



THE UNIVERSITY *of* EDINBURGH

## **Dealing with Personal Harassment Code of Practice for Staff**

### **1. Preamble**

The University Court has adopted a policy of providing equal opportunities for its students, staff, applicants and others involved in its business. One aspect of this policy is its intention to prevent, as far as is possible, the harassment of one person by another, whether on the basis of gender, sexual orientation, sexuality, race or ethnic origin, religion, disability, or any other personal attributes or views held by the person harassed.

To assist in this the University has adopted codes of practice to guide its staff and students in dealing with each other and with others. This code is for the information and guidance of staff. (The equivalent code for students is available from the Students' Association Offices, the Equality and Diversity Advisor, and College/Support Department Offices.)

The code is not concerned with the application of proper legitimate and reasonable authority by supervisors or Heads of Schools/Support Departments and other managers in respect of their staff in the furtherance of their duties.

### **2. Personal Harassment**

The Oxford Dictionary defines "Harass" as "to trouble or vex by repeated attacks". This highlights the two normal requirements for harassment to occur.

- It is unwelcome.
- It is repeated.

Commonsense suggests, however, that certain behaviour will by its nature or severity be unwelcome even on a single occasion. Conduct which is acceptable to one person may prove to be unwelcome to another and the test applied must be that the conduct (whether unwitting or deliberate) is unacceptable to the recipient and would be judged as harassment by any reasonable person.

Harassment is particularly unacceptable where the harasser occupies a position of power or authority - for example, in the role of a supervisor, Head of School/Support Department, line manager, or administrator who is able to affect the employment, career, grade, or qualification of the target. (For further comment on professional relationships see Annex 1).

Harassment also occurs between members of an equal group, and in the reverse direction to that commonly assumed e.g. women to men, and all are equally undesirable within the University.

All members of the University, staff and students, have a duty to ensure that individuals do not suffer any form of personal harassment and, that if they do, they are supported in seeking its elimination and in pursuing any legitimate complaint about the harassment.

### **a) Harassment Generally**

Personal harassment on any grounds can be a source of great stress to an individual. It is the conduct of one person against another or others when an intimidating, hostile or offensive atmosphere is created for the victim(s) based on derogatory name calling, belittling remarks, ridicule, insults, verbal abuse, physical assaults or threats. It may be so serious and/or relentless that the person who is being, or has been harassed, feels it necessary to change job.

Harassment can occur anywhere but it is generally recognised that certain groups of people are more vulnerable than others. Some examples are described below.

### **b) Racial and Religious Harassment**

Racial or religious harassment may be defined as unacceptable conduct by an individual against another or others, where the motivation is the colour, race, ethnic origin or religion of the target. Such behaviour might include derogatory name-calling, belittling remarks, ridicule, insults, jokes, graffiti, verbal abuse, threats or physical assault because of cultural and/or religious differences. It might also include any comments which imply that race or religion impair the person's ability to perform his/her role in the academic community. Harassment occurs where any such conduct creates an intimidating, hostile or offensive environment for the individual or group in dealings within the University community.

### **c) Gender and Sexual Harassment**

There are two main forms of such harassment. The first, on a similar basis to racial harassment, is the conduct of one person against the other on the basis of the gender, marital status, sexual orientation or sexuality of the other. Such harassment occurs when an intimidating, hostile or offensive atmosphere is created for the victim based on derogatory name-calling, belittling remarks, ridicule, insults, verbal abuse, threats or physical assault, simply on the grounds of the gender, marital status, sexual orientation or sexuality of the individual. It also includes any comment which implies that gender impairs the person's ability to perform his/her role in the academic community.

The second form concerns itself with aspects of a physical relationship and may include suggestive looks or remarks, compromising invitations, unwanted demands for sex, offer of favoured treatment in return for sex (or threats of

disadvantage if refused), unwanted physical contact, indecent assault or rape. It may also include displays of sexually suggestive or degrading pictures or objects in the workplace.

Sexual harassment can, of course, occur between members of the same sex as well as members of the opposite sex.

#### **d) Harassment on Grounds of Disability**

Harassment on grounds of disability may be defined as unacceptable conduct by an individual against another or others, where the motivation is the physical or other disability of the target.

