

Policy and Procedure for Student Complaints of Harassment and Bullying Against Staff

2021/22

1. Scope and Purpose

- 1.1 All students have the right to study and to feel safe in an environment which is free from harassment and bullying. This policy has been written to support the development of a learning environment (including online) in which harassment and bullying is unacceptable and the understanding of this is such that individual students have the confidence to complain, without fear of reprisal or recrimination, in the knowledge that their concerns will be dealt with seriously, appropriately and fairly.
- 1.2 This procedure sets out how the University will deal with alleged incidents of bullying and harassment where the Reporting Party (the individual making the complaint) is a student and the Responding Party (the individual against whom the complaint is being made) is a member of staff, irrespective of their role.
- 1.3 More specifically, the objectives of the Policy are to:
- Enable students to identify and understand what harassment and bullying are;
 - Provide a framework for handling complaints of harassment or bullying made by students against staff members; and
 - Ensure all incidents are dealt with in a consistent, fair and appropriate manner.
- 1.4 Staff are defined as anyone employed by the University or engaged as a worker. For those engaged as a worker, the policy is applicable in relation to issues arising in the context of their working relationship with the University.
- 1.5 The policy does not apply to self employed contractors or agency workers.
- 1.6 Where the Responding Party is a student who is also a staff member, the Director of HR and PVC (Colleges & Student Experience) (or their nominees) will decide whether this staff procedure or the Bullying and Harassment Policy and Procedure for Students will be followed, dependent on the circumstances of the allegation and the most appropriate way of managing the investigation.

- 1.7 Where the University is made aware of any incidents or allegations which are unrelated to the University, such as incidents or allegations that happen outside of a staff member's contract of employment and which may be a concern for the University, the University reserves the right to take action under this procedure, the Staff [Disciplinary Regulations](#), or any other University policy deemed appropriate to the circumstances.
- 1.8 Any offence which may also be of a criminal nature or involve issues of public protection may also be referred to the Police. The University reserves the right and may be under an obligation to share information in circumstances where such disclosure is necessary to protect any individual or the wider University community from harm or to prevent a crime from taking place. The Reporting Party will be kept informed if it is felt action needs to be taken.

2. Durham University's Commitment

- 2.1 The Wider Student Experience Strategy adopted by Council in July 2020 describes the "unacceptable behaviours that have been exhibited by a minority in recent years", and asserts that "the University cannot achieve what it hopes for while such behaviours are allowed to continue in any shape or form". The Commission on Respect, Values and Behaviours in 2019-20 found that bullying and harassment were frequently experienced by students and not sufficiently controlled by existing procedures. The Wider Student Experience Strategy therefore set the University a strategic goal of "Embedding Responsibility and Respect", under which "the University will foster a student culture that places a universally high value on respect and concern for others". This revised Policy and Procedure is one step in the achievement of that strategic goal.
- 2.2 Durham University is fully committed to the development of policies and procedures to eliminate discrimination and actively promote equality of opportunity for our students. The University believes that where respect for diversity and equality of opportunity exists, all students work in a more rewarding and less stressful environment; one where discrimination, prejudice and harassment are not accepted, and one more likely to enhance performance and achievement, allowing all members of our University community to fully demonstrate and use their skills and talents and achieve their full potential.

2.3 Allegations of harassment and bullying will be treated very seriously by the University and can result in disciplinary action being taken against the person who committed unwanted behaviour. As the University views harassment and bullying as serious offences, any individual who makes a vexatious, demonstrably false or malicious claim of harassment or bullying will be dealt with in accordance with the University's Code of Practice on Student Behaviour in Appeals and Complaints and may be subject to disciplinary procedures as specified in General Regulation IV – Discipline.

2.4 As part of its commitment to eliminating harassment and bullying, the University undertakes to:

- Apply this policy equally to all students registered at the University and, where relevant, all staff members;
- Ensure an initial acknowledgement to any complaint is issued to the Reporting Party normally within five working days of the complaint being received and to keep all parties informed of the progress of the complaint;
- Treat all allegations of harassment or bullying seriously, fairly, sensitively, without unreasonable delay and with appropriate regard to confidentiality;
- Publicise this Policy as widely as possible in order to ensure that students and staff are aware of its existence, especially those in student-facing roles;
- Provide Bullying and Harassment Advisors who will be available to advise and assist students and staff (details of the advisors are available at www.durham.ac.uk/equality.diversity/harassment/supportadvisors/); and
- Monitor the effectiveness of the Policy.

3. Advice and Support

3.1 The University provides a range of support for students who feel they have been subject to harassment or bullying. It is recommended that students seek advice and support in the first instance.

3.2 This can be done in a number of ways:

Students' Union

Independent support is available to students through the Durham Students' Union Advice Service. They provide one to one support, advice and guidance on addressing issues informally or making a complaint under this policy. The Students' Union can also facilitate mediation between students or student groups where difficulties have arisen.

