

**PERSONNEL SERVICES**

University Offices, Wellington Square, Oxford OX1 2JD  
 Director of Personnel and Administrative Services



To: Heads of division, heads of department and institutions, faculty board chairmen

Ref. EMS/5, EMS/6,  
 EMS/33

cc: Divisional secretaries, Mr Gambles, Mr Shaw, departmental administrators (including for onward transmission to harassment advisers in departments and divisions); Ms Braithwaite, Ms Cooke

1 February 2010

### **Revised University Policy and Procedure on Harassment and Bullying**

Council, on the recommendation of the Personnel Committee, has approved a revised Policy and Procedure on Harassment and Bullying, which comes into force with immediate effect. The definition of harassment and bullying is largely unchanged from that contained in the Code of Practice on Harassment including Bullying, which is now superseded. However, the new procedure aims to set out more clearly the steps individuals should take if they consider that they have been subject to harassment and/or bullying, and how such complaints should be handled.

The Policy and Procedure have been revised in consultation with divisions and departments, as well as the joint committees with the recognised trade unions.

The revised University Policy and Procedure on Harassment and Bullying are now available on the university web site at <http://www.admin.ox.ac.uk/eop/har/>. Associated information, such as frequently asked questions and the University's arrangements for harassment advisers, is under review and will shortly be available on the web site.

#### **1. Action required of departments and divisions**

Departments and divisions are asked to:

- (i) display this circular on notice boards and websites;
- (ii) provide a copy of this circular to their departmental or divisional harassment advisers (two copies of this circular are enclosed for this purpose);
- (iii) ensure that the new policy and procedure are attached to contracts of employment; and
- (ii) follow this procedure when dealing with complaints of alleged harassment or bullying. In this connection, it should be noted that under the revised procedure, formal complaints of alleged harassment or bullying against members of academic or academic-related staff should now be addressed to the head of department (not the Registrar) or, if the complainant feels it is not appropriate to approach that person, the relevant head of division (or analogous unit within UAS or ASUC) (see §35 of the procedure). If any of the parties considers that the head of department has a conflict of interest in the complaint, the complaint may be referred to the head of division.



## 2. Background

The previous Code of Practice on Harassment including Bullying had evolved over a number of years and consists of a policy, guidance on the definition of harassment, guidance on the procedure for handling allegations of harassment, and sources of information. The documentation was felt by many to be unwieldy and the status of the guidance unclear. It had also been observed that the gradual accretion of detailed prescription to long-standing policies and procedures has served to create unnecessary complexity and delay in resolving work-place issues, rather than facilitating their swift resolution. Some aspects of the procedures had been found to be problematic, including the interaction with the University's disciplinary and grievance procedures.

A major review has been undertaken to clarify and simplify the policy and procedure to bring them into line with the University's general arrangements for dealing with staff complaints (grievances) and its disciplinary provisions. A conscious decision has been taken to simplify the procedure in order to allow 'common sense' to prevail in the handling of individual cases.

The revised policy and procedure have been revised with legal advice and in consultation with a cross-section of departmental administrators, as well as the joint committees with staff representatives, and has now been approved by the Personnel Committee and Council. The annexe to this circular contains the revised policy and a revised procedure for dealing with complaints of harassment. Under this procedure, complaints of harassment should be referred to the head of department (or equivalent), who will determine how to proceed. The relationship between harassment complaints and the grievance procedure has also been clarified. It is intended that other supporting documentation will be reviewed and updated in line with the new policy.

Further information about the policy and procedure is available from Personnel Services.

JEREMY WHITELEY

Replaces existing circular: No  
Copy for notice boards: Yes  
Copies for local harassment advisers: Yes



## UNIVERSITY POLICY AND PROCEDURE ON HARASSMENT AND BULLYING

### I. POLICY

#### General principles

1. The University is committed to maintaining a working, learning and social environment in which the rights and dignity of all members of the university community are respected. This includes staff, students, and visitors to the University.
2. The University expects all members of the university community to treat each other with respect, courtesy and consideration. All members of the university community have the right to expect professional behaviour from others, and a corresponding responsibility to behave professionally towards others.
3. Harassment is a serious offence which is subject to the University's disciplinary procedures. Where necessary, complaints of harassment, bullying or other inappropriate behaviour will be investigated in line with the appropriate procedures. Allegations of harassment or bullying which arise within the college environment will normally be dealt with under the appropriate college procedure.
4. All members of the university community have a personal responsibility for complying with this code and people in positions of authority, such as heads of division, heads of department, chairs of faculty boards and their equivalents, have particular responsibilities under this policy, including to set a good personal example, to have regard to the principles of the policy, and to familiarise themselves with the procedures.
5. This policy and the accompanying procedure may be found on the website at <http://www.admin.ox.ac.uk/eop/har/>.
6. This policy will be subject to regular review by the General Purposes Committee of Council in consultation with other appropriate committees, including the Personnel Committee.