Such behaviour might include derogatory name-calling, belittling remarks, ridicule, insults, jokes, graffiti, verbal abuse and threats, simply on the grounds of the disability.

### **3. Policy on Harassment**

Certain types of harassment - those on the grounds of race or ethnic origin, gender or marital status - may lead to a claim against the University or the perpetrator under anti-discrimination legislation. The threat of legal action apart, however, the University believes that it has a paramount responsibility to provide an environment for the conduct of its business that is free of harassment.

Accordingly, the University Court, on behalf of the University as a whole, the Trades Unions on behalf of staff, and the Students' Association on behalf of students, are united in seeking to eradicate personal harassment, on any grounds, of one member of the University community by any other. In support of this policy these bodies will give support to any victim of harassment, and the University will bring its codes of conduct and discipline to bear on any member who is shown to be harassing another.

### **4. If Personal Harassment happens to you**

To assist you in responding to a situation which you interpret as personal harassment, the following guidelines may be helpful.

#### **a) Individual Action**

If you feel you are being subjected to personal harassment in any form you should seek, at the earliest possible stage, to bring it to an end. Remember that no persistently upsetting behaviour is too trivial to raise through the channels suggested below.

- If possible make it clear to the person causing the offence that such behaviour is unacceptable to you. This should in many instances be sufficient to bring it to an end.

- If you feel unable to speak to the person concerned, or if having spoken the behaviour persists, you should keep a note of details and dates of any incidents which distress you, including a note of any ways in which the incidents cause you to change the pattern of your work or social life.

Unwillingness to approach the individual will not be interpreted by the University to constitute consent nor will it prejudice any complaint you may bring.

### **b) Seeking Informal Assistance**

If you feel unable to act singly in this matter you may wish to seek assistance from a close colleague or trade union representative. (See Annex 2 for potential sources of help). To provide a valuable option in this regard, a network of trained Contact Officers has been set up (see Annex 3). Their role is to give you support and to provide advice as to how best your particular problem can be resolved. Contact Officers are trained to respond sensitively to your problem and to provide advice about the procedure if a formal complaint becomes necessary. The role of the Contact Officer is set out more fully in Annex 3.

A list of personal harassment Contact Officers is available from the sources listed in Annex 2. If you choose to seek assistance from a Contact Officer your first move, then, will be to obtain the list, select a name and arrange a meeting with the person whom you have selected. The Contact Officer will discuss with you three possible ways forward:

- employing self-help and general strategies for dealing with the problem (see Annex 3, Stage 1);
- dealing with the situation through an informal conciliation procedure which will involve a personal interview with the harasser by a conciliator trained to deal with the situation (see Annex 3, Stage 2);
- making a formal complaint which may involve formal disciplinary proceedings (see Annex 3, Stage 3).

No course of action with regard to any of these will be taken without your permission.

### **c) Making a formal complaint**

If the problem is serious, or has not been resolved by informal means, then you, or someone acting on your behalf, should make a formal complaint to your line manager or Head of School/Support Department or to any other person in authority within the College, Support Group or University whom you feel able to approach. See below for the action which will then ensue. It is important that you should not be deterred from making a complaint because of embarrassment, fear of intimidation or publicity, or fear of subsequent victimisation. Your Contact Officer will advise you about how to make a formal complaint.

## 5. Action by the University

This section outlines the procedure to be followed where the person complained of is a member of the University staff.

Where the person complained of is a student the procedure is the same, but any formal investigation or disciplinary action, if applicable, would be considered under the Student Code of Discipline.

Any member of the University staff, when approached regarding a matter of personal harassment should deal with it sympathetically, with sensitivity and in confidence. Complaints of harassment should be considered expeditiously and the appropriate action taken in terms of this code to ensure that the harassment does not recur. In general the first practical steps will be to ensure that the complainant is aware of the University's policy and procedures concerning harassment, in particular the existence of the network of Contact Officers.

