

**GUILDFORD COLLEGE GROUP POLICY**

**ACADEMIC/NON ACADEMIC:** Non-Academic

**FRAMEWORK AREA:** Human Resources

**POLICY TITLE:** Prevention of Bullying and Harassment Policy for Staff

**LEAD COLLEGE MANAGER:** Executive Director for Workforce Development

**Consulted with:** Joint Consultative Committee  
Equality & Diversity Forum  
College Management Team

**DATE OF VERSION:** February 2015

**ORIGINATOR:** HR Department

<b>Status: FINAL</b>	<b>Approved by: Finances and General Purposes Committee</b>
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**Supersedes:** Prevention of Bullying & Harassment Policy 2012

<b>Approved on: 3<sup>rd</sup> February 2015</b>	<b>Next Review date: February 2018</b>
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## PREVENTION OF BULLYING AND HARASSMENT POLICY

### 1. Introduction

- 1.1 The Corporation is committed to the elimination of discrimination under all of the nine protected characteristics as defined by the Equality Act 2010. It is the right of every employee to work without fear of bullying, harassment or victimisation.
- 1.2 Management teams will take every opportunity to promote fair treatment and respect for all, both for students and for staff. This may include (but will not be limited to) training, awareness raising events, promotion during lessons, tutorials and other learning opportunities, College wide events and equality and diversity events.
- 1.3 The Corporation and recognised Trade Unions recognise the problems associated with bullying and 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.
- 1.4 The Corporation is committed to advancing equality of opportunity, respecting and celebrating differences, eliminating discrimination, harassment and victimisation and fostering good relations between all who work or learn at Guildford College, or use our services. We recognise that all have a right to be free of bullying, harassment and victimisation regardless of the nine characteristics covered by the Act, which are:
  - i. Race
  - ii. Disability
  - iii. Gender
  - iv. Age
  - v. Sexual Orientation
  - vi. Religion and belief
  - vii. Gender Re-assignment
  - viii. Pregnancy/maternity
  - ix. Marriage/civil partnership

Bullying and harassment are serious problems, which have often been dismissed as individuals being over sensitive. They can affect people's health, work performance, promotion, ability to study, job prospects and thereby, the success of the Corporation. Claims from employees may be brought within the Employment Tribunal system as well in as the court system. The following legislation applies to the management of bullying and harassment:

- Equality Act 2010
- Health and Safety at Work Act 1974
- Employment Rights Act 1996
- 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.

- 1.5 If an employee wishes to make a complaint of harassment or bullying they should raise a grievance in accordance with the College's Grievance Policy. The procedure should aim to investigate such grievances to establish whether or not harassment or bullying has occurred and make recommendations for action where necessary. Such action could include disciplinary action, in which case the College will refer to the relevant stage of the College's Disciplinary Policy.
- 1.6 This Policy will apply to all employees, visitors and workers of the College.
- 1.7 At the formal stage of the procedure both the complainant and the alleged harasser or bully has the right to be accompanied by a Trade Union representative or workplace colleague.
- 1.8 Where it is considered necessary to separate individuals involved in harassment and/or bullying case, every effort will be made to move the harasser or bully and not the person who has been harassed or bullied.

## **2. Purpose**

- 2.1 To demonstrate the College's commitment to the elimination of harassment and bullying at work, this Policy is intended to:
  - inform employees of the type of behaviour that constitutes harassment and bullying;
  - clarify the roles and responsibilities of staff and managers within the College in both preventing and dealing with cases of harassment and bullying;
  - provide employees who are experiencing harassment and bullying with a means of redress;
  - confirm that the College will not permit or condone harassment and bullying in the College.
- 2.2 The policy is intended to complement other College policies in particular those relating to equality and diversity. Attention is also drawn to the College's Safeguarding Professional Code of Conduct.

## **3. Supportive Framework**

- 3.1 The Corporation recognises that making a complaint of bullying and 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 may approach a colleague, or trade union representative to raise the issue with management on their behalf in line with procedure.

