



BULLYING AND HARASSMENT POLICY

AUTHOR: Human Resources

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VERSION 1

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1 PURPOSE

Calderdale College aims to foster a community with an atmosphere of trust, harmony and respect. It is committed to the elimination of bullying and harassment which are unlawful under the Race Relations Act 1976, the Sex Discrimination Act 1975 and the Protection from Harassment Act 1997.

The College takes its duty of care seriously. The College's expectations of employee conduct, in line with its' values, is of the highest standard. The College is committed however to thoroughly investigate should there be an indication that bullying and/or harassment is occurring. Investigations will take place regardless as to whether an individual has accepted or rejected the behaviour aimed at them. If something has happened to an employee which is "unwelcome, unwarranted and causes detrimental effect" (ACAS) even if not explicitly defined by the recipient as bullying or harassment it may be classified as such and may be dealt with in line with this Policy.

Acts of bullying and/or harassment that have been found to be committed through investigation through this policy will be treated under the College's disciplinary policy offences.

2 SCOPE

Bullying and/or harassment in the workplace will be treated in accordance with this Policy. Allegations of bullying and harassment from stakeholders other than staff will be dealt with under the College's complaints procedure and may be referred to the College's Disciplinary Policy if appropriate.

Any reports/notes/letters can be made available in varied formats to support auditory and visual impairment and a signer may be made available for any interviews/meetings where appropriate.

3 DETAILS OF POLICY

3.1 Definitions

What may constitute bullying or harassment to one person may not be perceived as bullying or harassment by another. Although this is a consideration the College accepts we specifically apply the terms "bullying" and "harassment" as outlined below.

3.1.1 Bullying

Bullying at work can affect not only an individual, but also the overall effectiveness of the college. It comes in many forms - from the subtle and discrete undermining of an individual's ideas and contributions, to the public humiliation of being shouted at and criticised in front of colleagues. This is wholly different from appropriate feedback on performance that would encompass none of these characteristics but is nonetheless important in a high performing college.

The effect of bullying can be far-reaching and costly to the college in terms of increased absenteeism; increase in stress-related illness; low morale; high staff turnover; creation of tense working atmosphere; and the risk of damage to our public image.

The College follows ACAS guidance that Bullying refers to:

Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

Although perception of the recipient is considered the College outlines the following as unacceptable behaviours:

- spreading malicious rumours, or insulting someone (particularly on the grounds of age, race, sex, disability, sexual orientation and religion or belief)
- unnecessarily sharing information about an individual with others who do not need to know
- ridiculing or demeaning someone – picking on them or setting them up to fail
- exclusion and/or victimisation
- misuse of power or position including
 - overbearing supervision
 - intentional prevention of individual progression
 - intentional blocking of development/training opportunities
 - having areas of responsibility and decision making withdrawn without good reason
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and applying unfounded criticism
- Threatening behaviour, violent gestures or physical violence

3.1.2 Harassment

The College follows ACAS guidance that Harassment refers to:

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.

Examples of harassment include:

- Derogatory name calling
- Insults, racist jokes, “setting up”, being subject to pranks, made a scapegoat
- Ridicule of an individual for their religious beliefs or cultural differences.
- Exclusion from normal workplace conversation or social events
- Unfair allocation of work and responsibilities
- Racist graffiti and displays or racist materials such as posters, photographs etc.
- Verbal abuse and threats, including malicious telephone and other forms of social media.
- Physical assaults
- Insensitive jokes, pranks, “wolf whistling”, “setting up” and being made a scapegoat.

- Lewd comments about dress or appearance
- Unnecessary body contact
- Displays of sexually offensive material such as pin ups, etc.
- Unwanted request for sexual favours
- Speculation about sexual activities
- Threatened or actual sexual assault, including malicious telephone calls
- Threats of dismissal, unfavourable marks or grades, loss of promotion prospects or other benefits for refusing sexual favours (sexual blackmail).
- Insults based on personal circumstances, appearance, sexual orientation, disability or religion, etc.
- Teasing and pranks, about age, cultural differences, disability etc.
- Hostility based on religious and cultural denomination, age, disability, sexual orientation, etc.
- Exclusion from normal activities relating to study or work.
- In addition to having information withheld, being given incorrect information deliberately which, as a result, will have a direct effect on an individual's job performance/completion of a task.
- Using a person's known ill-health or disability to de-skill, de-power or demoralise them.

