



Dignity at Work Policy/Procedure

(Incorporating prevention of
bullying and harassment in
the workplace)

Written by: Human Resources
Consulted with: Recognised Trade Unions
Approved by: Business Services Committee
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1. **Our Commitment**

1.1 Exeter College is committed to creating a work environment free of harassment and bullying, where everyone is treated with dignity and respect.

1.2 The effect of harassment should not be downplayed where there are a lack of outward signs.

Effects on the College can include loss of morale, poor work performance, increased turnover of staff, legal claims and damage to the College's reputation. Employees found guilty of harassment or bullying may face disciplinary penalties, up to and including dismissal, may be personally liable to pay compensation in legal claims, and may be prosecuted under criminal as well as civil law.

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

1.4 Individuals are protected from discrimination, bullying and harassment both while applying for a job, during it and after the working relationship ends (e.g. in terms of the provision of a verbal or written reference).

2. **The scope of this policy**

2.1 This policy covers bullying and harassment of and by managers, employees, governors, contractors, Agency Workers and anyone else engaged to work at the College, whether by direct contract with the College or otherwise. If the complainant or alleged harasser is not employed by the College (e.g. if the worker's contract is with an agency) this policy will apply with any necessary modifications, for example, the College is unable to dismiss the worker but may require the agency to remove the worker, after investigation.

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

2.3 The policy does not cover bullying or harassment by students, suppliers, vendors or visitors and, in these cases, employees should report any such behaviour to their manager who will take appropriate action. The exception to this is when a third party subjects an employee to sexual harassment in the course of their employment. If the College is aware that the individual has been subject to such harassment on at least two other occasions regardless of whether those incidents were carried out by the same or a different third party then it will take such steps as are

reasonably practicable. Bullying or harassment of customers, suppliers, vendors, visitors or others by a College employee will be dealt with through the disciplinary procedure.

3. What is victimisation, bullying and harassment?

- 3.1.1 **Victimisation** is treating someone less favourably than others because he or she has, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing him or her or someone else, or supported someone to make a complaint or given evidence in relation to a complaint.
- 3.1.2 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 College will take appropriate action to deal with any alleged victimisation, which may include disciplinary action against anyone found to have victimised you.
- 3.1.3 Making a complaint or giving evidence which you know to be untrue, may lead to disciplinary action being taken against you.
- 3.2 **Bullying** is offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power which has the effect of undermining, humiliating or injuring the person on the receiving end.
- 3.3 **Harassment** is unwanted conduct affecting the dignity of men and women in the workplace which:
- 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 or her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for him or her, even if this effect was not intended by the person responsible for the conduct.
- 3.4 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 or her and to have his or 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 or 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 or her.

- 3.5 A single incident can be bullying and/or harassment if it is sufficiently serious, for example, a single incident of sexual or racial harassment.
- 3.6 All bullying and harassment is misconduct and is a disciplinary offence which will be dealt with under the College's disciplinary policy. Bullying or harassment will often be gross misconduct which can lead to dismissal without notice.
- 3.7 Some bullying or harassment will constitute unlawful discrimination, e.g. if it relates to a person's age, sex, race, religion or belief, sexual orientation or disability. Serious bullying or harassment may amount to other civil or criminal offences, e.g. civil or criminal offences under the Protection from Harassment Act 1996 and criminal offences of assault.

4 Examples of bullying or harassment

- 4.1 Bullying and harassment may be misconduct which is physical, verbal or non-verbal, e.g. by letter or e-mail (so-called 'flame-mail').
- 4.2 Examples of unacceptable behaviour that are covered by this policy include (but are not limited to) the following:
 - physical conduct ranging from unwelcome touching to serious assault;
 - unwelcome sexual advances;
 - the offer of rewards for going along with sexual advances, e.g. promotion, access to training;
 - demeaning comments about a person's age, dress, appearance, race or marital status;
 - unwelcome jokes, offensive language, gossip, slander, sectarian songs or letters;
 - questions about a person's sex life;
 - using unwanted nicknames;
 - the use of obscene gestures, posters, graffiti, flags and emblems;
 - the open display of pictures or objects with sexual or racial overtones, even if not directed at any particular person, e.g. magazines, calendars or pin-ups;
 - spreading malicious rumours or making personal insults;
 - setting a person up to fail e.g. setting unrealistic targets or an unreasonable workload;
 - making threats or comments about someone's job security without good reason;
 - isolation or non-cooperation at work e.g. excluding someone from social activities;
 - shouting at colleagues in a manner perceived to be demeaning or aggressive;
 - subjectively or unreasonably denying career opportunities e.g. promotion or training courses;

- unreasonable removal of responsibilities or duties;
- Persistent and unjustified criticism;
- Detrimental treatment as a result of membership or non- membership of a Trade Union;

5. The Employer's Responsibilities

- 5.1 The College has a corporate responsibility to take active steps to minimise the level of harassment in the College and to promote the well being of all its staff.
- 5.2 The College is committed to promoting dignity and respect at work and has a zero tolerance approach to both harassment and bullying. It supports the reporting of all incidents no matter how minor, and commits to acting promptly to ensure the corporate policy is followed correctly.
- 5.3 The College will not tolerate 'cyber bullying' in any format. Detrimental texts sent via mobiles or images of work colleagues posted on external websites following work events could amount to bullying.

