

Bullying and Harassment Policy

Part 2: Code of Practice on behaviour at work for staff

This Code offers practical advice for handling bullying and harassment issues as well as providing a framework where an individual wishes to make a complaint either informally or formally.

This Policy can be used where problems arise with other members of staff, external customers, or suppliers of goods and services, including agency staff and consultants.

If you are a staff member and you feel that you are experiencing bullying and harassment by a student, then please see the student Dignity and Respect Policy. The Dignity and Respect Policy also applies to students who wish to raise a complaint.

(This Policy does not apply to staff employed by OUSA and the OU Children's Centre who will have their own arrangements.)

If you feel you are being subjected to bullying or harassment you should normally aim to deal with this informally unless the issue is of a serious nature

Options for informal action (You may decide to work through several of the options):

- talk to the person about the behaviour causing distress and ask for it to stop;
- discuss with a colleague, or manager or more senior manager, trade union representative, or the People Hub before deciding appropriate action (you may decide to take no further action);
- ask a trade union representative or colleague who is a University employee to go with you to speak to the person;
- write to the person against whom you have a complaint;
- ask the manager/senior manager or trade union representative to take matter up on your behalf (options managers will consider include: speaking to the person to explain complaint and giving them the opportunity to respond; obtaining agreement that the behaviour has caused offence and will stop; meeting of both parties; monitoring the situation; consulting with any witnesses to clarify the situation; mediation through People Services, if both parties agree).

NB Where the person complained against is external to the Unit/University the matter will be taken up with the person or with an appropriate senior manager.

If the behaviour causing you distress does not stop, you may wish to consider making a formal complaint.

If informal action has been unsuccessful, or if the issue is of a serious nature, you may decide to make a formal complaint

Your formal complaint should be made in writing to your line manager, a more senior manager, or the Deputy Group People Director (if complaint is against your Head of Unit). You will be advised of timescales, and next stages. If a member of staff is being bullied and harassed by a student, then the matter will be dealt with under the student Dignity and Respect Policy. Alternatively, you can raise an incident through the Safe Space Reporting tool: <https://report-and-support.open.ac.uk/>

The person against whom complaint is made will be given a copy of complaint, and the Bullying and Harassment Policy, as soon as possible and will be given the opportunity to seek advice and respond (verbally or in writing). You will be shown a copy of any written response.

The Manager has the following options, taking account the seriousness of allegations:

- discussion with both parties separately to try to agree resolution;
- a joint meeting to try to resolve the issue;
- following initial discussions with both parties, and with agreement, mediation through People Services to try to resolve;
- arrange an investigation within the Unit;
- arrange for an independent investigation through an investigatory panel.

Possible outcomes:

- commitment that the action will not be repeated;
- resolution e.g. through mediation;
- formal disciplinary action (serious bullying and harassment will be treated as gross misconduct);
- misunderstandings clarified and resolved;
- relocation.

NB Where the person complained against is an external customer or supplier of goods, including agency staff and consultants, the matter will be taken up with the person or with an appropriate senior manager (either internal/external).

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PART 1 Policy statement

1. Ensuring dignity at work

The purpose of this Policy is to assist in developing and encouraging a working environment and culture in which harassment and bullying are unacceptable. The Policy explains what bullying and harassment are, and what steps individuals can take if they encounter such behaviour. Part 1 sets out the Policy in detail, and Part 2 covers informal approaches to dealing with bullying and harassment issues, the procedures for making a complaint, and how complaints should be dealt with.

Rights and Responsibilities

All individuals have the right to work in an environment which is free from bullying and harassment. The University is committed to providing a workplace in which all individuals are given the dignity and respect to which they are entitled. The University has a legal responsibility to ensure the health and safety of individuals and a working environment which is free from unlawful discrimination.

Everyone has a responsibility to respect the feelings and sensibilities of others in the workplace, and to behave in a way which does not cause offence. In some instances, individuals may be genuinely unaware that their behaviour is causing offence, but it is the duty of each individual to be sensitive to the impact their conduct may have on colleagues.

