

# Anti-Sexual Harassment Procedure

## Procedure

### Purpose

This procedure outlines the steps to take if an individual wishes to make an allegation of sexual harassment.

### 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.

### Audience

This procedure applies to all employees, workers, agency workers, volunteers, and contractors.

### 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

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- 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

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- 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.

## Related Documents

- Grievance Procedure
- Anti-Bullying, Anti-Harassment, and Anti-Sexual Harassment Policy

## Procedure

### 1. 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.

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

## 2. Allegations of Sexual Harassment or Victimisation

The organisation is committed to ensuring that there is no sexual harassment or victimisation in the workplace. 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 organisations disciplinary procedures, a copy of which is available on the HR System.

### Informal complaint

The organisation recognises that complaints of sexual harassment or victimisation can be of a sensitive or intimate nature and that it may not be appropriate for an employee to raise the issue through our normal grievance procedure. In these circumstances, the employee is encouraged to raise such issues with a senior colleague of their choice (whether or not that person has a direct supervisory responsibility for them) as a confidential helper. This person cannot be the same person who will be responsible for investigating the matter if it becomes a formal complaint.

If an individual experiences sexual harassment and feels comfortable to do so, they should make it clear to the harasser on an informal basis that their behaviour is unwelcome and ask the harasser to stop. If they feel unable to do this verbally then they should make the request in writing to the harasser.

In addition, employees may also choose to raise concerns during regular communications with their manager e.g. in a one-to-one meeting. The manager will listen and take concerns seriously but may encourage the employee to follow the reporting procedures set out below. If a one-to-one meeting is not scheduled an employee can ask to meet with their manager to discuss any concerns that they have.

### Formal complaint

Where the informal approach fails, or if the sexual harassment or victimisation is more serious, the matter should be brought to the attention of the Director of Finance as a formal written complaint.

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.

If possible, notes should be kept of what happened so that the written complaint can include:

- the name of the alleged harasser
- the nature of the alleged harassment
- the dates and times when the alleged harassment occurred.
- the names of any witnesses
- any action already taken to stop the alleged harassment.

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On receipt of a formal complaint, action will be taken to separate the individual from the alleged harasser to enable an uninterrupted investigation to take place. This may involve a requirement for the alleged harasser not to communicate with the individual or to attend virtual or in person meetings with them.

The person dealing with the complaint will invite the individual to attend a meeting, to discuss the matter and carry out a thorough investigation. The meeting will normally be held within five working days of receipt of a complaint. Employees have the right to be accompanied at such meetings by the chosen confidential helper or another work colleague of their choice and must take all reasonable steps to attend. Those involved in the investigation will be expected to act in confidence and any breach of confidence may be dealt with under the disciplinary procedure.

On conclusion of the investigation, which will normally be within 10 working days of the original meeting, the complainant will receive confirmation in writing of the findings.

Employees have the right to appeal against the findings of the investigator. Appeals must be made in writing to CEO within five working days of receiving the outcome. A second meeting will then be held, as far as reasonably practicable, by a more senior manager than the manager who attended the first meeting (unless the most senior manager attended that meeting).

Following the appeal meeting, the final decision will be confirmed in writing, normally within 10 working days.

Regardless of the outcome of the procedure, the organisation is committed to providing individuals with the support needed. This may involve mediation between relevant parties or some other measure to manage the ongoing working relationship.

Employees will not be victimised for having brought a complaint.

### **3. What to do if you witness sexual harassment or victimisation**

If you witness sexual harassment or victimisation, you are encouraged to take appropriate action to address it. You should not take any action that may put you at risk of sexual harassment or other harm. If you feel able, you should intervene to prevent the matter continuing. If you are not able to do this, your action may include offering support to the person who has been sexually harassed and encouraging them to report the incident or reporting the incident yourself.

If reporting the incident, you should bring the matter to the attention of a member of the Director of Finance in writing. Alternatively, you can report instances of sexual harassment by emailing [hr@gatewayqualifications.org.uk](mailto:hr@gatewayqualifications.org.uk). This email address is monitored daily (Monday to Friday), and you will be contacted within 24 hours.

All concerns will be handled by the Director of Finance or an alternative member of the Senior Leadership Team who will sensitively talk to the person subject to sexual harassment to determine how they want the matter to be handled.

## 4. 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 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, 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.

## 5. 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.

## 6. 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.

## 7. 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.

## 8. 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.

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- 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.

*- End of Procedure-*



## Inputs and Guidance

Regulator	Condition

## Document Controls

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## Revision History

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01/10/2024	0.1	Kate Oiller	New document created