



Harassment and Bullying Procedure

Bullying and Harassment Policy

1. Introduction

Harassment and bullying can have very serious consequences for individuals and RW Projects South West Ltd. Harassment or bullying may make people unhappy, may cause them stress and affect their health and family and social relationships, may affect their work performance and could cause them to leave their job. Severe cases of harassment and bullying can even lead to mental illness and suicide. Effects on the University can include loss of morale, poor work performance, increased turnover of staff, legal claims and damage to RW Projects South West Ltd reputation.

Employees found guilty of harassment or bullying may face disciplinary penalties, up to and including dismissal, could be personally liable to pay compensation in legal claims, and may find their own family and social relationships are adversely affected. Serious harassment may be a criminal offence.

2. Our Commitment

RW Projects South West Ltd is committed to creating a work environment free of harassment and bullying, where everyone is treated with dignity and respect.

RW Projects South West will not tolerate bullying and harassment of any kind. All allegations of bullying and harassment will be investigated and, if appropriate, disciplinary action will be taken.

RW Projects South West will also not tolerate victimisation of a person for making allegations of bullying or harassment in good faith or for supporting someone to make such a complaint. Victimisation is a disciplinary offence.

This commitment is also reflected in 'A Guide to Promoting a Mutually Respectful RW Projects South West which provides practical guidance and information on how to promote a shared understanding of what is an inclusive and supportive environment for the RW Projects South West community.

3. The Scope of this Policy

This policy covers bullying and harassment of and by employees, contractors, agency staff and anyone else engaged to work at RW Projects South West, whether by direct contract with RW Projects South West or otherwise. If the complainant or alleged harasser is not employed by RW Projects South West, e.g. if the worker's contract is with an agency, this policy will apply with any necessary modifications such as that RW Projects South West could not dismiss the worker but would instead require the agency to remove the worker, if appropriate, after investigation and disciplinary proceedings.



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The policy covers bullying and harassment in the workplace and in any work-related setting outside the workplace, e.g. business trips and work-related social events.

4. Exclusions

This policy does not cover bullying and harassment of and by students for which there are separate policies and procedures.

5. Training

RW Projects South West will provide training to all existing and new employees and others engaged to work at RW Projects South West to help them understand their rights and responsibilities under this policy and what they can do to help create a working environment free of bullying and harassment. We will provide additional training to managers to enable them to deal effectively with complaints of bullying and harassment.

6. Review

RW Projects South West will review the outcomes of cases where complaints of bullying and harassment have been made to check that the proper procedures have been followed and to identify any points that can be learned from those cases and implement any necessary changes.

RW Projects South West will also periodically monitor how successful it is being in creating a workplace free of bullying and harassment by other means which may include staff surveys and information collected from leavers' questionnaires, etc.



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(This procedure should be read in conjunction with the 'Guidance Notes for Staff' at Appendix 1)

1. Deciding on appropriate action

1.1 When an employee feels that they have been bullied or harassed by another member of staff they may find it helpful, in the first instance to discuss the matter before deciding what to do next.

1.2 RW Projects South West has a team of Harassment Advisers who are trained to advise staff in confidence about matters relating to bullying or harassment. Any member of staff may contact an adviser and speak to them in confidence.

1.3 Alternatively, the member of staff may wish to speak to their line manager

2. Informal Action Prior to Invoking Formal Procedure

2.1 It may be possible to sort out matters informally.

2.2 This may be achieved by arranging a discussion/meeting with the alleged harasser.

2.3 The person may not be aware that his/her behaviour is unwelcome or upsetting and an informal discussion may help him/her to understand the effects of his/her behaviour and agree to change it.

2.4 If the employee feels uncomfortable approaching the alleged harasser the approach may be made on their behalf by a Harassment Adviser, the line manager or a human resources manager

2.5 The alleged harasser should be told what behaviour the employee finds to be offensive and/or unwelcome, and be told that a formal complaint may be made should the unwanted behaviour continue.

2.6 These meetings will be held in a respectful, confidential and non-confrontational manner to allow the perspective of both employees to be heard.



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3. The Formal Procedure

3.1 If an informal approach does not resolve matters, or the situation is too serious to be dealt with informally, then a formal complaint should be made using the RW Projects South West Grievance Procedure

3.2 The employee will need to complete the form at Appendix 2 of the Grievance Procedure, clearly annotating that the complaint is in relation to bullying and/or harassment.

4. Serious cases

In some cases, a criminal offence may have been committed and it may be appropriate to report matters directly to the police.



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What is bullying and harassment?

Bullying is offensive, intimidating, malicious or insulting behaviour, and/or an abuse or misuse of power that serves to undermine, humiliate or injure the person on the receiving end.

