



# HARASSMENT POLICY & PROCEDURE v.2

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# 1 Introduction

West Lothian College deplores all forms of harassment and seeks to ensure that the working environment is sympathetic to its employees. The following policy and procedure informs employees of the type of behaviour that is unacceptable and provides employees who are the victims of harassment with the means of redress. Implementation of the policy is the duty of managers and supervisors. However it is the responsibility of all employees to ensure that their behaviour in all work related situations does not cause offence or distress.

At all times members of staff are expected to:

- have due regard for and comply with relevant law
- act with integrity, honesty, loyalty and fairness
- act within the limits of personal competence

The code is not concerned with the application of proper legitimate and reasonable authority by supervisors or heads of departments and other managers in respect of their staff in the furtherance of their duties.

Harassment is particularly unacceptable where the harasser occupies a position of power or authority – for example, in the role of a supervisor, Head of Department, line manager, or administrator who is able to affect the employment, career, grade, or qualification of the target.

# 2 Aims

2.1 The specific aims of this policy and procedure are to:

- a ensure that all employees are aware of the types of behaviour which may constitute harassment and their responsibilities for preventing such behaviour,
- b ensure that all employees understand that harassment is intolerable and unacceptable and that disciplinary action will be taken against offenders,
- c provide arrangements whereby complaints can be investigated in a manner which recognises the sensitivity of the issues raised and the rights of both parties involved,
- d ensure that all allegations of harassment are responded to positively and with the utmost confidentiality and
- e promote a climate in which employees feel confident in bringing forward complaints of harassment without fear of victimisation or recriminations.

2.2 When appropriate, every effort will be made to resolve the situation informally.

Some incidents, however, by virtue of their serious nature will need to be dealt with immediately under the formal procedure. Disciplinary action, which may include dismissal, will be taken against those failing to fulfil their responsibilities under this policy.

### **3 Harassment**

Harassment takes many forms, from relatively mild sexual banter to actual physical violence. All are deemed to be forms of misconduct.

Harassment can take many forms including verbal, written or electronic communication.

Examples of harassment are below and are subdivided into five areas: harassment, gender and sexual harassment, racial and religious harassment and harassment on grounds of disability and bullying.

#### **a Harassment**

Definition –

"Harassment is unreciprocated and/or unwelcome comments, looks, actions and suggestions or physical contacts that are found objectionable and/or offensive and might threaten an employee's ability to carry out their job or create an intimidating working environment."

For example:

- 1 Derogatory remarks
- 2 Insensitive jokes or pranks
- 3 Physical contact

#### **b Gender and Sexual Harassment**

Definition –

"Conduct which is imposed on another person because of his/her sex. It is unwanted, unreciprocated and regarded as offensive by the recipient."

For example:

- 1 Lewd comments about appearance
- 2 Unnecessary body contact
- 3 Displays of sexually offensive material eg pin ups
- 4 Requests for sexual favours
- 5 Speculation about an employee's private life and sexual activities, marital status and sexual orientation
- 6 Threatened or actual sexual violence
- 7 Threat of dismissal, loss of promotion etc for refusal of sexual favours.

#### **c Racial and Religious Harassment**

Definition –

"Unacceptable conduct by an individual against another or others, where the motivation is the colour, race, ethnic origin or religion of the target."

For example:

- 1 Derogatory name calling
- 2 Belittling remarks
- 3 Ridicule, jokes
- 4 Graffiti
- 5 Verbal abuse
- 6 Threats of physical assault because of cultural and/or religious differences.

**d Harassment on Grounds of Disability**

Definition –

"Unacceptable conduct by an individual against another or others, where the motivation is the physical or other disability of the target."

For example:

- 1 Derogatory name calling
- 2 Belittling remarks
- 3 Ridicule, jokes
- 4 Verbal abuse and threats on grounds of the disability

**e Bullying**

Definition –

"Offensive, abusive, intimidating, malicious or insulting behaviour, abuse of power or unfair penal sanctions which makes the recipient feel upset, threatened, humiliated or vulnerable which undermines their self confidence and which may cause them to suffer stress."

For example:

- 1 Shouting or intimidating staff, in public or in private
- 2 Sudden rages, often for trivial reasons
- 3 Persistent (unsubstantiated) criticism
- 4 Removing areas of responsibility
- 5 Ignoring or excluding an individual
- 6 Setting menial or demeaning tasks
- 7 Setting impossible deadlines
- 8 Inconsistent demands of staff

The examples above are not exhaustive. Items b 6 and b 7 are obvious examples of gross misconduct, punishable by summary dismissal but other items may constitute gross misconduct depending on the circumstances of the case in question.