It should be noted The Equality Act uses a single definition of harassment to cover protected characteristics. Employees are able to complain of behaviour that they find offensive even if it is not directed at them.

3.2 Modes of bullying and harassment

Situations and interactions which lead to a complaint connected to bullying and/or harassment may occur via a variety of means:

- face to face including or excluding physical contact
- written communications
- receipt or deliberate exposure to visual images (for example pictures of a sexual nature or embarrassing photographs of colleagues)
- email
- phone
- verbal communications (direct or indirect)

3.3 Responsibilities

3.3.1 Senior Managers

Senior Managers are responsible for leading by example; for ensuring that the Colleges Values are the foundation of their practice and promote a fair, open, safe place to work. Senior Managers are responsible for ensuring policies, processes, operational practice and behaviours reflect the College Values and treat all fairly and equitably in an inclusive environment which celebrates diversity, inclusion and equality. Senior Managers are responsible for taking all complaints seriously and in supporting those considering making a complaint.

3.3.2 Employees

All employees have a responsibility to uphold the Colleges Values and to ensure that the environment in which they work is free from bullying and harassment. This can be achieved by the setting of high standards of conduct for themselves and for their colleagues, by making it clear to those who bully or harass that their behaviour is unacceptable and by supporting colleagues who are considering making a complaint.

Complaints may be made either by those experiencing bullying or harassment or by those witnessing it.

3.3.3 Named persons

Named persons will usually consist of an appropriate Manager and/or a member of the Human Resources team. Named persons will be responsible for assisting the complainant in deciding the options available to resolve the situation.

3.4 Privacy, confidentiality and protection

The need for privacy and confidentiality will be respected at all times, as far as is consistent with progressing the complaint.

Individuals need not fear that they will be penalised in any way for raising a genuinely perceived complaint of bullying and/or harassment, or where they have assisted in an investigation.

If a complaint is found to be false and considered to be malicious, the appropriate disciplinary action will be taken.

Retaliation against any individual or the disclosure of information about any investigation will be considered a disciplinary matter.

3.5 Right of representation

At any stage in the formal procedure the complainant and alleged harasser shall have the right to be accompanied by, or represented by, a College recognised Trade Union representative, or work colleague of their choice.

3.6 Response to complaints

Any complaints of bullying and/or harassment will be investigated as quickly as reasonably possible, within the framework of the Bullying and Harassment Procedure.

Each claim will be worked through once under the most appropriate Policy and the same claim cannot be raised under an alternative Policy.

3.7 Suspension or special leave arrangements

Where a complaint of harassment/bullying involves a member of staff, either as the complainant or alleged harasser/bully, the Principal may determine that special leave provisions or suspension procedure may be used as appropriate. This is not a Disciplinary Action and during this period employee(s) shall continue to receive their contractual remuneration and other non-remunerative benefits.

3.8 Statistical monitoring

All complaints of bullying/harassment will be subject to statistical monitoring and will be collated centrally in Human Resources.

3.9 Discipline

Very serious incidents, for example threats, violence and sexual blackmail, are obvious examples of Gross Misconduct which may lead to dismissal through the provisions of the Disciplinary Procedure.

Other incidents may constitute misconduct depending on the circumstances which may lead to action being taken under the College's Disciplinary Procedure.

Any breach of the resolution of the incident will also be considered a Disciplinary matter.

3.10 Procedure for dealing with Bullying and/or Harassment

This procedure has been designed to deal with/investigate complaints of bullying/harassment, which need to be handled in a sensitive manner. The procedure therefore seeks to ensure minimal stress for the complainant, 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; however this may be used following the results of the investigation under this 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 a matter of concern directly with the Head of Human Resources for resolution.