Unacceptable behaviour

Some behaviour can cause offence where there is no malicious intent. The impact of behaviour on a person affected by it is more relevant than the motive behind it. It is also relevant to ask the question: Would a reasonable person think that the behaviour amounted to bullying or harassment? In most cases people know, or should know, that remarks or actions are causing offence, and that causing such offence is unacceptable.

All complaints will be thoroughly investigated. Breaches of the Policy may lead to the use of disciplinary procedures. If a member of staff is bullied and harassed by a student, then the matter will be dealt with under the student Dignity and Respect Policy.

Impact of bullying and harassment

Bullying and harassment:

- can have a devastating effect on an individual
- are offensive and degrading
- may cause anxiety, loss of concentration, illness and absence from work
- can have a damaging effect on the working environment, resulting in poor morale, higher turnover of staff and reduced productivity
- could result in both a harasser and the University being held liable for damages, where legal claims are raised.

Staff management

Managers have a responsibility to issue reasonable instructions and expect them to be carried out. The legitimate management of individuals should be distinguished from bullying or harassing behaviour. However, it is important that consideration is given to style of dealing with others – managers should not behave in a way that would generally be considered unreasonable.

Dealing with complaints

All complaints of bullying or harassment will be taken seriously by the University. The aim is to provide the support needed to help individuals decide the best course of action, and to resolve the issues raised.

The Procedure (Part 2 of this Policy) provides a framework for dealing with complaints confidentially, fairly and in a consistent manner. It will also help to resolve problems quickly and informally wherever possible, without fear of victimisation or retaliation.

The University will also take seriously any allegations proven to have been made vexatiously or maliciously.

The University will not tolerate the less favourable treatment of witnesses who support colleagues to address bullying or harassment. To do so amounts to victimisation. Victimisation or the threat of less favourable treatment of any parties involved in a complaint under this procedure may lead to disciplinary action.

Where complaints are about sexual harassment, sexual bullying, sexual violence, sexual misconduct and/or of a sexual nature we will not ask staff to sign non-disclosure agreements or confidentiality clauses within settlement agreements to prevent such complaints from being raised or addressed.

2. What are bullying and harassment?

The legal definition of harassment is that harassment occurs where a person is subjected to unwanted conduct which has the purpose or effect of:

- violating their dignity, or
 - creating an intimidating, hostile, degrading, humiliating or offensive environment for them
- and having regard to all the circumstances, including in particular the perception of the person being subjected to the unwanted conduct, it should reasonably be considered as having that effect.

Harassment is a form of discrimination, and where it relates to race, sex, disability, religion or belief, sexual orientation, gender* or gender reassignment and age, is covered by anti-discrimination legislation.

Bullying overlaps to some extent, and is usually identified as intimidating, hostile or humiliating treatment by one or more individuals.

One minor incident will not constitute bullying or harassment. However, a series of such incidents will do so, particularly where an individual has expressed a dislike of such behaviour and/or has asked for it to stop. Threatened or actual violence, threats of dismissal or promises of special treatment in return for sexual favours, are examples where one incident would be sufficient.

2.1 Examples of unacceptable behaviour

The following list provides a range of examples but is not exhaustive:

- discriminating against someone for a reason relating for example, to race, sex, disability, age, religion or belief, sexual orientation
- unlawful violence such as physical blows
- unnecessary and unwanted physical contact ranging from touching to serious assault
- indecent or sexual assault
- intrusion by pestering, spying, following, stalking, staring and leering, unwelcome advances, attention, invitations or propositions, sexual innuendo; coercion, including promises of rewards in exchange for sexual or other favours

