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## POLICY AND PROCEDURES FOR DEALING WITH BULLYING AND HARASSMENT IN THE WORKPLACE

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### STATEMENT OF POLICY

#### 1. General Principles

- 1.1 As part of its overall commitment to equality of opportunity, St Mary's University College aims to promote a good and harmonious working environment where every employee is treated with respect and dignity and in which no employee feels threatened or intimidated because of his or her age, disability, marital or civil partnership status, political opinion, race, religious belief, sex or sexual orientation. The aim of this policy is to prevent bullying and harassment by communicating clearly the type of behaviour that is not acceptable in our workplace and the action that will be taken should bullying and harassment occur.
- 1.2 Bullying and harassment at work in any form is unacceptable behaviour and will not be permitted or condoned. Sexual, sectarian and racial harassment, harassing a disabled person on account of disability or harassing someone on grounds of sexual orientation, or age, is unlawful under sex discrimination, fair employment, race relations, disability, sexual orientation and age legislation. It may also be a civil offence, a criminal offence and it may contravene health and safety legislation.
- 1.3 Bullying and harassment detract from a productive working environment and can affect the health, confidence, morale and performance of those affected by it, including anyone who witnesses or knows about the unwanted behaviour. This can have a direct impact on the employee relations climate and efficiency of the College.
- 1.4 Bullying and harassment are inappropriate behaviours at work and may be unlawful conduct. They will be treated by the College as misconduct, up to and including gross misconduct, warranting dismissal. All those who work for the College must comply with this policy.
- 1.5 The Board of Governors will monitor the application of this policy. It will be assisted in this by the Principal of the College who will provide the necessary information.

- 1.6 In implementing this policy and procedure the College will have regard to the Code of Practice published jointly by the Labour Relations Agency and The Equality Commission.
- 1.7 This policy and set of procedures have been drawn up in consultation with the recognised Unions and have been formally adopted by the Board of Governors.

## **2. What is Harassment?**

- 2.1.0 In general terms, harassment is unwanted conduct related to a particular characteristic (age, disability, marital status, sex, sexual orientation, race, religious belief or political opinion) which violates the dignity of women and men at work. This can include unwelcome physical, verbal or non-verbal conduct.
- 2.1.2 Harassment in the employment context has now been defined explicitly in key pieces of anti-discrimination legislation. Under the legislation covering religious belief and political opinion, race, disability, age, sex and sexual orientation, harassment is defined as:

*‘where one person or persons engage in unwanted conduct in relation to another person which has the purpose or effect of violating that person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person’.*

*The conduct shall be regarded as having this effect only if, having regard to all the circumstances and in particular the alleged victim’s perception, it should be reasonably considered as having that effect.*

- 2.1.3 Harassment as defined in the legislation will amount to unlawful discrimination. The College is committed, however, to discouraging all forms of harassment and discrimination, whether unlawful or not.
- 2.1.4 Many forms of behaviour can constitute harassment; these are just some examples:
- Physical conduct ranging from touching to serious assault;
  - Verbal and written harassment through jokes, racist, sexist or sectarian remarks, homophobic comments, comments about a person’s disability, offensive language, gossip and slander, sectarian songs, mobile telephone ring tones, threats, letters, emails;
  - Visual displays of posters, computer screen savers, downloaded images, graffiti, obscene gestures, flags, bunting or emblems, or any other offensive material;
  - Isolation or non-co-operation at work, exclusion from social activities;
  - Coercion, including pressure for sexual favours, pressure to participate in political or religious groups;
  - Intrusion by pestering, spying, following etc.

If any of the above behaviour is not related to an equality ground covered by anti-discrimination legislation, then it could amount to bullying.

## **2.2 Employee's Rights**

- 2.2.1 All staff have the right to work in an environment which is free from any form of harassment. The College recognises fully the right of employees to complain about harassment should it occur. All complaints will be dealt with seriously, promptly and confidentially.
- 2.2.2 Employees have the right to complain using our Bullying and Harassment Complaints Procedures attached. A copy can also be downloaded from the College intranet or requested from the HR department.
- 2.2.4 The College's internal procedure does not prevent employees from pursuing a complaint of harassment under the sex/race relations/disability/sexual orientation/age legislation to an industrial tribunal and, under the fair employment legislation, for example to the Fair Employment Tribunal, in the case of sectarian harassment. However, there are strict time limits for making complaints to a tribunal and complainants normally will be expected to have first raised their complaint using the College's Bullying and Harassment Complaints Procedure.
- 2.2.5 Every effort will be made to ensure that employees making complaints of harassment, and others who give evidence or information in connection with a complaint, will not be victimised. Victimisation is discrimination contrary to the anti-discrimination legislation. Any complaint of victimisation will be dealt with seriously, promptly and confidentially. Victimisation will result in disciplinary action and may warrant dismissal.

