



Plumpton College

HARASSMENT POLICY

1 Introduction

The College is committed to the elimination of discrimination on the grounds of gender, marital status, sexual orientation, race, colour, nationality, creed, or religious belief, ethnic or national origins, age and disability. It is the right of every member of staff and student to work or study without fear of harassment or victimisation. The Corporation and Recognised Trade Unions recognise the problems associated with harassment and are committed to providing an environment in which all individuals can operate effectively, confidently and competently. If a complaint is brought to the attention of management, it will be investigated promptly and appropriate action taken.

This policy relates to the harassment of staff. (A separate policy exists for students, which is contained in the student handbook.)

1.1 Background

Harassment is a serious problem, which has often been dismissed as individuals being over sensitive. It can affect people's health, work performance, promotion, job prospects, studying and ultimately, the success of the College. Claims from individuals may be brought within the tribunal system as well as the court system under the following legislation:

- ◆ Sex Discrimination Acts 1975 and 1986
- ◆ Race Relations Act 1976 as amended by Race Relations (Amendment) Act 2000
- ◆ Health and Safety at Work Act 1974
- ◆ Employment Rights Act 1996
- ◆ Disability Discrimination Acts 1995 and 2005
- ◆ The Criminal Justice Public Order Act 1994
- ◆ EC Resolution 1990 on the protection of dignity of women and men at work: A Code of Practice on measures to combat sexual harassment.

Harassment is unacceptable in the College, whether or not it is unlawful.

1.2 What is harassment?

Harassment is defined as any conduct which is unwanted by the recipient, or any such conduct based on the above characteristics which affects the dignity of any individual, or group of individuals at work. Harassment may be repetitive, or an isolated occurrence against one or more individuals. Harassment may be:

- ◆ Physical - contact, assault or gestures, intimidation, aggressive behaviour
- ◆ Verbal - unwelcome remarks, suggestions and propositions, malicious gossip, jokes and banter based on any of the above characteristics

- ◆ Non-verbal - offensive literature or pictures, graffiti and computer imagery, isolation or non co-operation and exclusion from social activities
- ◆ Bullying - persistent, offensive, abusive, intimidating or insulting behaviour, abuse of power or unfair sanction which makes the recipient feel upset, threatened, humiliated or vulnerable, which undermines their self confidence and which may cause them to suffer stress.

1.3 Responsibilities

It is the duty of every member of staff, every student, every Governor and those visiting College premises, to take responsibility for their behaviour and modify it if necessary, as harassment is not acceptable under any circumstances. In the event of a failure to do so, disciplinary action in accordance with the College's disciplinary procedure may be a consequence and anyone found responsible may also be held personally liable should the person who has been harassed undertake legal proceedings. Managers are required to ensure that the policy is effectively applied and that harassment does not occur.

Anyone experiencing harassment has the right to avail himself or herself of the procedure on harassment, irrespective of the right which may exist to pursue a grievance through an Industrial Tribunal or a Court of Law. The College will ensure that this policy is widely publicised and its contents made known to all staff, students, governors, contractors and visitors.

1.4 Training

Training will be provided, as appropriate, to all staff regardless of position as identified by the line manager within the induction process. Specific training will also be provided for managers to ensure they gain the knowledge, skills and awareness necessary to operate the College's policy and relevant legislation efficiently and effectively and to communicate this to their staff and students.

1.5 Supportive framework

The recognises that making a complaint of harassment is likely to be a distressing experience and that it may be difficult for employees to raise complaints directly with their line managers. Accordingly, employees and students may approach a colleague or an acknowledged staff or trade union representative to raise the issue with management on their behalf in line with the procedure.

If one of the parties concerned in a personal harassment case has to be removed from the workplace, then, as a matter of principle, the harasser rather than the complainant will be removed.

1.6 Review and monitoring of the procedure

It will be the responsibility of a member of the Senior Management Team to review and monitor the progress of the policy and procedure on an annual basis and bring about change where necessary.

2 Procedure for dealing with harassment

2.1 Introduction

This procedure has been designed to deal with complaints of harassment, which need to be handled in a sensitive manner. The procedure, therefore, seeks to ensure minimal stress for the complainant and alleged harasser, timely resolution of complaints and a degree of flexibility appropriate to individual circumstances.