6. The Employee's Responsibility

- 6.1 Individuals have a responsibility to behave in ways which support a hostile-free working environment for themselves and their colleagues.
- 6.2 They must be prepared to challenge inappropriate behaviour and take action if they observe or have evidence that someone else is being harassed.

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

- 7.1 You may be able to sort out matters informally. The person may not know that his or her behaviour is unwelcome or upsetting. An informal discussion may help him or her to understand the effects of his or 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 or another employee. Alternatively, an initial approach could be made on your behalf by one of these people. You should tell the person what behaviour of his or hers you find offensive and unwelcome, and say that you want 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.
- 7.2 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

- choose to raise your complaint with your manager
- choose to raise your complaint with the HR department.

The College will ensure that you can bring your complaint in the first instance to someone of your own sex, if you so choose.

- 7.3 In very 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.
- 7.4 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 complaint. You will be kept informed of the general progress of the process of investigation and the outcome of any disciplinary proceedings. The College will decide, after considering all available evidence, whether harassment or bullying has occurred.
- 7.6 During the investigation and handling of a complaint under this policy, confidentiality must be maintained by all parties. The College must balance this against the need for limited disclosure on a need to know basis. For example, your identity and the nature of the allegations will usually be revealed to the person you are complaining about, so he or 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 College's 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.
- 7.7 Wherever possible, the College will try to ensure that you and the alleged harasser are not required to work together whilst the complaint is under investigation if this is deemed appropriate or is requested. This could involve giving you the option of remaining home on special leave, if you wish. In a serious case, the alleged harasser may be suspended on full pay whilst investigation and any disciplinary proceedings are underway.
- 7.8 If your complaint is upheld, and the person found to have bullied or harassed you remains in the College's employment, every reasonable effort will be made to ensure that, if you do not wish to, you do not have to continue to work alongside the harasser. We will discuss the options with you. These may include the transfer of the harasser or, only if you wish, you may be able to transfer to another post.
- 7.9 If your complaint is not upheld, the Human Resources department will support you, the alleged harasser and your manager(s) in making arrangements for you both to continue or resume working and to help

repair working relationships. The College will make reasonable efforts to make arrangements to avoid you and the alleged harasser having to continue to work alongside each other, if either of you do not wish to do this.

- 7.10 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 which you know to be untrue may lead to disciplinary action being taken against you. (see section 3)
- 7.11 Some types of bullying or harassment may constitute unlawful discrimination and may give rise to the possibility of other civil claims or criminal proceedings. Claims to an employment tribunal about unlawful discrimination must be presented to the tribunal within three months beginning with the date of the act complained of.

Investigation Findings

- 7.12 A written report must be produced at the conclusion of the investigation by the Investigating Officer
- 7.13 Further to the completion of the investigation the Investigating Officer should write to the complainant and the alleged perpetrator. This should normally be within 10 working days of submission of the letter of complaint. Details of the findings of the investigation and the action to be taken should be stated. The letter should also include an undertaking from the management that the complainant will not be victimised or suffer any detriment. If there is not enough evidence to substantiate the allegation both parties should be informed that the matter will not proceed. A note of the findings should be kept by the Investigating Officer or Human Resources.

Appeal Procedure

- 7.14 Should the complainant not be satisfied with the Investigating Officer's findings, an appeal should be submitted within 5 working days of receipt of the findings. This appeal should be in writing to a nominated member of the Senior Leadership Team (SLT) giving the reason(s) for dissatisfaction.
- 7.15 A review of the evidence gathered during the investigation will be undertaken by the appointed member of SLT, who will be a person not previously involved. Complainants may make such an appeal against the findings of the investigating officer but not in respect of proposed action arising.
- 7.16 For Senior Post-holders the Policy and Procedure relating to Dignity at Work remains the same with the exception of the reporting structure. Please see Appendix A