## **2.3 What is Bullying?**

A definition of bullying is:

*Where one person or persons engage in unwanted conduct in relation to another person which has the purpose or effect of violating that person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.*

*The conduct shall be regarded as having this effect only if having regard to all the circumstances and in particular the alleged victim's perception, it should be reasonably considered as having that effect.*

## **2.4 Employee's Rights**

All staff are entitled to a working environment which is free from bullying. There is no specific legislation on controlling stress or dealing with bullying at work. However, employers do have a duty under the Health and Safety at Work Act 1974 to ensure, as far as reasonably practicable, the health, safety and welfare at work of their employees. Under the Management of Health and Safety Regulations 1993, employers are obliged to assess the nature and

scale of risks to health and safety in the workplace so that the employer can take appropriate, preventive and protective measures.

### **3. Roles and Responsibilities**

#### **3.1 The Board of Governors**

- 3.1.1 The Board of Governors, in consultation with the Principal, has the overall responsibility for overseeing the implementation of the policy and procedures.

#### **3.2 The Principal**

- 3.2.1 The Principal and Senior Management Team are responsible for the implementation of the College's policy on bullying and harassment.
- 3.2.2 The Principal is also responsible for communicating the policy to staff and taking appropriate steps to promote the policy, (e.g. by including the issue as an agenda item for discussion at staff meetings).
- 3.2.3 The Principal has an additional responsibility to foster a harmonious working environment and to strive to ensure that bullying and harassment does not occur amongst staff. Any indication of this type of behaviour must be dealt with immediately.
- 3.2.4 The Principal must take all reasonable action practicable to ensure that potentially offensive material is not displayed or circulated.
- 3.2.5 The Principal must also ensure that any complaint of bullying and harassment is treated seriously, sensitively and in confidence.
- 3.2.6 The Principal will ensure that adequate resources are made available to promote respect and dignity in the workplace and to deal effectively with complaints of harassment and bullying.

#### **3.3 Heads of Departments, Managers and Supervisors**

Heads of Department, Managers and Supervisors have a duty to implement this policy and to make every effort to ensure that bullying and harassment does not occur, particularly in work areas for which they are responsible. Heads of Department, Managers and Supervisors have responsibility for dealing appropriately with any incidents of bullying and harassment which they are aware of, or ought to be aware of. If bullying and harassment does occur, they must deal effectively with the situation. The line manager of the harasser will be responsible for ensuring that the harasser is made fully aware of the College's policies on equal opportunities and harassment and of the law relating to these matters.

#### **3.4 Staff**

- 3.4.1 All staff have a responsibility to help ensure a harmonious working environment in which the dignity of colleagues is respected.

- 3.4.2 Staff have a responsibility to maintain professional standards of work and conduct and to comply with the College's policy on bullying and harassment.
- 3.4.3 Staff are also responsible for promoting and maintaining effective and harmonious working relationships within the College.

**4. Confidentiality**

- 4.1 Complaints of harassment may include allegations of a highly sensitive nature and the release of such information could be damaging to the reputation of both complainant and/or alleged harasser. It is vital that employees who may wish to raise a complaint can be assured that the matter will be handled in the strictest confidence. Equally an employee who is accused of harassment is entitled to the same protection of their reputation, particularly should a complaint prove to be unfounded.
- 4.2 At all stages of the procedure, staff involved in any way with a complaint shall be personally responsible not to disclose any details of the complaint to any person who does not have a proper interest in this matter. Failure to ensure this high level of confidentiality may lead to appropriate disciplinary action.

**5. Review**

We will monitor all incidents of harassment and will review the effectiveness of this policy and procedures bi-annually.

