

# Dignity and Respect for Students and Staff of the University of Bath: Policy and Procedure for Dealing with Complaints

## 1 Introduction

- 1.1 The University of Bath is committed to providing an environment where all staff and students are treated with dignity and respect.
- 1.2 The aim of this policy and procedure is to promote a working and learning environment which will be stimulating and supportive and free of harassment, bullying and victimisation; where individuals are confident, if they bring a complaint in good faith that the matter will be dealt with according to the agreed procedures without fear of subsequent victimisation or disadvantage.
- 1.3 This policy applies to all staff (including casual workers), honorary and visiting staff and students and third parties (e.g. contractor, client or customer of the University).
- 1.4 All information concerning allegations of harassment, bullying or victimisation must be treated in the strictest confidence by all parties in order to protect those involved. Breaches of confidentiality may give rise to action being taken under the University's Staff or Student Disciplinary policies.
- 1.5 Throughout this policy and procedure the individual who feels that they have been harassed, bullied or victimised is referred to as the "complainant" and the person (staff or student) against whom these allegations have been made is referred to as the "respondent".

## 2 Rights and Responsibilities

- 2.1 All staff and students have a right to be treated, and have an obligation to treat others, with dignity and respect.
- 2.2 All staff and students have a personal responsibility to:
  - treat all co-workers/students with dignity and respect, and not to behave in a manner that could be offensive to others;
  - be pro-active in developing and maintaining effective working/study relationships with co-workers/students;
  - take appropriate action where there are difficulties in their working/study relationships, with input and support from their manager or other appropriate staff.
- 2.3 All managers and supervisors have a responsibility to:
  - manage staff fairly and in line with all University Human Resources (HR) policies and procedures;

- supervise students with equity in line with University student policies and procedures;
- take action to ensure that a working/studying environment free from harassment and bullying is maintained;
- help resolve issues informally wherever possible or in line with the formal processes where required;
- provide support for staff where appropriate directly or signpost them to support from HR or the Employee Assistance Programme (EAP); for students support can be found through the SU Advice and Representation Centre;
- communicate this policy to their staff/students.

### **3 Policy**

#### **3.1 Policy Statement**

- 3.1.1 The University is determined to eradicate any harassment, bullying and victimisation, by any person whether a University member of staff, student or an external third party, and any incidents will be regarded extremely seriously and may be grounds for disciplinary action including dismissal, expulsion or termination of contract for third parties. Bullying and harassment can seriously worsen working, studying and social conditions for staff and students at the University.
- 3.1.2 The University has a clear responsibility in law to ensure that all forms of harassment, bullying and victimisation are dealt with effectively.
- 3.1.3 The University recognises that informal channels, including mediation, awareness raising, training and counselling can be the most effective means of preventing or stopping harassment, bullying or victimisation.
- 3.1.4 The University recognises that there will be some allegations of harassment, bullying and victimisation which are so serious that they require handling directly under the formal procedure, as detailed in Section 4.5.
- 3.1.5 The University recognises that a formal bullying and harassment complaint and its investigation can have a highly damaging effect on relationships and should not be entered into without careful consideration. The University will therefore ensure that there is confidential support and advice available for staff or students considering such a complaint, that investigations are carried out sensitively and that support is available for both the complainant and those accused of bullying and harassment.
- 3.1.6 **Third Parties** - If the member of staff tells their line manager that they have been bullied, harassed or victimised at work by an external third party the manager must consider and take practical steps to prevent any further bullying, harassment or victimisation from taking place. The manager will consider what specific action they may be able to take, including termination of any contract with the third party. The University's contracts for services with its contractors will normally include the requirement to meet the University's standards around Dignity & Respect.