#### Definition of harassment (including bullying)

##### *Harassment*

7. A person subjects another to harassment where s/he engages in unwanted and unwarranted conduct which has the purpose or effect of:
  - (a) violating that other's dignity, or
  - (b) creating an intimidating, hostile, degrading, humiliating or offensive environment for that other.

8. Harassment may involve repeated forms of unwanted and unwarranted behaviour, but a one-off incident can also amount to harassment.

9. Harassment on grounds of sex (including gender re-assignment), race, religion or belief, disability, sexual orientation or age may amount to unlawful discrimination<sup>1</sup>. Harassment may also breach other legislation and may in some circumstances be a criminal offence, e.g. under the provisions of the Protection from Harassment Act 1997.

10. Reasonable and proper management instructions administered reasonably, or reasonable and proper review of a member of staff's or a student's work and/or performance will not constitute harassment or bullying.

11. Behaviour will not amount to harassment if the conduct complained of could not reasonably be perceived as offensive.

### *Bullying*

12. Bullying is a form of harassment. It may be characterised by offensive, intimidating, malicious or insulting behaviour, or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

### *Behaviour*

13. Examples of behaviour which may amount to harassment and bullying include (but are not limited to) the following:

- offensive comments or body language
- verbal or physical threats
- insulting, abusive, embarrassing or patronising behaviour or comments
- humiliating, intimidating, and/or demeaning criticism
- open hostility
- deliberately undermining a competent person by overloading with work and constant criticism
- isolation from normal work or study place, conversations, or social events
- publishing, circulating or displaying pornographic, racist, sexually suggestive or otherwise offensive pictures or other materials
- unwanted physical contact, ranging from an invasion of space to a serious assault.

<sup>1</sup> Harassment and bullying may occur not only on grounds of characteristics or perceived characteristics of the recipient of the behaviour but also on grounds of the characteristics or perceived characteristics of a person associated with him or her.



Many of these examples of behaviour may occur through the use of the Internet, email, social networking sites, or telephone.

14. All of the examples above may amount to bullying, particularly when the conduct is coupled with the inappropriate exercise of power or authority over another person.

15. Being under the influence of alcohol, illegal drugs or otherwise intoxicated is not an excuse for harassment, and may be regarded as an aggravating feature.

#### *Intention or motives*

16. The intention or motives of the person whose behaviour is the subject of a complaint are not conclusive in deciding if behaviour amounts to harassment or bullying.

#### **Victimisation**

17. Victimisation occurs where a person is subjected to detrimental treatment because s/he has, in good faith, made an allegation of harassment, or has indicated an intention to make such an allegation, or has assisted or supported another person in bringing forward such an allegation, or participated in an investigation of a complaint, or participated in any disciplinary hearing arising from an investigation.

18. The University seeks to protect any member of the university community from victimisation arising as a result of bringing a complaint or assisting in an investigation where they act in good faith. Victimisation is a form of misconduct which may itself result in a disciplinary process.

#### *Malicious or vexatious complaints*

19. If a complaint is judged to be vexatious or malicious<sup>1</sup>, disciplinary action may be taken against the complainant; however, such action will not be taken if a complaint which proves to be unfounded is judged to have been made in good faith.

#### **Confidentiality**

20. All information concerning allegations of harassment must be treated in the strictest confidence and breaches of confidentiality may give rise to disciplinary action. All parties involved in a complaint (including any witnesses who may be interviewed as part of any investigation, or trade union representatives supporting any of the parties) should maintain the confidentiality of the process.

<sup>1</sup>This phrase means the complainant knew or could reasonably have been expected to know that the complaint was unfounded.



## II. PROCEDURE FOR DEALING WITH COMPLAINTS OF HARASSMENT AND BULLYING

21. Wherever possible, the aim is to resolve complaints of harassment promptly and effectively so that good working relationships and normal social interactions can be resumed as quickly as possible.
22. Incidents of harassment that occur within the college environment will normally be dealt with under the appropriate college procedure.
23. For the purposes of this procedure, 'harassment' is taken to include bullying and victimisation.
24. The references in this procedure to the 'head of department' should be taken to mean the head of department<sup>1</sup>, faculty board chairman, head of division or their equivalent or the person to whom any of these has formally delegated his/her responsibility.
25. All information concerning allegations of harassment must be treated in the strictest confidence and breaches of confidentiality may give rise to disciplinary action in accordance with the policy on harassment and bullying.