A network of Contact Officers exists throughout the University; they are trained in advising those subjected to personal harassment and are available for consultation by any staff member. The Contact Officer will deal with the matter as promptly as possible and in a way which meets the needs and merits of each situation. Wherever possible an interview will be arranged within ten working days. The complainant may be accompanied by a friend who is a member of the University staff or a trade union representative. If appropriate, the Contact Officer will help to identify a suitable conciliator (see Annex 3, sections 5,6,7). At the discretion of the Contact Officer and with the permission of the complainant, the advice of the Harassment Advice Panel may exceptionally be sought to help in the conciliation process. (See Annex 4).

Though some cases of personal harassment may be resolved or conciliated informally by direct approach to the harasser (in accordance with Stages 1 or 2 described in Annex 3 and Annex 4) some cases will inevitably be incapable of conciliation. Those cases which are incapable of successful conciliation or are too serious to warrant a conciliation process will be referred to the appropriate level of line management for further investigation. Such cases will then fall within the ambit of the University's formal Grievance and/or Disciplinary Procedures. (See Annex 3 Stage 3).

In whichever way is most appropriate, then, the University will fulfil its obligation to:

- a. the complainant - to take the complaint seriously, to investigate the allegation thoroughly and, if it is proved, to take swift and effective action to prevent a recurrence.
- b. the person against whom the complaint has been made - to investigate impartially, to ensure that he/she has had the opportunity to be represented, and to give him/her a clear account of the allegation so that he/she may state a case and call witnesses. If the allegation is

proved, the University also accepts an obligation in all but the most serious cases, to seek to rehabilitate the harasser.

If during the course of the investigation the University considers it inadvisable for the complainant and the person against whom the complaint has been brought to work in close proximity while the investigation continues, the University will take such action as is necessary by, for example, the temporary relocation of one or both parties, pending the completion of the investigation. Such action will be without prejudice to the eventual outcome and will be without salary detriment to the individual(s).

Disciplinary proceedings will include warnings and the possibility of dismissal from the University under the relevant Disciplinary Procedure.

Where a serious criminal offence appears to have been committed, the University will normally refer the matter to the police for investigation but the wishes of the complainant will be taken into account in all cases.

The University will treat as confidential all records concerning allegations of personal harassment. Cases will be investigated impartially, and the University will ensure that all parties have the opportunity to be given a clear account of the allegation, to present a case, and to be represented if this is their wish.

## **6. Rehabilitation**

Serious cases of harassment may amount to gross misconduct, which if proved can lead to summary dismissal. In less serious cases, however, it may be sufficient for the harasser to give an undertaking not to re-offend, and to be warned as to his/her future conduct. Sometimes it will not be considered appropriate for the harasser and the victim(s) to continue working in close proximity. In such cases it will be the University's normal practice, as far as is practicable, to relocate the harasser rather than the victim(s). Where such relocation is not practicable arrangements will be made to provide a harassment-free work or study environment by, for example, setting down codes of behaviour which will be monitored.

Unless the appropriate disciplinary authority has made a ruling to the contrary, it will be presumed that relocation will be on the same grade, salary and terms and conditions as applied before the disciplinary action. In addition to the harasser, relevant management, staff and unions will be consulted (in confidence) to ensure that relocation is a satisfactory outcome to all concerned.

The University regards the use of expert counselling about harassment as of positive benefit and arrangements will be made for such counselling for all offenders who indicate they would find it useful.

## **7. False Accusations**

The possibility that complaints might be brought with mischievous or malicious intent is also recognised and may provide grounds for disciplinary warning or action against the complainant. The procedures and sanctions for this will be in accordance with the University's normal Discipline or Grievance Procedures.

## **8. In cases of threatened or actual physical assault**

If you have been assaulted or threatened with assault you should seek help immediately. You should report the matter to your Head of School or his/her nominated deputy<sup>1</sup> or, if you prefer, to the Director of Human Resources or his/her nominated deputy who may recommend a trained counsellor interview you. The assault may be serious enough to justify reporting the matter to the police, who will arrange medical help and advice for you.

Some of the agencies listed in Annex 2 to this code are also willing to assist in such cases.

## **ANNEX 1**

### **Professional Relationships**

The University recognises that the contribution its staff make towards the achievement of its objectives and the level of satisfaction they derive from their work is greatly influenced by the ways in which its employment policies and procedures are implemented. In particular, members of staff who have managerial or supervisory responsibilities are expected to exercise their authority in ways which are conducive to the creation and maintenance of a co-operative working environment. This includes the establishment of good professional working relationships in which the importance of treating people with dignity and fairness is recognised.