## **3.2 Harassment, bullying and victimisation**

- 3.2.1 Harassment or bullying may be an action or behaviour by an individual against an individual or groups of people. It may be obvious or it may be subtle and it may be by electronic means. Whatever form it takes, it is unwarranted and unwelcome to the individual and the intentions of the perpetrator are irrelevant.
- 3.2.2 Definitions and examples of harassment, bullying and victimisation are given in Appendix A. Any difficulty in defining what constitutes harassment or bullying should not deter staff or students from complaining of behaviour which causes them distress.
- 3.2.3 The University recognises that it is possible for staff/students to harass and bully their manager/supervisor as well as for managers/supervisors to harass and bully their staff/students. Whilst managers and supervisors may use other processes to deal with this situation they may make an allegation against their staff/student under this policy.
- 3.2.4 Line managers should set clear, reasonable, job performance standards for their staff, which are effectively communicated, and should manage staff equitably. Under these circumstances legitimate, justifiable, appropriately conducted monitoring of a member of staff's behaviour or job performance does not constitute harassment or bullying.
- 3.2.5 Academic supervisors/tutors/lecturers should provide reasonable and proper review of a student's work and/or performance, which will not constitute harassment or bullying. The University's Quality Assurance Code of Practice provides a framework for the effective delivery of feedback and assessment within learning and teaching practices.

## **3.3 Malicious complaints**

- 3.3.1 All complaints of harassment, bullying or victimisation will be considered within the context of the right of each individual to be treated with dignity and fairness. However, a formal complaint of bullying and harassment should never be made on a malicious or vexatious basis and the possible making of a complaint should never be used as a threat against an individual.
- 3.3.2 Where, following investigation it is concluded that complaints were made or threatened to be made on a malicious and/or vexatious basis, the complainant's conduct will be investigated under the University's Staff or Student Disciplinary policies and may lead to disciplinary action up to and including summary dismissal/expulsion of the complainant.

## **4 Procedure for dealing with complaints under this policy**

The complainant should raise their complaint within three months of the date of the last alleged act but is encouraged to report it as soon as possible. They should be aware that if a formal complaint is made, the person whose behaviour is complained of ("the respondent") will be given full details of the

complaint. References to the “line manager” in this document should be taken as meaning a more senior manager where the issue involves the line manager.

## **4.1 Informal resolution**

- 4.1.1 Informal resolution should always be considered. It will normally be most appropriate where the harassment or bullying is of a less serious nature, where there is a reasonable prospect of resolution and/or where the behaviour is unintentional on the part of the respondent.
- 4.1.2 Many people are unaware that their behaviour in some circumstances is unacceptable and, if this is clearly pointed out to them, the problem can often be resolved. If at all possible a complainant who is aware of behaviour that may come under this policy should make the respondent aware, in person or through a third party (e.g. their line manager or relevant member of staff or Students’ Union (SU)), that they find that behaviour or action inappropriate or unacceptable.
- 4.1.3 There are a range of different interventions that may be taken at an informal level to resolve matters. It is advised that agreed interventions taken are documented. These interventions may include:
- The line manager/SU assisting the complainant to raise the issues directly with the respondent, where they feel confident to do so. This may involve organising support for the complainant and/or respondent e.g. through the Employee Assistance Programme/SU Advice and Representation Centre;
  - The line manager/SU meeting confidentially with the complainant and respondent either separately or together so that there is an understanding of behaviour, its effect and a confirmed outcome on what changes in behaviour are necessary;
  - Accessing a source of help – see 4.2 below;
  - Mediation – see 4.3 below;
  - This is not an exhaustive list and other options may be possible.
- 4.1.4 If after taking forward action under the informal resolution processes, the behaviour continues or escalates the complainant can refer their complaint to the formal investigative stage of this procedure (see section 4.5). Timeliness is important and all those involved in informal resolution must act as quickly as is reasonably possible.
- 4.1.5 In cases where the respondent is not a member of the University (e.g. a visitor), the matter will normally be dealt with by the Head of Department/Service involved with advice from HR. If exceptionally this is not possible, the Director of HR or the University Secretary should be consulted.

## **4.2 Sources of help and advice**

- 4.2.1 Staff who feel they have been subjected to behaviour that they feel is inappropriate under this policy may contact the following for further advice and assistance:
- Their immediate supervisor/manager;
  - A member of the HR Department – normally via the relevant HR manager or Advisor;
  - A Trades Union representative;
  - The Equality & Diversity Manager – ext 3098.
- 4.2.2 Students may contact the following for further advice and assistance:
- SU Advice and Representation Centre;
  - Student Services;
  - The Equality & Diversity Manager – ext 3098.