- public humiliation, derogatory or belittling remarks concerning job performance or personal attributes, shouting and/or sarcasm, personal insults and name-calling
- constant unfounded criticism of the performance of work tasks
- unwelcome or lewd references to a person's physical features, figure or dress
- unwelcome discussion of the effects of a disability on an individual's personal life
 - *includes gender identity/expression
- verbal and written harassment (e.g. via offensive letters, telephone or e-mail) through jokes, racist remarks, taunts, offensive language, gossip and slander, threats, derogatory name calling or ridicule for physical or cultural difference, physical impairment, or religious belief, electronic transmission of pornographic, racist, degrading or indecent material
- suggestive and unwelcome comments or attitudes, insulting behaviour or obscene or offensive gestures
- removing areas of responsibility without good reason, punishing with trivial tasks, setting an individual up for failure with impossible workloads and deadlines
- persistently ignoring or patronising a person, isolation or non-co-operation at work, exclusion from social activities
- visual displays of posters, graffiti, emblems or other offensive material (such as pin-ups or degrading/indecent/ pornographic material, racially offensive material)
- Cyberbullying on external social network environments (e.g. Facebook, blogs, Twitter) should be reported to the social network platform owner. See Social Networking Guidance.

3. Responsibilities

3.1 University staff, agency staff and consultants

- Everyone has a responsibility to comply with this Policy and all individuals should ensure that their behaviour towards colleagues does not cause offence and could not in any way be considered to be bullying or harassment.
- Differences in culture, attitudes and experience, or the misinterpretation of social signals, can mean that what is perceived by the person experiencing the behaviour as bullying and harassment, may be perceived by others as normal. It is important to be sensitive to the feelings and reactions of others and adjust behaviour as necessary.
- Individuals should discourage bullying and harassment by making it clear that they find such behaviour unacceptable and by supporting colleagues who experience such treatment. Anyone who sees bullying or harassment happening in their area has a responsibility to take action. Unresolved incidents of bullying or harassment need to be progressed and can be raised with a manager or supervisor, a trade union representative or the People Hub.

3.2 Managers and supervisors

Managers and supervisors should:

- Set a good example by treating all individuals with dignity and respect.
- Understand and implement the Policy and make every effort to ensure that harassment and bullying do not occur, particularly in work areas for which they are responsible.
- Resolve any incidents of bullying or harassment of which they are aware. If bullying or harassment does occur, they must deal effectively with the situation.
- Explain and promote awareness of the University's Policy to their staff; ensure that each member of staff has been given a copy.

- Respond sensitively and supportively to any individual who makes an allegation of harassment; provide clear advice on the procedure and timescales to be adopted by those making complaints and those against whom a complaint is made; maintain confidentiality in accordance with this Policy; monitor the workplace to ensure that there is no problem of bullying or harassment, or of victimisation after a complaint has been made.
- Act if they observe bullying and harassment occurring. Be alert to unacceptable behaviour and take appropriate action: managers do not have to wait until complaints are brought to their attention if they are aware of behaviour of other managers or individuals which might cause offence. If the incident is not serious, then calling the individual aside and carrying out some 'awareness-raising' may be sufficient to stop the behaviour. In more serious cases, disciplinary action may be appropriate.
- Ensure that individuals know how to raise problems, are aware of the Policy and procedures, and of sources of help and advice available (e.g. the People Hub).

3.3 Trade union representatives

Trade union representatives can accompany their members to meetings which may result from a complaint under the procedure.

Trade union members who are raising a complaint, or have a complaint against them, can also talk confidentially to a representative of their trade union for advice and support.

3.4 The People Hub

Will provide advice and support to managers in resolving complaints, and advise individuals (those raising a complaint and those complained against), on the procedures, and sources of help as appropriate.

PART 2 Informal approaches to dealing with bullying and harassment issues and procedure for dealing with formal complaints

1. Timescales

Informal and formal complaints will be dealt with as quickly as possible. A timescale for dealing with each complaint will be agreed. Normally this will comply with the timescales stated throughout the procedures. Where this is not possible the parties involved will be advised of revised timescales.

Bullying and harassment issues, either informal or formal, should normally be raised within 3 months of the most recent incident or incidents giving rise to the complaint. It is advisable to do so as soon as possible after an incident has occurred, as memories of an incident may fade. A lapse of time may mean it is unreasonable for a complaint to be pursued.