The Equality Act 2010 defines harassment as unwanted conduct related to relevant protected characteristics, which are sex, gender reassignment, race (which includes colour, nationality and ethnic or national origins), disability, sexual orientation, religion or belief and age, that:

- has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person; or
- is reasonably considered by that person to have the effect of violating his/her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for him/her, even if this effect was not intended by the person responsible for the conduct.

Conduct may be harassment whether or not the person behaving in that way intends to offend. Something intended as a "joke" may offend another person. Different people find different things acceptable. Everyone has the right to decide what behaviour is acceptable to him/her and to have his/her feelings respected by others. Behaviour which 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 him/her, e.g. sexual touching. It may not be so clear in advance that some other forms of behaviour would be unwelcome to, or could offend, a particular person, e.g. certain "banter", flirting or asking someone for a private drink after work. In these cases, first-time conduct which 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 such behaviour is unacceptable to him/her.

Harassment may also occur where a person engages in unwanted conduct towards another because he/she perceives that the recipient has a protected characteristic (for example, a perception that he/she is gay or disabled), when the recipient does not, in fact, have that protected characteristic. For example, it would be harassment for an individual to tease repeatedly an individual because of an incorrect belief that that the recipient is deaf. 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 his/her child is disabled, wife is pregnant or friend is a devout Christian.

Harassment also includes circumstances where an individual is subjected to unwanted conduct from a third party, such as a client or customer. For example, it



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might be that a client makes a series of racist remarks to a black employee. If an employee feels

that he/she has been bullied or harassed by students, suppliers, vendors or visitors, he/she should report any such behaviour to their manager who will take appropriate action. Bullying or harassment of students, suppliers, vendors or visitors or others will be dealt with through the disciplinary procedure.

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

All bullying and harassment is misconduct and is a disciplinary offence which will be dealt with under the University's disciplinary policy. Bullying or harassment will often be gross misconduct, which can lead to dismissal without notice.

Bullying or harassment will constitute unlawful discrimination where it relates to one of the protected characteristics, which are sex, gender reassignment, race (which includes colour, nationality and ethnic or national origins), disability, sexual orientation, religion or belief and age. Serious bullying or harassment may amount to other civil or criminal offences.

The Protection from Harassment Act 1997 prohibits the pursuit of a 'course of conduct which amounts to harassment of another' even where there is no allegation of discrimination. Harassment is conduct that causes alarm or distress, and a course of conduct must involve such conduct on at least two occasions.

For the purpose of this Act, the person whose course of conduct is in question ought to know that it amounts to harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of another. This also includes a course of conduct that amounts to stalking.

This Act makes such harassment a criminal offence and also creates a civil statutory tort of harassment which enables a person to obtain a civil court injunction to stop harassment occurring.

Appendix 2 gives specific examples of bullying and harassment.

Line Management Responsibilities

A manager's duties may involve dealing with discipline or poor performance as part of their role. This does not constitute bullying or harassment providing appropriate methods are used,

Any reasonable management request is not bullying or harassment even when, on occasion, the request may be something the member of staff disagrees with or does not want to do, providing that the instruction is commensurate to their role

What is Victimisation?



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Victimisation is subjecting a person to a detriment because he/she has, in good faith, complained (whether formally or otherwise) that someone has been bullying or

harassing him/her or someone else, or supported someone to make a complaint or given evidence in relation to a complaint. This would include isolating someone because he/she has made a complaint or giving him/her a heavier or more difficult workload.

Provided that you act in good faith, i.e. you genuinely believe that what you are saying is true, you have a right not to be victimised for making a complaint or doing anything in relation to a complaint of bullying or harassment and the RW Projects South West will take appropriate action to deal with any alleged victimisation, which may include disciplinary action against anyone found to have victimised you.

Making a complaint that you know to be untrue, or giving evidence that you know to be untrue, may lead to disciplinary action being taken against you.

What should I do if I think I am being bullied or harassed?

Approach the Line Manager and report immediately

It may be possible to sort out matters informally. The person may not know that his/her behaviour is unwelcome or upsetting. An informal discussion may help him/her to understand the effects of his/her behaviour and agree to change it. You may feel able to approach the person yourself, or with the help of someone in human resources, a manager, trade union representative, a employee. Alternatively, an initial approach could be made on your behalf by one of these people. You should tell the person what behaviour you find offensive and unwelcome, and say that you would like it to stop immediately. You may want to add that, if the behaviour continues, you intend to make a formal complaint to your manager or human resources. You should keep a note of the date and what was said and done. This will be useful evidence if the unacceptable behaviour continues and you wish to make a formal complaint.