## **4.3 Mediation**

- 4.3.1 Mediation is an informal, structured process in which an independent, impartial, third party (a mediator), helps people in a disagreement create a way forward for themselves. Mediation can assist people to restore and develop healthy working relationships.
- 4.3.2 Mediation is a voluntary process and may be considered at any point during the informal stage of the procedure or indeed outside of the Dignity and Respect Policy process. Details about the Mediation Service can be obtained from the Equality & Diversity Manager on ext. 3098, through HR, the SU Advice and Representation Centre or Student Services. Staff may refer themselves directly or be referred through their manager/Head of Department or HR.
- 4.3.3 The normal expectation is that the mediation would be completed within 30 working days of the initial meeting with the parties (although this time limit may be extended by agreement). If for any reason the process does not prove fruitful, or is taking an unacceptably long time to achieve resolution, any one of the parties may withdraw from the process.
- 4.3.4 Mediation is a completely confidential process. Any mutually agreed outcome will be confirmed in writing to the parties and not provided to anyone else unless agreed by both parties. Where staff have been referred to mediation via their line manager/Head of Department or HR, the only communication to this individual will be confirmation that mediation has been completed and whether resolution has or has not been achieved.

## **4.4 Guidelines for those accused of harassment, bullying or victimisation**

- 4.4.1 If you are approached informally by someone or on behalf of someone about your conduct or behaviour, do not dismiss the complaint. Remember that all people find different things acceptable and everyone has the right to decide what behaviour is acceptable to them and to have their feelings respected by

others. You may have offended them without intending to and a simple apology may resolve the matter.

- 4.4.2 If accused you may wish to access a source of help and advice, see 4.2 above.
- 4.4.3 If you believe the accusation is unfounded, you should say so and participate willingly in the proceedings so that the situation can be resolved informally or formally. If mediation is proposed then you should carefully consider this as a helpful way forward to resolve the concerns raised.
- 4.4.4 If a formal complaint is made about your behaviour this will be investigated in line with this policy (for staff) or the Student Complaints Procedure (for students).

#### **4.5 Formal procedure**

- 4.5.1 If the informal resolution processes under 4.1 to 4.3 do not result in the unwanted behaviour ceasing or indeed the behaviour becomes worse or if the alleged harassment or bullying behaviour is perceived as too serious to be dealt with informally then the formal investigation procedure should be considered.
- 4.5.2 The complainant should make a written complaint to the Director of HR (for staff cases) or for student cases to the Head of the Department or Service concerned with a copy sent (if the complaint is against a member of staff) to the relevant HR Manager.
- 4.5.3 In the letter the complainant should set out as clearly and briefly as possible:
  - the nature of the behaviour they are concerned about;
  - the effect this behaviour has on them;
  - dates of, and the identity of any witnesses to, any incidents complained about, together with any documentary evidence;
  - explanation of any attempts that have been made to resolve the difficulties, including whether they have entered into mediation;
  - if appropriate, the outcome/resolution they are seeking.
- 4.5.4 Formal complaints by staff will be dealt with under the Investigation Procedure set out in Appendix B. Formal complaints by students will be dealt with under Stage 2 of the Student Complaints Procedure.

### **5 Process Overview**

- 5.1 A flowchart summarising the stages of this procedure is attached at Appendix C.

### **6 Review of policy and procedure**

- 6.1 The effectiveness of this policy and procedure will be monitored, and a formal review will be carried out in line with University practice, or sooner if

required. The results of the review will be reported to the Equality and Diversity Committee.

- 6.2 This policy and procedure have been consulted on with all recognised trade unions and with the Students' Union.

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### Definitions and examples of harassment, bullying and victimisation

#### A.1 Harassment

A.1.1 Harassment is defined in the Equality Act (2010) 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”. The nine protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex and sexual orientation.

A.1.2 The complainant need not possess the relevant characteristic themselves and harassment can be because of perception or association. Harassment applies to all protected characteristics except for pregnancy and maternity (where any unfavourable treatment may be considered discrimination) and marriage and civil partnership.