Where the complaint is of a sexual nature, we will endeavour to investigate it, regardless of how long ago the incident occurred, but we encourage complaints of all types to be raised as soon as possible.

2. Confidentiality

As a general principle confidentiality should be agreed and maintained. However, where a manager or member of the People Hub believes there is an unacceptable risk to the complainant, or to another person, or to the University, action will need to be taken, and absolute confidentiality cannot be maintained. There is a need to balance individual confidentiality with the nature of the risk, however, information will only be given to those who strictly need to know. The decision as to whether a complaint should be progressed will normally rest with the complainant, except where there is an unacceptable risk, e.g. threats of violence, risk of damage to health. In such circumstances, it will be necessary to take action under this procedure whether or not the complaint is in writing. If such action is necessary, the complainant will be notified and kept informed.

If a complainant about a matter of sexual misconduct wishes to remain anonymous, the matter will be raised on an anonymous basis with their Head of Unit/Executive Dean or their nominee, who, in consultation with People Services, will determine whether:

- There is sufficient information to investigate without the complainant's involvement and appoint a manager to address the matter by the most appropriate informal or formal route as determined by the information provided.
- There is insufficient information to take the matter further without the complainant's involvement. Consideration will, however, be given to whether indirect action may be appropriate such as training initiatives or awareness-raising.

It may not be possible to take any action when complaints are completely anonymous although it may be possible to address such complaints through indirect methods, e.g. training initiatives, awareness-raising, publicising the Bullying and Harassment Policy.

3. Group complaints

If several people are experiencing bullying or harassment from the same source, and complain as a group, individual statements should be made. If a complaint is made against several people, individual responses to complaints will be needed. Outcomes of complaints will be advised individually and not to the group.

4. Complaints relating to disciplinary action

Where a member of staff is subject to disciplinary action and complains that the action is taken not for reasons of conduct or capability, but which are related to bullying and harassment this will normally be heard at a disciplinary appeal meeting.

5. Accompaniment at meetings

A trade union representative, or a friend or colleague who is employed by the University may accompany either party (or a witness) to meetings which may result from a complaint under these procedures. In making their choice, the parties involved should bear in mind that it would not be appropriate to insist on being accompanied by a colleague whose presence would prejudice the hearing or who might have a conflict of interests.

It is good practice to allow the companion to participate as fully as possible in the meeting, if the worker wishes: putting and summing up the worker's case, asking witnesses questions, and responding on the worker's behalf to any views expressed in the meeting. The companion can also confer with the worker during the meeting. However, the companion has no right to answer questions on the worker's behalf (if present at the meeting), or to address the hearing if the worker does not wish it, or to prevent the worker from explaining their case.

Either party may be accompanied at meetings under this procedure by someone who is not employed by the University where it is necessary to facilitate a reasonable adjustment or language barrier or if, as a vulnerable employee, they require emotional support which cannot be provided by a trade union representative or work colleague.

6. Dealing with bullying and harassment issues

There are various ways in which individuals can deal with bullying or harassment either informally or under the formal procedure. Normally informal measures to address complaints are in everyone's interests to ensure that issues are dealt with quickly, fairly and confidentially. (NB Managers observing bullying and harassment should take action to resolve issues without a complaint being made.)

6.1 Informal and formal complaints involving external customers, suppliers, or students

If the person complained against is an external customer or supplier of goods or services, including agency staff and consultants, the manager will decide the most appropriate course of action (e.g. talking to the person and/or a senior member of staff of the external customer or supplier). If the complainant is not satisfied with the action proposed, the matter will be referred to the relevant Group People Director and Head of Unit for a decision.

If the complaint is against a student, the advice and actions given in the student Dignity and Respect Policy should be followed. For a summary of actions under that policy, please see Appendix A.

