

The Hull York Medical School

Draft Code of Practice on Harassment

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Code of Practice on Harassment

(Covering Sexual, Racial, Disability, and other forms of Harassment and Bullying)

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1.0 Policy Statement

The Universities of Hull and York aim to provide a working and learning environment which will enable staff and students to fulfil their personal potential. In order to achieve this, the institution is committed to the creation of a stimulating and supportive environment. Staff and students also have an important role to play in creating an environment where harassment is unacceptable. Tackling harassment is a contribution to achieving equal opportunities.

The Universities accept that such an environment cannot be created or sustained if, individually or collectively, staff and students are subject to harassment, intimidation, victimisation or bullying. Staff and students who feel persecuted, vulnerable and powerless will not be able to work or study successfully.

- 1.1 Whilst HYMS encourages informal resolution of allegations of harassment, (see section 9 for staff and 10 for students), the option of using the formal procedure is available for immediate use and also where it has not been possible for matters to be resolved informally .
- 1.4 An employee who is found to have been harassed by a staff member or student of either University, or of an NHS institution participating in HYMS, while at work, or as a result of being an employee, will have the support both of the senior staff of the relevant University or NHS institution, and of the trade unions in putting a stop to the harassment. Acts of harassment which occur off campus may fall within this procedure.
- 1.5 Similarly a student who is found to have been harassed by a staff member or student of either University, or of an NHS institution participating in HYMS while studying, or as a result of being a student, will have the support of both of the senior staff of the relevant University or NHS institution, and the Students' Union(s) in putting a stop to the harassment. Acts of harassment may occur off campus but fall within this procedure.
- 1.6 Allegations of harassment will be dealt with sensitively. Confidentiality will be maintained between the complainant and the person he/she contacts about any allegation (eg a member of the HYMS Support Network), if that is what the complainant wishes, unless the person contacted judges that there is an unacceptable risk to the complainant, another person, or to the institution itself (also see 12.7 below). Members of the Network may find it necessary to discuss a particular case with another member of the Network and, in those circumstances, the names of individuals involved will not be revealed.
- 1.7 HYMS regards harassment as a serious matter. Where serious allegations of harassment are proved, disciplinary action (including dismissal or expulsion) may be taken against the harasser. In addition to any penalty imposed by the University at which the harasser is registered, in the case where that person is a student, or the employer where that person is a staff member of either University or of an NHS institution, those responsible for harassing others may be subject to criminal and/or civil proceedings.
- 1.8 Nothing in this Code will prevent members of staff from exercising their legal rights.
- 2.0 What is Harassment?
- 2.1 Harassment may be a single event, sporadic events or a continuing process. It can take many forms. Harassment involves a range of behaviour which is unacceptable to the recipient and which creates an intimidating, hostile or offensive environment for employment, study or social life. The defining feature is that the behaviour is unwanted by the recipient and unwarranted by the working or study/social relationship and also would be regarded as such by any reasonable person.
- 2.2 The range of unacceptable behaviour stretches from violence and bullying, to more subtle behaviour, such as ignoring an individual. Harassment of any kind is morally wrong.
- 2.3 Differences of attitude or culture and the misinterpretation of social signals can mean that what is perceived as harassment by one person may not seem so to another.

- 2.4 People in positions of trust and authority, and those with a pastoral role, have a particular obligation to ensure that they do not use their power to harass other staff or students. Such people should be aware that genuine authority is based on respect and commitment and that demeaning and devaluing people is not an effective leadership style. This obligation is particularly important for members of academic staff in their relationship of trust and care of students.
- 2.5 Harassment may involve an actual or perceived unequal power relationship. Individual harassment tends to reflect wider social inequalities. Those who are in authority are less likely to experience harassment than other members of society.
- 2.6 It is especially important that a person in authority who is, or has been, the subject of a complaint under these procedures does not use his/her legitimate authority to victimise a complainant. If a person in authority initiates disciplinary or grievance proceedings against an individual who has made a complaint against him/her under this Code, he/she will be required to show that the action being taken is not victimisation. The onus of proof will be on the person in authority to show (to those considering the disciplinary or grievance case) that the action taken is reasonable in the circumstances of the case. As long as that can be established, the disciplinary or grievance proceedings may proceed in the normal manner.
- 2.7 Harassment, victimisation and bullying may include:
1. derogatory name-calling
 2. derisory remarks, verbal abuse, insults and threats
 3. ridicule or belittling of an individual
 4. repeated gibes in reference to religion, personal traits or appearance
 5. offensive verbal or practical jokes
 6. exclusion from normal workplace conversation or social events
 7. unfair allocation of work and responsibilities
 8. offensive graffiti or insignia
 9. display or electronic transmission of offensive material
 10. physical attack
 11. incitement of others to commit any of the above

