegations, sharing jokes and name calling which may be based on one or more of the following: age, disability, sex, gender reassignment, race, religion or belief, sexual orientation, marriage and civil partnership, pregnancy, maternity and caring responsibilities, political views, abusive or intimidating language, shouting, offensive songs.

Tone of voice can often be misconstrued but may also be used with the intention of causing offence.

Non-verbal - Offensive literature, emails or pictures, gestures, body language, invasion of personal space, graffiti and computer imagery, isolation or non-co-operation and exclusion from social activities, displaying of offensive posters, publications and graffiti, removing areas of responsibility and imposing menial tasks, undermining a competent worker by overloading, taking credit for their work or through constant criticism.

2.3 Cyber-bullying (including use of social networking sites)

This is the sending or posting of harmful or cruel text or images using the internet or other digital communication devices. Examples of cyber-bullying are as follows;

- Text messages-unwelcome texts that are threatening or cause discomfort
- Picture/video-clips via mobile phone cameras – images sent to others to make the victim feel threatened or embarrassed
- Mobile phone calls – silent calls or abusive messages; or stealing the victim's phone and using it to harass others, to make them believe the victim is responsible.
- Emails – threatening or bullying emails, often sent using a pseudonym or somebody else's name.

- Chat room bullying – menacing or upsetting responses to young people when they are in a web based chat room.
- Instant messaging – unpleasant messages sent as young people conduct real time conversations online.
- Bullying via websites – use of defamatory blogs, personal websites and online personal polling sites.
- Comments, images etc. posted on social networking sites that make an individual feel threatened, intimidated and have an adverse effect on that individual's wellbeing.
- Trolling – posting abusive, offensive message on social media which have the purpose of causing distress to an individual

The College has a statutory duty under the Education and Inspections Act 2006 to provide staff with support if cyber-bullying takes place. The College is able to conduct searches of internet use which includes chat rooms, messaging services and email. Using these facilities to harass others will be dealt with according to the College's Disciplinary Procedures. The College's Acceptable Use of IT and Email Policy should be read in conjunction with this policy.

Whilst it is recognised that students may communicate with students and other staff via the College social networking sites (e.g. Learning Curve, text tools, e-mail, Facebook, Twitter etc.), communication between staff and students via external social networking sites is not permitted. Staff wishing to set up Social networking links with student should refer to the IT Acceptable Use Policy.

Staff to staff communications are of course acceptable but staff are asked to consider carefully any communications which involve the college or work situations. Any communication between staff/students and students/students that is inappropriate and/or of a nature that could constitute bullying or harassment will be subject to scrutiny if brought to the attention of a relevant member of staff in College, even if such communication is taking place outside of the College environment.

2.4 The actions listed above in 2.2 and 2.3 must be viewed in terms of the distress they cause the individual. Please note that these lists contain examples and is not meant to be exhaustive.

2.5 Motive is not necessarily relevant – "it's a joke," is not a defence. It is the perceptions of the recipient that determine whether any action or statement can be viewed as bullying. However, vigorous debate, disagreement or an occasional raised voice or argument, in itself may not necessarily constitute harassment or bullying and other associated behaviours and the situation as a whole would be considered should investigation be instigated.

3. What is not "bullying" or "harassment"?

3.1 Managers have a duty to manage the performance of their staff and to support them in their development. An essential part of this process is for managers to give legitimate, constructive, fair and objective feedback of an employee's performance or behaviour at work; this does not constitute bullying or harassment. However, bullying behaviour under the guise of a particular management style is not acceptable and the aim of the College is to ensure that effective management brings about positive results whilst ensuring that employees are treated with dignity and respect.

4. Signs and symptoms that may help to recognise that bullying and/or harassment are taking place

4.1 A person who is experiencing harassment and/or bullying may exhibit some or all of the following signs and symptoms:

- Low self esteem

- Not wanting to come to college either walking or on public transport
- Poor attendance
- Poor performance
- Becoming withdrawn and anxious, interrupted sleep, nightmares
- Feeling ill in the mornings
- Personal possessions being damaged, money stolen
- Unexplained cuts and bruises
- Falling achievement in class work
- Attempts or threatens suicide or runs away
- Is nervous and jumpy when a cyber-message is received
- Is afraid to use internet or mobile phone

If you notice any of these signs/symptoms in the people with whom you work with on a daily basis, if you feel able to do so it may be appropriate to speak with them about your concerns, make another member of staff aware or speak to your HR Officer.

