

Prevention of Bullying, Harassment and Sexual Misconduct Policy and Procedure

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1. Policy statement

The Place is committed to creating and maintaining an inclusive and welcoming community where people treat each other with respect, and accepts its responsibility and duty of care to investigate unacceptable behaviour that comes to its notice.

This policy sets out the commitment and what actions can be taken if unacceptable behaviour occurs.

The Place encourages individuals to make every effort to resolve bullying, harassment, and sexual misconduct issues informally in the first instance. This is often the most effective method of dealing with unacceptable behaviour, although it is recognised this approach may not always be appropriate.

Where a grievance investigation finds that unacceptable behaviour has taken place, this may result in action under the relevant staff or student disciplinary procedure. In certain instances The Place may decide that *prima facie* there is sufficient evidence for the matter to be dealt with in the first instance under the relevant staff or student disciplinary procedure.

At any point in the process it may be necessary to make a referral to the Police.

2. Scope

This policy and the associated procedure applies to all members of The Place community or involved in its activities - students, staff (including hourly paid staff) and third parties (governors, alumni, freelance workers, volunteers, visitors, customers, clients and contractors)

The policy and procedure cover unacceptable behaviour in the workplace and student space (including virtual settings), in any work-related or student-related setting outside the workplace or student space, for example business trips, study trips, work-related or student related-social events, and social media.

The Place is aware that sometimes an allegation will not be reported at the time it occurs, but later, sometimes much later. All allegations will be taken seriously and will be handled

in a way that is sensitive and fair to the individual who has made the allegation, anybody who has witnessed it and anybody against whom allegations of unacceptable behaviour have been made. Although historic allegations will be taken seriously and investigated accordingly, in the context of employment there is a time limit for any action that can be taken under Employment Law.

Where those covered by this policy and procedure who have experienced bullying, harassment or sexual misconduct and are under the age of 18 or is deemed to be an “adult at risk”, there may be a safeguarding issue involved, and the Safeguarding Policy should also be referred to.

3. Roles and responsibilities

The Board of Governors has overall responsibility for ensuring that the policy and procedure is up to date and operating effectively, and for ‘setting the tone’ in relation to the commitment create and maintain an inclusive and welcoming community where people treat each other with respect.

The **Chief Executive** is responsible for ensuring that the processes described in this policy and procedure are functioning effectively through the management structure, and to act as a role model of appropriate behaviour.

Line Managers and others in a position of trust are expected to act as role models of appropriate behaviour, take action at the earliest opportunity when they become aware of a potential breach of the policy and ensure that staff, students and others covered by the policy are aware of the policy and know what to do if they experience unacceptable behaviour.

Staff and students and all others covered by the policy have a responsibility not to behave unacceptably and to participate in any training provided.

The **Head of Human Resources** is responsible for providing advice to staff who believe they have experienced unacceptable behaviour, those who are alleged to have behaved inappropriately and supporting all those involved in both informal and formal resolution processes. They are also responsible for ensuring staff have access to appropriate and regular training.

The **Director of Registry and Student Well Being** is responsible for providing advice to students alleging they have experienced unacceptable behaviour, those who are alleged to have behaved inappropriately and supporting those involved both informal and formal resolution processes. They are also responsible for ensuring students have access to appropriate and regular training.

All of those in The Place community have a responsibility to report any unacceptable behaviour that they have personally witnessed or become aware of.

4. Definitions - what constitutes unacceptable behaviour?

Behaviour that is perceived by one individual as unacceptable may not necessarily be perceived in the same way by another. When deciding whether behaviour is unacceptable, factors that will need to be taken into consideration include the impact on the individual and whether that impact or effect is reasonable in the circumstances, the specific context, and

the description of what constitutes bullying, harassment, discrimination, sexual misconduct, and victimisation as set out below.

Bullying is unwanted behaviour from a person or group that is offensive, intimidating, malicious or insulting to the recipient and may involve the misuse of power. Bullying can make a person feel vulnerable, upset, humiliated, undermined or threatened.

Harassment is any unwanted physical, verbal or non-verbal conduct that has the purpose or reasonable effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. Harassment can be a single incident or repeated behaviour and can include imagery, graffiti, gestures, mimicry, jokes, pranks, and physical behaviour that affects the recipient. It can also include treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.

Unlawful harassment under the Equality Act 2010 may be related to the following protected characteristics: age, disability, gender reassignment, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex or sexual orientation.