### Sources of advice

26. The sources of advice set out below are available to anyone who believes that s/he may be being harassed, and who wishes to discuss any concerns in confidence. These sources of advice are also available to anyone who has been told that his/her conduct is perceived as harassing.
- The University's Harassment Advisory Service - details may be found at <http://www.admin.ox.ac.uk/eop/har/>
  - Trade union representatives – details may be found at <http://www.admin.ox.ac.uk/ps/oxonly/joint/intro.shtml>
  - Other sources of more general help are listed on the harassment advice website which can be found at <http://www.admin.ox.ac.uk/eop/har/>

### *Complaints of harassment against students*

27. Complaints of harassment against students which arise within the college environment will normally be dealt with under the appropriate college procedure. Other complaints of harassment against students may be considered by the Proctors under Statute XI.
28. Advice may be sought from the Proctors' Office if the subject of the complaint is a student.

<sup>1</sup> Within the University Administration and Services (UAS) the head of department will normally be the director or head of the relevant division or section within UAS. Within ASUC the head of department will normally be the directors of OULS, OUCS, and the University's museums.



### *Complaints of harassment against university staff*

29. Any complaints against college staff relating to college teaching or supervision will be dealt with under college procedures.

30. The procedure below applies in all cases where the person who is the subject of the complaint is a member of university staff.

#### **Initial action**

31. An individual who feels that s/he is being harassed in the course of their university activities such as work or studies or university leisure activities may feel able to approach the person in question to explain what conduct s/he finds upsetting, offensive or unacceptable, and to ask that person to refrain from that behaviour. Such an informal approach may be all that is required to resolve the issue. The University does not wish to be prescriptive as to the form of any such action that the complainant or the person who is the subject of the complaint may wish to make.

If the complainant is unable or reluctant to approach the person complained against, s/he may approach his or her immediate supervisor, departmental administrator, or head of department or equivalent to ask for help in achieving a resolution of the problem. Personnel Services will also be available to advise.

#### **Mediation**

32. In some situations, it may be appropriate to ask the parties to consider entering into a mediation process. Although mediation may be attempted at any time before or after a formal investigation, it may be particularly helpful if it is considered at an early stage before the formal procedure is invoked.

33. An experienced mediator acceptable to both parties will normally be nominated by Personnel Services. The mediator will meet with the parties separately and as soon as practicable to begin to seek a resolution. The normal expectation is that resolution would be achieved within 20 working days of the initial meetings with the parties (although this time limit may be extended by agreement). To avoid confusion any agreed outcome will normally be recorded in writing.

34. All those involved in the mediation process must maintain appropriate confidentiality. If for any reason the process does not prove fruitful, or is taking an unacceptably long time to achieve resolution, either party may withdraw from the process.

#### **Complaints procedure**

35. If informal action does not succeed in resolving the situation, or would not be appropriate given the nature of the complaint, the complainant should make a written complaint to his or her head of department or, if the complainant feels it is not appropriate to approach that person, the relevant head of division (or analogous unit within UAS or ASUC). If any of the parties considers that the head of department has a conflict of interest in the complaint, the complaint may be referred to the head of division. In cases where it is not immediately clear to whom a complaint should be addressed, advice may be sought from Personnel Services.

### *Submission of the complaint*

36. The complainant should set out as clearly and succinctly as possible (i) the nature of the behaviour that s/he is concerned about; (ii) the effect of this behaviour on him/her; and (iii) the resolution s/he is seeking. The complaint should include dates and details of any witnesses to any incidents referred to in the complaint, together with any documentary evidence. The complainant should also explain what attempts, if any, have been made to resolve the difficulties and the outcome s/he is seeking.

37. A copy of all written complaints should be sent to the Head of Personnel Services for information.

38. Every effort will be made to achieve a prompt resolution to the complaint – the aim being to conclude the complaint within a period of no more than six weeks. Both the complainant and the person who is the subject of the complaint will be expected to co-operate with the University in achieving that result.

39. Both parties to the complaint have the right to be accompanied and supported by a trade union representative or by a colleague of his or her choice from within the University at any meeting held under this procedure. If the complaint involves a student s/he may be accompanied, for example, by a college tutor or equivalent. These people must maintain appropriate confidentiality.

40. There may be circumstances in which an aggrieved party is not willing, or able, to make a formal complaint but the head of department considers that the implications for the aggrieved person or others actually or potentially affected are serious. In this case, the head of department will consult the Head of Personnel Services, and may initiate an investigation and make a decision on further action on the basis of such evidence as is available.

### *Action by the Head of Department on receipt of a complaint*

41. On receipt of a complaint, the head of department (or his or her nominee) will in consultation with Personnel Services take such steps as s/he thinks necessary or appropriate to understand the nature of the complaint and the outcome sought including:

- informing the person against whom a complaint has been made of the allegations against him or her;
- meeting separately with the complainant and the alleged harasser (at which meetings they should be provided with the right to be accompanied);
- speaking to other relevant people on a confidential basis; and /or
- obtaining further relevant information.