PART 2

DETAIL OF PROCEDURE

5. College Procedures to Help Prevent Harassment and Bullying

5.1 The College must be able to demonstrate that all reasonable steps have been taken to prevent harassment and bullying and that an effective and sensitive response mechanism exists to cope with instances of harassment should they occur.

5.2 The College will also take the following steps to prevent incidents of harassment and/or bullying:

- The policy and the procedures to follow if harassment and/or bullying should arise, will form part of the College's induction programme for new staff and will be made available through electronic media such the staff intranet, College website and on request.
- The College will provide annual update sessions for all staff on both the Policy and individual responsibilities.
- Expecting all staff to recognise that they are responsible for adhering to and supporting the policy.
- Providing training and specific information for managers to ensure they gain the knowledge, skills and awareness necessary to operate the College's policy and to adhere to relevant legislation efficiently and effectively, and to communicate this to other staff.

6. Staff Responsibilities

6.1 Every member of staff has a responsibility to treat each other with dignity and respect and to ensure their own conduct does not cause offence or misunderstanding.

- All staff have a duty to ensure that any allegations of bullying and/or harassment are treated as serious and are investigated fully.
- All staff who witness acts of bullying or harassment have a duty to take action in line with this policy to prevent the reoccurrence of these acts.

6.2 Since incidents of bullying and harassment can vary from teasing and horseplay which are not maliciously intended through to serious violence and intimidation, potentially threatening the life or mental health of the recipient, it is important to select the appropriate level of response from the following:

- challenge the behaviour
- mediation
- formal complaint

7. Challenge the Behaviour

7.1 Anyone who believes they are being bullied should ask the other person to stop and explain why that person's behaviour is unacceptable.

All staff have a duty to challenge any bullying to which they are witness, as follows:

- make sure that bullying is or was taking place, not merely horseplay in which the recipient was a willing participant
- make it clear to the alleged bully that their behaviour is unacceptable, and explain why
- encourage and support the recipient

7.2 If a staff member lacks the confidence to challenge bullying, they should seek support from an appropriate member of staff (please see below).

When the alleged bully has been challenged and told their behaviour is unacceptable, that may be enough to stop it. They may have been unaware that their behaviour is offensive or unwanted. If the bullying does not stop then the recipient may wish to seek a resolution through mediation, formal complaint or grievance.

8. Support

8.1 The College recognises that making a complaint of harassment and/or bullying is likely to be a distressing experience and that it may be difficult for staff to raise complaints directly. Accordingly, staff may approach an appropriate work colleague or, if they are a member of a Trade Union, the designated representative may be able to provide support and/or to raise the issue on their behalf. Any complaint of harassment and/or bullying will be investigated in a serious and sensitive manner, with due respect for all parties involved.

9. This policy should be read in conjunction with:

- Staff Disciplinary Policy
- Staff Code of Conduct

10. Procedures

10.1 An employee who believes that they have been the subject of harassment is able to make a complaint or raise a grievance.

10.2 The companion's role is to provide support and assistance to the complainant during a potentially stressful period. This procedure allows for a companion to advise the individual as to the options of proceeding informally or formally.

10.3 At this stage the complaint is discussed in strictest confidence between the individual and the companion and no official records are kept, although confidential notes may be taken by the companion for their own personal use if need be. These are not expected to be shared with anyone other than the complainant. This ensures the privacy of all parties is maintained and that the matter is dealt with sensitively and effectively. Breach of confidentiality may result in disciplinary action against those concerned.

10.4 The alleged harasser can also seek the assistance a companion (different to the complainant's), in order to give guidance in the informal and formal procedures, as required.

10.5 It may be helpful for anyone who believes they have been subjected to harassment or bullying to make a note of the details of the incidents as soon afterwards as possible, as memories can fade. This may include dates, times, places, names of those involved, what was said or done, how they felt at the time, names of any witnesses, any action taken at the time and whether any report was made to management.

11. Stage 1 - Informal Procedure

11.1 Where an employee feels that they are being harassed, prior to adopting the formal procedure, an informal approach can be taken. A work nominated companion will be able to accompany and support the complainant and alleged offender throughout every stage.