In addition to these professional relationships close personal relationships may exist or may develop between members of staff or between staff and students. (Annex 1 of the "Dealing with Personal Harassment: Code of Practice for Students" document sets out the equivalent guidelines in respect of close personal relationships between staff and students).

There are circumstances in which such personal relationships between members of staff may not be advisable. For example, staff who are responsible for the appointment, management, supervision or direction of other members of staff should be especially aware of the potential for conflict of interest and other problems which may prejudice good professional practice where a close personal relationship exists (or has existed) with a member of staff for whom the more senior member of staff has a professional or managerial responsibility.

Where such a relationship is, or becomes unwelcome to one of the parties, or ends, the consequences, may include personal harassment in terms of this Code and would fall to be dealt with accordingly.

A separate Code of Practice setting out the University's policy and procedures to be observed by staff involved in close personal relationships with other members of staff or students is in preparation. Members of staff who fail to observe these procedures fall short of the professional standard expected in the discharge of their duties. In certain circumstances this may result in action being taken under the University's Disciplinary Procedures.

## **Annex 2**

**Sources of Information and Help** (University telephone extension numbers given below - if phoning from outside the University dial 6 before the number given below)

### **Sources of Information**

Equality and Diversity Advisor (508235)

Human Resources advisers see [www.humanresources.ed.ac.uk/contact.htm](http://www.humanresources.ed.ac.uk/contact.htm) for extension numbers

Staff Counsellor (502513)

School/Support Department Offices

College/Support Group Offices

Chaplaincy (502595)

Trade Union Branch Offices

EAUT (504370)

Amicus-MSF ( 502879)

UNISON (504529)

University Health Service (502777)

Rector's Office (504028)

Occupational Health (508190)

### **Sources of Help**

**Within the University**

Equality and Diversity Advisor (508235)

Staff Counsellor (502513)

Contact Officers see

<http://www.humanresources.ed.ac.uk/equality/HARASS/CONTACTS.HTM> or any of the sources above for a [list of names of trained Contact Officers](#).

External

Samaritans (0131 221 9999 or 08457 909090)

Rape Crisis Centre (0131 556 9437)

Lothian Coalition of Disabled People ( 0131 4752360)

Lothian Racial Equality Council (0131 556 0441)

Edinburgh Gay Switchboard (0131 556 4049 between 7.30 and 10pm)

### **ANNEX 3**

#### **Role of Contact Officers**

1. A network of Contact Officers shall be appointed by the Principal on the advice of the Staff Committee. They will be chosen for their suitability based on personal qualities and experience. The key qualities or skills looked for in Contact Officers are:
  - a thorough knowledge of the University
  - good listening skills
  - maturity and objectivity
  - the trust and respect of staff
  - the ability to be caring and to empathise
  - approachability and the capacity to be easy to talk to
  
2. Care will be taken to maintain a balance of men and women spread across all locations and across all broad categories of staff, taking into consideration:
  - position (e.g. lecturer, secretary, etc)
  - location (School/Support Department, Old College, New College, King's Buildings, etc.)

Suitable individuals may be:

- self-nominated
- nominated by the recognised Trade Unions
- nominated by Heads of Colleges/Support Groups, Heads of Schools/Support Departments.

2. Being a Contact Officer is not a formal part of the duties of University staff but is evidence of service to the University. The work undertaken in this capacity is entirely voluntary and no pressure should be put on staff to undertake such work. All such participation in these matters shall be with the knowledge of and the compliance of the Head of School/Support Department, who shall be expected to allow the individual time off for such service to the University. It is not expected that the activities of a Contact Officer should occupy more than an average of 6 hours per month.
3. The responsibilities of Contact Officers are to provide:
  - a first point of contact
  - advice about the University's Personal Harassment policies and procedures
  - advice on options for action
  - assistance with self-help strategies
  - support for the complainant throughout the conciliation procedures
4. At all stages of the procedure Contact Officers:
  - will respect the wishes of the complainant
  - will maintain complete confidentiality
  - may seek advice from the Harassment Advice Panel without revealing the names of the complainant or the alleged harasser

It is not the role of Contact Officers to become involved in negotiations with the person complained of, unless the Contact Officer is also willing to act as, and had been trained as a Conciliator.

