



JOHN WHEATLEY COLLEGE

BOARD OF MANAGEMENT

DIGNITY AT WORK POLICY AND PROCEDURE

1.0 INTRODUCTION

The College is committed to providing equality of opportunity to all its employees and will ensure that every employee is treated with dignity and respect in the course of their employment.

The Policy of the College is to provide a working environment in which all employees can realise their potential and contribute to meeting the mission of the College free from all forms of harassment. The primary aim of this Policy is prevention, through developing a climate at work in which employees' treat each other with respect. This requires awareness of the Policy and the related procedures, and acceptance by everyone, of a duty to comply with the Policy and ensure that their colleagues are treated with respect and dignity.

The College, Trades Unions (TU) and Professional Associations recognise the potential problem of harassment in the workplace. Harassment has serious consequences for both employees and the College alike. It can cause stress and anxiety, poor work performance, increased absenteeism, reduced productivity and higher labour turnover. All of which has a direct impact on the College's effectiveness and the service it delivers.

To ensure the prevention and cessation of harassment should this occur in the College, the College will develop and implement policies and procedures which ensure that:

- harassment is known by all staff to be unacceptable;
- individuals are confident enough to bring complaints without fear of ridicule or reprisal; and
- incidents are quickly and positively dealt with as close to the point of origin as possible.

The College will treat discrimination, harassment and victimisation as acts of misconduct that may lead to disciplinary action up to and including dismissal and as such will be dealt with under the College's Disciplinary Policy and Procedure. All new employees will be informed at induction training of the College's Equal Opportunities Policy and related policies and codes of practice, (including its policy on Harassment), of the serious view taken of this issue and of the procedures

in place for dealing with allegations of discrimination/harassment. Ongoing awareness and equality training will be provided throughout the College. The Human Resources Manager will be responsible for overseeing the application of the Policy and the operation of the procedures.

All of those involved in the workplace must recognise their own responsibilities (be it employer, employee, student, contractor, agency worker, Board Member, representative of another organisation or any other person who has access to College premises) to be alert to harassment when it occurs. It is unacceptable behaviour which must not occur and when it does, is not allowed to continue unchecked.

The College's Board of Management accepts that it has a duty of care to protect its members and members of its staff from the potentially detrimental impact of vexatious or malicious allegations made by its staff, learners or members of the public.

Any allegation of misconduct made against either a Board Member or College staff will be taken seriously. Such allegations will be investigated and dealt with where necessary in accordance with the College's Disciplinary and Appeals Procedure. Substantiated allegations may result in disciplinary action being taken against the individual concerned up to and including dismissal.

If on the conclusion of an investigation there is evidence to suggest that the allegations were made in bad faith or to damage:

- *the reputation of the College;*
- *the career of a member of the College's staff; or*
- *the reputation of a member of the Board of Management.*

The Chair of the Board of Management (or in his/her absence the Vice Chair) may initiate appropriate action to defend the College against allegations made by members of the public, students or staff; or take the appropriate action within the terms of the College's policies and procedures. If after a thorough investigation the allegations are found to be vexatious or malicious such conduct shall be regarded as gross misconduct and appropriate action shall be taken.

If allegations against a member of the College's staff are found to be without foundation, the member of staff against whom the allegations were made will have the right to raise a formal grievance within the College's Grievance Procedure.

2.0 RESPONSIBILITY OF THE COLLEGE AS AN EMPLOYER

Responsibility for the application of this policy lies with all managers and supervisors.

The College has made the commitment to:

- make the relevant Trades Unions and professional Associations aware of the policy content and implementation procedures;
- ensure the policy is made known to all employees;
- provide training and guidance for all managers to ensure that they understand the position in law, their responsibilities and duties under the College's Harassment Policy;
- investigate complaints of harassment whether formal or informal; and
- examine and regularly review the policy and procedures.

3.0 RESPONSIBILITY OF EMPLOYEES OF THE COLLEGE

Although the primary responsibility for providing a workplace free from harassment rests with the College, individual employees at all levels have a responsibility to assist in the prevention of such acts and help protect themselves and the College from allegations of harassment by:

- co-operating with measures introduced by the College to ensure equal opportunity and non-discrimination;
- drawing the attention of management and where appropriate Trade Unions to suspected acts of harassment verbal or visual or other practices which do not adhere to this policy;
- refraining from harassment, victimisation or intimidation of colleagues and other employees on any grounds;
- not being involved in deliberate behaviour, verbal statements, physical actions which are unwelcome and/or undermine fellow employees or any other person;
- being supportive of individuals who have made allegations or complaints of harassment or who have provided information about harassment;
- encouraging those individuals to seek help from an appropriate source;
- refraining from participating in, encouraging or condoning gossip related to cases of alleged or actual harassment;
- taking appropriate steps to prevent or stop gossiping in their area of work; and
- attending training sessions which may be arranged to increase their awareness of the issues involved in harassment.