11.2 The person who believes they are the subject of harassment should, if possible, advise the alleged harasser that the behaviour is unwelcome, must be stopped and is interpreted as harassment. If preferred, this may be in writing. This can be undertaken by an adviser (Trade union representative or other companion) on the person's behalf. They may also seek advice from HR.

Sometimes people are not aware that their behaviour is unwelcome and an informal discussion can lead to greater understanding and an agreement that the behaviour will cease. Solutions can be reached quickly with minimum risks of embarrassment, suffering, disruption to work and working relationships.

The complainant may seek an account of the offence from the alleged harasser, which could then be considered by the complainant.

11.3 The line manager may also be approached to assist in resolving the problem by discussing the matter informally with the alleged harasser. Before the manager does this, they should seek advice from Human Resources. The outcome of this discussion will be relayed to the complainant without delay.

11.4 An informal meeting could take place between the parties concerned, with companion and line manager (or senior manager) present.

11.5 The complainant will be able to decide which of the above options is appropriate, following discussions with their companion.

11.6 In the event that the complainant is satisfied with the outcome of the informal procedure they will not be able to raise the same matter formally unless the unacceptable conduct continues.

12. Stage 2 - Formal Procedure

12.1 The formal procedure may be instigated in the following circumstances:

- the complainant is not satisfied with the outcome of the informal procedure
- the unacceptable conduct continues following the informal procedure
- it is not felt appropriate to resolve the matter informally

12.2 If the complainant then wishes to make a formal complaint to management, he/she should see the line manager and put the complaint(s) in writing. It is important for the complainant to have kept documentary evidence such as a diary of dates and events etc. and to include in the complaint full details of incidents and any action taken to date. If the complaint or grievance is about the line manager, it should be made to HR or the manager's manager.

The complainant's companion will be available to help write down the formal complaint if requested; the appropriate companions will be available to accompany the complainant and alleged offender at any subsequent meetings.

12.3 A timely investigation will be conducted into the complaint in a confidential and sensitive manner. All parties will be guaranteed a fair and impartial hearing. In more serious case of alleged harassment both parties may be required to undertake a period of respite on full pay, determined by the relevant College Principal, Deputy or equivalent, pending the completion of the investigation.

12.4 It is recommended that an investigation is undertaken without undue delay and that no more than 28 days should elapse from the College's receipt of a complaint or grievance to the resolution of the formal procedure, unless a different timescale is agreed by both parties. It should be acknowledged that there may be other circumstances which delay completion of more complex investigations or those which involve a large number of witnesses.

12.5 The line manager (or person who has received the complaint or grievance) will notify HR of the complaint or grievance who will appoint an appropriate manager to carry out an initial interview with the complainant, with the support of an HR Officer and full confidentiality will be assured. The investigation should be carried out in an impartial and objective manner and therefore must not be previously involved in any way.

12.6 The investigation will continue with interviews taking place of the alleged offender and appropriate witnesses. At the commencement of the investigation, the complainant, alleged offender, and witnesses will be required to sign a confidentiality declaration.

12.7 Where it is deemed necessary to separate parties, a short period of suspension of the alleged harasser or complainant may need to be considered while the investigation is carried out. Suspension is with pay and does not intimate guilt on any part. It is simply to support a fair and robust investigation and may be appropriate to protect all parties of further complaints. Alternatively, the College may consider temporarily relocating either party during the investigation; the College should only relocate with the agreement of the complainant.

12.7 If the investigation reveals that the complaint is valid, management will give it its prompt attention and disciplinary action may be taken to stop the harassment immediately and prevent its recurrence. Rehabilitation, counselling, relocation etc. will be considered as appropriate. In such circumstances if relocation proves necessary, every effort will be made to relocate the harasser and not the complainant.

13. Key Points for the Formal Investigation and Subsequent Action

13.1 The complainant, and alleged harasser, may be accompanied by a union representative, a workplace colleague or companion, to help them put their case.

13.2 Particular care and consideration will be taken when interviewing in order to minimise stress

13.3 All individuals will be interviewed separately and normally, any witnesses would be interviewed prior to the alleged harasser, to prevent the possibility of witnesses' views being influenced.

13.4 The Investigating Officer must, as soon as possible, invite the complainant to a grievance hearing to investigate his/her complaint. The complainant has the right to be accompanied at this meeting as above. At the meeting the complainant will have the opportunity to fully explain what has happened and the Investigating Officer will have the opportunity to ask any questions and discuss any points that require further discussion.