Unlawful harassment under the Equality Act 2010 can also be conduct of a sexual nature. Sexual harassment may violate the recipient's dignity or create an environment that is intimidating, humiliating or offensive for the recipient.

Conduct may be harassment whether or not the person behaving in that way intends to offend. Something intended as a "joke" or considered "banter" may offend another person. Different people find different things acceptable. Everyone has the right to decide what behaviour is acceptable to them and to have their feelings respected by others.

Behaviour that any reasonable person would realise would be likely to offend will be harassment without the recipient having to make it clear in advance that behaviour of that type is not acceptable to them, for example sexual touching. It may not be so clear that some other forms of behaviour would be unwelcome to, or could offend, another person, for example flirting or asking someone for a private drink after work. In these cases, first-time conduct that unintentionally causes offence will not be harassment, but it will become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that the behaviour is unacceptable to them.

Sexual conduct that is consensual, mutual, and invited is not harassment. However, the conduct may become unwanted (for example, where a sexual relationship ends) and if it continues, may amount to harassment. For further information see Policy on Personal Relationships.

Harassment may also occur where a person engages in unwanted conduct towards another because they perceive that the recipient has a protected characteristic (for example, a perception that they are gay or have a disability), when the recipient does not, in fact, have that protected characteristic. Similarly, harassment could take place where an individual is bullied or harassed because of another person with whom the individual is connected or associated, for example if their partner is pregnant or they have a friend who is a devout religious believer.

A person may feel harassed even if the unwanted conduct is not directed towards them or related to their actual or perceived protected characteristic.

There may also be circumstances in which an individual is subjected to unwanted conduct from a third party, for example, if a contractor makes a racist remark to a student of colour.

A single incident can be harassment if it is sufficiently serious.

Sexual misconduct relates to all unwanted conduct of a sexual nature. This includes, but is not limited to Sexual harassment (as defined by Section 26 (2) of the Equality Act 2010); unwanted conduct which creates an intimidating, hostile, degrading, humiliating or offensive environment (as defined by the Equality Act 2010); assault (as defined by the Sexual Offences Act 2003); rape (as defined by the Sexual Offences Act 2003); Physical unwanted sexual advances (as set out by the Equality and Human Rights Commission: Sexual harassment and the law, 2017); intimidation, or promising resources or benefits in return for sexual favours (as set out by the Equality and Human Rights Commission: Sexual harassment and the law, 2017); distributing private and personal explicit images or video footage of an individual without their consent (as defined by the Criminal Justice and Courts Act 2015);]

Discrimination is when the recipient is treated unfairly or less favourably because of any of the following protected characteristics: age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, or sexual orientation. This behaviour is unlawful under the Equality Act 2010.

Victimisation occurs when a person is subject to a detriment because they made a complaint of discrimination or provided evidence or information in connection with a complaint of discrimination, or someone believes that they have done so or may do so.

Abuse of power

An abuse of power is where someone uses their position of power or authority in an abusive and unacceptable manner. Abuse of power can take various forms and may include, but is not limited to manipulation, coercion, or pressuring someone to do something which may be illegal or against the rules. or something which they are not comfortable with. Abuse of power may also occur in the context of a close personal or intimate relationship. Please see the Personal Relationships Policy for more details. Abusive behaviours may be expressed in person, in writing and/or by electronic means.

Consent

Consent is agreeing by choice and having the freedom and capacity to make that choice. The person seeking consent should always take steps to ensure that consent is freely given, that it is informed, that it cannot be assumed to be ongoing and may be withdrawn at any time.

Freedom to consent: a person is free to make a choice if nothing negative would happen to them if they said no. For example, a person may not feel free to make a choice if:

- They are being threatened with violence (by the perpetrator and/or by someone else).
- They are being threatened with humiliation.
- They believe that the continuation or assessment of their studies, or progression or advancement of their career, will be at risk if they refused.
- They are being blackmailed.
- There is a significant power imbalance and the party without power feels pressured to continue in the relationship against their will.

Capacity to consent: Capacity is about whether someone is physically and/or mentally able to make a choice and to understand the consequences of that choice. For example, a person does not have the capacity to give consent if:

- They are drunk or under the influence of drugs - this means, for example, someone may still be physically able to have sex but they may not be able to consent.
- They are asleep or unconscious.
- They have, for example, a cognitive or learning difficulty, a disability which impairs their speech, or are experiencing a mental health crisis.

