

# Anti-Bullying, Anti-Harassment and Anti-Sexual Harassment Policy

## Policy

### Policy Statement

Gateway Qualifications aims to create a working environment that respects the dignity and rights of all employees, and where individuals have the opportunity to realise their full potential. The organisation will not tolerate any form of harassment or bullying and is committed to ensuring that employees are able to work confidently and without fear of harassment, bullying or victimisation. This means that standards of everyday behaviour that contribute to a working environment in which mutual respect and individual dignity should be maintained at all times.

Where an employee is found to have committed an act of sexual harassment, or a serious act of bullying or other harassment this will be dealt with under the disciplinary procedure and may be viewed as gross misconduct, which could result in summary dismissal.

### Scope

We deplore all forms of harassment and seek to ensure that the working environment is safe and supportive to all those who work for us. This includes employees, workers, agency workers, volunteers and contractors and this policy therefore applies to all.

### Definitions

#### Sexual Harassment

Sexual harassment is unwanted conduct of a sexual nature which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating, or offensive environment for that person. It also covers treating someone less favourably because they have submitted to, or refused to submit to, unwanted conduct of a sexual nature or in relation to gender reassignment or sex.

Sexual harassment may be committed by a fellow worker, an agent of an organisation, or a third party. It does not need to occur in person. It can occur via digital means, including social media sites or channels (e.g. WhatsApp). Someone may be sexually harassed even if they were not the target of the behaviour.

#### Examples of sexual harassment include, but are not limited to:

- sexual comments or jokes, which may be referred to as “banter.”
- displaying sexually graphic pictures, posters, or photos
- suggestive looks, staring or leering.
- propositions and sexual advances
- making promises in return for sexual favours
- sexual gestures
- intrusive questions about a person's private or sex life or a person discussing their own sex life.

- sexual posts or contact in online communications, including on social media.
- spreading sexual rumours about a person
- sending sexually explicit emails, text messages or messages via other social media
- unwelcome touching, hugging, massaging, or kissing.

## Bullying and Harassment

Harassment occurs when an individual is subjected to unwanted conduct which has the purpose (intentional) or effect (unintentional) of:

- violating a person's dignity, or
- creating an intimidating, hostile, degrading, humiliating, or offensive environment for that individual.

Harassment is unlawful when it is on the grounds of the protected characteristics as defined by the Equality Act 2010.

The individual's perception determines whether the conduct in question was unacceptable to them and is important in determining whether harassment occurred.

Behaviour can constitute bullying or harassment where it violates the dignity of an individual on the grounds of their protected characteristics, such as:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy or maternity
- race
- religion or belief
- sex
- sexual orientation.

Bullying and harassment can also be recognised through behaviour which creates an intimidating, hostile, degrading, humiliating, or offensive environment. Individual or accumulative acts can seriously undermine the dignity, confidence, and work satisfaction to such an extent that it has an effect on job performance and general happiness both inside and outside work.

Conduct becomes harassment if it persists and it has been made clear that it is regarded as offensive by the recipient or a witness to the conduct, although a single offensive act can amount to harassment if it is sufficiently serious.

Whatever form it takes, personal harassment is always taken seriously and is totally unacceptable.

We recognise that personal harassment can exist in the workplace, as well as outside and that this can seriously affect employees' working lives by interfering with their job performance or by creating a stressful, intimidating, and unpleasant working environment.

Harassment and bullying can take many forms. **Examples of unacceptable behaviour include:**

- Offensive songs, remarks, jokes, emails, or gestures
- Display of offensive posters, publications, and graffiti

- Unwanted physical contact or advances
- Offensive remarks about a person's dress or appearance,
- Offensive remarks about a person's race, gender, marital status, disability, religion or belief, sexual orientation, gender identity or age
- Shouting, abusive, or intimidating language
- Spreading malicious rumours, allegations, or gossip
- Excluding, marginalising, or ignoring someone
- Intrusion by pestering, spying, or stalking.
- Copying documents that are critical about someone to others who do not need to know.
- Facial expressions or mimicry
- Deliberately undermining a competent worker by overloading, taking credit for his/her work or constant criticism
- Removing areas of responsibility and imposing menial tasks
- Cyber-bullying: that is, the sending or posting of harmful, cruel, or offensive text or images by email, internet, social networking websites or other digital communication devices.