4.0 DEFINITION OF HARASSEMNT

There is not, and probably cannot be, a single simple definition of harassment. This is because harassment takes many forms, occurs on a variety of grounds and may be directed at an individual or group of individuals. It is not the intention of the perpetrator but the deed itself and the impact on the recipient which determine what constitutes harassment.

5.0 GROUNDS OF HARASSMENT

People can be subject to harassment on a wide variety of grounds. The undernoted are examples, however the list is not exhaustive. Anyone who is perceived as different or who is in a minority, or who lacks organisational power, runs the risk of being bullied or harassed. Thus, health, physical characteristics, personal beliefs and numerous other factors may lead to harassment and this can occur between people of the same or opposite sex. Grounds may include:

- race, ethnic origin, nationality;
- sex or sexual orientation;
- religious or political convictions;

- willingness to challenge harassment, leading to victimisation;
- membership, or non-membership, of a Trades Union;
- disabilities, sensory impairments or learning difficulties;
- age (or youth);
- a real or suspected medical condition or infection, such as AIDS/HIV; or
- status as ex-offenders.

6.0 FORMS OF HARASSMENT

Harassment may take many forms. It can range from extreme and obvious behaviour such as violence and intimidation to behaviour which may be regarded as innocuous and subtle like ignoring or undermining someone at work but nevertheless will have the same detrimental effects on the recipient.

6.1 FORMS OF BULLYING

Bullying is most commonly associated with an abuse of power most typically by a line manager or supervisor over subordinate staff. However, other power relationships may equally lead to bullying by colleagues or a group of people who may target one individual.

It is also recognised that, albeit less common, managers may find themselves bullied by subordinate staff who use the threat of higher powers or formal procedures to make unreasonable demands or to avoid undertaking duties or responsibilities which might be reasonably expected of them. Similarly it is recognised that managers may also face allegations of harassment when they seek to take justified disciplinary action against a member of staff. Any such malicious allegations will, in themselves, be treated as serious misconduct and may result in disciplinary action up to and including dismissal.

Whatever the form of harassment it will be unwanted behaviour which is unwelcome and unpleasant. Forms of may include:

- socially inappropriate comments, attention, suggestions;
- intentional/premeditated unnecessary physical contact ranging from touching to serious assault;
- verbal and written harassment;
- inappropriate use of e-mail or the internet;
- passive visual harassment through the display of posters, graffiti, obscene gestures, flags, bunting and emblems;
- isolation or non-co-operation at work;
- exclusion from College sponsored social activities;
- pressure to participate in political/religious groups and Trades Unions;
- intrusion by stalking;
- insensitive jokes and pranks;
- insulting words and behaviour, including non-verbal harassment such as staring or gestures;
- comments about appearance;
- intimidation for example (i.e. threat of dismissal, loss of promotion, if the victim complains);
- spreading malicious rumours/making malicious allegations; and
- abuse of workplace authority.

These examples (and the examples below) concerning sexual harassment) are not exhaustive examples of the behaviour which may constitute unacceptable harassment. The essence of harassment is that the conduct is unwanted, unreasonable and offensive to the recipient. Therefore it is up to each individual to determine what behaviour is acceptable to him/her and that he/she regards as offensive. Conduct becomes harassment if it persists once it has been made clear that it is regarded by the recipient as offensive, although a single incident may constitute

harassment if it is sufficiently serious. It is the unwanted nature of the conduct which distinguishes harassment from friendly behaviour which is welcome and mutual. The College recognises that employees can be harassed by colleagues or subordinates as well as by managers and supervisors. Customers, students, clients and contractors may be involved, either as perpetrators or recipients. It may be deliberate or not, it may be obvious or not but as it is offensive, it acts in a way to humiliate, ridicule, discomfort or embarrass and generally undermine.

SEXUAL HARASSMENT

Sexual harassment is the conduct directed towards an employee by another employee or a group of employees which is of a sexual nature, or, which is based on a person's sex or sexual orientation and which is regarded as unwelcome or offensive by the recipient. The following examples illustrate conduct which may be regarded as sexual harassment:

- unwelcome physical contact;
- lewd, suggestive or over-familiar behaviour;
- persistent unwelcome sexual advances or attention;
- propositions, suggestions or pressure for sexual activity at or outside work, where it has been made clear that this is not welcome;
- speculation about a person's private life and activity;
- display or circulation of sexually explicit material in the workplace;
- conduct which is intimidatory or physically or verbally abusive (including non-verbal harassment, such as staring or gestures);
- derogatory or demeaning remarks based on gender; and
- suggestions that sexual favours may further an employees' career or that refusal may hinder it.

