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The University of Manchester

THE UNIVERSITY OF MANCHESTER

Dignity at Work and Study Procedure for Students

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Purpose

This procedure:

1. Sets out the organisational arrangements in place to support the implementation of the University Dignity at Work and Study Policy as it relates to students.

Overview

2. Any cases of harassment, discrimination and bullying will be taken very seriously by the University and, where necessary the appropriate procedure will be used to investigate complaints. Similar arrangements will be used in dealing with complaints made by members of staff or by visitors to the University.

3. Cases of proven harassment, discrimination or bullying may be treated as a disciplinary offence where it is not possible to reach a compromise or resolution. Some cases of harassment, discrimination or bullying if proven could result in dismissal for staff members or expulsion for students.

4. Making false or unsubstantiated allegations with malicious intent, could if proven, lead to disciplinary action being taken, up to and including dismissal or expulsion.

5. In some circumstances it may be appropriate to remove an individual from the situation causing conflict. This may include the reassignment of tasks. Where there is a serious allegation, an individual may be suspended from work during an investigation as set out in the appropriate University's Disciplinary Procedure. Similarly, a student may be suspended from their studies or excluded from access to the campus or part(s) of the campus under the provision of Regulation XVII Conduct and Discipline of Students.

6. The University aims to protect all staff and students but the procedure should not be used as a substitute for resolving issues through informal discussion where possible. For example, inappropriate, derogatory remarks or certain types of jokes can cause offence but the expectation would be that such matters should be resolved informally and locally.

7. The University will not assume guilt of either party and will support all students and staff members involved in a case of alleged harassment, discrimination or bullying.

8. At any stage in this procedure the complainant and the respondent can be accompanied by a Student's Union representative, a fellow student or staff member. If the respondent is a member of staff, he/she may be accompanied by a trade union representative or work colleague.

9. Every effort should be made to keep the matter confidential to those who are directly involved.

Definitions of harassment, discrimination and bullying

10. Harassment

Harassment is unwanted conduct which may create the effect (intentionally or unintentionally) of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment which interferes with an individual's learning, working or social environment or induces stress, anxiety or sickness on the part of the harassed person.

11. Discrimination

Discrimination takes place when an individual or a group of people is treated less favourably than others because of their race, gender, gender reassignment, marital status, status as a civil partner, disability, age, religion or belief, sexual orientation or other factors unrelated to their ability or potential.

12. Bullying

Bullying can be defined as repeated or persistent actions, criticism or personal abuse, either in public or private, which (intentionally or unintentionally) humiliates, denigrates, undermines, intimidates or injures the recipient. It should, in particular, be borne in mind that much bullying occurs in the context of a power imbalance between victims and alleged perpetrators.

13. The above definitions are there as helpful guidance and, during consideration of the case, a judgement needs to be made on what is reasonable to assume for a given action.

Support

Harassment Advisors Network

14. The University has a Harassment Advisors Network. Harassment Advisors are trained to provide a confidential support and information service to University staff and students on issues relating to harassment, discrimination and bullying.

15. Contact details for Harassment Advisors are available on the University intranet through the following link: www.manchester.ac.uk/dignity. Alternatively, details can be obtained from the Student Advice and Information Hub, the Student Services Centre, the Office of the Head of Student Support and Services and from the Students' Union Advice Centre.

16. Harassment Advisors support students who make a complaint by outlining the various processes and identifying any other support routes open to them. Harassment Advisors are also there to offer support to the respondent.

Further Information

17. Further information and support is also available for students from any of the following:

- the Crucial Guide
- Student Advice and Information Hub

- the appropriate Faculty Officer
- Student support officers or equivalent in Schools
- the Office of Student Support and Services
- the Students' Union Advice Centre
- Pastoral teams in the University Halls of Residence
- the Equality and Diversity Team
- the University Counselling Service

Scope

18. This procedure is to be used by a student who wishes to take informal or formal steps in making a complaint against a student or against a member of staff when they believe they have been the subject of harassment, discrimination or bullying. Where the complaint is against a member of staff, the appropriate HR Manager will be consulted and the matter will be handled jointly.

19. In the following sections:

- The person making a formal complaint is referred to as "the complainant".
- The expression "respondent" refers to an individual against whom a complaint of harassment, discrimination or bullying has been made.
- The term 'tutor' should also be taken to mean Personal Tutor, Academic Adviser, Supervisor or any other appropriate member of staff, including student support officers, who have a role in providing support to students in Schools and Halls of Residence.