8. What happens if I am accused of bullying or harassment?

- 8.1 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 or her and to have his or 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 which has caused offence, that may well be the end of the matter.
- 8.2 If a formal complaint is made about your behaviour, this will be fully investigated and the College may bring disciplinary proceedings, if appropriate. The College will follow its disciplinary procedure and you will have the rights set out in that procedure. You will have the right to be informed of the allegations against you and to put your side of the story and to be accompanied to meetings by a trade union representative or work colleague of your choice. The disciplinary procedure will be implemented at the appropriate stage for the seriousness of the allegation. Complaints of bullying and harassment may be allegations of gross misconduct which, if proved, could lead to dismissal without notice.
- 8.3 Wherever possible, the College will try to ensure that you and the complainant are not required to work together whilst the complaint is under investigation, if this is deemed appropriate and/or requested.
- 8.4 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.
- 8.5 If the complaint against you is upheld 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 College could decide to transfer you to another post.
- 8.6 If a complaint is made against you which is not upheld and the College has good grounds for believing that the complaint was not made in good faith, the College will initiate the disciplinary procedure against the person making the false complaint.
- 8.7 You must not victimise a person who has made a complaint in good faith against you or anyone who has supported him or her in making the complaint or given evidence in relation to such a complaint. Disciplinary action will be taken against you if the College has good reason to think that you may have victimised the complainant or someone else.

- 8.8 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 both to continue or resume working and to help repair working relationships. The College will consider making reasonable 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.
- 8.9 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 College'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.

9. What can I do to help stop bullying and harassment?

9.1 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, of yourself or others, to your manager or Human Resources and supporting the College in the investigation of complaints; and
- if a complaint of harassment or bullying is made, not prejudging or victimising the complainant or alleged harasser.

9.2 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

10. Law and Regulations relating to this document

This policy/procedure is based upon, but not limited to, the following legislation;

Exeter College's Instrument and Articles of Government (2008)

Disability Discrimination Act 1995
Disability Discrimination Act 2005
Health and Safety at Work etc Act 1974
Protection from Harassment Act 1997
Race Relations Act 1976
Sex Discrimination Act 1975, The Sex Discrimination Act 1975
(Amendment) Regulations 2008

The Employment Act 2002 (Dispute Resolution) Regulations 2004
Employment Equality (Religion or Belief) Regulations 2003 SI
2003/1160
Employment Equality (Sexual Orientation) Regulations 2003 SI
2003/1161
Employment Equality (Sex Discrimination) Regulations 2005 SI
2005/2467
Employment Equality (Age) Regulations 2006 SI 2006/1031
Management of Health and Safety at Work Regulations 1999 SI
1999/3242
Race Relations Act 1976 (Amendment) Regulations 2003 SI
2003/1626
Employment Equal Treatment Framework Directive 2000/78/EC
Equal Treatment Directive 76/207/EC as amended by Directive
2002/73/EC
European Commission Recommendation 92/131/EEC and Code of
Practice on the protection of the dignity of women and men at work
(on the European Commission website)

11. This policy/procedure will be reviewed every two years or in response to changes in legislation or best practice, whichever is the sooner.

Complaints raised by the Principal or other Senior Post-holder

The same process will be followed as detailed in Section 7 above. Wherever possible the Senior Post-holder will endeavour to resolve the matter in an informal manner.

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. You can choose whether to raise your complaint with your manager or the Clerk to the Corporation.

This person will undertake all reasonable investigations or will appoint an appropriate internal or external investigator as soon as reasonably possible. Where a complaint is against another member of staff, this will include seeking comments regarding the complaint from this member of staff.

The same format for reporting the findings of the investigation will be followed as in section 7 above.

Appeal Procedure

Should the complainant not be satisfied with the Investigating Officer's findings, an appeal should be submitted within 5 working days of receipt of the written findings. This appeal should be in writing to the Clerk to the Corporation within 10 working days of receipt by the Senior Post-holder of the written decision following the investigation.

A panel of three governors of the Corporation (the "Appeal Committee") will be appointed as soon as reasonably possible.

The Appeal Committee will undertake any further investigations which it deems necessary as soon as reasonably possible.

The Appeal Committee will convene an appeal hearing as soon as is reasonably practical and ideally within 10 working days of receipt of the Appeal.

The Appeal Committee's decision will be provided in writing by the Chair of the Appeal Committee to the Senior Post-holder within 10 working days of the appeal hearing.

The Appeal Committee's decision will be final.

Complaints against the Principal or other Senior Post-holder

Where the complaint is against the Principal or another senior post-holder, the same steps as set out in section 7 should be taken to investigate the matter.

The Corporation will appoint an appropriate Investigating Officer to investigate the complaint. This may be the Principal (if a Senior post holder has been complained about), the Chair or Clerk to the corporation,

an appointee from the Corporation or an external investigator, depending on the circumstances.

If the complaint is upheld and disciplinary action may be required, the matter must be referred to the Corporation to follow the College's Disciplinary Procedure.

The same Appeal process will apply as detailed above for Senior Post-holders.

DIGNITY AT WORK

FLOWCHART OF THE REPORTING STRUCTURE