Different cases will require different responses, and all three stages outlined below will not be appropriate in every case. Some, for example, may be resolved by stage 1, while in other cases it might be appropriate to move directly to stage 3.

6. [Stage 1: Seeking advice/strategies ] At this stage the Contact Officer may:
  - suggest strategies for the complainant himself/herself to deal with the harassment without confronting the person causing the harassment
  - accompany the complainant to outline the matter to the alleged harasser
  - approach the person complained against and make the nature of the complaint known if asked to do so by the complainant

- provide information about what further steps may be taken to resolve the matter

7. [Stage 2: Conciliation ] At this stage the Contact Officer will:

- advise the complainant of the options for conciliation and the choice of Conciliator.
- assist in identifying an appropriate Conciliator if requested by the complainant and in informing that person of the complaint
- support the complainant throughout the conciliation procedures

The choice of a person to undertake conciliation rests with the complainant, usually with the advice of a Contact Officer. A Conciliator will normally be someone in a position to take effective action such as a Head of School/Support Department, but it may also be a member of the Harassment Advice Panel or another conciliator of the complainant's choice. The person initially approached may decline to act, either for reasons of work or for personal reasons.

8. [Stage 3: Formal Complaint] At this stage the Contact Officer must:

- advise the complainant of the formal complaints procedure
- assist the complainant in bringing forward a formal complaint
- provide support to the complainant throughout the investigation of the harassment

If the alleged harasser is a member of staff, the complaint should be made in writing to the appropriate line manager. This would normally be the Head of School/Support Department, but could in certain circumstances be the Head of College/Support Group or other member of the University's senior management. A copy of the letter should also be sent to the University's Equality and Diversity Advisor.

Once the complaint against a member of staff has been received the Head of School/Support Department or nominated deputy will conduct a preliminary investigation into the complaint to establish if there is a case to answer and then determine whether the next stage should be the Grievance or Disciplinary procedure. The Head of School/Support Department must advise the Director of Human Resources or his/her nominated deputy that a formal complaint of harassment has been received.

### **The Preliminary Investigation**

This will normally be carried out by the Head of School/Support Department or nominated deputy along with a person from outwith his/her College/Support Group who has been trained in dealing with cases of harassment, chosen after discussion with the Director of Human Resources or his/her nominated deputy. Separate investigatory meetings will be held with the complainant and the alleged harasser, together with representatives, if desired. It is the

responsibility of the Head of School/Support Department or nominated deputy to inform the alleged harasser that a formal complaint has been made and that they have the right to be accompanied by a friend or colleague or by a trade union representative normally employed by the University of Edinburgh.

The preliminary investigation is intended to be brief and should be conducted within 7 days of the Head of School/Support Department or nominated deputy receiving the initial complaint.

There are four possible outcomes at this stage:

- it is recognised that there was a problem but it has been resolved by the Head of School/Support Department or nominated deputy
- the complaint is pursued via the grievance procedure, if it is felt that there is a case to answer but it does not constitute a disciplinary matter
- the complaint is pursued via the disciplinary procedure, if it is felt that it is a disciplinary matter
- the case falls because it is felt there is no case to answer

The Head of School/Support Department or nominated deputy should advise both the complainant and the alleged harasser of the outcome of the preliminary investigation. If the outcome is that there is no case to answer, the complainant will have a right to appeal against the outcome to the Head of College/Support Group.

### **Dealing with Cases under the Staff Disciplinary Procedure**

Where the alleged harasser is a student, the Complaint should be made to the appropriate Authorised Officer as designated in the Student Code of Discipline. The complaint would then be considered under the provisions of the Student Code of Discipline.

Where the alleged harasser is a member of staff, the case should be dealt with following the normal Disciplinary Procedure. In conducting the investigation, the Head of School/Support Department or nominated deputy must involve an individual from outwith his/her School/Support Department who has received training in investigating cases of harassment. Guidelines on investigating formal complaints of harassment have been developed by Human Resources to assist line managers and Heads of Schools/Support Departments in investigating such complaints.