It is accepted that vigorous academic debate and occasional raised voice or argument, of itself may not necessarily constitute harassment or bullying.

Bullying must be distinguished from the right of, and obligation placed on, managers to exercise proper supervision of employees in the course of their duties, which may include legitimate, constructive, and fair criticism of an employee's performance or behaviour at work.

Managers will exercise this supervision in a fair, constructive, consistent, and reasonable manner that does not compromise the employee's dignity. Similarly, reasonable (but perhaps unpopular) requests by a manager of employees in the normal course of their duties will not be viewed as acts of harassment or bullying.

The above list is intended to give a clear impression of the types of behaviour that the organisation considers to be unacceptable. The list only contains examples and is not exhaustive.

## Circumstances which are covered

This policy covers behaviour which occurs in the following situations:

- a work situation
- a situation occurring outside of the normal workplace or normal working hours which is related to work, e.g. a working lunch, a business trip, or social functions.
- outside of a work situation but involving a colleague or other person connected to the Organisation, including on social media.
- against anyone outside of a work situation where the incident is relevant to your suitability to carry out the role.

## Complaints of Harassment or Bullying

If an employee wishes to make a complaint of harassment or bullying the matter should be raised as a grievance in accordance with the grievance procedure. The procedure should aim

to investigate such grievances to establish whether or not harassment or bullying has occurred and make recommendations for action where necessary.

Such action could include disciplinary action, in which case the organisation will refer to the relevant stage of the organisation's disciplinary procedure.

## Allegations of Sexual Harassment

The organisation is committed to ensuring that there is no sexual harassment in the workplace. Individuals who wish to make a complaint of sexual harassment should do so in accordance with the Anti-sexual harassment procedure.

Allegations of sexual harassment and victimisation will be treated as a disciplinary matter, although every situation will be considered on an individual basis and in accordance with the principles of the organisation's disciplinary procedures.

## Third-party Sexual Harassment

Third-party sexual harassment occurs when a member of staff is subjected to sexual harassment by someone who is not employed by the organisation but who is encountered in connection with work. This includes suppliers, members of the public, customers within Centres/Providers, delegates at a conference, members of the Wider Workforce team, consultants, and any other self-employed contractors.

Third-party sexual harassment of staff is unlawful and will not be tolerated. The law requires employers to take steps to prevent sexual harassment by third parties and we are committed to doing so.

The law does not provide a mechanism for individuals to bring a claim of third-party harassment alone. However, failure for an employer to take reasonable steps to prevent third-party sexual harassment may result in legal liability in other types of claims.

In order to prevent third-party sexual harassment from occurring, the organisation will:

- inform third parties (Centres/Providers, Suppliers, Wider Workforce team and Consultants) of our zero-tolerance anti- sexual harassment policy within relevant contracts and/or documentation.

Individuals that have been subjected to third-party sexual harassment are encouraged to report this as soon as possible to the Director of Finance. Alternatively, instances of sexual harassment can be reported by email to [hr@gatewayqualifications.org.uk](mailto:hr@gatewayqualifications.org.uk). This email address is monitored daily (Monday to Friday), and a response received within 24 hours.

Should a customer sexually harass a member of our workforce, they, or their employer if relevant, will be warned about the behaviour. Should a member of the Wider Workforce Team, Consultant, or any other self-employed contractor working with Gateway Qualifications sexually harass a member of staff, this will be investigated and may lead to the termination of their contractual agreement. Any criminal acts will be reported to the police.