3.2 If one of the parties concerned in a harassment case has to be removed from the workplace, then as a matter of principle, the Corporation will normally remove the harasser or bully rather than the complainant, where it is practicable to do so.

#### **4. Confidentiality**

4.1 Grievances about bullying and harassment should be dealt with in a confidential manner to respect the privacy of all parties and to ensure the matter is dealt with sensitively and effectively. Any breach of confidentiality may result in disciplinary action against those concerned.

4.2 Where a formal grievance is raised by an employee under the Grievance Policy, it should be made clear to all involved that any documentary evidence or subsequent statement taken during the investigation may form part of evidence in any disciplinary proceedings. In the event that disciplinary procedures are invoked, the investigation report, together with any witness statements, should be made available to the alleged harasser prior to any disciplinary hearing in accordance with college procedures.

#### **5. Principles and Definitions**

##### **5.1 Descriptions of Bullying and Harassment**

5.1.1 Bullying may include:

- Physical pushing, kicking, hitting, pinching etc
- Name calling, sarcasm, spreading rumours, persistent teasing and emotional torment through ridicule, humiliation and continual ignoring of individuals
- Racial taunts, graffiti, gestures
- Sexual comments and/or suggestions
- Excluding from activities
- Creating an atmosphere of fear and intimidation
- Unwanted physical contact
- Power imbalance.

Bullying may include one or more of the above examples and this list is not exhaustive.

5.2 The College recognises that harassment and bullying can lead to poor relationships, low morale, lack of motivation and stress related illnesses.

5.3 It is accepted that vigorous academic debate and occasional raised voice or argument, of itself may not necessarily constitute harassment or bullying.

## 5.4 Harassment:

5.4.1 The Equality Act prohibits three types of harassment. These are:

- harassment related to a 'relevant protected characteristic'
- sexual harassment, and
- Less favourable treatment of an individual student because they submit to or reject sexual harassment or harassment related to sex or gender reassignment.

5.4.2 Acts of harassment usually centre on unwanted, offensive and intrusive behaviour with a sexual, racial or physical component. Measures to identify acts of harassment relate to the Equality Act 2010. The Equality Act describes harassment as unwanted conduct related to a relevant protected characteristic, and the conduct has the purpose or effect of violating the dignity of the other, or creating an intimidating, hostile, degrading, humiliating or offensive environment.

5.4.3 In deciding whether conduct has the effect of violating the dignity of the other, or creating an intimidating, hostile, degrading, humiliating or offensive environment, each of the following must be taken into account

- The perception of the person affected by the behaviour
- The other circumstances of the case
- Whether it is reasonable for the conduct to have that effect.

5.4.4 It should be noted that the harassment may not necessarily be directed against the complainant but which nevertheless he or she finds offensive.

5.5 The College recognises that harassment and bullying can lead to poor working relationships, low morale, lack of motivation and stress related illnesses.

5.6 It is accepted that vigorous academic debate and occasional raised voice or argument, of itself may not necessarily constitute harassment or bullying. However, where such debate is demeaning to someone under one of the protected characteristics, then it could be considered to be bullying, harassment or victimisation under the definitions covered in this Policy.

5.7 Bullying must be distinguished from the right of, and obligation placed on, managers to exercise proper supervision of employees in the course of their duties, which may include legitimate, constructive and fair criticism of an employee's performance or behaviour at work. Managers will exercise this supervision in a fair, constructive, consistent and reasonable manner that does not compromise the employee's dignity. Similarly, reasonable (but perhaps unpopular) requests by a manager of his/her employees in the normal course of their duties will not be viewed as acts of harassment or bullying.

5.8 Victimisation - employees are protected from victimisation as a result of bringing a complaint under the harassment and bullying policy. If an employee feels that he/she has been victimised following a complaint of harassment or

bullying, he/she should raise a grievance under the College's Grievance Policy. 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.