13.5 The Investigating Officer should also invite the alleged harasser to an investigation meeting where he/she will have the opportunity to respond to the grievance and the allegations against him/her. The alleged harasser should be given the opportunity to be accompanied at this meeting as above.

13.6 The investigating Officer should meet with any witnesses cited by either the complainant or the alleged harasser. Notes of these meetings should be taken and the Investigating Officer may take statements from the individuals.

13.7 At the end of the preliminary investigation and prior to any subsequent disciplinary hearing, copies of all witness statements will be given to the alleged harasser, in confidence, at least five working days before the hearing.

13.8 Where there is conflicting evidence, the investigating Officer may wish to meet with any of the parties again to clarify and complete the investigation

13.9 The Investigating Officer should assess the evidence and write a report summarising the findings of the investigation. The Investigating Officer's decision in relation to the grievance should be communicated in writing to the complainant and the alleged harasser without undue delay, giving an explanation of the outcome of the grievance and the reasons. 13.9 Management will take a decision concerning the allegations on the basis of reasonable grounds for belief. Other evidence may be taken into account as well as other relevant facts appropriate to the present case. Both parties will always be informed in strict confidence of any outcomes and decisions as to action in the future and the complainant will always be told whether or not any disciplinary action has been taken and the nature of this penalty.

13.10 Should the investigation, in the opinion of the investigating officer, produce a case of minor, serious or gross misconduct, then a formal disciplinary hearing, with safeguards for both the alleged harasser and the complainant will take place. 13.11 Moving to an alternative location in the College, with the possibility of demoting the harasser, with appropriate support, may be another option once the complaint has been heard in a formal disciplinary hearing. Other actions may include training, coaching or mentoring or re-arrangement of working conditions.

13.11 Employees shall also be protected from intimidation, victimisation or discrimination for filing a complaint or assisting in an investigation. Retaliating against an employee for complaining about harassment is a disciplinary offence. Any speculation or pre-judging of the case by staff will also be treated as a disciplinary matter.

13.12 In some cases it might be appropriate to call in an outside mediator, in order to attempt to resolve the situation, at any stage of this procedure.

13.13 In certain cases the College may require the harasser or complainant to see the College's Occupational Health Adviser. The complainant and alleged harasser may also seek medical help or psychological counselling, organised, if they wish, through the College.

13.14 In order to give the alleged harasser a fair hearing prior to any decision being taken, if time away from work is deemed appropriate during any investigation process, such an employee may be asked to take a period of respite with complete confidentiality be assured surrounding the circumstances of such leave. Similarly the complainant may be asked to take a period of respite during such time and appropriate arrangements made whereby a statement may be taken.

13.15 If a disciplinary hearing is called, following the investigation, the alleged harasser will be able to call further witnesses and obtain statements. However, any other staff (or students) called as witnesses or asked to make statements by the alleged harasser, must be approached via member of Human Resources.

14. Stage 3 – Appeal

14.1 If dissatisfied with the decision in relation to their grievance at Stage 2, the complainant has the right to appeal against the decision by proceeding to the next stage of the College's procedure (Stage 3).

14.2 The College should appoint an appropriate manager to hear the appeal (the Appeal Officer). This will usually be the a Senior Manager to ensure that, where possible, the appeal is heard by a more senior manager than the one involved in hearing the Stage 2 grievance.

14.3 The decision following the appeal will be final

15. Malicious allegations and false statements

15.1 Unfounded allegations of harassment and/or bullying for malicious reasons will not be tolerated by the College. Any such cases will be investigated and dealt with under the college disciplinary procedure and may be serious enough to constitute gross misconduct, which may result in summary dismissal. Where a student makes an unfounded allegation of harassment and/or bullying for malicious reasons, this will be dealt with under the student disciplinary procedure and may result in the expulsion of that student.

15.2 Where a witness is found to have deliberately misled an investigation, the College will treat this as a serious disciplinary offence.

16. Victimisation

Employees are protected from victimisation as a result of bringing a complaint under the harassment and bullying policy. If an employee feels that they have been victimised following a complaint of harassment or bullying, they should raise a grievance under the College's grievance procedure. Where it is found that victimisation has occurred, this will be treated as a disciplinary offence and may be serious enough to constitute gross misconduct.

17. General

The anti-harassment and bullying policy should not be read in isolation, but cross-referenced with all relevant College employment policies, particularly the Grievance and Disciplinary Procedures.