The alleged harasser will have a right of appeal against the findings of the Disciplinary hearing under the normal Appeals procedure. If the complaint is upheld, the parties involved may need to be separated and it should be the harasser rather than the complainant who is moved. If the complainant is dissatisfied with arrangements made, this should be dealt with using the appropriate Grievance Procedure.

## **9. Training:**

Contact officers will be required to attend appropriate training provided by the University. This will provide them with, for example, a knowledge of procedures and help build confidence in handling the role.

## **ANNEX 4**

### **Conciliation of Complaints**

#### **1. Who should Deal with Complaints?**

The choice of a conciliator to undertake informal intervention rests with the complainant, usually with the advice of a Contact Officer. A Conciliator will normally be someone in a position to take effective action, such as a Head of College/Support Group or Head of School/Support Department or supervisor. In addition a member of the Harassment Advice Panel may act as Conciliator. If the person approached declines to act as Conciliator and is the complainant's Head of School/Support Department or supervisor of the person about whom the complaint is made, that person should explain why he or she is not appropriate to act and should assist in finding another person acceptable to the complainant to undertake the conciliation.

#### **2. The Process of Conciliation**

The Conciliator, as agreed by the complainant, will attempt conciliation in the following manner:

- He/she will discuss the complaint with the complainant(s) and the Contact Officer, if appropriate. The Conciliator may also act on the basis of a written and signed complaint.
- The Conciliator will determine whether the complaint is one of generalised harassment, (i.e. conduct or language affecting more than one person) or direct harassment against an individual. In either case the Conciliator will approach the person complained of to explain what behaviour has caused offence and to obtain a response to the complaint.
- The Conciliator will attempt to find a basis for an outcome acceptable to both the complainant and the person complained of.
- If agreement cannot be reached, both the complainant and the person complained of should be informed, so that the complainant can consider other options, including making a formal complaint. The Conciliator may also, with the consent of the complainant, refer the unresolved complaint to an appropriate person in the alleged perpetrator's line management for further investigation under the disciplinary procedures.
- If the complaint is felt to be misplaced but sincerely felt, the Conciliator may wish to recommend counselling to the

complainant.

## **2. Training**

Members of staff who may be asked to act as Conciliators will be invited to attend the training provided by the University for members of the Harassment Advice panel to become familiar with the University's policy and procedures with regard to personal harassment and with the role of the Conciliator.

## **ANNEX 5**

### **The Harassment Advice Panel**

#### **1. The Harassment Advice Panel - Constitution**

There shall be a Harassment Advice panel of six persons including a Convener, which shall report to the Staff Committee. Of these, the Convener and two others shall be nominated by Staff Committee (not necessarily from among its membership) and three shall be nominated by the trade unions. The Director of Human Resources or nominated deputy and the Equality and Diversity Adviser shall also be in attendance.

#### **2. Remit and role of the Harassment Advice Panel**

The role of the Harassment Advice Panel shall be to:

- provide support and advice to Contact Officers and Contact Advisers and those involved in the conciliation process where required
- exceptionally, to provide a Conciliator for informal complaints where requested to do so
- by the complainant (i.e. it shall, itself, provide a pool of potential Conciliators on occasions where no suitable alternative Conciliator can be found)
- exceptionally, to advise on particular cases and take any other appropriate action to resolve allegations of harassment, unless and until such allegations are dealt with through the formal Disciplinary and/or Grievance procedures
- report to Staff Committee on the incidence of personal harassment in the University, at least on an annual basis and make such recommendation on procedures as may be appropriate.

#### **3. Training**

Members of the Harassment Advice Panel will be required to attend appropriate training provided by the University to assist them in conciliating disputes and investigating complaints.

## **Review**

This Policy/document w This document was originally produced/amended in February 2000. It was then amended by Human Resources as a result of the University of Edinburgh restructuring process (2002) and the amendments are pending agreement with Unison, EAUT and Amicus-MSF

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## **Alternative Format**

If you require this document in an alternative format please contact [CorporateHR@ed.ac.uk](mailto:CorporateHR@ed.ac.uk) or telephone 0131 650 8127.

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