RACIAL HARASSMENT

Examples of racial harassment might include:

- conduct that denigrates or ridicules a colleague because of his or her race, such as derogatory remarks, graffiti, jokes. Such conduct can be verbal or physical;
- the display or sending of offensive letters or publications: threatening behaviour;
- being "frozen out" of conversations;
- jostling or assault, or other non accidental physical contact; and
- derogatory nicknames or racial name calling.

The above lists are not exhaustive.

DISABILITY HARASSMENT

Examples of disability harassment might include:

- mimicking the effect of a disability or speech impairment;
- ostracising, "freezing out", ignoring and staring;
- making fun of a disability;
- use of inappropriate terms;
- inappropriate personal questions/comments about a disability; and
- belittling or patronising comments/nicknames.

7.0 LEGAL POSITION

There is no specific legislation which deals with harassment at work. However, there are a number of statutes or regulations which could be relevant and used against either the harasser, the organisation or both, these have been outlined in Appendix One. This Policy has been framed to take account of the College's statutory obligations. Further detailed information on the legislation may be accessed in the College Library and Information Centres.

The European Commission has adopted a recommendation of the protection of the dignity of women and men at work and a Code of Practice on measures to combat sexual harassment which recognises that sexual harassment is a form of sex discrimination. The Code of Practice was taken into account in the formulation of the Policy.

Scenarios which may constitute unlawful harassment include, the employee:

- suffering a one off-act of harassment;
- being harassed away from work in a work-related situation;
- being more sensitive than his/her male/female colleagues to an act of harassment;
- being harassed by customer or client of the College; and
- the person harassed is a customer or client of the College

The College has a legal and ethical responsibility as a reasonable employer to ensure that employees are not subjected to inappropriate behaviour which may not only effect their performance but more importantly their health and well being. If staff are aware that harassment exists within the College or witness an incident they have an obligation to report such activity, it should be noted that legal action may be taken against the College and the harasser even where the recipient does not make a formal complaint.

8.0 ROLE OF MANAGEMENT/SUPERVISORS

Managers/supervisors have a duty to implement this policy and to make every effort to ensure that harassment does not occur, particularly in the work areas for which they are responsible. Managers/supervisors should explain the policy of the College to their staff and take steps to promote awareness of the procedure for dealing with complaints. Managers/supervisors need to be alert to unacceptable behaviour, take appropriate action, and ensure that staff know how to raise harassment problems.

Within the College it is necessary for managers/supervisors to be able to manage their staff. This will involve:

- issuing reasonable instructions and expecting them to be carried out;
- setting and publicising expected standards of performance supported with relevant appraisal framework;
- disciplining staff, within the College's policies and procedures, for misconduct, where appropriate, following a fair and reasonable investigation; and
- implementing action in respect of the management of sickness absence in line with the College's Attendance at Work Policy.

Managers/supervisors will be expected to carry out these functions in a fair, firm and consistent manner. Carrying out these functions does not constitute an act of harassment. However, the possible abuse of these procedures may constitute harassing behaviour.

It is important to differentiate between firm, fair management and harassing behaviour. It is in the interests of the College that managers/supervisors should be able to carry out their duties without the threat of ill-intentioned malicious or vexatious complaints. Legitimate, justifiable, appropriately

conducted monitoring of an employee's behaviour or job performance does not constitute harassment.

9.0 ROLE OF HUMAN RESOURCES MANAGER

The HR Manager will:

- offer advice and guidance to managers/supervisors on the application and implementation of the Policy and Procedures;
- ensure that complaints are progressed as quickly as possible in accordance with agreed timescales, be present during the investigatory meetings and ensure that all parties are kept informed of progress;
- record any instances of harassment and advise the Personnel and Staffing Committee for monitoring purposes; and
- progress any formal complaints and offer advice/guidance to management in line with the College's Grievance and Disciplinary Policies.

10.0 ROLE OF THE ADVICE/SUPPORT OFFICER

The College will identify and train individuals, who will be fully knowledgeable about both its Dignity at Work Policy and associated procedures. The Advice/Support Officer will provide confidential support to staff to assist with the informal resolution of the problem for staff who feel they are being harassed at work. They can be contacted at any stage of the informal or formal procedures. The names and contact numbers of the Advice/Support Officers are listed below:

Name – Location - number
Name – Location – number
Name – Location - number
Name – Location – number

The availability of counselling is separate from the formal procedures for dealing with harassment, the Advice/Support Officer has no role in the formal investigation of complaints – that role must remain with line management. The Advice/Support Officer is not expected to provide counselling nor represent the employee at any formal forum such as a Grievance or Disciplinary Hearing.

The Advice/Support Officer will:

- listen to what happened and talk matters over confidentially with the complainant;
- draw the complainant's attention to whatever informal or formal course of action is open to them in accordance with these procedures;
- if appropriate, provide support to complainants to assist them pursue the matter though no undue pressure should be exerted and the final decision to progress a complaint should rest with the individual; and

- to advise the complainant of the College's counselling service, details are contained under the section 12. Counselling and Support in this policy.