3 Sexual and Gender Harassment

- 3.1 Sexual harassment is any behaviour, deliberate or otherwise, that makes the recipient feel that he/she is being viewed as a sexual object. Sexual harassment involves unwanted attention of a sexual nature, which creates an intimidating, hostile or offensive environment for employment, study or social life.
- 3.2 Sexual harassment may occur between members of the same sex or of the opposite sex. It may be directed at an individual or group.
- 3.3 In addition to the behaviour referred to in 2.7 above, sexual harassment may include:
- a. suggestive comments, sexual innuendo and foul language or expletives of a sexual nature
 - b. unwelcome advances, attention, invitations or demands for sex
 - c. unnecessary and unwanted physical contact*

d. indecent assault and rape*

* it should be noted that behaviour under (d) represents a criminal act and behaviour under (c) may also do so (see also section 14, Cases of Physical Assault).

3.4 Gender harassment is any behaviour, deliberate or otherwise, pertaining to gender, which is unwanted by the recipient and creates an intimidating, hostile or offensive environment for employment, study or social life. It may be directed at an individual or group.

3.5 In addition to the behaviour referred to in 2.7 above, gender harassment may include:

- a. abusive comments/jokes about an individual's gender e.g comments/jokes about capability, based on assumptions relating to gender

4 Racial Harassment

4.1 Racial harassment is any behaviour, deliberate or otherwise, pertaining to race, colour, ethnic or national origin, which is unwanted by the recipient and creates an intimidating, hostile or offensive environment for employment, study or social life. It may be directed at an individual or group. (1)

4.2 In addition to the behaviour referred to in 2.7 above, racial harassment may include:

- a. abusive comments about racial origins and skin colour, racist insults and jokes
- b. ridicule of an individual on cultural and/or religious grounds

5 Harassment on Grounds of Sexual Orientation

5.1 Harassment on grounds of sexual orientation is any behaviour, deliberate or otherwise, pertaining to sexual orientation which is unwanted by the recipient and creates an intimidating, hostile or offensive environment for employment, study or social life.

5.2 Harassment on grounds of sexual orientation may be experienced by, for example, bisexual men and women, lesbian women and homosexual men. It may be directed at an individual or group.

5.3 In addition to the behaviour referred to in 2.7 above, harassment on grounds of sexual orientation may include:

- a. failure to accept that same-sex partners should be given the same recognition as heterosexual partners
- b. threats of, or actual unwanted disclosure of sexuality
- c. expressing or acting on stereotypical assumptions

6 Harassment on Grounds of Disability

- 6.1 Harassment on grounds of disability is any behaviour, deliberate or otherwise, pertaining to a person's disability, which is unwanted by the recipient and creates an intimidating, hostile or offensive environment for employment, study or social life. It may be directed at an individual or group.
- 6.2 In addition to the behaviour referred to in 2.7 above, harassment on grounds of disability may include:
- a. unwelcome discussion of the effects of a disability on an individual's personal life
 - b. refusal to work/study alongside a person with a disability
 - c. communicating with a person with a disability via a third party
 - d. excluding a person with a disability from social events or meetings
 - e. uninvited, patronising or unnecessary assistance with work/study
 - f. prejudging an individual's capabilities without reference to him/her
 - g. mischievous interference with personal aids or equipment

7 Other Forms of Harassment

In addition to the specific forms of harassment referred to in paragraphs 3, 4, 5 and 6 above, harassment can take a variety of other forms, including the following:

- a. ageist harassment - see 2.7 above
- b. religious harassment - see 2.7 above
- c. harassment of other sexual minorities eg. transsexual and trans-gendered individuals - see 2.7 above

8 Effects of Harassment

- 8.1 People may be afraid of reprisals if they report harassment, victimisation and bullying, or they may be concerned about their future employment/job prospects.
- 8.2 Reporting harassment, victimisation and bullying requires courage and determination. Those who have suffered harassment, victimisation and/or bullying may feel:
- a. a lack of confidence
 - b. unable to deal with the situation
 - c. isolated and stressed
 - d. traumatised and/or may unreasonably blame themselves
 - e. depressed and/or physically ill
- 8.3 Harassment affects people's ability to undertake their studies, or the duties of their job. It can also affect their performance, health and the quality of their life. The feeling of being unable to deal with the situation may be made worse when the harasser is, or is perceived to be, in a position of power in relation to the person who feels harassed. It is also recognised that, where allegations of harassment are made maliciously against someone, or they are made on knowingly false information, the alleged harasser may also be affected in the manner described above.