At all stages of the procedure, the need to maintain confidentiality will be paramount. Information circulation will be minimised to that which is necessary to ensure a fair investigation and hearing.

This procedure is separate from the disciplinary procedure, which may be used following the results of the investigation under this procedure. Alternatively, an incident may be so serious, or there may be sufficient evidence to proceed straight away with the disciplinary procedure.

If, at any stage in this procedure, an employee does not receive a response to a formal complaint in accordance with the specified or agreed time limits, or where the response is inadequate or inappropriate, the employee is entitled to raise the matter under the College's grievance procedure.

It is recognised that in bringing a complaint, the complainant must be protected from further harassment or detriment arising from the alleged incident and associated complaint.

2.2 Keeping a record

It is important that anyone who believes that they have suffered from harassment should keep notes of the details outlined below for each incident and that they are made as soon after the event as possible. Detailed notes should include the following:

- ◆ date
- ◆ time
- ◆ place
- ◆ name of person alleged to be harassing them
- ◆ what actually happened
- ◆ how the person actually felt at the time
- ◆ name of any witnesses
- ◆ action taken and whether reported to management
- ◆ any correspondence relating the incidents and subsequent complaints.

2.3 Stage 1: Informal resolution

Every effort will be made to resolve the issue informally in the first instance, if this is appropriate. As soon after the incident as possible, the individual should make it clear to the offender that the incident is not welcomed and should stop. If too embarrassed to speak directly to them, this could be done in writing, or asking a colleague to do this for them. A note should be made of the action taken.

If the action continues, the employee should then contact the Human Resources Officer or their line manager (if appropriate) for advice on the next stage. If the line manager is the person against whom the complaint is being

made, the matters should be reported to the next manager above. Where the employee indicates that they would prefer to discuss the matter with a person of the same sex/race etc, this should be arranged whenever possible.

Any discussion will be confidential and no further action will be taken without the consent of the employee concerned.

The employee and the alleged harasser may have a work colleague or acknowledged staff or trade union representative present at all stages of the procedure.

The appropriate courses of action may then be followed:

- ◆ to take no further action at this stage, but to record any future incidents as recommended above and to keep the situation under review, enabling the employee to seek further advice in the future if necessary.
- ◆ if the offender has not already been approached, then ask the person to stop the offending behaviour and again keep the situation under review.
- ◆ make a formal complaint.

2.4 Counselling

If the behaviour does not cease, or is serious, then the individual can approach the ESCC Occupational Health Department on 01273 481738 for counselling. The role of the counsellor is to provide support and assistance to the complainant during this stressful time. Counselling will also be extended to the alleged harasser, if requested. However, the same counsellor should not advise the alleged harasser.

Counsellors have no role in formal investigations and neither are they a source of evidence in any proceedings, since all discussions between counsellor and employee are completely confidential.

2.5 Stage 2: Formal complaint

Any individual is entitled to:

- ◆ expect managers to institute formal investigation/ proceedings
- ◆ institute grievance proceedings against management for failing to investigate and take appropriate action
- ◆ institute grievance proceedings against management for failing to meet their responsibilities under the College's policy and procedure on harassment.

If the individual wishes to make a complaint, this should be put in writing to their line manager, or the next in line manager if their immediate manager is implicated. The letter needs to specify that it is a formal complaint giving details of the incident(s).

2.6 Police involvement

In cases of an alleged assault or alleged behaviour that is considered to be a criminal offence, the College may contact the Police for their appropriate

action, if the complainant so wishes and/or if the incident is considered to be a serious criminal offence.

2.7 Investigating a complaint

The investigating panel is required to protect the rights of both parties involved and ensure that both are entitled to a full and fair opportunity to put their version of events.

2.8 Time limits

The investigation should normally be completed within five working days of the complaint being received. On occasions, it will not be possible to keep within this timescale. In such cases, the complainant and the alleged offender must both be kept informed of any need for an extension and the likely timescale for completion.

3 How the complaint will be investigated

3.1 Initial response

The investigation will be carried out by a panel comprising of the manager who received the complaint and a second member of staff. Neither should be connected with the case in any way. The manager should ensure that those carrying out the investigation should reflect the nature of the complaint in terms of race/gender/disability etc as far as possible. This may require bringing in a third person to the panel or seeking a manager from a different department. The Human Resources Officer can provide advice on this matter.