An Advice/Support Officer may also be asked to provide support and advice to an alleged harasser, that Advice/Support Officer would not be involved in providing support for the individual who is alleging that harassment has taken place.

It is not the role of the Advice/Support Officer to make the decision for the individual merely to provide them with the information necessary to come to a decision about the way forward.

11.0 TRADES UNION REPRESENTATION

The College encourages all members who are concerned about harassment to speak to their Trades Union representative or professional Association. The College will allow Trades Union representatives paid time off to attend union provided training courses on harassment. The College will support the Union's and Professional Association's activities on raising awareness and tackling the issue of harassment amongst their members.

12.0 COUNSELLING AND SUPPORT

At any stage before, during or after the procedure for dealing with harassment an individual may need support, informed advice and/or counselling. Advice may be sought from the Human Resources Manager or Assistant Personnel Officer.

The College affiliate to the *Employee Counselling Service* (ECS). The ECS is an independent and confidential service. Staff can arrange an appointment direct by calling 0800 435 768. Further information about the service is available through their website www.empcs.org.uk. The email address is ecs@empcs.org.uk

The College has 4 staff trained to perform the role of Advice/Support Officer appointed to support and advise staff when using the College's policy and procedure:

Name – Department – Contact No:
Name – Department – Contact No:
Name – Department – Contact No:
Name – Department – Contact No:

13.0 PROCEDURE FOR DEALING WITH HARASSMENT

It is preferable for all concerned that complaints of harassment are dealt with within the School/Section in the first instance and informally wherever possible and appropriate. This is likely to produce solutions which are speedy, effective, minimise embarrassment and the risk of breaching confidentiality.

However the informal solutions should not be used to discourage employees from recourse to formal procedures where they prefer that option (using the College's formal Grievance Procedure. A copy may be obtained from the Personnel Section or the College Intranet). A copy of the Harassment Policy and Procedure shall be issued to all staff during their induction.

The College will treat complaints of harassment seriously and all complaints will be investigated, where appropriate, when a member of staff complains of harassment whilst in the employment of the College. Staff should seek assistance in order to provide the College with the opportunity to deal with such complaints and eradicate harassment from the workplace.

Confidential advice is also available to others who themselves may not be the subject of harassment but are concerned about the harassment of others. Advice may be sought from the Human Resources Manager or an Advice/Support Officer.

Any employee who believes that he/she has suffered any form of harassment is entitled to raise the matter through the following procedure.

13.1 Informal Procedure for dealing with Harassment

This stage of the procedure is appropriate where the employee simply wants the behaviour to stop, where the harassment is not of a serious nature or where it has not been repeated.

Action by employee – the employee should make it clear to the harasser that their conduct is unwelcome, offensive or interfering with work. The employee should be polite but firm and explain what conduct was unacceptable and unwanted. This may be done verbally or in writing.

If the individual finds this too difficult or embarrassing they could ask a colleague, line manager/supervisor or nominated representative to speak to the alleged harasser on their behalf. An employee may also seek advice from a nominated Advice/Support Officer or from their Trade Union representative or Professional Association.

The employee should keep a record, which should include the following information:

- name of alleged harasser;
- nature of behaviour complained of;
- date(s) of and time(s) when harassment is alleged to have taken place;
- names of witnesses (if any); and
- any action already taken by the complainant to stop the alleged harassment.

To provide assistance a Record Log is contained in Appendix Three. This is necessary should evidence be required at a later date if the harassment continues or subsequently recurs.

Action by manager/supervisor – in some circumstances where appropriate on receipt of a complaint the manager/supervisor, depending on the wishes of the employee, may advise the alleged harasser informally regarding their behaviour.

Alternatively the complaint may be raised with the Human Resources Manager/Assistant Personnel Officer or with a more senior member of management within the College, so that an informal solution can be achieved. Such approaches may be particularly helpful, where the complaint is about an employee's direct manager/supervisor.

The general principle should be that the decision to progress a complaint rests with the individual when they believe they are being harassed.

In such cases counseling (provided, for example by the Employee Counselling Service, as described in section 12.0 of this policy or by an individual's Trades Union) may help encourage the complainant to pursue the matter, though no undue pressure should be exerted.

There may however be situations in which that principle has to be balanced against the manager's/supervisor's responsibility to ensure the general welfare of employees – particularly where serious complaints are made which the complainant is unwilling to pursue or where two or more complaints may have been received about the same individual. The College reserves the right to proceed with an investigation if such a situation arises, the reasons for this decision will be fully explained to the employee.

Where the informal approach is unsuccessful or the individual has chosen to go straight to the formal stage of the procedure the following arrangements will apply.