5. Confidentiality

All evidence provided under this policy and procedure will be treated in a sensitive and confidential manner. Information will be shared on a need-to-know basis, including as appropriate with the student, staff member or other person covered by this policy against whom allegations are being made, and in cases where the Police and/or the Courts are involved. Unnecessary disclosure of such allegations may result in disciplinary action. As part of the investigatory process the identity of the individual(s) providing the evidence may have to be revealed and, as appropriate, they may be requested to make a statement and/or attend an investigatory interview or be part of a fact-finding process.

6. Anonymous allegations

Individuals raising a concern are encouraged to identify themselves. Usually, information from reports made anonymously will only be used to monitor the patterns of such incidents. However, depending on the seriousness of the issue, the credibility of the concern, and any evidence available in an anonymous allegation and the likelihood of being able to investigate the matter, The Place may investigate an anonymous allegation.

The Place will ensure reporting parties are aware that any action by a university to an anonymous report may be limited due to natural justice, which states that the responding party has the right to know what they are accused of.

7. Allegations made in good faith

This policy is intended to promote a consistent approach in handling concerns that are made in good faith. No action will be taken if a concern which, following an investigation, proves to be unfounded and is judged to have been made in good faith. However, if there is evidence that allegations have been made vexatiously, that false information has been provided or that the person/people making the allegation has otherwise acted maliciously, action may be taken against them under the staff disciplinary procedure or the relevant student procedure.

8. Counter-allegations

It is acknowledged that sometimes when an allegation has been made, the person against whom that allegation has been made decides to make allegations against the complainant. If this occurs, such "counter-allegations" will be considered at the same time, with separate reports.

9. Collective allegations

Allegations that are brought by more than one individual about the same issue will be considered on a case-by-case basis depending on the nature of the concerns. Each

individual member of the collective allegations must provide specific details of the incident(s) as it relates to them personally, and whether they have experienced or witnessed the alleged behaviour.

10. Support available

When considering what to do about their concern, individuals are encouraged to speak in the first instance with the Head of Human Resources, the Director of Registry and Student Well Being, their line manager, pastoral tutor, student union representative, mental health advisor or well-being officer.

11. Procedure

This procedure describes both informal as well as formal approaches that are available.

Informal approach outside of procedure

An informal approach outside of any procedure will often resolve one-off or minor incidents of alleged unacceptable behaviour. The person who has experienced the behaviour may feel able to approach the alleged perpetrator personally or with the help of someone else. The alleged perpetrator may not know that their behaviour is unwelcome or upsetting. An informal discussion may help them to understand the effects of their behaviour and agree to change it.

If any person covered by this policy is approached and told that their behaviour could be construed as bullying, harassment or sexual misconduct, they should be prepared to listen patiently and calmly. Whilst it may be upsetting, they should allow the person to express their concerns, and if appropriate, try to reach common ground to remedy the situation and allow a positive working/learning relationship to be resumed

The alleged perpetrator should be told what behaviour has been found to be unacceptable and should be asked to stop it immediately. The person who has experienced the behaviour may want to add that, if the behaviour continues, they intend to use the informal or formal stage of the grievance procedure or student complaints procedure. They should keep a record of the nature and frequency of the alleged inappropriate behaviour. This is to support them in raising their concerns and help the other party understand better the issues and the impact they have had on the complainant.

Students are entitled to be supported in their informal approach by a student union representative or the student union president. Support may take the form of accompanying the student or advocating on their behalf.

Submitting a grievance or complaint

Staff and students are entitled to move to the use of their respective procedures, either directly or if they are dissatisfied with the outcome of an informal approach. Both procedures describe informal and formal routes that can be used for individual instances, repeated patterns of inappropriate behaviour, or where previous informal attempts to resolve issues have failed.

Third parties

Students or members of staff who feel they have experienced unacceptable behaviour by a third party should discuss this in the first instance with Human Resources, their line manager, tutor, student representative or Student Support staff as may be appropriate.

Matters relating to the alleged unacceptable behaviour by third parties will be dealt with according to the circumstances, for example notifying third parties and asking them to investigate, terminating a contract or banning the person from the premises.

Third parties (i.e. all others who are not staff or students) who believe they have experienced unacceptable behaviour by another member of The Place community or a person involved in its activities have access to the Public Complaints procedure.

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