9 Procedure for Staff

Staff who wish to make a complaint of Harassment should follow the Policies, Regulations, or Codes of Practice of their employing institution.

10 Procedure for Students

10.1 There are a range of measures which an individual can take to deal with harassment, from simply indicating that the behaviour is unacceptable, through to making a formal complaint, as set out in the following section. Acts of harassment which occur off campus may fall within this procedure.

10.2 If you feel you might be the victim of harassment you should keep a written record of all relevant incidents, including dates and times, and the names of any witnesses.

10.3 Step One (Students)

- a. Act promptly: don't wait until your situation reaches an intolerable level or your personal well-being is put in jeopardy. In some cases, the person against whom you have a complaint may be unaware that his/her behaviour is inappropriate or objectionable, or it may be that his/her words or actions have been misinterpreted. In such cases, the misunderstanding may be cleared up speedily.

If you feel able:

- o talk to the person who you feel is harassing you (the alleged harasser)
- o inform him/her that his/her behaviour is unacceptable
- o ask him/her to stop the unacceptable behaviour.

Whether the behaviour was intentional or not, a swift and clear indication that it is unacceptable may well prove sufficient.

- b. If you do not wish to confront the alleged harasser face to face by yourself, you have the following options:
 - i. asking a friend, a representative from the Students' Union, or a HYMS colleague (staff or student) to :
accompany you when you speak to the alleged harasser
accompany you and speak to the alleged harasser on your behalf
go in your place and speak to the alleged harasser on your behalf,
preserving anonymity if you wish, where this is practicable

It is suggested that the alleged harasser is contacted in advance and given the opportunity to be accompanied at this informal meeting.

- ii. talking about the problem with your friends, your personal advisor, the HYMS senior advisor on you campus, the HYMS Clinical Placement Student Liason Officer, the Student Counselling Service, a University Chaplain or any of the people

whose names are on the Support Network list (see Appendix 1) - all of whom are willing to discuss incidents or problems however large or small they may seem. Do not hesitate to contact someone even when an incident occurs only once, if you are concerned about it. They will explain the range of options available to you and may suggest a way of resolving the problem which you have not thought of. For example an option might be to write to the alleged harasser, being specific about what behaviour you find unacceptable. You must keep a copy of any relevant correspondence and notes of conversations, in case follow-up action becomes necessary. Further action will not be taken without your express permission (see 1.6 regarding confidentiality).

Some members of the HYMS Support Network have other roles in the University (eg. as a senior manager, member of a Board of Examiners etc). When you approach a Network member for advice, you and the Network member should clarify what role that person is taking and whether he/she is responding to you as a member of the Network.

10.4 The Role of HYMS Support Persons

A staff member or Students' Union Officer, or someone else in a position of authority, who is approached informally by a complainant will:

- a. respond sensitively and reasonably to the complaint;
- b. respect the complainant's wish to have their complaint treated confidentially except where the person who is approached, judges that there is an unacceptable risk to the complainant, another person, or to the institution itself (see 1.6);
- c. discuss with the complainant the range of options available eg. referring a complaint anonymously to the person against whom the complaint has been made (the alleged harasser) or arranging, if appropriate, a meeting between the complainant and the alleged harasser (see 9 for staff and 10.1 and 10.3 for students);
- d. advise, if appropriate, that the matter is so serious, or implies a pattern of harassment that cannot be dealt with informally and, accordingly, should be dealt with formally (see section 10.7, Formal Complaints). If this is the case, he/she will provide advice including information about the procedure for making a formal complaint. If the complainant is unable or unwilling to accept this advice the informal procedures detailed below will, so far as reasonably practicable, be followed;
- e. take such steps as are open to him/her to see that the University meets its obligation to ensure that a person who brings a reasonable complaint suffers no detriment;
- f. maintain appropriate written records.