## **6. Procedures**

- 6.1 Employees are encouraged to informally discuss harassment and/or bullying problems with the College's Employee Assistance Programme, the HR Department or their manager. All discussions will be conducted in utmost confidence. Employees may be accompanied by a trades union representative, should they so choose.
- 6.2 The decision to progress a formal complaint of harassment and/or bullying under the Policy rests with the complainant except where the situation, following initial formal reporting, is so serious that by not taking action the College would be prejudicing its reputation, legal and welfare responsibilities.
- 6.3 All investigations into allegations of bullying and/or harassment and/or victimisation will be carried out objectively with due respect for the rights of both the complainant and the alleged bully or harasser. The provisions of the Procedure for Conducting Investigations must be followed.
- 6.4 The College recognises the sensitive nature of complaints of harassment and/or bullying and accepts that employees may wish to seek advice when deciding whether to make a complaint under the policy.
- 6.5 Retaliation and victimisation against anyone making a complaint, or giving evidence as part of an investigation into harassment and/or bullying, will constitute a serious disciplinary offence and may be dealt with as gross misconduct under the College's Disciplinary Policy.

## **7. Responsibilities**

### **7.1 Corporation Members**

#### **7.1.1 Corporations Members are responsible for ensuring that:**

- They are familiar with the Prevention of Bullying and Harassment Policy;
- They are aware of the Corporation's legal responsibilities as an employer in relation to harassment and bullying;
- They receive and respond to any monitoring information collated as part of the annual report of Equality and Diversity; and
- The College meets its public sector equality duties.

## 7.2 The Executive Team

- The Principal and Executive Team are responsible for taking the lead in creating a positive, open culture that challenges inappropriate behaviour on the part of managers, employees or students by their actions, openness in communication between staff. Any claims of bullying or harassment are taken seriously and managed in line with this policy.

## 7.3 Managers

7.3.1 Managers are required to ensure that the policy is effectively applied and that bullying and harassment does not occur. Managers are responsible for ensuring that:

- They are familiar with the Prevention of Bullying and Harassment Policy, and that it is followed correctly;
- They are aware of the Corporation's legal responsibilities as an employer in relation to harassment and bullying;
- Monitoring in relation to the Policy is carried out and the Policy is reviewed accordingly; and
- Appropriate training and development is provided to support managers' and employees' understanding of the Prevention of Bullying and Harassment Policy.

## 7.4 Employees

7.4.1 Employees are responsible for ensuring that:

- They familiarise themselves with the Prevention of Bullying and Harassment Policy;
- Their behaviour supports a positive work environment free from harassment and bullying; and
- They participate in an investigation when asked to do so, where they have observed, or have evidence, that another employee is being bullied or harassed.

7.4.2 All employees are personally responsible for preventing behaviour by themselves that could be construed as bullying or harassment. All employees are required to co-operate with measures introduced by the College to combat bullying or harassment in the workplace.

## 7.5 HR Department

7.5.1 The HR Department is responsible for ensuring that all cases of bullying or harassment are dealt with appropriately by supporting employees who claim they are being bullied or harassed and treating all claims seriously.

## **8. Training**

- 8.1 In order to support the College's aim of preventing bullying and harassment, awareness training will be provided to all staff. The College will also provide specific training to managers in the correct operation of the Prevention of Bullying and Harassment Policy.

## **9. Malicious allegations and false statements**

- 9.1 Unfounded allegations of bullying and/or harassment for malicious reasons will not be tolerated by the College. Any such cases will be investigated and dealt with under the College's Disciplinary Policy and may be serious enough to constitute gross misconduct, which may result in summary dismissal.
- 9.2 Where a witness is found to have deliberately misled an investigation, the College will treat this as a serious disciplinary offence under the Disciplinary Policy.