## **4 The Environment**

The College prohibits the display of sexually offensive material eg pin-ups and posters, and will, if necessary, ensure that workplaces are inspected and offending material removed.

## **5 Information**

All new employees will be informed of the College's policy towards harassment at induction training, when it will be stressed that all complaints of harassment will be treated very seriously and all reported incidents of harassment will be recorded and action noted.

## **6 Procedure**

### **6.1 Informal Remedy**

The College recognises the sensitive nature of complaints of harassment and will respect confidentiality at all times. Employees who wish to discuss such complaints in confidence should contact the HRM Department or line manager or the immediate senior manager in circumstances where the alleged harasser is the line manager.

Employees should then make it clear to their harasser that the behaviour is unacceptable and must stop.

If an employee is unable to do this verbally then a written request (explaining the distress that the behaviour is causing) handed to the harasser may be effective.

### **6.2 Formal Procedure**

Where informal methods fail, or serious harassment occurs, employees are advised to bring a formal complaint under the College's Grievance Procedure. The links between the Grievance and Disciplinary Procedures are depicted in Appendix A.

The complaint should be made in writing and where possible state:

- the name of the harasser
- the nature of the harassment
- date(s) and time(s) when harassment occurred
- name of witness to any incident of harassment
- any action already taken by the complainant to stop the harassment

The complaint should be sent to the Principal who will appoint an investigating officer.

In circumstances where this is not appropriate (eg Complaint by or against the Principal or the Secretary to the Board of Governors), the complaint should be sent to the Clerk to the Board of Management.

Immediately a complaint of harassment has been received, action should be taken to separate the harasser and the complainant.

The investigating officer is responsible for undertaking an investigation into the grievance and will be assisted by a member of the HRM Department. All employees involved in the investigation should observe the need for confidentiality. Failure to do so will be considered a disciplinary offence.

If, after interviewing the complainant, the investigating officer believes that the allegation of harassment is without substance, then the complainant and the alleged harasser should be informed in writing that the allegation is not to be investigated further.

If, after interviewing the complainant, the investigating officer believes that the allegation should be investigated further, then:

- a the complainant shall be informed in writing at this stage that his/her grievance should be "frozen" (ie held in abeyance) meantime;
- b the alleged harasser should be informed that an allegation has been made and shall be given details in writing of the nature of the allegations. Where the alleged harassment is particularly serious, the alleged harasser may be suspended on full pay in accordance with the provisions of the Disciplinary Procedure, and
- c a full investigation will be conducted in accordance with the Disciplinary Procedure.

Complainants may, if they wish, be supported throughout the procedure and hearing by members of the HRM Department or by a trade union representative, or colleague of their choice.

The severity of the sanctions taken against an employee found engaging in harassment will be consistent with those detailed in the Disciplinary Procedure ie incidents of gross misconduct will normally result in summary dismissal. Where a lesser penalty is appropriate eg a written warning, this may be coupled with action to ensure the complainant is able to continue working without embarrassment or anxiety. Where appropriate, arrangements may be made for amendments in working practices to minimise contact between the two employees. If the complainant so wishes, transfer of the complainant may be arranged, subject to practical limitations. The result of the hearing will be confirmed in writing to both employees.

## **7 Decisions**

If it is concluded that the allegation of harassment is unjustified or that the evidence is insufficient or inconclusive, the complainant should be informed, in writing, of this decision. This communication will detail the main reason for reaching this decision and that no formal disciplinary action against the alleged harasser is proposed.

The alleged harasser should also be advised, in writing, of the outcome. The complainant will be entitled to appeal against the decision under the terms of the Grievance Procedure.

An employee who receives a warning or who is dismissed for harassment may appeal in accordance with the College's Appeals Procedure (refer Disciplinary Procedure).

An employee who brings a complaint of harassment will not suffer for having brought the complaint unless it is untrue and has been brought in bad faith, in which case the Disciplinary Procedure may be invoked.

Where appropriate, counselling services can be arranged for all parties.

## **8 Monitoring**

The operation of this policy shall be monitored in terms of the number and nature of formal complaints which are submitted. The HRM Department shall keep records for this purpose.

# Appendix A