10.5 Informal Step Two (Students)

- a. If your concern continues (or if the harassment is of a more serious nature than can be dealt with by methods in Step One), then you are advised to seek a confidential meeting with your personal advisor or other member

of staff, or someone on the HYMS Support Network list (see Appendix 1) if you have not already done so. That person will seek to arrange, if appropriate, an informal meeting between you and the alleged harasser. The alleged harasser will be advised of the nature of the complaint and be given the opportunity to respond. Both you and the alleged harasser may wish to be accompanied at such an informal meeting by an Officer of the Students' Union, or a member of the University (staff or student) and this wish to be accompanied will be respected.

- b. The purpose of the informal meeting will be to discuss the nature of the complaint and to arrive at a solution without recourse to the appropriate formal procedures. The expectation is that the matter normally will be resolved by the alleged harasser giving an undertaking to cease any behaviour which causes distress.

10.6 Step Three (Students)

If the problem is serious, or has not been resolved by the above means, then you or someone acting on your behalf may make a formal complaint under the procedure set out in sections 10.7. It is possible to make a formal complaint without raising the matter under Steps One and Two. You are strongly advised to keep a note of details and dates of any relevant incidents which distress you, including a note of any ways in which the incidents cause you to change the pattern of your work or social life.

10.7 Formal Complaints (Students)

If informal attempts to resolve a complaint of harassment have not been successful, or the complaint is too serious for the problem to be resolved informally, it may be appropriate for the matter to be pursued through the following formal complaints procedure. At any stage of the formal procedure you may seek advice from a member of the HYMS Support Network. If you wish you may be accompanied to relevant meetings.

- 10.8 If you wish to make a formal complaint you should write a letter giving details of your allegations of harassment and, as appropriate, include details of incidents, including dates and times and the names of witnesses if any. You should indicate the informal steps that have been taken if any, prior to writing the letter. If you require assistance to write this letter, you may seek help from a member of the HYMS Support Network or an officer of the Students' Union. Your letter should be sent to the HYMS Associate Dean for Students. If no attempt at informal resolution has been made prior to the formal complaint, the HYMS Associate Dean for Students will discuss the matter with you, before any further action is taken.

- 10.9 In response to your letter an Investigatory Panel will be initiated by the Secretary of HYMS (Head of Administration), in collaboration with the appropriate officers of the University or NHS organisation involved, in order to investigate, impartially, your complaint as soon as reasonably possible and no later than 21 days after receiving the letter, and to prepare a report of its findings. The members of the Investigatory Panel should not have been involved in any informal consideration of the case. They should have recognised equal opportunities expertise and be trained in matters relating to harassment.

- 10.10 If the allegations involve staff, the Investigatory Panel will consist of 3 staff

members from the employing University employing the staff member involved, or, in the case of a staff member employed by an NHS organisation, one member of the academic staff of HYMS employed by the University holding the Honorary Contract of that alleged harasser, HYMS, and two duly appointed members from the employing NHS organisation.

- 10.11 If the allegations involve only students, the Investigatory Panel will consist of one staff member nominated by the Academic Registrar of the University with which the alleged harasser is registered, one member of the academic staff of HYMS employed by the University at which the complainant is registered, and a representative or representatives of the appropriate Students' Union(s) .
- 10.12 The report of the Investigatory Panel will be submitted to the Chair of the HYMS Fitness to Practice Committee, to the Academic Registrar or nominee of the appropriate University(ies), and to the Human Resources Director of the NHS organisation employing the alleged harasser, if appropriate.
- 10.13 All those involved in the investigation, including witnesses, will give a commitment to confidentiality regarding the details of the case.
- 10.14 The purpose of the Investigatory Panel is to meet and interview (separately) the complainant, the alleged harasser and any other people thought appropriate by the Panel. At any stage in the investigation, both the complainant and the alleged harasser will:
 - a. have the right to be accompanied and
 - b. be provided with clear details of the complaint(s) and have the right and time to respond.
- 10.15 If the alleged harasser is an employee/worker at the University he/she has the right to be accompanied by a single companion who will be another employee/worker at the University, or a full-time officer employed by a trade union, or a lay trade union officer/workplace representative.
- 10.16 If the complainant or the alleged harasser is a student, he/she has the right to be accompanied by a staff member or student of the University, or an officer of the Students' Union.
- 10.17 When the Investigatory Panel has completed its investigation into the complaint(s), it will send a report (normally within 2-3 weeks of completing the investigation) to the appropriate officers listed in 10.12 , who will meet to decide whether or not the complaint of harassment is well-founded and what, if any, further action is recommended to be taken in the circumstances.
- 10.18 In serious cases of harassment, the Chair of the HYMS Fitness to Practice Committee may decide to recommend that the complaint should be subject to the appropriate disciplinary procedure:
 - a. if the alleged harasser is an employee/worker of the University, or of an NHS organisation providing clinical placement teaching and learning for HYMS, such a recommendation would be made in writing to the appropriate Director of Personnel Services/ Human Resources, who will initiate the relevant disciplinary procedure (normally within 2 weeks).
 - b. if the alleged harasser is a HYMS student, a Fitness to Practise Panel will