6.2 Threatening behaviour and/or violence

If a member of staff is being subjected to threatening and/or violent behaviour outside of the workplace by another member of staff, a student, ex-staff, ex-student or an external customer or suppliers of goods and services, then they should report the matter to the police direct. They should also advise their line manager that they have taken this action. In these instances, the University will fully support the investigation in whatever way is appropriate. Any resulting investigation utilising University procedures will be conducted under the guidance of the police.

6.3 Actions to deal with complaints informally

If you feel that you are being subjected to bullying or harassment, the aim should be to deal with this informally and as soon as possible, unless you consider the issue is of a serious nature or informal actions have not resolved the matter.

You may find it helpful to make a note of any incidents, so that you are clear about what happened, when, where, and whether anyone else was there.

There are several possible courses of action in these circumstances. You can choose any of the following:

- Talk to the person who is bullying or harassing you, tell them about the behaviour that is causing you distress, and ask for it to stop. This should be done as soon as possible. In some cases, the person may be unaware that his/her behaviour is inappropriate or objectionable, or it may be that his/her words or actions have been misinterpreted. In such cases, the misunderstanding needs to be cleared up speedily. Even where the behaviour was intentional, a swift and clear indication that it is objectionable may prove sufficient to stop it.
- Discuss the matter with a colleague, your line manager or a more senior manager, your trade union representative, or the People Hub, before deciding what action is appropriate (see Part 1, Section 3 for information on responsibilities). Following consultation you may decide to take no further action (but see also under Confidentiality in Part 2, Section 2 above – it may nevertheless be necessary to take action).
- Ask a trade union representative or colleague to go with you to speak to the person.
- Write to the person against whom you have a complaint being specific about what offends you and asking for this behaviour to stop. (Keep a copy of the letter in case further action becomes necessary.)
- Ask your manager or a more senior manager (if it is your manager who is the subject of the complaint) to take the matter up on your behalf.

An agreed resolution may be an acceptance that there has been a misunderstanding and an agreed protocol developed for managing work relations in the future.

If you have worked through appropriate options from the list above, and the issues are unresolved, a formal complaint may be the next step.

N.B. Actions that managers will take in response to an informal complaint are set out in 7.1.

6.4 Formal complaints

If the problem cannot be resolved by taking informal action, or if it is of a more serious nature, you may decide to make a formal complaint as follows:

For Associate Lecturers, your manager is your Staff Tutor (and your Head of Unit is the Dean)

For Residential School staff your manager is the Course Director or the School Director.

- A formal complaint needs to be made in writing to the line manager or a more senior manager (but see also Section 2 above – Confidentiality). A trade union representative or the People Hub can be contacted for advice if required. Complaints can also be raised through the Safe Space Reporting tool: [Report + Support - Open University](#)
- If the person being complained against is the Head of Unit then complaints should be addressed to the Deputy Group People Director.

- The signed complaint should contain the following details: when the incident(s) happened (date and time); who the complaint is being made against; the nature of the incident and specific details; where the incident happened; the names of any witnesses to the incident; any action which has already been taken. (Individuals raising complaints and individuals against whom complaints have been raised, should not approach potential witnesses to discuss the evidence that they can give once a formal complaint has been submitted and the person against whom it has been made has been informed.)
- If the manager receiving the complaint has been involved with trying to resolve it informally, a more senior manager should deal with the formal complaint (normally the manager's line manager).
- Heads of Units, where not involved in the investigation, will be advised of all formal complaints and the outcome.

NB Actions that managers will take in response to a formal complaint are set out in 7.2.

7. Action that will be taken by managers in response to a complaint

The manager receiving the complaint will respond sensitively, provide advice about the procedures and the next stages that will be involved, and the timescale. The People Hub is available to give advice and support. Every effort will be made to deal with the matter as quickly as possible.

7.1 Actions to deal with complaints informally

Where action is to be taken by the manager, this will be as follows:

- i. Agree a timescale with the complainant to work through the actions below. Where there is any delay, the complainant should be advised.
- ii. Speak to the person against whom the complaint has been made, explaining the nature of the complaint, and who has made it. Give him/her a copy of this Policy drawing his/her attention to section 9 which gives details of sources of help and advice. Give advice about the procedure that will be followed if a formal complaint is made, or if there is a reoccurrence of the behaviour.
- iii. Give the person complained against the opportunity to respond (normally for complaints being dealt with informally this is unlikely to be in writing; any written complaint or written response will be made available to both parties).