The head of department will then decide how to proceed and will inform the parties in writing. S/he may make such enquiries as are necessary to determine the complaint, or may commission an investigation.

### *Investigation*

42. The purpose of an investigation is to establish the relevant factual evidence in connection with the allegation(s) made by the complainant. (See section 52 below for the procedure for investigations.)

43. As a general rule, the investigator should not have had previous involvement with the issues in the case. The investigation should be concluded as soon as is reasonably practicable. The investigator will prepare a report and may, if specifically requested to do so by the head of department, make recommendations on possible courses of action.

44. The head of department will inform the complainant and the person who is the subject of the complaint in writing (i) of the conclusions she or he has reached having reviewed the evidence, including any investigation report; (ii) of the action the head of department intends to take; and (iii) of the reasons for any such action.

45. The head of department will also inform any other parties who have been asked to participate in an investigation that the investigation has been concluded.

### *Possible outcomes of a complaint*

46. Depending on the nature of the complaint and the evidence found, including the findings of any investigation report, the head of department, in consultation with Personnel Services, will either:-

(i) Take no further action, other than, where appropriate, implementing or suggesting steps that would help restore reasonable working relationships between the parties. This approach will usually be appropriate where the claim(s) of harassment are considered to be unfounded and where there is a continuing relationship between the parties.

*or*

(ii) Initiate resolution of the issues (e.g. by requiring that certain individuals undergo specific training, or implementing practical arrangements to improve working relationships). If a successful resolution is achieved the case will be closed, but the situation will be monitored for an appropriate period. This approach will usually be appropriate where the evidence does not support a claim of harassment but it is clear that either party has demonstrated behaviours that are likely to lead to further issues between them if unresolved or, alternatively that there are structural issues within a department that require management attention.

*or*

(iii) Institute disciplinary proceedings where the head of department is reasonably satisfied that there is sufficient evidence to support allegations of harassment of a sufficiently serious nature as to merit disciplinary action.

(iv) In rare cases disciplinary action may be instituted against the complainant if the head of department is satisfied that the complaint of harassment is unfounded and not made in good faith<sup>1</sup>.

#### *Appeal from the head of department's decision*

47. If either party does not accept the outcome of the complaint (including any judgement that the complaint was vexatious), s/he may invoke the relevant grievance procedure<sup>2</sup> with the relevant time scales specified in that procedure save that where the decision is to refer the matter for disciplinary action, any matters of dispute will usually be considered as part of that person's response to the disciplinary proceedings.

#### **Records**

48. The University and all those involved in this process must comply with the principles of the Data Protection Act 1998<sup>3</sup>. These include ensuring that personal data is kept accurate and up-to-date, held securely, not passed on to unauthorised third parties, and not kept for longer than necessary.

49. Those interviewed in the course of any investigation will be asked to review the notes of their individual discussions with the investigator as soon as is reasonably possible in order to comment on any inaccuracies or omissions.

50. Personnel Services should be consulted about filing and retaining any notes and documents all of which must be held in confidence.

#### **Investigations**

51. The procedure for an investigation will normally be as follows but may be adapted by the investigator to meet the case:-

- a. The investigator will meet the complainant to confirm the details of the complaint.
- b. The complaint as clarified will be forwarded to the person complained against together with any other relevant material that the head of department has.
- c. The investigator will interview, where reasonably practicable, individuals identified by the complainant as having relevant evidence.
- d. The investigator will meet the person complained against to hear his/her response to the complaint and any further evidence that has come to light.

<sup>1</sup> This phrase means where the complainant knew or could reasonably have been expected to know that the complaint was unfounded.

<sup>2</sup> In the case of the complainant, this would be the appeal stage of the appropriate grievance procedure. For academic and academic related staff see [http://www.admin.ox.ac.uk/ps/managers/grievance/griev\\_ar.shtml](http://www.admin.ox.ac.uk/ps/managers/grievance/griev_ar.shtml) for support staff see <http://www.admin.ox.ac.uk/ps/staff/handbooks/8/84snc.shtml>

<sup>3</sup> The University's Data Protection policy is available at: <http://www.admin.ox.ac.uk/councilsec/dp/policy.shtml>



- e. The investigator will interview, where reasonably practicable, individuals identified by the person complained against as having relevant evidence.
- f. Having considered all the evidence, including any relevant documents, the investigator will prepare a written report of his/her findings, in relation to which she or she may check relevant sections in draft with the parties before finalising.
- g. The report will be forwarded to the head of department and usually with a copy to the Head of Personnel Services.