3.11 Record Keeping

It is important that anyone who believes they have suffered from bullying or 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 bullying/harassing
- What actually happened
- How the person actually felt at the time
- Name of any witness
- Action taken and whether reported to management
- Any correspondence relating to the incidents and subsequent complaints.

3.12

3.12 Resolution

3.12.1 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 alleged perpetrator/harasser that the incident is not welcomed and should stop. If too embarrassed to speak directly, this could be done by writing or asking a

colleague do this for them. A note should be made of the action taken as mentioned in point 12 above.

If the action continues or the individual cannot take personal action, then they are advised to contact their Line Manager in the first instance. Where mediation is deemed appropriate and a clear lack of understanding is evident, the Line Manager or a member of HR will lead on an appropriate intervention or provide advice on the next stage.

If the Line Manager is the person against whom the complaint is being made, the Head of Human Resources will nominate an appropriate alternative Investigating Officer. 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 unless the manager considers the incident so serious, that action needs to be taken against the alleged harasser/bully in which case they will inform the employee.

The employee may have a work based colleague or recognised Trade Union representative present at all formal stages of the procedure.

The appropriate course 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 alleged perpetrator/harasser 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

3.12.2 Stage 2 - Formal complaint

Any individual is entitled to:

- Make a formal complaint; this should be put in writing to their line manager or the next in line if their immediate manager is implicated. The letter needs to specify that it is a formal complaint, giving details of the incident(s).
- Expect managers to investigate the complaint fully and if upheld to instigate appropriate Disciplinary Procedures where necessary.
- Raise grievance proceedings against management for failing to investigate and take appropriate action.

Investigating a formal complaint

The Investigating Officer 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.

All departments are expected to co-operate in releasing staff from their normal duties to participate in the investigation as required.

Investigation time limits

The investigation should normally be completed within 10 working days of the complaint being received. On occasions it will not be possible to keep within this time-scale. In such cases the complainant and the alleged perpetrator/harasser must

both be kept informed on any need for an extension and the likely time-scale for completion.

How the complaint will be formally investigated

➤ Initial response

The investigation will be carried out by the Investigation Officer who received the formal complaint and a member of the Human Resources Team. 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/sex/disability as far as possible.

The person against whom the complaint has been made should be informed of the nature of the complaint, details of the procedure involved and advised to seek representation from a College recognised Trade Union representative or work colleague.

➤ 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 perpetrator/harasser
- Or to suspend both parties

Suspension under this procedure does not constitute part of the Disciplinary Procedure and will be on full pay. Suspension is a neutral act that may aid the investigation process. Only a member of the Executive (or designate) has the authority to suspend an employee.

Temporary redeployment of one or both parties may also be considered. The complainant should be given the choice, though normally the alleged perpetrator/harasser would be re-deployed first. In exceptional circumstances special leave may be granted.

➤ Meeting the parties involved

The Investigation Officer and HR representative will meet with the complainant and then the alleged perpetrator/harasser separately and with their respective representatives. Detailed notes will be taken, which will be sent to the individuals to be signed to confirm they are accurate statements of what was discussed and return to HR. Should the individuals deem the notes to be inaccurate, they should formally record this, make note of any amendments and return to HR; however both copies (original and amended) of the notes will be kept on file.

Both parties should be given the opportunity to nominate witnesses whom they wish to be interviewed.

➤ Meeting with witnesses

The Investigating Officer and HR representative 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 colleague or College recognised Trade Union representative.

Further interviews may need to take place to clarify or gain further information. The Investigating Officer will also need to ensure collection of all relevant written materials.

➤ Consideration of information

The Investigating Officer and HR representative will, on completion of the investigation, review the material collected and decide whether the complaint is substantiated.

In some cases there will not be any witnesses and it will be one person's word against another's. In these cases the Investigating Officer and HR representative will consider whether, on the balance of probabilities, the incidents/actions occurred and the complaint is justified. In some cases there may be insufficient evidence to substantiate an outcome.