NB sufficient time should be allowed for the person complained against to seek advice if required.

- iv. Discuss with both parties separately (normally within 10 working days of receiving the response to the complaint). Where the person complained against acknowledges that the behaviour has taken place, appropriate action will be taken (e.g. a resolution is agreed between both parties; the person complained against is told to stop and the situation is monitored).
- v. If, after separate discussions with the parties involved, it is clear that there are differing views and perceptions of the situation, a meeting of both parties and the manager may be appropriate (normally within 10 working days of receiving the response to the complaint). Where this meeting does not lead to clarification or reconciliation, and the matter remains unresolved, the manager may consult any witnesses to clarify the situation.
- vi. Where the manager decides that there is substance to the complaint, the person who is being complained against will be asked to ensure there is no future reoccurrence and the situation will be monitored. Support, guidance and/or counselling will be offered as appropriate.
- vii. Mediation may be arranged through the People Hub if both parties agree.

Note 1: Exceptionally a manager may decide that there is sufficient reason for formal disciplinary action to be taken under the appropriate procedures.

Note 2: If the person complained against has a different manager, then his/her manager will be involved in discussions.

7.2 Actions for dealing with formal complaints

The manager will advise the person against whom the complaint has been made and give them a copy of the written complaint and the Policy as soon as is reasonably possible (drawing his/her attention to section 9 which gives details of sources of help and advice). Any written response will be copied to the person making the complaint. The People Hub should be kept informed of action taken in response to a formal complaint. (NB: Sufficient time, e.g. normally up to 10 working days, should be allowed for the person complained against to seek advice, if required, on framing a response.)

The manager will pursue one or more courses of action from those set out in section 7.1 – subsections (iii), (iv), (v), (vi), or as set out below, taking into consideration the seriousness of the allegations:

- i. After a preliminary assessment of the circumstances, carry out an investigation within the Unit. The manager may decide that there is sufficient evidence for formal disciplinary action to be taken under the appropriate procedures (the Head of Unit, if not already involved in this decision and investigation will be informed).
- ii. After a preliminary assessment of the circumstances, arrange for an independent investigation to be carried out by an investigatory panel. This is only likely to be appropriate in more serious and complex cases, e.g. where there are a number of people involved, or where there is no clear view of what has happened and/or where there are allegations of a serious nature which could lead to serious consequences for either of the parties involved and/or the Open University, or where it is not considered feasible to conduct an independent investigation within the Unit.

Consideration should be given to the composition of the panel. It should consist of at least two people at management level (usually Grade 9 or 10), who must not be from the same Unit as either party, who are not connected in any way with the complaint that has been made. In some circumstances, as determined by the People Hub with the Head of Unit, external experts in bullying and harassment investigations may be involved as members of the panel, or to conduct the investigations. (HR advice for the panel will be provided by a member of the People Hub.) If the complainant or person complained against has evidence that a particular member of the panel may have a conflict of interests, consideration will be given to any objection raised. Guidance for the conduct of the panel is available from the People Hub.

The panel will be responsible for investigating the complaint (setting the timescale in consultation with the parties) and will present its findings to the senior manager and/or the Head of Unit (or the Deputy Group People Director, where the complaint is against the Head of Unit), and the People Hub, who will decide what action to take. Prior to action being taken there will be discussion with any trade union representatives involved. A copy of the report including any separate written statements by the parties and any witnesses will be provided to both parties to the complaint. (Separate reports will be made in cases where there is more than one person complained about and/or more than one person making a complaint.)

Note 1: If the person complained against has a different manager from the complainant, then his/her manager will be involved in discussions.