A.1.3 Examples of behaviour which is likely to constitute harassment of someone because of their protected characteristic are given below. The list is not exhaustive and other forms of harassment will be viewed equally seriously:

- Behaviour of a racist, sexist, homophobic, ageist nature or similar behaviour towards an individual with a disability or undergoing gender reassignment, or trans people;
- Any behaviour or abuse which may cause distress, such as name-calling, ridicule, insults, jokes, graffiti, physical abuse;
- The invasion of personal space;
- Displaying offensive material (on paper or electronically);
- Spreading malicious rumours or insulting someone;
- Preventing other people from progressing by deliberately blocking educational or developmental opportunities or promotion;
- Intentional isolation or exclusion;
- Persistent, unwelcome contact, that may include text messages, emails, phone calls, gifts, letters, calling at an individual’s home or place of work or study;
- Stalking;
- Offensive sexual behaviour such as suggestive looks, leering and remarks, offensive flirtations, unwanted physical contact; unwanted sexual advances or demands for sex and compromising invitations;
- Offers of favoured treatment in return for sex (or threats of disadvantage if refused);
- Making public that someone is gay, lesbian, bisexual or transgendered (outing) when they would prefer to keep this information private;
- Drawing unwelcome attention to, or abusing, someone’s religion/belief.

#### A.2 Bullying

A.2.1 Bullying is a form of harassment but does not need to be related to a protected characteristic. As with other forms of harassment, there is no requirement to demonstrate an intent to bully.



- A.2.2 Bullying can be described as threatening, abusive, intimidating or insulting behaviour that may be an abuse of power, position or knowledge. What one individual may perceive as bullying behaviour may occasionally be viewed as no more than firm management or strong personality and therefore may sometimes be difficult to define. However, inappropriate behaviour that leads to other people becoming stressed, de-motivated or frightened is unacceptable. Some examples of bullying are given below:
- Overbearing supervision, shouting, verbal, written or electronically transmitted abuse;
  - Abuse of power or behaviour that causes fear or distress for others;
  - Academic bullying, for example, asserting a position of intellectual superiority in an aggressive, abusive or offensive manner including via electronic media;
  - The undermining of an individual through unfair work allocation and/or constant criticism;
  - Making unfounded or inappropriate threats and/or comments about job or course/programme security;
  - Inconsistent management style where some individuals are favoured more than others;
  - Unfair allocation of work responsibility;
  - Public ridicule, sarcasm or humiliation.

### **A.3 Victimisation**

- A.3.1 Victimisation can be described as subjecting a member of staff, student or another person to unfavourable treatment because in good faith they have:
- taken out court proceedings under the Equality Act, other similar legislation or they have indicated their intention to do so;
  - given evidence or information in connection with the proceedings;
  - done any other thing for the purposes or in connection with the Act;
  - participated in an investigation of a complaint, or participated in any disciplinary hearing arising from an investigation (these need not relate to the Equality Act or a protected characteristic);
  - made an allegation that a person has harassed or unlawfully discriminated against them;
  - made a relevant pay disclosure.

- A.3.2 The University will protect staff and students from victimisation arising as a result of bringing a complaint or assisting in an investigation where they act in good faith. Victimisation is a form of misconduct which may itself result in disciplinary action.

### **A.4 Harassment, bullying and victimisation by electronic methods**

- A.4.1 The reliance on electronic communication within the university and beyond increases the likelihood of bullying, harassment and victimisation by electronic means. Here are examples of this:
- sending emails (with or without attachments) in a way which breach the terms of this policy;

- inappropriate copying of emails to parties not relevant to the discussion, as a way of intimidating or inappropriately gaining leverage over another person;
- using social media in a way which breaches the terms of this policy;
- using, displaying or saving offensive materials (e.g. offensive screensavers, photographs etc.) which are then accessed, or seen by, another person or group of people;
- downloading, displaying or printing offensive material from an Internet source in the presence of another person or group of people.

A.4.2 Further information and examples are available in the University's IT Acceptable Use Policy and Disciplinary Policy & Procedure. Guidance on how to best use social media is contained in the Social Media Guidance.

## **Staff Complaints Formal Investigation Procedure**

B.1 If on reviewing the complainant's letter, the Director of HR identifies that no informal process has taken place to-date and that the issue is one that may potentially be resolved informally they may organise for themselves or a delegated member of their team to meet with the complainant (with their representative or a work companion) to discuss this. This step is to ensure that the complainant is fully aware of all possible options before an allegation is referred further.