If an informal approach does not resolve matters, or you think the situation is too serious to be dealt with informally, you can make a formal complaint by using the RW Projects South West grievance procedure. In the case of grievances about bullying or harassment, the normal grievance procedure is modified so that you can choose whether to raise your grievance with your manager or directly with the human resources department. RW Projects South West will ensure that you can bring your complaint in the first instance to someone of your own sex, if you so choose.



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In more serious cases, a criminal offence may have been committed and you may wish to report matters to the police. The human resources department can arrange for someone to accompany you to make a complaint to the police.

All complaints will be investigated promptly and, if appropriate, disciplinary proceedings will be brought against the alleged harasser. You will have the right to be

accompanied by a work colleague or trade union representative of your choice at any meeting dealing with your grievance. You will be kept informed of the general progress of the process of investigation. The University will decide, after considering all available evidence, whether any action needs to be taken in line with employment law and ACAS best practice.

RW Projects South West will treat complaints of bullying and harassment sensitively and maintain confidentiality to the maximum extent possible. Investigation of allegations will normally require limited disclosure on a "need to know" basis. For example, your identity and the nature of the allegations must be revealed to the person you are complaining about, so he/she is able to respond to the allegations. Some details may also have to be given to potential witnesses but the importance of confidentiality will be emphasised to them. If the complaint is upheld, and a person who has been found to have harassed you is kept in the RW Projects South West employment, managers may need to be given some information where this is necessary for them to manage the risk of further harassment by that person against you or others.

Wherever possible, RW Projects South West will try to ensure that you and the alleged harasser are not required to work together while the complaint is under investigation. This could involve giving you the option of remaining at home on special leave, if you wish. In a serious case, the alleged harasser may be suspended on full pay while the investigation and any disciplinary proceedings are underway. Both parties will be kept apart during any formal hearings.

If your complaint is upheld, and the person found to have bullied or harassed you remains in RW Projects South West employment, every effort will be made to ensure that, if possible, you do not have to continue to work alongside the harasser, if you do not wish to do so. We will discuss the options with you. These may include the transfer of the harasser or, if you wish, you may be able to transfer to another post.

You have a right not to be victimised for making a complaint in good faith, even if the complaint is not upheld. However, making a complaint that you know to be untrue may lead to disciplinary action being taken against you.

What happens if I am accused of Bullying or Harassment?



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If someone approaches you informally about your behaviour, do not dismiss the complaint out of hand because you were only joking or think the complainant is being too sensitive. Remember that different people find different things acceptable and everyone has the right to decide what behaviour is acceptable to him/her and to have his/her feelings respected by others. You may have offended someone without intending to. If that is the case, the person concerned may be content with an

explanation and an apology from you and an assurance that you will be careful in future not to behave in a way that you now know may cause offence. Provided that you do not repeat the behaviour that has caused offence that may well be the end of the matter.

If a formal complaint is made about your behaviour, this will be fully investigated and RW Projects South West may bring disciplinary proceedings, if appropriate. Please refer to the Disciplinary Policy/Procedure to see the proceedings and your rights set out in that procedure. The procedure will be implemented at the appropriate stage for the seriousness of the allegation. Complaints of bullying and harassment will often be allegations of gross misconduct that, if proved, could lead to dismissal without notice.

RW Projects South West will treat complaints of bullying and harassment sensitively and maintain confidentiality to the maximum extent possible. Investigation of allegations and future management of risk, if complaints are upheld, will normally require limited disclosure on a "need to know" basis. For example, some details may have to be given to potential witnesses but the importance of confidentiality will be emphasised to them.

Wherever possible, RW Projects South West will try to ensure that you and the complainant are not required to work together while the complaint is under investigation. If the allegation is of gross misconduct, you may be suspended on full pay during the investigation and, if a disciplinary hearing is to be called, until disciplinary proceedings have been concluded.

If the complaint against you is upheld, under the Disciplinary Policy a disciplinary penalty may be imposed up to and including dismissal, having regard to the seriousness of the offence and all relevant circumstances. If the complaint is upheld, but you are not dismissed, the University could decide to transfer you to another post.

If a complaint is made against you that is not upheld and the University has good grounds for believing that the complaint was not made in good faith, RW Projects South West will take disciplinary action against the person making the false complaint.



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You must not victimise a person who has made a complaint against you or anyone who has supported him/her in making the complaint or given evidence in relation to such a complaint. Disciplinary action will be taken against you if RW Projects South West has good reason to think that you may have victimised the complainant or someone else.