13.2 Formal procedure

Formal procedures will be necessary where the informal route proves ineffective, for more serious and/or repeated instances of harassment or where an individual prefers to use the formal procedure. An employee who is considering following the formal procedure may obtain advice from their Trade Union representative or Professional Association.

A formal complaint should be made through the College's Grievance Procedure, using Form GP1. The form should be submitted to the employee's line manager/supervisor or the next line manager/supervisor if the immediate manager/supervisor is implicated. The Human Resources Manager should be notified immediately of any formal complaints. The manager/supervisor will acknowledge receipt of the complaint and arrange to meet the complainant within three working days.

The complaint can be made verbally but will need to be recorded in writing using the appropriate Form GP1 of the College's Grievance Procedure. Written information should be provided as outlined in Section 13.1. To provide assistance a Record Log is contained in Appendix Three. This is necessary should evidence be required at a later date if the alleged harassment continues or subsequently recurs.

13.3 Investigatory and Disciplinary Stages

It will be the responsibility of the line manager/supervisor or nominated manager/supervisor along with the Human Resources Manager to investigate timeously the allegation and to come to a conclusion regarding the action to be taken. It may be necessary for the College to consider, based upon the circumstances of each case, whether it may be more appropriate for a manager/supervisor from another area to carry out the investigation. This shall be discussed with the individual and their Trades Union representative or professional Association if they have chosen to be represented.

When dealing with and/or investigating a complaint the principles of guidance contained in the Colleges Grievance Procedures will be applied.

However, due to the potentially sensitive nature of harassment additional procedural steps to be taken will involve:

- the right of both complainant and alleged harasser to be represented at all stages of the investigation;
- commitment to time scales for resolution of problems. Every effort will be made to have held all necessary meetings within 10 working days of the date the complaint or allegation was received. Where it is not practicable the complainant and the alleged harasser will be so advised;
- investigators who are not connected with the allegation;
- commitment to the confidentiality for everyone involved, including witnesses, as far as reasonably practicable within the bounds of natural justice;
- ensuring care is taken that the complainant does not unnecessarily have to state repeatedly in evidence circumstances leading to the complaint;
- full, written and signed statements will be taken from all those involved at an early stage. A written and dated record of complaints and investigatory interviews will be kept; and

- where requested and if reasonably possible a member of the same gender and/or ethnic background as the complainant should be involved in any investigation.

If, after investigation, the complaint is upheld the College will proceed to deal with the matter under the Disciplinary Policy and Procedure. Any formal disciplinary hearing should be conducted in accordance with the natural justice provisions contained within the Disciplinary Procedure.

Where there is reason to believe that there is a need to apply administrative leave with pay or temporary redeployment pending an investigation into harassment the alleged harasser will in most circumstances be the employee who is suspended or moved to another campus. It is recognised that the transfer of either employee may not be possible due to operational difficulties but the College will endeavour to put in place appropriate arrangements to ensure the well being of both the staff concerned. No inference about the case shall be drawn from such a course of action.

It will be for the Principal to determine how the hearing will be structured, following consultation with those involved, taking account of the sensitivity of the issues involved and the need to protect the rights of all involved.

Complaints against the Principal or a Board Member

If a complaint relating to discrimination, harassment or victimisation is made against the Principal. The procedure outlined in section 13.1 -13.3 of the procedure should be followed. The following exceptions will apply, the:

- any allegation should be made directly to the HR Manager or Principal's Personal Assistant who will advise the Clerk to the Board the nature of the complaint;
- the Clerk to the Board will meet with the complainant and, if he/she believes there to be a substantive allegation, he/she will raise the matter at a quorate meeting of Personnel and Staffing Committee of the Board, excluding the Principal, Staff Representatives, Student Representatives and co-opted members. An investigation of the circumstances will be carried out by an ad hoc committee of the Personnel and Staffing Committee, established for this purpose and appointed at that meeting. The ad hoc Committee will comprise of three (3) members including the Chair of the Personnel and Staffing Committee. Members of the Board who are representatives of staff or students shall not be included in such a committee. The Depute and Assistant Principal shall not be included;
- the Chair of the Personnel & Staffing Committee may recommend to the Executive Committee administrative leave with pay in appropriate circumstances to permit investigation of an alleged offence. No inference about the case shall be drawn from such a course of action; and
- the findings of the investigation shall be reported to the Personnel and Staffing Committee which shall decide whether or not the matter should be formally advanced to deal with in accordance with the College's Disciplinary Procedures and the Principal shall be advised appropriately.

Board Member

- if a Board Member wishes to make a complaint against an employee of the College, with exclusion of the Principal, related to discrimination, harassment or victimisation, the Board Member should raise the complaint with the Principal.

- procedure for dealing with a complaint against a Board Member shall be the same as that outlined in relation to the Principal only the matter will be raised with the Executive Committee.