The Investigating Officer will invite the complainant to a meeting to deliver the outcome of the investigation. This will also be given to the complainant in writing as soon as possible after the meeting, usually within 5 days. Should the complainant not be able to attend the meeting then the written outcome will still be sent to them.

Police involvement

In cases of an alleged assault or alleged behaviour that is considered to be criminal offence, the Investigating Officer 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.

Further action

The Investigating Officer will consider the facts and decide either to:

- Take no action, that is the allegation has not been upheld,
- Initiate the College's agreed Disciplinary Procedure,
- Take management action other than to initiate the Disciplinary Procedure:
 - i. setting up arrangements to monitor the situation
 - ii. required attendance on training courses and/or counselling
 - iii. making arrangements for both parties to work as separately as possible within the same workplace
 - iv. 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 favourable terms and conditions of employment, unless action is taken within the Disciplinary Procedure and there is an agreed action within the Disciplinary Procedure to demote an individual.

Keeping Management Records

After the 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 formal complaint is not upheld, then no record will be kept on the alleged perpetrator's/harasser's file.
- Where the matter proceeds to a disciplinary hearing, then the storage of records should be in accordance with the Disciplinary Procedure.

3.12.3 Action when the complainant is dissatisfied

If the complainant disagrees with the decision of the outcome of the investigation, then they have the right to appeal.

Should the complainant wish to appeal against an outcome they must do so in writing within five working days of the outcome letter to the Head of HR. The letter should set out the grounds of appeal. The appeal will be heard by a Senior Manager who has not been involved in the process in question so far.

All Appeal Hearings will be held as soon as reasonably practicable after the notice to appeal has been received and normally within 10 working days. The employee will be given at least 5 working days' notice of the scheduled Appeal Hearing

The appeal decision will be notified to the employee in writing without unreasonable delay following the appeal hearing, normally within 5 working days. The appeal decision is final – there is no further right of Appeal beyond this stage.

The format for the appeal hearing is outlined as follows:

- Chairperson will invite the employee/employee's representative to present the appeal including any witnesses
- Management may question the employee / employee's representative and witnesses*
- The management representative will be given the opportunity to defend his/her decision and can call witnesses*
- The employee/employee's representative may question Management and any witnesses
- Chairperson may question either side at any time
- The employee / employee's representative will be asked to sum up
- The management representative will be asked to sum up
- Both sides will adjourn to enable the Chairperson to consider the decision.
- Should the Chairperson need to seek further information at this point both sides will be invited back into the hearing even though only one side may be questioned
- Both sides will be brought back into the hearing for

the decision, which will be confirmed in writing with reasons as soon as practicably possible

*witnesses will be present only to give their testimony and during cross examining only

At any point in the proceedings either side may request the Chair for an adjournment, in order not to frustrate the procedure the Chair may decline the request

3.13 The Disciplinary Process

If it is determined that the Disciplinary Procedure should be applied; the following points should be taken into account:

- Written notes signed by the complainant, alleged perpetrator, witnesses and any other formal meetings relevant to the investigation will be used as evidence. The complainant will not normally be required to attend the Disciplinary Hearing in person and where possible will not be aware of further actions being taken against the alleged perpetrator/harasser. The Investigating Officer will present the case for the complainant during these proceedings.
- In exceptional circumstances where the complainant is required to attend they may be accompanied by a trade union representative or a work colleague and have any questions directed through this person.

4 MONITORING

This policy will be monitoring regularly in respect of any legislative changes

5 RELATED POLICIES/PROCEDURES/DOCUMENTS

Disciplinary Policy

6 POLICY REVIEW

Change(s) Made		Reason for Change			
Review Date	Reviewed by:	Initial Approval by:	Final Approval by:	Next Review Date:	Review Period
Aug 2018	HR Business Partner	Audit Committee	Board	Aug 2021	3 Years

7 EQUALITY IMPACT ASSESSMENT

First Assessment Conducted by:	Date:	Final/Approved Assessment Conducted by:	Date:
HR Business Partner	22.08.18	A member of the EDI Group conducts and approves	22.08.18

8 PUBLICATION

Audience:	Published:
Staff	Staff Internet