Report and Support Online Tool

Students can make reports of bullying and harassment through the Report and Support tool (<https://reportandsupport.durham.ac.uk>). This tool covers reports of unwanted behaviour, such as bullying and harassment, hate incidents, sexual misconduct and violence and domestic abuse.

Bullying and Harassment Support Advisors Network

The University operates a network of Bullying and Harassment Support Advisors who can be approached by students and staff. The Advisors can be contacted directly (www.durham.ac.uk/equality.diversity/harassment/supportadvisors/), or through the Report and Support online tool by making a report.

College Student Support Offices

Staff in College Student Support offices can provide support and guidance for students being bullied or harassed.

JCRs, MCRs and GCR

Student representatives in Common Rooms can provide support and guidance for students being bullied or harassed.

The University Counselling Service

The University Counselling Service offers a high standard of service in professional counselling for any student who finds that their difficulties are hard to manage, and/or their difficulties are affecting their studies. Please see www.durham.ac.uk/counselling.service/ for further details.

- 3.3 Staff members can seek support from the Bullying and Harassment Support Advisors Network described above, as well as from the following sources:

Line Manager

A staff member's line manager has a neutral role in which they can listen and suggest possible ways forward with reference to policies and procedures.

HR Business Partners and Advisors

The University has a team of Human Resource (HR) Business Partners and Advisors, who can provide procedural advice and support.

Occupational Health

As part of the University's HR team, the advisors within the Occupational Health Service maintain an autonomous role and provide a confidential service for all staff.

Trade Unions

A trade union is a group of employees who join together to maintain and improve their conditions of employment. The typical activities of trade unions include providing assistance and services to their members, collectively bargaining for better pay and conditions for all workers, working to improve the quality of public services, political campaigning and industrial action. The University recognises the following trade unions - University and College Union (UCU) (formerly AUT), Unite (formerly Amicus), G.M.B. and UNISON.

4. Procedures for making a complaint about Harassment and Bullying

4.1 Principles

- 4.1.1 Where a student considers themselves to be under physical threat or at serious risk of imminent harm, they should always contact the Police in the first instance. Support for students in this situation can be provided by those members of the University community set out in the section 'Advice and Support' above.
- 4.1.2 Students should raise complaints of harassment or bullying in a timely manner. Unless the University is notified of incidents of harassment or bullying within a reasonable length of time, the University may not be able to adequately investigate or take steps to prevent or eliminate harassment or bullying. However, where there are exceptional reasons for delay, a significantly delayed complaint may be

considered.

- 4.1.3 The University will act as appropriate and without unreasonable delay on reports of bullying and harassment alleged against a member of staff of the University.
- 4.1.4 All parties involved should act in good faith to seek a successful resolution of any complaint at as early a stage as possible.
- 4.1.5 All parties will be treated fairly, consistently and with respect.
- 4.1.6 A student raising a complaint under this procedure has the right to have the complaint reviewed and if deemed necessary, investigated and handled appropriately by the University and meetings, decisions and confirmation of decisions will not be unreasonably delayed.
- 4.1.7 The individual or individuals against whom a complaint is made shall have the right to respond to any allegations made against them should any investigation be required.
- 4.1.8 All parties involved in the investigation process must submit all relevant evidence at the time of the investigation. All evidence submitted will be shared with the Reporting Party, Responding Party, Investigator and case manager.
- 4.1.9 Use of a third party to help resolve the problem, whether internal or external, may be considered where deemed to be appropriate by the University.
- 4.1.10 Should the complaint also be investigated by the Police, the investigation may need to be postponed. If this is the case, advice can be sought from the Student Conduct Office or the relevant HR Business Partner.
- 4.1.11 The Investigating Officer will act promptly and tactfully, observing appropriate levels of confidentiality at all times.
- 4.1.12 A complaint determined by the University to be malicious, demonstrably false or vexatious may give rise to disciplinary proceedings against the Reporting Party.
- 4.1.13 The Director of HR and PVC (Colleges & Student Experience) (or their nominees) will consider any support needs of the parties involved in the report. They will undertake a risk assessment, seeking specialist advice where required, in order to

determine if any precautionary measures are required.

4.2 Suspension from duty

4.2.1 Where an allegation of a serious offence has been made against a member of staff, for example an offence that may amount to gross misconduct, it may be appropriate to suspend the member of staff from duty on full pay. Full details of suspension process can be found in the Staff Disciplinary Regulations.

4.3 Informal Stage

4.3.1 The student should discuss any incident of harassment or bullying with a trusted fellow student or with a member of the University community outlined in section 3.2 above. The student should keep a note of the details of any relevant incidents which cause offence, including dates, times and the names of any witnesses; and any relevant emails, notes etc.

4.3.2 In some less serious cases, a student may feel confident to approach the person about the matter. A record of such an approach should be kept.

4.3.3 Often a person approached in this way may not have been aware that their actions have been perceived as harassment or bullying and thus stop the behaviour without the need for further action. Where the behaviour continues or if the behaviour is of a more serious nature, a student may consider a more formal approach necessary.