Date: \_\_\_\_\_

Signed: \_\_\_\_\_  
(On behalf of St. Mary's University College)

Signed: \_\_\_\_\_  
(UCU representative)

\_\_\_\_\_  
(Unite representative)

\_\_\_\_\_  
(Unison representative)

## **PROCEDURES FOR DEALING WITH COMPLAINTS**

### **5. SCOPE**

- 5.1 Any employee who believes that s/he has suffered or is suffering any form of harassment or bullying is entitled to raise the matter through the following procedures. This internal procedure does not prevent an individual from exercising their statutory right to pursue a complaint of harassment to an industrial tribunal or fair employment tribunal if the issue complained of is related to one of the grounds covered by the legislation – race, disability, sex, marital status, sexual orientation, age, religious belief or political opinion. However, employees should be aware that they will normally be expected to have raised their complaint under the employer's grievance procedures before it can be lodged with the industrial tribunal.
- 5.2 The College may become aware of an alleged incident of harassment or bullying from a third party. Inquiries should be made, respecting the rights of all involved, to ascertain whether the victim wishes to make a formal or informal complaint. If the victim does not wish to make a complaint, the College still has an obligation to consider whether an investigation could be initiated without the co-operation of the victim or whether other forms of management action are required to ensure a good, harmonious working environment.

### **6. Dealing with complaints informally**

- 6.1 While it is often desirable to attempt to deal with workplace situations informally in order to maintain good working relationships, harassment or bullying complaints need to be treated with caution. It is only appropriate to attempt to deal with a harassment or bullying situation informally, for example, where the harassing or bullying behaviour is not so serious (although its continuation presents a risk), there has only been a one-off incident which is not considered serious, or where the individual simply wants undesirable behaviour to stop. There may be occasions when an employee would prefer to deal with the situation informally but managers feel it would be more appropriate to deal with it formally. If there is a risk that the matter complained of will give rise to any kind of disciplinary response, then formal procedures (taking account of the statutory disciplinary and grievance requirements) should always be used and the employee should be made aware of this. Employees should also be made aware that, in most instances, they will be expected to have raised their complaint using internal formal procedures before a complaint is lodged with a tribunal.
- 6.2 Employees can seek to resolve matters informally by:
- Approaching the alleged bully/harasser directly making it clear that the behaviour in question is offensive, is not welcome and should be stopped
  - Approaching the alleged harasser with the support of a colleague or trade union representative
- 6.3 In any attempt to solve the problem without recourse to formal procedures a member of staff may wish to seek the confidential advice, assistance or support of a work colleague or a trade union representative. Where an

employee wishes to involve a work colleague or trade union representative, she/he will be sensitively informed that the role of such a person at the informal stage can only be one of support. Work colleagues must not be put under pressure to accompany or support a complainant and they have the right to decline to undertake such a role.

6.4 The employee will be advised that:

(i) A formal investigation and possible disciplinary action can only take place if the complaint is investigated under the formal procedure

(ii) Should an employee wish to bring a claim to an industrial tribunal, it is necessary (in most circumstances) to have raised it first in writing through the College's internal bullying and harassment complaints procedures, in accordance with the statutory procedures.

6.5 All reported complaints of bullying and harassment will be monitored and, in the event of any patterns emerging, management may initiate its own formal investigation and take remedial action where this proves necessary.

## **7. Dealing with complaints formally**

7.1 The formal complaints procedure is appropriate if, for example, the harassment is serious, the person making the complaint prefers this, or if the harassment continues after the informal procedures have been unsuccessful in reaching a satisfactory resolution.

7.2 Normally the Equal Opportunities Officer will be the person designated to have responsibility for all proceedings at the formal stage. There may be occasions when the Equal Opportunities Officer is unable to conduct an investigation and the HR Officer or an external third party will take responsibility for all proceedings at the formal stage. Individuals may raise complaints with this Officer or, if appropriate, a senior colleague of their choice. The Officer carrying out investigations at the formal stage should not be connected in any way with the allegation(s) which has/have been made. Where practicable, and where an individual so requests, the College will make provision for a complaint to be investigated by someone of the individual's own religion or sex.

7.3 The Principal will appoint a senior member of staff to assist throughout the procedure. She/he will attend all meetings and maintain a written record of all proceedings. The Equal Opportunities Officer or her/his substitute will confirm all records to ensure accuracy.