Evidence

20. For any student who feels that he/she is experiencing unacceptable behaviour, it is important that they begin to keep a note of the details and dates of any incidents which have caused them distress. Where possible, the following information should be included:

- Date of incident(s)
- Location
- Time
- Nature of incident(s)
- The response made by the complainant
- The complainant's feelings at the time
- Any action taken by the complainant
- The name of any witnesses
- Any relevant emails, voicemails and memos

Options

21. Many complaints can be resolved informally, and this approach is encouraged where complainants feel that this could achieve the resolution they are seeking. Mediation is also available as an alternative to the formal stages of the procedure (see paragraph 26 below). However, if complainants do not feel able to follow either the informal procedure or mediation, or if the incident is too serious for such approaches, they should proceed straight to the formal stage;

there is no obligation to attempt to resolve the matter informally or to use mediation. It is recommended that the complainant does not delay unduly in raising these issues, whether informally or formally.

Informal Procedure

22. Complainants are advised to talk to someone they can trust. This may be a member of staff or fellow student or Students' Union representative, perhaps someone outside the University or a family member or friend. The issues can also be discussed with a Harassment Advisor. The process of talking through what has happened with someone else can help to determine what action to take to stop it happening.

23. The complainant may feel able to tell the person who is harassing them to stop, either by talking or writing to them. Sometimes it is enough just to explain to the person who is harassing them what is unwanted about their behaviour and why it is unacceptable. This is often very difficult to do, and the complainant may prefer to be accompanied by a staff member, Students' Union representative or a fellow student.

24. If it is too difficult and too embarrassing to do this personally, the complainant may request their tutor to approach the respondent on their behalf. If their tutor is the respondent, they may request a staff member, Students' Union representative or a fellow student to approach the respondent on their behalf. If the complainant feels unable to speak to the person concerned, this does not imply that they have accepted the harassment, discrimination or bullying, nor will it prejudice any complaint which they may bring.

25. If it has not been possible to find resolution by either approaching the respondent or by a representative approaching the respondent on their behalf, then the complainant can if they wish contact a Harassment Advisor (paragraph 14), if they have not already done so. A Harassment Advisor will be able to advise on the options available.

Mediation

26. Mediation is an informal and private process which can help the complainant and the respondent to reach an agreed resolution. The Mediator can help develop options but will make no decision. This process is not a hearing as no formal evidence is taken and no witnesses are heard. Nothing either party says can be used against them in any later proceedings. The mediation process including the terms of any agreement made between both parties are generally confidential.

27. Mediation is available either as an alternative to the informal stage or as the next step after informal procedures if it has not been possible to resolve the complaint informally. It could also be invoked at any point during the formal procedure, in which case the formal procedure will be halted.

28. Mediation is not compulsory but is encouraged as it offers a less adversarial alternative to the formal stages of this procedure and can resolve complaints more quickly than the formal procedure, with a greater focus on establishing an agreed outcome. However, the complainant and the respondent must both agree to mediation in order for it to be used.

29. To start the mediation process the complainant should contact a Harassment Advisor (see paragraph 15) if he/she has not already done so.

30. If the respondent is a student, the Harassment Advisor will pass on the names of the parties involved and brief details of the complaint to the Officer who deals with student matters in the respondent's Faculty. Depending on the nature of the complaint, the Faculty Officer may refer the case to another Office or Service as appropriate (eg the Halls of Residence) according to the nature of the complaint. The Officer assigned to deal with the case will then contact the respondent to advise them of the complaint against them, and the request for mediation. If the respondent is a member of staff the Harassment Advisor will contact the respondent's Human Resources Manager, who will contact the respondent. The respondent must agree to mediation for the process to continue.

31. The respondent may wish to contact a Harassment Advisor who will be able to provide information and support on the process to be followed. If the respondent agrees to mediation, the Officer assigned to deal with the case / Human Resources Manager will inform the Equality and Diversity team who will contact both parties to organise the mediation.

32. If the respondent does not agree to mediation taking place, the complainant will be informed by the Harassment Advisor. The complainant may proceed with the informal procedure or, if he/she wishes, decide to proceed with a formal complaint.

Choosing a Mediator

33. A Mediator will be identified. The complainant and the respondent must agree on the Mediator assigned for mediation to continue.

The mediation process

34. Where the mediation has been successful any agreed follow up will be carried out with both parties by the Mediator. Where the outcome of mediation has not led to an agreed proposal or resolution, the Mediator will make both parties aware of the further options available to them.