consider the matter in accordance with the HYMS Code of Practice of Fitness to Practise Medicine.

- c. If the alleged harasser is a student of either University not enrolled in a HYMS programme, the normal disciplinary processes of that University will apply.

If the complaint is subject to a disciplinary procedure, the report of the Investigatory Panel will be made available to both the complainant and the alleged harasser.

- 10.19 The outcome of the investigation and/or disciplinary hearing might be to relocate or transfer one party .
- 10.20 Where serious allegations are proved, a disciplinary hearing may decide that gross misconduct has occurred and that dismissal/expulsion of the harasser is appropriate. Where a complaint is not upheld, a voluntary transfer of one of the parties may be considered.
- 10.21 A confidential record of the complaint(s) and investigation will be kept. The record will include the names of the parties, dates, the nature and frequency of incidents, any action taken and follow-up monitoring. A copy of the record will kept by:
 - a. the Personnel / Human Resources Office of the appropriate University, if the complainant or the alleged harasser is an employee/worker at the University;
 - b. the HYMS Fitness to Practise Committee if the alleged harasser is a HYMS student
 - c. the office of the Academic Registrar of the appropriate University if the complainant or the alleged harasser is a student.

10.22 Unless a formal complaint can be shown to be based on knowingly false information or was made maliciously, the complainant, so far as is reasonably practicable, will suffer no loss.

10.23 Where the Investigatory Panel finds that a formal complaint has been based on allegation(s) made maliciously and/or on knowingly false information, the complainant may be subject to the relevant disciplinary procedure.

11 Complaints against HYMS Support Network Members

If your complaint is against a member of the HYMS Support Network, or if, as a result of bringing your initial complaint, you have cause for concern about a member of the HYMS Support Network, you are advised to bring the matter to the attention of the Dean of HYMS, or to the Director of Personnel Services/ Human Resources of the appropriate University.

12 Cases of Physical Assault

12.1 If you have been attacked, seek help immediately. Any one of the suggested contacts named in this Code will give you support and explain the range of options available to you, including sources of other support.

12.2 For your own protection and for the protection of others it is important that the

offender is stopped from causing further harm. Cases of physical assault will almost certainly mean you have suffered a crime and accordingly you are advised to report the matter to the police as soon as possible. Depending on the nature of the assault you may wish to be accompanied by a member of the HYMS Support Network or someone else of your choice when you contact the police.

13 Rehabilitation

- 13.1 Where a complaint is upheld it may be necessary to relocate or transfer one party. HYMS will give the complainant the first choice of a transfer/relocation to another campus or placement, as soon as reasonably practicable. However, should the complainant prefer it, the harasser against whom the complaint has been upheld, if a HYMS student, may be transferred.
- 13.2 Decisions about relocation or transfer of students will be taken in appropriate consultation with the Personnel Office and/or the office of the Academic Registrar of the appropriate University.
- 13.3 Arrangements will be made for counselling about harassment for all those who indicate that they would find it helpful.
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Appendix 1 HYMS Support Network

Appendix 2

Sources of further advice and information

NATIONAL CONTACTS

Advisory Conciliation and Arbitration Service (ACAS)

Head Office: Brandon House
180 Borough High Street
London
SE1 1LW
Tel: 020 7210 3613