The organisation will not tolerate sexual harassment by any member of its workforce against a third party. Instances of sexual harassment of this kind will be investigated and may lead to disciplinary action, including termination of employment or any other contractual agreement.

## Disciplinary Action

If an allegation of sexual harassment, harassment, bullying, or victimisation is well founded, the harasser/victimiser will be liable to disciplinary action in accordance with the disciplinary procedure up to, and including, summary dismissal. An employee who receives a formal warning or who is dismissed may appeal by using the disciplinary appeal procedure.

When deciding on the level of disciplinary sanction to be applied, any aggravating factors affecting the case will be taken into consideration. One example of aggravating factors is an abuse of power over a more junior colleague.

## Training

The organisation will provide training to all staff on sexual harassment, harassment and bullying to ensure there is a clear understanding of:

- what sexual harassment is, how it may occur and that it will not be tolerated
- expected levels of behaviour
- how to report incidents of having been sexually harassed or having witnessed it.
- how acts of harassment will be dealt with under the disciplinary procedure, which can potentially result in dismissal.

Managers will be trained on implementing this policy, including preventing and managing sexual harassment in the workplace and the procedure to follow if an allegation is reported.

The effectiveness of training will be regularly reviewed, and refresher training provided as appropriate.

## Support

The organisation recognises the sensitive nature of sexual harassment, harassment, and bullying. Employees who believe they are being harassed or bullied may wish to discuss their particular situation in confidence before deciding what action to take. Employees are encouraged to discuss workplace problems openly and informally with their line manager. However, the organisation recognises that this may not always be appropriate and, in this situation, encourages employees to discuss the situation with a more senior manager or with HR.

Confidentiality will be maintained as far as possible. However, if an employee decides not to take any action to deal with the problem and the circumstances described are very serious, the organisation reserves the right to investigate the situation in accordance with its duty of care to ensure the safety of all employees who may be affected by the alleged behaviour.

## Malicious Allegations and False Statements

Unfounded allegations of sexual harassment, harassment and/or bullying for malicious reasons will not be tolerated by the organisation. Any such cases will be investigated and dealt with under the disciplinary procedure and may be serious enough to constitute gross misconduct, which may result in summary dismissal.

Where a witness is found to have deliberately misled an investigation, the organisation will treat this as a serious disciplinary offence.

## Victimisation

Victimisation is subjecting someone to detriment because they have done, are suspected of doing, or intend to do, an act which is protected under discrimination and harassment laws. These are outlined below. It is not necessary for the person to have done the protected act in order for detrimental treatment to be considered as victimisation.

The protected acts are:

- making a claim or complaint under the Equality Act 2010 (e.g. for discrimination or harassment)
- helping someone else to make a claim by giving evidence or information in connection with proceedings under the Equality Act 2010
- making an allegation that someone has breached the Equality Act 2010
- doing anything else in connection with the Equality Act 2010.

**Examples of victimisation may include:**

- failing to consider someone for promotion because they have previously made a sexual harassment or harassment complaint.
- dismissing someone because they accompanied a colleague to a meeting about a sexual harassment or harassment complaint.
- excluding someone from work meetings because they gave evidence as a witness for another employee as part of an employment tribunal claim about harassment.

Employees are protected from victimisation as a result of bringing a complaint under this policy. If an employee feels that they have been victimised following a complaint of sexual harassment, harassment, or bullying, they should raise a grievance under the organisation's grievance procedure. Where it is found that victimisation has occurred, this will be treated as a disciplinary offence and may be serious enough to constitute gross misconduct.

Version:	Version 1.7 November 2024
Policy author:	Director of Finance
Board approval date:	4 <sup>th</sup> December 2024
Review frequency:	Two years.
Review date:	November 2026

Ofqual General Conditions of Recognition
<b>Condition:</b> Not applicable
QAA licensing criteria
<b>Condition:</b> Not applicable