### **B.2 Investigation**

B.2.1 An investigative panel consisting of at least 2 people will be appointed to investigate the complaint. The investigative panel will normally consist of a senior member of staff acting as the chair supported by an HR Manager or other HR Advisor. As a general rule, the panel members should not have had previous involvement with the issues in the case. Both the complainant and the respondent will be given the opportunity to identify if they have any concerns about the members of the investigative panel. Should the complainant or respondent express any reasonable concerns over the appointments, such concerns will be dealt with fairly and sympathetically.

B.2.2 The role of the investigative panel will be to gather all the relevant facts in relation to the allegations made, document and consider these, including taking witness statements from relevant witnesses. The investigative panel may meet with the complainant to clarify the allegations that they are investigating.

B.2.3 The chair of the investigative panel will write to the respondent informing them of the allegation(s), requesting their attendance at an investigatory meeting and confirming their right to representation. This letter will also point out the seriousness of the allegation, how the respondent can respond to the allegation and sources of support and representation.

B.2.4 The investigation of the complaint will take place as quickly as possible, and should normally be completed within one month of being initiated, subject to absence. It is recognised that the earlier that a matter is dealt with the greater will be the chance of a successful resolution. However, it is recognised that a thorough investigation is important and the situation may be extremely complex, so that it may not be possible to reach an outcome as quickly as all parties wish. The complainant, the respondent and their representatives are required to do all that they can to enable the investigation to be completed as promptly as possible. The chair of the panel will advise all parties of any delay.

B.2.5 Both the complainant and the respondent have the right to be represented or accompanied by a trade union representative or work companion at any meeting held under this formal procedure and also under the appeal procedure (within section B.4). The representative/companion must maintain confidentiality at all times.

B.2.6 If the investigative panel concludes that it is necessary in order to enable a proper investigation to be undertaken and/or to prevent any further allegations, they may recommend to the Director of HR to place the respondent on suspension or temporary redeployment. Alternatively, they may recommend, in discussion with the complainant, to place the complainant on suspension or temporary redeployment in order to avoid further distress. The respondent will be considered first for this action. Suspension is a precautionary measure only, pending the outcome of the investigation under this policy and is not a punishment in itself. If an employee is suspended their contract of employment will continue in full force and effect and they will be paid at their normal basic pay rate and receive any usual benefits. There are different suspension arrangements for casual workers who will not be engaged for work during a period of suspension. Suspended staff will not be allowed onto University premises while suspended without the prior consent of their line manager or a member of the investigative panel except for a meeting with their trade union representative, in which case the line manager must be informed in advance. When suspended they are required to be available to attend meetings and respond to requests under this procedure. They must continue to report sickness in the normal way as set out in the Sickness Absence Policy and Procedure and request annual or other leave as required under University rules.

B.2.7 The investigative panel will arrive at reasonable conclusions based on all the evidence that they have heard and will produce a report of their investigation. This investigation report will advise, on the basis of the evidence compiled, whether in respect of the allegations of harassment and/or bullying:

- a) the case does not warrant referral to a formal disciplinary hearing; or
- b) the case warrants referral to a formal disciplinary hearing.

In either case, the panel may additionally make recommendations for action outside the disciplinary process.

B.2.8 **No Referral to disciplinary hearing** - If the investigative panel conclude that there is no case to answer in respect of harassment, bullying or victimisation, the chair of the investigative panel will write to the complainant and the respondent confirming this. The complainant has a right to appeal against this decision, as set out in section B.4 below.

B.2.9 **Referral to disciplinary hearing** - If the investigative panel conclude that the case requires referral to a disciplinary hearing in respect of the respondent's conduct, the hearing will be set up as quickly as possible in line with the University's Disciplinary Policy and Procedure. In this situation the investigation report including witness statements and interviews will form the management case for a staff disciplinary hearing. At the disciplinary hearing the investigative panel will attend to present the management case and the complainant may be requested to attend the disciplinary hearing as a witness (where they may be accompanied or represented).