Complaint against Contractor/agency/partnership organisation

In cases where the harassment involves contractors or staff from other agencies the stages as detailed in section 13.1 should be applied. However, due to the nature of the relationship between the College and these individuals/organisations the following additional steps should be included in the informal stage.

- if the alleged harasser is a contractor or staff member from another agency/partnership organisation the *Human Resources Manager* will contact the appropriate senior person within the organisation/agency concerned to advise them that this type of behaviour is unacceptable and that if it is repeated then the individual concerned may be refused entry to College premises. Contractors shall be advised that the provisions of the Policy will apply to them in advance of a contract being awarded for services under which they are operating. Agency staff will be issued with the Policy when they take up their appointment. Also Partnership Organisations will be made aware that whilst on College premises or dealing with College staff, they will be expected to behave in an acceptable manner.
- should the matter not be resolved informally the formal stage would require the Principal/Depute Principal to write to the appropriate senior person within the agency/organisation/partnership organisation concerned to advise them that this type of behaviour is unacceptable and that if it is repeated then the individual concerned may be refused entry to College premises or contact with College staff.

Complaint raised by Contractor/agency/partnership organisation against a College employee

- in cases where the harassment involves contractors or staff from other agencies raising a complaint against an employee of the College the stages as detailed in section 13.1 should be applied.
- should the matter not be resolved informally the formal stage would require the person within the agency/organisation/partnership organisation concerned to raise their complaint through the Commendations and Complaints Procedure. A copy of the Procedure may be obtained from the College's Personnel Section or Administration Section.

Complaints against Students raised by a College employee

In cases where the harassment involves a student the stages as detailed in section 13.1 should be applied.

- if the alleged harasser is a student the appropriate Senior Lecturer will contact the student concerned to advise them that this type of behaviour is unacceptable and that if it is repeated then the individual concerned will be subject to the provisions of the Student Code of Behaviour and may be refused entry to College premises pending the outcome of this process. Students shall be advised that the provisions of the Policy will apply to them during the induction process. A copy of the Policy and Procedure will be issued.
- should the matter not be resolved informally the complaint will be dealt with formally in accordance with the Student Code of Behaviour.

Complaints raised by Students against a College employee

In cases where the harassment is raised by a student the stages as detailed in section 13.1 should be applied.

- in cases where the harassment involves a student raising a complaint against an employee of the College the stages as detailed in section 13.1 should be applied.
- should the matter not be resolved informally the formal stage would require student concerned to raise their complaint through the Commendations and Complaints Procedure. A copy of the Procedure may be obtained from the College's Personnel Section or Administration Section.
- in cases where the harassment involves a complaint raised by a student against a contractor or staff from other agencies the matter will be dealt as outlined above.

13.4 Decision

There are five potential outcomes following an investigation into allegations made against an employee of the College. These are:

- the complaint is not founded;
- there is insufficient evidence;
- evidence and/or nature of complaint justifies counselling/advice only;
- evidence justifies formal disciplinary action with application of the disciplinary procedure and an appropriate disciplinary sanction up to and including dismissal; and
- the complaint is found to be malicious.

No Formal Action

If following an investigation and/or a formal disciplinary hearing no formal action is taken the individual and alleged harasser will be notified of the outcome in writing with due regard for the confidentiality of both parties. If a claim is found to be malicious in nature then the individual making the allegations may find themselves subject to formal disciplinary action which may include dismissal if appropriate.

It may be the case that whilst no formal action is taken some informal action may be appropriate such as counselling of the alleged harasser or facilitated discussion to attempt to resolve the situation. In these circumstances both the individual and alleged harasser will be notified of the outcome in writing with due regard for the confidentiality of both parties.

If a decision to take no further action is made an employee may proceed to Stage Two the College's Grievance procedure if they are dissatisfied with this decision. It is recommended that further interviews or hearings are kept to a minimum to protect those involved.

Stage two of the procedure will be held within the timescale specified in the College Grievance Procedure.

Formal Action

If following an investigation and formal disciplinary hearing a complaint is held to be valid, appropriate formal action will be taken, which in serious cases may include dismissal. In serious circumstances if relocation proves necessary, every effort will be made to relocate the harasser to

another campus and not the complainant unless the individual wishes to be moved. Whilst the College will endeavour to ensure that both parties are not required to work in the same area it must be recognised that the College has limited options in relation to staff transfers (e.g. limited premises, departments) and that this may not be possible in all cases. However, the College will in all cases where harassment is founded seek to prevent a recurrence of this behaviour, possibly through taking action such as offering counselling to the perpetrator of the offence or providing further training.

Further meetings

The manager will meet the individual who has alleged harassment on a regular basis to offer support and to ensure that no harassment has occurred. This action will be undertaken even where a complaint has not been upheld.

14.0 GENERAL

Employees shall be protected from intimidation, victimisation or discrimination for filing a complaint or assisting in an investigation. Retaliating against an employee for complaining about or assisting in an investigation of harassment is a disciplinary offence.