Note 2: Where the complaint is serious, the Head of Unit in consultation with the appropriate People Hub manager may decide to recommend to the University Secretary that the person complained about is suspended on full pay pending an investigation.

8. Possible outcomes of a formal complaint

Possible outcomes of a formal complaint include:

- Commitment from the person complained against that the behaviour will stop, or that an action will not be repeated.
- Misunderstandings clarified and resolved.
- Resolution, e.g. through mediation.
- Disciplinary action. Possible outcomes of disciplinary action include: an oral, written or final written warning; dismissal; or the complaint dismissed. Serious bullying or harassment will be treated as gross misconduct.
- Rehabilitation of the person complained about in his or her own role (e.g. provision of awareness-raising, counselling, mentoring, staff development, monitoring for a fixed period etc.).
- Identification of institutional or unit issues raised during an investigation for which a separate report may be made to the Deputy Group People Director and the University Secretary who will decide appropriate action.

Following disciplinary or formal action, where it is considered inappropriate for the parties to work in proximity to each other, the normal practice will be to try to relocate the person who was complained about. Unless a disciplinary authority has made a ruling to the contrary against the person about whom the complaint has been made, relocation will be on the same grade, salary and terms and conditions as applied before the disciplinary action. However, operational considerations, depending on the seriousness of the complaint, may mean that, by agreement, the person making the complaint may be offered relocation to alternative work.

Both parties will be advised of the outcome, which will be confidential to the parties involved as far as possible.

9. What to do if a complaint is made against you

If a complaint is made against you, consider how best to try and resolve the issue, or correct any misunderstandings and consider other ways of ensuring that difficulties do not arise in the future. You will be given a copy of the Bullying and Harassment Policy and advised of the complaint and who has made it. If the complaint is in writing, you will be given a copy of the written complaint. You will have the opportunity to respond and to provide a written reply where the complaint is in writing (normally within 10 working days). Any written response will be copied to the complainant. Once a manager dealing with a complaint receives your response, they will decide what action to take. This will depend on whether a complaint is informal or formal. Possible actions that managers can take are described in Section 7 of this procedure. In all cases, a fair and objective investigation of the facts will be carried out and all parties will have the opportunity to state their views.

A union representative (see Part 1, Section 3.3) or the People Hub (see Part 1, Section 3.4) can be contacted for advice if required on how the policy operates, framing a written response to a complaint, and other sources of help or advice available.

(Individuals raising complaints and individuals against whom complaints have been raised, should not approach potential witnesses to discuss the evidence that they can give once a formal complaint has been submitted and the person against whom it is made has been informed).

Support and counselling, if this would be helpful, will also be offered to you.

10. Appeals

If either party is dissatisfied with the outcome of a formal complaint (except where formal disciplinary action has been taken which includes a right of appeal,) an appeal may be made, in writing, to the University Secretary, stating the grounds for the appeal, within 10 working days of confirmation of the decision. An appeal will be heard by a senior officer of the University, nominated by the University Secretary, who has not previously been involved in the complaint, and who is not a member of the unit

of any party involved, normally within 15 working days. The employee will be invited to an appeal meeting and must take all reasonable steps to attend. The University officer hearing the appeal will determine whether the process was fair and the judgement reasonable in the circumstances, and will advise the employee of the decision, normally within 15 working days of the appeal hearing. This decision will be final as far as the University's internal procedures are concerned.

Where formal disciplinary action is taken, the right of appeal for the person complained against will be under the disciplinary procedures (and not the procedures set out above).

Note: Complainants will be advised of the intention to take disciplinary action and if the person complained against will be suspended pending that action. However, the results of the disciplinary action will be confidential unless the person is dismissed.

Where disciplinary action is taken you will have rights as set out under the relevant disciplinary procedure, including the right to appeal against any decision, and the right to an explanation for any decision.

11. Victimization

Victimization occurs specifically when a person is treated less favourably because he/she has asserted his/her rights under this Policy, either in making a complaint or in assisting a complainant in an investigation.