Association of University Teachers

Egmont House
25-31 Tavistock Place
London
WC1H 9UT
Tel: 020 7670 9700

British Association for Counselling

37a Sheep Street
Rugby
CV21 3BX
Tel: 01738 78328/9

Commission for Racial Equality

Elliot House
10-12 Allington Street
London
SW1E 5EH
Tel: 020 7828 7022

Disability Rights Commission

DRC Help line
Freeport MID 02164
Stratford-on-Avon
CV37 9BR
Tel: 08457 622 633
Fax: 08457 778 878
textphone: 08457 622 644
email: ddaahelp@str.sitel.co.uk

Equal Opportunities Commission

Overseas House
Quay Street
Manchester
M3 3HN
Tel: 0161 833 9244

Equality Challenge Unit

c/o Universities UK
Woburn House
20 Tavistock Square
London
WC1H 9HQ
Tel: 020 7419 5483

Industrial Society Information Service

Tel: 0161 262 2401

Lesbian and Gay Employment Rights

Tel: 020 7704 6066 (men)
Tel: 020 7704 8066 (women)

MSF Trades Union

33-37 Moreland Street
London
EC1V 8BB
Tel: 020 7505 3000

International Harassment Network

15 Powis Road
Preston
PR2 1AD
Tel: 01772 728627

Rape Crisis Centre (National)

Tel: 020 7837 1600

Samaritans

Tel: 0845 7909090

Trades Union Congress (TUC)

Congress House
23-28 Great Russell Street
London
C1B 3LS

UNISON Trades Union

1 Mabledon Place
London
WC1H 9AJ

Tel: 020 7388 2366

LOCAL CONTACTS

Disability Rights & Resource Centre (York)

Information Service
6 Priory St
York
Tel: 01904 638467/01904 610260

Housing Advice Resource Project

277 High Street
Northallerton
DL7 8DW
Tel: 01609 761778

Samaritans

Tel: 01904 655888

York Citizens' Advice Bureau

3 Blossom St
York
Tel: 01904 636066

York Racial Equality Network

10 Priory St
York
Tel: 01904 642600

York Rape Crisis

helpline staffed 6.30 pm - 10 pm (Thurs)
Tel: 01904 610917

UNIVERSITY CONTACTS**Chair of the Standing Committee on Harassment**

ext: (43)2031

Equal Opportunities Adviser

ext: (43)4681

Disability Adviser

ext: (43)2637

Personnel Office

ext: (43)4835

Academic Registrar's Office

ext: (43)2135/2158

Student Counselling Service

ext: (43)2140

Student Welfare Information Officer

ext: (43)3730

Chaplain's Office

ext: (43)3131

College Provosts:

Alcuin (43)3314

Derwent (43)3514

Goodricke (43)3114

Halifax (43)4704

James (43)2392

Langwith (43)3414

Vanbrugh (43)2984

Wentworth (43)3014

Students' Union Education & Welfare Officer

(43)3732

Graduate Students' Association

(43)2718

Overseas Students' Association

(43)2719

Nightline

(43)3721/3735

Appendix 3

Guidance for Members of Investigatory Panels when dealing with formal complaints of harassment

1 General Points 1.1 Whilst there is no time limit between an alleged incident having taken place and the lodging of a complaint, it should be noted that the longer the lapse of time, the more difficult it will be to make a fair investigation.

1.2 Investigations of formal complaints of harassment should be fair to both parties and need to be handled with care and sensitivity. Members of the Investigatory Panel should not (a) have been involved in any informal consideration of the case, or (b) be from the same department as the complainant or the alleged harasser. Members should have recognised equal opportunities expertise, be trained in matters relating to harassment and include as wide a range of diversity as possible and as appropriate for each case (in terms of gender, ethnicity, disability etc).

1.3 Investigations should be carried out objectively, avoiding prejudice and assumptions. The previous performance or behaviour of the complainant and/or the alleged harasser should not influence objectivity. Confidentiality should be maintained as far as is possible. Cases should not be discussed with individuals who are not directly involved and all paperwork should be kept secure. A breach of confidentiality by any of the parties, or those undertaking the investigation, may itself be considered to be a disciplinary offence.

1.4 The Investigatory Panel will be set up to investigate the complaint as soon as reasonably possible and no later than 21 days after receiving the letter of complaint. The complainant and alleged harasser will be notified of the names of the members of the Investigatory Panel in advance of the interviews and will be given the opportunity to raise a written objection to a particular panel member. Such objections will be accepted only in exceptional circumstances, but in such circumstances a substitute may be sought within an agreed timescale.