The use of this procedure does not preclude any employee from exercising his/her right to take legal action under any of the Acts outlined in Appendix One of this Policy and Procedure.

15.0 INFORMATION AND TRAINING

Information and training about harassment and about the policy and procedure will be given to all staff. All new employees will be informed at induction training of the College's Equal Opportunities policies, (including its policy on harassment), of the serious view taken of this issue and of the procedures in place for dealing with allegations of discrimination/harassment. Ongoing awareness and equality training will be provided throughout the College. This will include information on what constitutes harassment and, for managers/supervisors, on what their responsibilities are.

Confidential Advice/Support Officers will be given training for their particular role. The Human Resource Manager will provide periodic supervision and regular meetings for Advice/Support Officers to support them in their role.

The policy on Harassment will be communicated in the following ways – during induction process for staff, Staff Handbook, Intranet and staff noticeboards. The staff newsletter will refer to the policy and its aims on a regular basis.

The policy will be brought to the attention of contractors and agency staff. Outside contractors will be required to comply with the policy as part of their contract.

Managers/supervisors will receive specific training in identifying and managing harassment in the work place and how to conduct investigations.

The Policy will be brought to the attention of students during the induction process. Students will be required to comply with the Policy, a copy of the Policy will be issued to each student.

16.0 REVIEW AND MONITORING

The content, effectiveness and operation of this policy and procedure will be audited and reviewed on an annual basis at the end of each academic session by an ad hoc group of the Equal Opportunities Committee and updated in partnership with the Trades unions, professional Association and staff representatives. Account will also be taken of any developments in legislation and case law.

Evaluation will include information taken from the following sources:

- recorded incidents of harassment through discipline and grievance policies;
- information gained from the use of Exit Interviews;
- feedback from the general staff through the Joint Consultative Committee;
- staff attitude surveys;
- student satisfaction surveys;
- recorded incidents of harassment raised through the Commendations and Complaints Procedure;
- quarterly statistics from the Employee Counselling Service; and
- information gained from return to work interviews after periods of sickness absence.

Responsibility for monitoring the application of this policy will rest with senior management.

SUPPORTING POLICIES

- Equal Opportunities Policy
- Grievance Policy and Procedure
- Disciplinary Policy and Procedure
- Commendations and Complaints Procedure

SUPPORTING GUIDELINES – STAFF HANDBOOK

Section - 6.10 Computer Misuse
Section - 4.8 Communication Strategy (Misuse of Electronic Mail)

JOHN WHEATLEY COLLEGE
BOARD OF MANAGEMENT
DIGNITY AT WORK POLICY AND PROCEDURE
LEGAL FRAMEWORK

There is no specific legislation which deals with harassment at work. However, there are a number of statutes or regulations which could be relevant and used against either the harasser, the organisation or both. These include:

Health and Safety at Work Act 1974 (Sections 2 and 3) and the Management of Health and Safety at Work Regulations 1999 and similar legislation - This legislation places a duty of care on employers to ensure the Health and Safety of their employees, and to conduct assessments of potential risks to employees and to take appropriate remedial action. This may extend to acts by people over whom the employer has no direct control but, whom the employer might have reasonably foreseen the potential for bullying or harassment e.g. students, contractors.

Rehabilitation of Offenders Act 1974 – This legislation essentially considers detrimental treatment of employees with spent convictions as similar to a “discrimination” provision.

Sex Discrimination Act 1975 and Race Relations Act 1976 – This legislation may be used by the employee where the harassment or bullying has a sexual or racial basis. The employer can be held vicariously liable, even when it is unaware that such incidents have taken place.

Trade Union and Labour Relations (Consolidation) Act 1992 – This legislation protects employees from dismissal on the basis of trade union activities or membership, or of non trade union membership.

Disability Discrimination Act 1995 – This legislation makes it unlawful to discriminate against a disabled person at work on account of their disability.

Employment Rights Act 1996 – This legislation gives employees the right to access an employment tribunal where they believe they have been “constructively dismissed”. This may apply, for example, where an organisation has failed to take appropriate action to deal with a complaint of bullying and harassment.

Protection from Harassment Act 1997 – This legislation which was developed to cover “stalking” cases, enables employees to take a civil case where they believe a colleague’s conduct amounts to harassment.

Public Interest Disclosure Act 1998 – This legislation was developed to protect so-called “Whistle-blowers”. Where any employee is dismissed because he or she made a “protected disclosure”, the dismissal will be deemed automatically unfair.

The College has a legal and ethical responsibility as a reasonable employer to ensure that employees are not subjected to inappropriate behaviour which may not only effect their performance but more importantly their health and well being.