Victimization or retaliation as a result of action being taken under this procedure is unacceptable and may lead to disciplinary action. Victimization may also be unlawful.

12. Vexatious and malicious allegations

Not every allegation of harassment is well-founded. Vexatious (i.e. one with no basis which seeks to cause annoyance) and malicious allegations (i.e. a complaint with no basis and made with the intention of causing harm) may give grounds for disciplinary proceedings against the complainant, but this will not include ill-founded allegations which were nonetheless made in good faith. Any investigation based upon vexatious and/or malicious allegations may be terminated by the People Hub and Head of Unit.

13. What records will be held?

- If the complaint is found to have no substance no records will be kept on file except for a note of action taken, which are kept for at least 3 years.
- Correspondence relating to the action and the outcome and resolution will be held for three years where the manager/Head of Unit finds that there is substance to a complaint, or where it is accepted by the person against whom the complaint has been made that there is substance to the complaint. No other records will be kept except when formal disciplinary action is taken – see below. Provided either party honours the agreed resolution and no further accusations of bullying or harassment have been made and found to have substance during this period, the record will then be destroyed.

- Where it is not possible to decide whether there is any substance to the complaint, correspondence relating to action taken to review the case, and any written statements will be held for three years in the Deputy Group People Director's office. No other records will be kept except when formal disciplinary action is taken – see below. These records will not be re-opened unless there is a further complaint under the Bullying and Harassment Policy or Disciplinary or Grievance Procedures for bullying and harassment concerning either individual within a three year period. In such circumstances the Deputy Group People Director will inform the individual and a union representative (if requested by the individual) that the records are being re-opened, and will provide the individual with a copy of the record. The record may not be referred to or released in any other circumstances.
- Where formal disciplinary action is taken, records will be held in accordance with the timescales in the relevant disciplinary procedures.

14. Monitoring and feedback

In order to evaluate the effectiveness of the Bullying and Harassment Policy, the University wishes to monitor the level and kinds of problems that occur. Where investigations follow this staff policy, then the Staff Bullying and Harassment Monitoring form should be completed (by the manager, the People Hub or the union representative who are approached by a member of staff who is experiencing the bullying and harassment) and returned to the People Hub for statistical analysis. The person completing the form should remind those people (the person raising the complaint and the person complained about) that the Monitoring Form will be completed. The Monitoring Form will be anonymised – it will not contain the name of the complainant or the name of the person complained against.

We will be collecting Equal Opportunities monitoring data in order to assess if the experiences of any particular group of staff differs from another.

15. Bullying and harassment by ex-students and ex-staff to existing members of staff

In cases where ex-students or ex-staff allegedly bully and harass existing staff, then the following action should be taken:

- The existing member of staff should ask the ex-student or ex-staff member to stop bullying and harassing them using the most appropriate method of communication, such as a letter.
- If the bullying and harassment does not stop, then the matter may be referred to their line manager who may raise the issue with a more senior manager to decide whether further action could, or should, be taken. The University may decide to support the member of staff in taking further action (depending on the circumstances of the bullying and harassment).
- Each case would be looked at individually and the role of the University would be to support the member of staff in taking appropriate action, rather than taking action on behalf of the member of staff.
- Should the member of staff wish continued support from the University, they may be required by the University to look at other external options to stop the bullying and harassment, such as an injunction or civil/criminal proceedings.

Nothing in this Policy will prevent members of staff from exercising their legal rights. The policy and procedures for raising complaints of bullying and harassment meet the standards set out under the Statutory Disputes (Resolution) Regulations grievance procedure.

We welcome any feedback on this policy and the way it operates. We are also interested in any concerns about possible adverse impact of the policy and the way it operates on any particular group of staff.

Any feedback should be sent to: People-Services-Policy@open.ac.uk

N.B. Please note that no changes should be made to this policy without consulting with the owner of the student Dignity and Respect Policy.

Summary of the student Dignity and Respect Policy – Appendix A

If you are a staff member and you feel that you have experienced bullying and harassment by a student:

Informal procedure

Formal procedure