## **10. Resolution of Issues or Complaints**

### **10.1 Stage 1: Informal Resolution**

- 10.1.1 Every effort will be made to resolve the issue informally in the first instance, if this is appropriate. An employee or a student who feels that they have been harassed or bullied should ask the perpetrator to stop and make it clear that their behaviour is unwelcome. This is encouraged because the perpetrator's behaviour may be unintentional. This action should be recorded in writing by the employee or student, indicating the date, what was said by those involved and details of any witnesses to the behaviour.
- 10.1.2 If the harassment or bullying continues, the employee or student should keep a note of any incidents which occur: date; time; place; what happened; names of any witnesses. They should also take advice from the HR Department if they have not already done so.
- 10.1.3 If the line manager is the person against whom the complaint is being made, the matter 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.
- 10.1.4 Any discussion will be confidential and no further action will be taken without the consent of the complainant. Unless the manager considers the incident so serious, in which case they will inform the employee of their need to take action against the alleged harasser, following consultation with the employee concerned.

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

10.1.6 One or more of the following 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;
- to make a formal complaint.

## 10.2 Stage 2: Formal Complaint

10.2.1 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 Corporation's Prevention of Bullying and Harassment Policy.

10.2.2 If an employee 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) as follows:

- the name of the harasser or bully;
- the nature of the harassment or bullying;
- the dates, times and locations when harassment or bullying occurred;
- the names of witnesses to any incidents of harassment or bullying;
- any action already taken by the complainant to stop the harassment or bullying.

10.3 Every effort will be made to find a resolution to the complaint.

10.4 If the complaint is upheld, disciplinary action may be taken against an employee under the College's Disciplinary Policy.

## **11. Records of complaints**

- 11.1 Information gathered as part of any investigation under the Policy should be treated as confidential by all parties involved but may be disclosed in a subsequent disciplinary hearing.
- 11.2 The College will keep a confidential record of complaints and investigations, which will include the names of the people involved, dates, the nature of the incident(s), the action taken, and any follow-up and monitoring information. The College will keep such records for six years from the end of employment. Where a complaint was unsubstantiated, this will be clearly stated in the College's record. All sensitive information will be treated confidentially and in compliance with the requirements of the Data Protection Act 1998.
- 11.3 After a complaint has been investigated, the following storage arrangements should be followed:
- Where the complaint is informal and the complainant does not wish for any action to be taken, no record will be kept on personal file for the alleged offender, 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 Policy for employees.

## **12. Complaints against a Senior Post-holder**

- 12.1 Where the complaint is against the Principal or another senior post-holder, it should be properly and fully investigated.
- 12.2 The Corporation will appoint an appropriate Investigating Officer to investigate the complaint. This may be the Principal, a member of the Corporation, the Clerk to the Corporation or an external investigator, depending on the circumstances.

## **13. The Disciplinary Process**

- 13.1 The normal disciplinary procedure should be followed; however the following points should be taken into account:
- The complainant will normally be required to attend the disciplinary hearing as a witness, although every effort should be made to avoid this whenever possible.

- If they are required to attend, then they should be allowed to bring a trade union representative or work based colleague and have any questions directed through this person.

13.2 The report will state whether harassment or bullying occurred and will outline any recommendations for action. For example:

- ***Harassment or bullying did not occur – no or limited action required.*** In such circumstances the Investigating Officer may, if necessary, recommend steps to improve the working relationship between the parties following the complaint. The advice of the HR Department can be sought on the use of mediation in order to improve the working relationships between the parties.
- ***Harassment or bullying did occur – recommendations for action short of disciplinary action.*** It may be concluded in light of the facts that disciplinary action is unnecessary. In such circumstances the Investigating Officer may recommend other appropriate action to address the behaviour, such as:
  - training/coaching/mentoring;
  - re-arrangement of working conditions;
  - redeployment of one or both parties on a temporary or permanent basis on terms and conditions that are no less favourable than existing terms and conditions of employment;
  - mediation between the parties;
  - ongoing monitoring of the situation.
- ***Harassment or bullying did occur – disciplinary action required.*** In such circumstances the alleged harasser will be instructed to attend a disciplinary hearing in accordance with the College's Disciplinary Policy for employees.

## Appendix One: Pathway for Dealing with Complaints of Bullying and Harassment