OTHER RELEVANT LEGISLATION AND CODES OF PRACTICE

Legislation

- Equal Pay Act 1970
- Equal Pay (Amendment) Regulations 1983 (SI No. 1794)
- Equal Pay (Amendment) Regulations 1984 (SI No. 1807)
- Employment Tribunals (Rules and Procedure)
- Race Relations Act 1976 and Race Relations (Amendment) Act 2000
- Rehabilitation of Offenders Act 1974
- Mental Health (Scotland) Act 1984
- Sex Discrimination Act 1975, 1986
- Asylum and Immigration Appeals Act 1993
- Sex Discrimination and Equal Pay (Remedies) Regulations 1993 (SI No. 2798)
- Asylum and Immigration Act 1996
- Employment Rights Act 1996
- Disability Discrimination Act 1995 and amendments
- Protection from Harassment Act 1997
- Human Rights Act 1998
- Sex Discrimination (Gender Reassignment) Regulations 1999
- Disability Commissions Act 1999
- Part Time Workers Regulations 2000
- Special Educational Needs and Disability Act 2001

Statutory Codes of Practice

- Code of Practice for the elimination of discrimination on the grounds of sex and marriage and the promotion of equality of opportunity in employment (Equal Opportunities Commission, April 1985)
- Code of Practice (Scotland) for the elimination of racial discrimination in education (Commission for Racial Equality, May 1991)
- Race Relations Code of Practice for the elimination of racial discrimination and the promotion of equality of opportunity in employment (Commission for Racial Equality, April 1984)
- Code of Practice on Measures to Combat Sexual Harassment. Protecting the dignity of women and men at work. (European Commission, June 1999)
- Code of Practice for the elimination of racial discrimination in education (Commission for Racial Equality, December 1989)
- Code of Practice for the elimination of discrimination in the Field of Employment against Disabled Persons or Persons who have a Disability (DFEE(1996)
- Code of Practice on Equal Pay. (Equal Opportunities Commission, May 1997)
- Code of Practice on Sex Discrimination (Equal Opportunities Commission)
- Code of Practice on Age Diversity in Employment

Other Publications

- Employing Disabled People: A good practice guide for managers and employers/ (Department for Education and Employment)
- Equal Opportunities: 10 point plan for employers (Department of Employment)

- The Further and Higher Education Student Charter; The Disabled Charter; (Scottish Office)
- Higher Education and Equality: A Guide
- A Guide to the Sex Discrimination gender reassignment Regulations 1999
- Challenging Discrimination: Promoting Equal Opportunities: Advancing Good Practice (Commission for Racial Equality, Scottish Funding Council)
- Sex Equality and Sexual Harassment. (Equal Opportunities Commission 2000)

Statutory Instruments

Sex Discrimination (Formal Investigations) Regulations 1975 (SI 1975/1993)
 Sex Discrimination (Questions and Replies) Order 1975 (SI 1975/2048)
 Sex Discrimination Act 1975 (Exemption of Special Treatment for Lone Parents) Order 1991 (SI 1991/2813)
 Sex Discrimination and Equal Pay (Remedies) Regulations 1993 (SI 1993/2798)
 Sex Discrimination and Equal Pay (Miscellaneous Amendments) Regulations 1996 (SI 1977/841)
 Race Relations (Formal Investigations) Regulations 1977 (SI 1977/841)
 Race Relations (Questions and Replies) Order 1977 (SI 1977/842)
 Race Relations (Interests and Awards) Regulations 1994 (SI 1994/1748)
 Disability Discrimination (Meaning of Disability) Regulations 1996 (SI 1996/1455)
 Disability Discrimination (Employment) Regulations 1996 (SI 1996/1456)

EXTERNAL AGENCIES

For advice on equal opportunities contact:

Equal Opportunities Commission
Scotland
St Stephens House
279 Bath Street
Glasgow
G2 4JL
Tel: 0141-248-5833
Website: www.eoc.org.uk
E-mail: Scotland@eoc.org.uk

Commission for Racial Equality
Hanover House
45 – 51 Hanover Street
Edinburgh
EH2 2PJ
Tel: 0131-226-5186

Disability Rights Commission
Riverside House
502 Gorgie Road
Edinburgh
EH11 3AF
Tel: 0131-444-4300
www.disability.gov.uk

Disability Scotland
Princes House
5 Shandwick Place
Edinburgh
EH2 4RE
Tel: 0131 – 229 - 8632

Employee Counselling Service
120 Bath Street
Glasgow G2 2EN
Tel: 0800-435-768
Fax: 0141-332-9833
ecs@empcs.org.uk

Gay and Lesbian Switchboard:0121 622 6589



John Wheatley College

Dignity at Work Policy and Procedure

Official Record of Complaint

Name of alleged harasser	Nature or behaviour complained of	Date(s) and Time(s) of alleged harassment	Names of witnesses (if any)	Any action taken to date to stop alleged harassment

28.11.03