The person against whom the complaint has been made should be informed of the nature of the complaint and sent a copy of the letter and details of the procedure involved.

3.2 Possible suspension or redeployment during the investigation

In order to relieve the stress and pressure on one or both parties, to prevent the risk of further incidents and to prevent victimisation, it may be necessary to suspend the alleged harasser.

Suspension under this procedure does not constitute part of the disciplinary procedure and will be on full pay.

Temporary redeployment of one or both parties may also be considered. The complainant should be given the choice, though normally the alleged harasser would be redeployed first.

The College may wish to consider granting of special leave in appropriate circumstances, upon the request of complainant.

3.3 Meeting the parties involved

The panel will meet with the complainant and the alleged harasser separately and with their respective representatives. Detailed written statements will be taken which the relevant parties should sign and date, confirming that they agree with the statements collected. Both parties should be given the opportunity to nominate witnesses whom they wish to be interviewed.

3.4 Meeting with witnesses

The panel will meet anyone else who was present or who has information which is relevant to the issue. Notes of this meeting will also be taken and the individuals called will be able to be accompanied by a work place colleague or recognised staff or trade union representative.

Further interviews may need to take place to clarify or gain further information. The panel will also need to ensure that they have collected all relevant written materials.

3.5 Consideration of information

The panel will, on completion of the investigation, review the material collected and decide whether the complaint is substantiated. In cases of sexual harassment, in no circumstances will evidence of the complainant's appearance and sexual attitudes be taken as relevant information.

In some cases, there will not be any witnesses and it will be one person's word against another's. In these cases, the panel will consider whether, on the balance of probabilities, the incidents/actions occurred.

3.6 Further action

The panel will consider the facts and will decide to:

- ◆ take no action; that is the allegation has not been substantiated; or
- ◆ initiate the College's agreed disciplinary procedure; or
- ◆ take management action other than to initiate the disciplinary procedure. This could include:
 - a recommendation of redeployment of one or both parties, either on a temporary or permanent basis. Should a transfer take place, this must not be on any less terms and conditions of employment, unless action is taken within the disciplinary procedure to demote an individual.
 - setting up arrangements to monitor the situation.
 - required attendance on training courses.
 - making arrangements for both parties to work as separately as possible within the same workplace.
 - a further period of special leave.

3.7 Keeping management records

After a complaint has been heard, the following storage arrangements should be followed:

- ◆ Where the complaint is informal, no record will be kept on personal files, but it is recommended that the complainant makes a note of their meeting.
- ◆ Where the complaint is not substantiated, then no record will be kept on the alleged offender's file.

- ◆ Where the matter proceeds to a disciplinary hearing, then the storage of records should be in accordance with the disciplinary procedure.

3.8 Action when the complainant is dissatisfied - appeal

If the complainant or alleged harasser disagrees with the decision, then they have the right to appeal. Any such appeal must be submitted in writing, setting out the full grounds for the appeal, to the Principal within ten working days of receipt of the decision. Where the appeal relates to a complaint against the Principal, the Clerk to the Corporation will arrange for the appeal to be considered by a panel of three Governors (excluding Staff and Student Governors) who have not already been involved. Where the Principal has considered a complaint about a member of SMT, then the Clerk to the Corporation will arrange for the appeal to be heard by a panel of three Governors (excluding Staff and Student Governors).

The College will, as soon as possible and in any event within ten working days of receipt of the written appeal, arrange an appeal hearing, which will be chaired by the Principal. When arranging the hearing a check should be made whether the employee has any family, religious or other cultural events which might influence its date. The appellant will be entitled to be accompanied at the appeal hearing by a trade union representative or work colleague.

The Principal will consider the appeal and may be supplied with all of the documentation submitted in relation to the earlier stages of the procedure. If the appeal involves another member of staff, the Principal may require the attendance of such member of staff at the appeal hearing, or any other members of staff who may be able to provide relevant information.

The Principal's decision will be provided in writing within ten working days of the appeal hearing. Any other parties involved in the appeal will also be appropriately informed of the appeal decision. Such decision will be final.

3.9 The disciplinary process

The normal disciplinary procedure should be applied. However, the following points should be taken into account:

- ◆ The complainant will normally be required to attend the disciplinary hearing as a witness.
- ◆ If they are required to attend, then they should be allowed to bring a work place colleague and have any questions directed through this person.

Pathway for dealing with complaints of harassment