## **8. Time Limits**

8.1 Complaints should be made as soon as possible following an act of alleged bullying or harassment so that the matter can be dealt with swiftly and decisively.

8.2 Under the formal procedure such a complaint must be made within 3 months of the date when the complainant first knew of the act which is being complained of, or within 6 months of the date when the act occurred, whichever is sooner.

## **9. How the Complaint will be investigated**

### **9.1 STEP 1 Making a Complaint**

Individuals should make complaints, in writing, to the Equal Opportunities Officer. The signed complaint should contain the following details: when the incident(s) happened (date and time); who the complaint is being made against; the nature of the incident and specific details; where the incident happened; the names of any witnesses to the incident; any action which has already been taken. (Members of staff raising complaints and members of staff against whom complaints have been raised, should not approach potential witnesses to discuss the evidence that they can give once a formal complaint has been submitted and the person against whom it has been made has been informed.)

The Equal Opportunities Officer will acknowledge receipt of the complaint and arrange a meeting with the complainant within 10 working days. When a meeting cannot be arranged within 10 working days the complainant will be informed and an alternative date and time proposed. At the initial meeting, the investigating panel will seek further information from the person making the complaint. He/she will be advised that the complaint will have to be investigated and any witnesses questioned. S/he should also be advised that the alleged bully/harasser also has the right to a fair hearing, including the opportunity to defend the allegation.

Depending on the nature of the bullying or harassment, the issue of avoiding contact with the alleged bully or harasser, must be addressed before action is taken to inform the alleged bully or harasser of the complaint.

If the harassment/bullying complained of is of a serious nature that may amount to gross misconduct warranting severe disciplinary action, including possible dismissal, consideration may have to be given to precautionary suspension, on full pay, of the alleged bully or harasser while the complaint is investigated. An individual who is going to be suspended will be formally advised of this at a meeting with the Equal Opportunities Officer. The individual will have the right to be represented at this meeting by a trade union representative or work colleague.

In cases where the alleged bullying or harassment is not suspended, the Equal Opportunities Officer will take appropriate action concerning the avoidance of contact following discussion with the complainant.

### **9.2 STEP 2 Informing the Alleged Harasser**

Following the initial meeting with the complainant, the investigating panel will meet the alleged bully or harasser who may be assisted by his/her trade union representative or a work colleague and:

- give full details of the complaint;
- confirm that it is being handled under the formal procedure and that any witnesses named will normally be interviewed;



- give the alleged bully/harasser the opportunity to answer the allegation;
- arrange a meeting to enable the alleged bully or harasser respond formally to the allegation(s);
- advise of the next steps under this formal complaints procedure and the College's disciplinary procedure and the possible disciplinary action that may be taken should the allegation(s) be proven;
- advise that any finding against him/her, following investigation, which may warrant a disciplinary response will be notified in writing as part of the College's disciplinary procedures;
- advise that the individual has the right to be accompanied to any subsequent investigatory meetings or disciplinary meeting at which the matter will be discussed;
- advise of the need to avoid contact (or of any steps to be taken to avoid contact) with the person alleging harassment until the matter is resolved.

Following this meeting the Equal Opportunities Officer will notify the alleged bully/harasser of the date for a formal meeting to be held within 10 working days of the initial meeting with the alleged bully/harasser. All written submissions made by the alleged bully/harasser must be submitted to the Equal Opportunities Officer at least 5 working days before the meeting is scheduled.

**9.3 STEP 3 Meeting with anyone who can assist with the investigation**

Having heard from the person alleging bullying or harassment, the panel will meet with anyone who was present when the alleged incident took place. Each individual will be asked to outline what happened.

**9.4 STEP 4 Consideration of relevant history**

The panel will meet with the manager/supervisors of both the complainant and alleged bully or harasser to establish if there has been any history of previous conflict between them and/or with other parties.

**9.5 STEP 5 Further clarification**

The panel may then wish to meet with any of those referred to in Steps 1 - 4 again, to clarify particular matters or to gain further information.

**Note 1**

The purpose of the meetings is to establish the facts. All those giving information to the panel do so privately and not in the presence of any other person involved in, or present during, the alleged incident. All evidence provided will be treated as confidential to the investigation, subject to any statutory requirements.