If the complaint against you is not upheld, the human resources department will support you, the complainant and your manager(s) in making arrangements for you to continue or resume working and to help repair working relationships. RW Projects

South West will consider making arrangements to avoid you and the complainant having to continue to work alongside each other, if either of you do not wish to do this.

Some types of bullying or harassment may constitute unlawful discrimination and allegations may give rise to the possibility of other civil claims or criminal proceedings against you, which would proceed independently of the University's disciplinary proceedings. You could be personally liable to pay compensation to the complainant if a successful claim in the employment tribunal or other courts was brought against you. Criminal proceedings could lead to conviction and criminal penalties.



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Examples of Bullying or Harassment

Bullying and harassment may be misconduct that is physical, verbal or non-verbal, e.g. by letter or email.

Examples of unacceptable behaviour that are covered by this policy include (but are not limited to):

- ridiculing or insulting someone or making demeaning comments or jokes about a person's appearance or of a sexual or racial nature or about an individual's age, disability, sexual orientation or religion including unwanted nicknames.
- spreading malicious rumours about someone
- picking on someone, setting him/her up to fail, or making threats about someone's job security without good reason;
- isolation or non-cooperation at work or deliberately excluding someone from social activities involving the immediate work group.
- ignoring an individual because he/she is perceived to have a protected characteristic when he/she does not, in fact, have the protected characteristic), e.g. an employee is thought to be Jewish, or is perceived to be a transsexual;
- excluding an individual because he/she is associated or connected with someone with a protected characteristic, e.g. his/her child is gay, spouse is black or parent is disabled;

Specific examples of sexual harassment may include:

- unwelcome sexual advances or physical conduct ranging from unwelcome touching to serious assault.
- the offer of rewards for going along with sexual advances, e.g. promotion or access to training/development opportunities;
- threats for rejecting sexual advances, e.g. suggestions that refusing advances will adversely affect the employee's employment security or conditions.

What it is not

- any reasonable management request;



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- taking measures to manage capability when a member of staff is not achieving agreed standards.
- disciplining a member of staff appropriately following an incident of misconduct if done through the correct University procedure.

Appendix Three

Preventing Bullying and Harassment

We all have a responsibility to help create and maintain a work environment free of bullying and harassment. You can help to do this by:

- being aware of how your own behaviour may affect others and changing it, if necessary - you can still cause offence even if you are "only joking";
- treating your colleagues with dignity and respect;
- taking a stand if you think inappropriate jokes or comments are being made;
- making it clear to others when you find their behaviour unacceptable, unless it should be obvious in advance that this would be the case;
- intervening, if possible, to stop harassment or bullying and giving support to recipients;
- making it clear that you find harassment and bullying unacceptable;
- reporting harassment or bullying to your manager or human resources and supporting the University in the investigation of complaints; and
- if a complaint of harassment or bullying is made, not prejudging or victimising the complainant or alleged harasser.
- Managers have a particular responsibility to:
 - set a good example by their own behaviour;
 - ensure that there is a supportive working environment;
 - make sure that staff know what standards of behaviour are expected of them;
 - intervene to stop bullying or harassment; and
 - report promptly to human resources any complaint of bullying or harassment, or any incident of bullying or harassment witnessed by them.



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Appendix Four

Law relating to this document

Leading Statutory Authority

- Equality Act 2010
- Equality Act 2010 (Specific Duties) Regulations 2011
- Health and Safety at Work etc Act 1974
- Protection from Harassment Act 1997
- Management of Health and Safety at Work Regulations 1999 (SI 1999/3242)

The Equality Act 2010 came into force on 1 October 2010. The purpose of the Equality Act 2010 is to simplify discrimination legislation and create a more consistent and effective framework, while at the same time extending discrimination protection.

The Act defines direct discrimination as less favourable treatment because of a protected characteristic. The protected characteristics under the Equality Act 2010 are:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion or belief;
- sex; and
- sexual orientation.

The Equality Act 2010 makes harassment unlawful across all the protected characteristics, with the exceptions of marriage and civil partnership, and pregnancy and maternity. Harassment is defined as unwanted conduct related to a relevant protected characteristic that has the purpose or effect of:

- violating a person's dignity; or
- creating an intimidating, hostile, degrading, humiliating or offensive environment.

For example, a male employee may be subjected to insulting and humiliating comments from his line manager because he is a Muslim. That employee can bring



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a claim for harassment related to the protected characteristic of religion or belief. In addition, if that employee's colleagues are also present when these comments are

made, even though they are not directed at those individuals, they may also bring a claim for harassment related to the protected characteristic of religion as the line manager is creating an intimidating and offensive environment.