Formal complaints and investigation

35. If it has not been possible to resolve the matter informally or through mediation or if it is not appropriate to seek to resolve the complaint using less formal stages, the complainant has the right to activate the formal procedure.

36. The complainant should submit the formal complaint in writing to the Officer who deals with student matters in the complainant's Faculty. The Faculty Officer will acknowledge receipt of the complaint and will determine whether the complaint should more appropriately be referred to another Office or Service (eg the Halls of Residence) according to the nature of the complaint. In the event that the complaint is referred to another office, the complainant will be informed.

37. The Faculty (or other Officer to whom the Faculty Officer has referred the formal complaint) will identify who should investigate the complaint.

Investigation

38. At least two people must be involved in investigating the complaint; these will be referred to hereafter as the "Investigating Officers". In any situation where the complaint is against a member of staff, the appropriate HR Manager will be consulted and the matter will be investigated jointly. Anyone dealing with the formal complaint must be independent of the complainant or respondent.

39. The Investigating Officers will be responsible for gathering information to allow them to reach a conclusion on the complaint. The scope of the investigation is at the discretion of the Investigating Officers. Investigations will be undertaken as quickly as possible, in confidence and will normally begin within 10 working days of receipt of the complaint.

40. The complainant will be asked to attend a meeting with the Investigating Officers during which the procedure will be explained and discussed, and the details of the allegations will be confirmed. The Investigating Officers will act only with the consent of the complainant except in particular circumstances, where the University must act in accordance with its duty of care to students and staff e.g. where a third party is at risk or where it is believed that a criminal act has been committed. A written record will be maintained of the meeting which will be agreed by the complainant as an accurate description of the circumstances.

41. The Investigating Officers may, at this initial stage, determine that there is no substance to the complaint in which case the formal procedure will cease and the complainant will be informed. In this event, the complainant may seek a Review of the Investigating Officers decision (see paragraphs 48-53).

42. Where the Investigating Officers agree that there is a matter to be investigated, the respondent will be informed of the substance of the complaint against them and asked to attend a meeting. During the meeting, the procedure will be explained and discussed, and they will be given the opportunity to respond to the details of the complaint.

43. Any potential witnesses to the alleged misconduct will then be required to attend an interview as part of the investigation.

44. Comprehensive notes of any interviews will be made and will be signed by the interviewee as accurate and reflecting the discussion. The interviewee may

make any written comments about any section of the notes with which they do not agree. Copies of the signed notes, with any comments, will be retained by both the interviewee and the Investigating Officers.

45. On the basis of interviews and statements received, the Investigating Officers will reach a decision on the complaint. The Investigating Officers will compile a report of the investigation and outcome and both parties will be informed individually in writing of the decision. Reasons for the decision will be given.

46. If the Investigating Officers conclude that the conduct of the staff member or student against whom the complaint was made does constitute misconduct, then the matter will be referred for consideration under the appropriate disciplinary procedures. Specifically, where the harasser is a student, action may be taken under the terms of Regulation XVII Conduct and Discipline of Students. Where the harasser is a member of staff, action will be considered in accordance with the appropriate staff disciplinary procedures.

47. It is expected that the formal procedure should normally be completed and a written response provided within twenty working days of the receipt of a formal complaint. Where, for reasons of complexity or for other good reason, it is not possible to complete the formal procedure within this time scale the parties will be kept informed.

Review

48. If, once a final decision on a complaint of harassment, discrimination or bullying has been given, either party believes that the matter has not been handled fairly or properly in accordance with these procedures, he/she can request a review by writing to the Director of Teaching and Learning Support within 10 working days of receipt of the outcome. If the original complaint of harassment was against the Director of Teaching and Learning Support or if he/she has been involved in the investigation, the request for a review should be submitted to the Director for the Student Experience.

49. The request for review should include details of why the individual is dissatisfied with the way the case has been handled or he/she believes that the outcome is not reasonable and what resolution is sought. Copies of correspondence exchanged during the preceding stages, and any other relevant papers should also be included.

50. The Director of Teaching and Learning Support (or the Director for the Student Experience as appropriate) or their delegated nominee will determine whether he/she should undertake the review or whether it should more appropriately be considered by another senior administrative manager (eg the Director of Human Resources). The person undertaking the review is hereafter referred to as the “Review Officer”.

51. The Director of Teaching and Learning Support (or the Director for the student Experience as appropriate) or their delegated nominee will acknowledge receipt of the request for review in writing within 5 working days and will confirm who will be undertaking the review.