## **Note 2**

Whilst the panel will seek to resolve the matter as quickly as possible, the meetings with all those involved need not necessarily follow immediately after each other. The procedure will be completed normally within 30 working days of the allegation of harassment having been received. Where in exceptional circumstances this is not possible and after consultation with the complainant, the procedure will be completed as soon as possible thereafter with all deliberate speed. If any of these time limits is not possible then both parties will be informed of the revised timescale.

### **9.6 STEP 6 Consideration of Information**

Having obtained all the information possible, the panel will consider whether the complaint of bullying or harassment is substantiated. The panel should consider all of the information placed before them by all of the parties. A complainant's personal beliefs, values or practices, whether religious or political, should not in themselves be regarded as an excuse for bullying or harassment.

### **9.7 STEP 7 Reporting of Facts and Findings**

The Equal Opportunities Officer will then prepare a written report outlining the facts and the panel's decision on whether a case of bullying or harassment is substantiated. This report will be forwarded to the Principal to make a decision about what action should be taken.

### **9.8 STEP 8 Decision on Action**

The Principal will consider the facts and will decide whether:

- (i) to take disciplinary action under the College's agreed disciplinary procedure against any party as appropriate, and
- (ii) to take any other appropriate management action, for example, the provision of training or counselling.

### **9.9 STEP 9 Communicating the Decision**

#### **(a) to the complainant**

A meeting will be arranged to inform the complainant of the outcome of the investigation and the Principal's decision with respect to further action, if any. The complainant may be supported by a work colleague or trade union representative at this meeting. This decision will be confirmed in writing by the Principal and the complainant will also be made aware of his/her right of appeal against the decision, should he/she be dissatisfied with the outcome.

#### **(b) to the alleged harasser**

A meeting will be arranged to inform the alleged bully/harasser of the outcome of the investigation and the Principal's decision with respect to further action, if any. The alleged bully/harasser may be supported at this meeting by a work colleague or trade union representative. This decision will be confirmed in writing by the Principal.

## **10. Appeals**

- 10.1 If the complainant is not satisfied with the outcome of the investigation an appeal may be made, in writing, to the Principal, stating the grounds for the appeal. This must be done within 10 working days of receiving confirmation of the decision.
- 10.2 On receipt of such a request the Principal, so long as he has not been involved in the original complaint or investigation, will make arrangements to hear the appeal with another senior manager, who has not previously been involved in the complaint or investigation. Every effort will be made, where practicable, and where an individual so requests, for an appeal to be heard by someone of the individual's own religion or sex. It may be necessary on occasion to invite a member of the Board of Governors to serve on an appeals panel with the Principal. In circumstances where the Principal has been involved in the complaint or undertaken the investigation an appeal will be heard by two members of the Board of Governors. Normally appeal hearings will be heard within 10 working days of receipt of notification of an appeal hearing. The employee will be invited to an appeal meeting and must take all reasonable steps to attend. The employee may, if so desired be accompanied by a trade union representative, or a fellow member of staff, at this meeting.
- 10.3 The decision of the appeals panel will be given in writing to the complainant as soon as possible and not later than 10 working days from the complaint being heard.
- 10.4 This decision will be final as far as the College's internal procedures are concerned.
- 10.5 Where formal disciplinary action is taken, the right of appeal for the alleged bully or harasser will be under the disciplinary procedures and not the procedures set out above.

## **11. Records**

A complete record of all meetings, investigations and findings shall be made and retained by the Equal Opportunities Officer for not less than three years.

## **12. Abuse of Formal Procedure**

It should be noted that, while a member of staff has the right to invoke the formal procedure without first exhausting informal procedures, use of formal procedures to make spurious or malicious allegations may in itself constitute bullying or harassment and be subject to investigation and disciplinary action.

## **13. Victimisation or Retaliation**

A member of staff who makes a complaint in good faith should be protected from victimisation or retaliation. Any complaint of victimisation will be dealt with quickly, seriously and in confidence and may result in the disciplinary procedures being invoked. Furthermore victimisation may constitute discrimination contrary to the Sex Discrimination NI Order 1976, amended 1988, the Fair Employment and Treatment

Order 1998, the Race Relations Order 1997 and the Disability Discrimination Act 1995.

#### **14. Counselling**

If a complaint of bullying and harassment has been upheld counselling will be offered to the person who has been bullied or harassed and to the bully or harasser. This will be provided by a trained member of staff or by an external provider.