The Act sets out two specific definitions of sexual harassment, which are:

- conduct of a sexual nature that has the purpose or effect of violating a person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment; and
- less favourable treatment related to sex or gender reassignment that occurs as a result of a rejection of, or submission to, sexual conduct.

In determining whether or not the unwanted conduct has the effect referred to, the factors that must be taken into account are:

- the perception of the complainant;
- the other circumstances of the case; and
- whether or not it is reasonable for the conduct to have that effect.

Harassment also includes the following:

- **Harassment based on association.** It is unlawful to discriminate against or harass any individual for association with another individual who has a protected characteristic (other than marriage and civil partnership, and (according to guidance from the Government and Acas) pregnancy and maternity). For example, if an employer denies an employee a promotion because she is taking care of a disabled relative and the employer thinks that the employee will not have any time for new duties, this could amount to associative discrimination as disability is one of the specified protected characteristics. Similarly, if an employer harasses an employee because his brother is gay, this would be unlawful as associative harassment as sexual orientation is another of the protected characteristics.
- **Harassment based on a perception.** It is unlawful to discriminate against or harass any individual based on a perception that he or she has a particular protected characteristic (other than marriage and civil partnership, and pregnancy and maternity) when he or she does not, in fact, have the protected characteristic. For example, a male employee may look much older than his age. If RW Projects South West does not allow him to make presentations to clients because his line manager thinks that he is too old, the employee has been discriminated against because of a perception of the



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protected characteristic of age, even though he may be relatively young. Similarly, if an employee is called names and made fun of because his colleagues believe

- that he is a transsexual, he may have a claim for perceptible harassment related to the protected characteristic of gender reassignment, even though he is not a transsexual.

Victimisation occurs where an employee is subjected to a detriment, such as being denied a training opportunity or a promotion, because he or she made or supported a complaint or raised a grievance under the Equality Act 2010, or because he or she is suspected of doing so. However, an employee is not protected from victimisation if he or she acted maliciously or made or supported an untrue complaint. There is no longer a need for a complainant to compare his or her treatment with someone who has not made or supported a complaint under the Equality Act 2010. For example, if a blind employee raises a grievance that the employer is not complying with its duty to make reasonable adjustments, and is then systematically excluded from all meetings, such behaviour could amount to victimisation.

Subject to limited exceptions in some circumstances for religion or belief and sexual orientation, it is unlawful to discriminate directly or indirectly, harass or victimise a member of the public based on any of the protected characteristics in the provision of services or goods.

Employers will be liable for discriminatory acts of harassment committed by their employees against other employees or customers in the course of their employment unless they can show that they took such steps as were reasonably practicable to prevent those acts. There is no limit on compensation for unlawful discrimination, which includes compensation for injury to feelings and personal injury.

The European Commission Recommendation 92/131/EEC and Code of Practice on the protection of the dignity of women and men at work made recommendations on how employers, trade unions and employees should combat sexual harassment. The Code of Practice defines harassment as "unwanted conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work".

The general public sector equality duty came into force on 5 April 2011, which requires public authorities to have due regard to the need to: eliminate discrimination, harassment, victimisation and other conduct prohibited under the Equality Act 2010; advance equality of opportunity; and foster good relations. The duty applies to all of the protected characteristics, except marriage and civil partnership, which is only covered by the first part of the duty, i.e. the need to



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eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act.

The Protection from Harassment Act 1997 created a new statutory tort of harassment and provided a civil remedy for those subjected to harassment at work or outside work.

Section 1 provides that a person must not pursue a course of conduct that amounts to harassment of another and which he or she knows, or ought to know, amounts to harassment of the other. For these purposes, the person whose course of conduct is in question ought to know that it amounts to harassment of another if a reasonable person in possession of the same information would think that the course of conduct amounted to harassment of the other.

Harassment is not precisely defined, but includes "alarming the person or causing the person distress". A course of conduct involves conduct on at least two occasions and includes speech. The Act also makes harassment a criminal offence. Harassment may constitute other criminal offences, e.g. rape, indecent assault, assault or grievous bodily harm.

It may also give rise to other civil liabilities under common law, e.g. assault and battery or personal injury caused by negligence. An employer can be liable in damages for foreseeable personal injury, which could be mental and/or physical, suffered as a result of its negligence.

The Health and Safety at Work etc Act 1974 requires employers to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all their employees. The Management of Health and Safety at Work Regulations 1999 place specific obligations on employers including the duty to assess risks to the health and safety of their employees at work and to identify the measures that they need to take to comply with health and safety requirements. Bullying and harassment could be risks recognised in the workplace. There are criminal sanctions for failure to comply with health and safety obligations.