4.3.4 Where appropriate, a student should speak or write to their Head of Department, member of staff in their College Student Support Office or the Principal/Master of their College. Students can request that these staff speak on their behalf to the person concerned in accordance with the Informal Stage.

4.3.5 In the event that these steps fail to resolve the matter the student may request an investigation to be carried out by the HR department on behalf of the University. Advice about the conduct of the investigation can be sought from the Student Conduct Office.

4.4 Formal Stage - Investigation

4.4.1 A formal complaint may be made in writing to the Student Conduct Office.

The complaint form is available [here](#). Students should aim to provide as much information as possible of the events complained of, any supporting information and, where possible, a clear indication of the outcome sought.

- 4.4.2 The Student Conduct Office will acknowledge receipt of the complaint within five working days.
- 4.4.3 The complaint will then be referred to HR for formal investigation. The HR Department will decide whether or not to accept the case for investigation.
- 4.4.4 If the complaint is accepted for investigation, the Director of HR (or their nominee) will appoint a trained Investigator to investigate the complaint. HR Business Partners / Advisors and/or the Student Conduct Office will provide advice and guidance to the Investigator(s) on any relevant procedural issues.
- 4.4.5 Please note that if the Reporting Party is unwilling for the Responding Party to be informed of their identity or the substance of the complaint against them, the investigation cannot normally proceed.
- 4.4.6 An investigation will be undertaken without unreasonable delay. All parties involved will be expected to maintain appropriate levels of confidentiality. The Reporting Party and Responding Party may be informed that they should not make any contact with each other during the course of the investigation unless otherwise instructed by the Investigating Officer.
- 4.4.7 The Reporting Party and any potential witnesses of the alleged offence will be required to attend a meeting with the Investigating Officer. Students may be accompanied by a member of the University community such as a member of staff, Students' Union representative or a fellow student.
- 4.4.8 The Responding Party will also be informed of the formal complaint made against them and asked to attend a meeting with the Investigating Officer. Members of staff may be accompanied by a trade union representative or work colleague. For the avoidance of doubt, the work colleague must be an employee of Durham University, not acting in a legal capacity. During this meeting, the complaint procedure will be explained and the details of the allegation against them will be

confirmed. They will be given a full and fair opportunity to explain or present their version of events in response to the complaint.

4.4.9 The Investigating Officer may hold additional meetings or consult with additional parties as necessary to reach a decision. The Investigating Officer will subsequently write to all parties, advising of the outcome of the investigation.

4.5 Investigation Report

4.5.1 The Investigator will make a finding as to whether bullying and/or harassment has occurred and if so, whether the behaviour in question was intended to cause harassment or whether the Responding Party could reasonably be expected to know that their behaviour would cause harassment. Having reached this decision, the outcome of the investigation may be:

- Complaint not founded – in such an instance, the case would be dismissed and no further action taken.
- Complaint founded – if this is the case, the Investigating Officer will propose further action.

4.5.2 Where the Investigating Officer determines that the complaint is founded, and therefore that a staff member may have breached the Staff Disciplinary Regulations, the Director of HR (or nominee) will initiate the next steps as is deemed appropriate in line with the University's Disciplinary Regulations or other relevant University process.

4.5.3 The Reporting Party and the Responding Party will receive the outcome of the investigation in writing in an outcome report.

5. Request for Review

5.1 If the Reporting Party is dissatisfied with the outcome of the investigation, or they believe the matter has not been handled fairly or properly in accordance with the Policy, they will be given the opportunity to request a review.

5.2 A review request must be made in writing within ten working days of receipt of the outcome.

- 5.3 They will be asked to state the grounds of their review request, and the right to review will only be granted if there is evidence of the following:
- a) Procedural irregularity.
 - b) Evidence of further material circumstances which could not reasonably have been expected to have been submitted for consideration at the time of the investigation.
- 5.4 The Director of HR (or their nominee) will identify a senior officer, independent of the case, to undertake the review.
- 5.5 The case will be reviewed on the basis of the documentation provided by the Reporting Party and that held by the original Investigator. The Reviewer may decide to seek further information if necessary.
- 5.6 The Reviewer may then decide to take action as follows:
- a) Uphold the original decision.
 - b) Refer the case back to the Investigator(s) to reinvestigate in light of new evidence or in a procedurally correct manner. This may involve the reallocation of the case to an Investigator who had no prior involvement in the case.
- 5.7 The Reporting Party will be informed of the outcome of the review request within 28 days of receipt. The decision of the reviewer is final.
- 5.8 The Responding Party does not have a right to request a review of this process. If the outcome reports recommends that action be taken under another University process (for example disciplinary), the Responding Party will have the opportunity to raise their concerns as part of that other process.
- 5.9 Once all internal processes have been exhausted, a student can make a complaint to the Office of the Independent Adjudicator for Higher Education (OIA) if they remain dissatisfied with the University's decision. Further information is available on the OIA website (www.oiahe.org.uk).

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Owner HR Department & Student Conduct Office

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