- B.2.10 In some cases the investigative panel may identify capability/performance issues in the respondent or the complainant. In these situations it will be appropriate to take forward the issues under the University's Capability Policy and Procedure.
- B.2.11 Where following investigation and completion of actions, the parties to the complaint remain University staff and work closely together and/or within the same work area, it may be necessary for them to be separated. Wherever possible it will be the respondent who is moved if a complaint is upheld against them. Even if the complaint is not upheld, it may be appropriate to separate the complainant and the respondent, on either a temporary or permanent basis, where practical, in the interests of good ongoing work relationships.
- B.2.12 Where it is suspected that a complainant, respondent or witness has been victimised as a result of the allegation of harassment or bullying this may be investigated as a further potential act of misconduct under this policy and procedure.
- B.2.13 If the investigative panel conclude that the complaint is unfounded they will also consider whether it is malicious and/or vexatious. If they conclude that it is malicious and/or vexatious the complainant will be required to attend a formal hearing under the University's Disciplinary Policy and Procedure at which disciplinary action may be taken against them. If the investigative panel conclude that the complaint was unfounded but was made by the complainant in good faith, this will be confirmed in writing and no further action will be taken.

### **B.3 Disciplinary action**

- B.3.1 If misconduct is found following full consideration by a disciplinary hearing, allegations of harassment and bullying may result in disciplinary action being taken against the respondent, up to and including summary dismissal.
- B.3.2 Where disciplinary action is taken against a member of staff they have a right to appeal against this in line with the University's Disciplinary Policy and Procedure.
- B.3.3 When formal disciplinary action is taken against the respondent, the complainant will be advised of the outcome on a confidential basis. In cases where the complaint is found to be vexatious or malicious the respondent will be informed in confidence.

### **B.4 Appeal against the Decision of the Investigative Panel**

- B.4.1 Where the complainant is in reasonable disagreement with the outcome of the investigation under paragraph B.2.7 they may raise an appeal against this decision. They may request additional documentation from the investigative panel where appropriate to assist their decision whether to appeal or not. The right of appeal must be exercised within 10 working days of the receipt of the letter confirming the decision of the investigative panel

by writing to the Director of Human Resources stating the grounds on which the appeal is made. This should include identifying the evidence on which they are basing their case.

- B.4.2 The appeal will be considered by a panel of two appointed by the Director of Human Resources to normally include the Director or Deputy Director of HR or an HR Manager who has had no previous involvement in the case. If deemed necessary an appeal hearing will be held. The complainant and the investigative panel members (but not the respondent) will also attend the appeal hearing. The complainant has the right to be represented or accompanied at the appeal hearing by a work companion. The respondent will be informed that the complainant has appealed against the decision of the investigative panel.
- B.4.3 During the appeal hearing, the panel will review the decision of the investigative panel against the grounds raised by the complainant. The normal process for the appeal hearing will involve the complainant presenting their case first followed by the investigative panel with opportunities for cross-questioning from both and the appeal panel.
- B.4.4 The decision of the appeal panel will be communicated in writing, normally within 5 working days of the hearing unless otherwise agreed by the parties. The outcome letter will be copied to the respondent.
- B.4.5 The decision of the appeal panel shall be final within the policies and procedures of the University.

## **B.5 Documentation:**

- B.5.1 The University and all those involved in this process must comply with the law relating to the keeping of personal data. This includes ensuring that personal data is kept accurate and up-to-date, held securely and confidentially, not passed on to unauthorised third parties, and not kept for longer than necessary. The notes from all formal meetings of all parties interviewed must be checked with the attendees to ensure the records of proceedings accurately reflect the content of the meetings and held confidentially.
- B.5.2 A copy of the letter from the investigative panel confirming the decision from their investigation of complaints will be held confidentially on the personal file of the complainant and respondent.
- B.5.3 The confirmation of any disciplinary warning issued and/or any appeal outcome against a member of staff in relation to a complaint of harassment, bullying and/or victimisation will also be held on the personal file of the staff member in line with the relevant paragraphs of the Disciplinary Policy and Procedure.
- B.5.4 At the end of the investigation the investigative panel will submit the papers to the Director of Human Resources for safe and confidential storage for a

period that he will determine in line with legislative and regulatory requirements.

**Dignity and Respect Policy & Procedure**