52. The Review Officer will then review the case on the basis of the documentation provided by the complainant and that held by the Investigating Officers and their decision. The Review Officer may decide to seek further information from those concerned as he/she deems necessary. If the Review Officer concludes that the case has not been handled fairly or properly, he/she will decide on an appropriate course of action, which may include:

- specific action to resolve the matter
- referral for a new investigation

53. The Review Officer will inform the individual of his/her decision within 20 working days of receipt of the request for review with reasons for the decision. The decision of the Review Officer is final within the University.

Office of the Independent Adjudicator for Higher Education

54. Students who believe that their cases have not been dealt with properly by the University or that the outcome is unreasonable, can make a complaint to the Office of the Independent Adjudicator for Higher Education (OIA), if the complaint is eligible under its rules and once all internal procedures have been concluded. Information about the role of the OIA and the procedure for submitting complaints can be obtained from the Office of Student Support and Services, from the Students' Union Advice Centre; or from the OIA website: www.oiahe.org.uk.

Victimisation

55. Victimisation or retaliation which occurs as a result of the application of this procedure is unacceptable and may lead to disciplinary action being taken under the appropriate disciplinary procedures.

Procedure Review

56. The effectiveness of this procedure will be reviewed every second year along with the associated policy. This procedure may be updated from time to time as the Dignity and Work and Study policy is amended as changes occur in legislation.

57. Accessible format information

This document can be made available in large print and electronically upon request.

If you require another alternative format please contact us to discuss your requirements.

Contact Details:

Equality and Diversity
C28, Sackville Street Building,
Sackville Street,
Manchester,
M60 1QD

Tel: 0161 306 5857
Fax: 0161 306 5877
Minicom: 0161 306 5870
Email: equalityanddiversity@manchester.ac.uk

58. Legal framework

As an employer, and also a provider of education, there are various legal obligations placed upon the University to provide a working and learning environment that is free from harassment, discrimination and bullying.

Examples of legislation include but not limited to:

- The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000
- The Sex Discrimination Act 1975, as amended by the Equality Act 2006
- The Disability Discrimination Act 1995, 2000
- The Special Educational Needs and Disabilities Act 2000
- The Employment Equality (Religion and Belief) Regulations 2003
- The Employment Equality (Sexual Orientation) Regulations 2003
- The Employment Equality (Age) Regulations 2003

These pieces of legislation give definitions of discrimination and make discrimination unlawful on the grounds of gender, marital status, gender reassignment status, racial grounds, disability, religion or belief, sexual orientation.

Whilst there is as yet no specific legal definition of bullying, it is viewed to be a form of harassment. Case law has given legal precedents with regard to bullying.

Legislation also gives individuals rights against discrimination or unfair treatment with regard to a range of other reasons including:

- Membership or non-membership of a trade union or a Students' Union
- Provisions relating to Maternity, Parental or Adoption responsibilities
- Family or caring responsibilities
- 'Whistle-blowing'
- Part time work
- Fixed term work
- Equal Pay
- Health and Safety

Document control box	
Policy title:	Dignity at Work and Study Procedure for Students
Effective from Date:	November 2009
Approving body:	HR Sub Committee of Planning & Resources Committee
Version:	1
Supersedes:	Harassment, Bullying and Discrimination Policy and Procedures for Staff and Students
Previous review dates:	n/a
Next review date:	November 2010 and then every second year, or upon any significant change in consultation with the recognised campus trade unions and students' union)
Related Statutes, Ordinances, & General Regulations	• University Statute XIII Part III Disciplinary Procedures & Part VI Grievance Procedure • University Ordinances XXIV Staff Disciplinary Procedures pursuant to Statute XIII Part III & XXVIII Staff Grievance Procedure pursuant to Statute, XIII Part VI • University Student Regulation XVIII Student Complaint • University Student Regulation XVII Conduct & Discipline of Students
Equality relevance outcome:	High[1]
Related policies:	Dignity and Work and Study Policy Equality and Diversity Policy for Staff and Students
Related procedures	Dignity at Work and Study Procedure for Staff Disciplinary and Dismissal Procedure for Support Staff
Related guidance:	Dignity and Work and Study Guidance
Related information:	**Reporting:** Student report to senate http://www.campus.manchester.ac.uk/studentexperience/appeal_stats.htm Student Satisfaction Survey http://www.campus.manchester.ac.uk/studentexperience/surveyresults/0506/results.htm
Policy owner:	Director of Human Resources and Head of Student Support and Services
Lead contact:	Head of Equality and Diversity