1.5 The investigation should be completed as soon as possible after the formal complaint has been received and both the complainant and the alleged harasser should be kept informed of progress. The alleged harasser should be informed in writing of the complaint as soon as possible and, from that point, contact between the complainant and the alleged harasser should, wherever possible, be minimised.

1.6 At any stage, in certain circumstances, the University may find it necessary to transfer or suspend (on full pay) one or both parties to the complaint, so that an objective investigation can be completed.

1.7 The Investigatory Panel should carry out investigatory interviews in the following order: the complainant, any witnesses and then the alleged harasser.

1.8 A note-taker (who has relevant experience in taking notes in similar proceedings and is not a Panel member) should be present at the investigatory interviews and a record of

the interview should be agreed with, and signed by, the person being interviewed. The note-taker should be appointed at the same time as the Investigatory Panel is set up.

2 Interview with the complainant

2.1 It is advisable for the complainant to be accompanied at the interview with the Investigatory Panel. A companion should accompany the complainant if s/he so wishes. The accompanying person may speak for the complainant or represent him/her in any other way if s/he so wishes. The interview should be conducted sympathetically and objectively by the Investigatory Panel; facts should be clarified and evidence/witnesses identified. The procedure and possible outcomes of the investigation should also be clarified by the Investigatory Panel.

2.2 A complainant may well feel embarrassed and distressed and the Panel should make every effort to put him/her at ease and not appear to blame him/her.

2.3 Open questions will encourage dialogue, for example:

- can you tell us what happened?
- can you tell us about anyone who might have witnessed what happened?
- how did you feel about what happened?
- can you tell us about any other similar things that have happened?
- how have you felt since this happened?
- what effect do you think this has had on your work and your personal life?

It is advisable to avoid questions which seem to blame the complainant, for example:

- what were you wearing at the time?
- what were you doing there at that time of night?
- do you think s/he was only joking?
- do you think you might be overreacting?
- do you think you might be over-sensitive about your disability/ethnicity/sexuality?
- do you think you may have been giving out the wrong signals?

2.4 A note-taker (who has relevant experience in taking notes in similar proceedings and is not a Panel member) should be present and a record of the interview should be agreed with, and signed by, the complainant. The note-taker should be appointed at the same time as the Investigatory Panel is set up.

3 Interviews with witnesses

3.1 It is legitimate for the Investigatory Panel to interview any witnesses to the alleged harassment, but the Panel should minimise the number of such interviews and ensure, where practicable, that a reasonable balance is maintained between the parties in terms of the number of witnesses interviewed. The Panel should confirm to witnesses that they must maintain confidentiality (see 1.2 above). The Panel should confine itself to seeking factual information from witnesses in relation to only the formal complaint that has been made, for example:

- can you tell us what you witnessed?
- when/where did you witness this happen?
- did you witness similar things on other occasions? If so, what/when/where?
- were there any other witnesses on any of these occasions? If so, whom?

3.2 Confidential matters such as the personal and/or medical circumstances of the complainant or the alleged harasser, should not be divulged to witnesses in the course of an investigation.

3.3 Witnesses should be reassured that they will not be victimised or suffer detriment as a result of coming forward. It may be helpful to get support for witnesses from individuals such as members of the HYMS Support Network, who may accompany them to meetings.

3.4 A note-taker (who has relevant experience in taking notes in similar proceedings and is not a Panel member) should be present and a record of the interview should be agreed with, and signed by, the witnesses. The note-taker should be appointed at the same time as the Investigatory Panel is set up.

3.5 It should be clarified to witnesses that they may be needed as witnesses at possible disciplinary hearings and that they will be given support (for example, by the HYMS Support Network) if this is the case. Normally, witnesses will be given a minimum of one week's notice that they may be needed at a disciplinary hearing.

4 Interview with the alleged harasser

4.1 It is advisable for the alleged harasser to be accompanied at the interview with the Investigatory Panel. The alleged harasser may be accompanied to any meeting by a companion, who may speak for the alleged harasser or represent him/her in any other way if s/he so wishes.

4.2 The alleged harasser should be assured that s/he is not being prejudged and that the University will deal firmly with any malicious, vexatious or spurious complaints.

4.3 The alleged harasser should be given written copies of the complaint and any other evidence such as witness statements several days before meeting the Investigatory Panel, but should be required not to discuss the matter with, or disclose the documentation to, any colleagues except his/her companion (see 1.2 above) until the meeting.

4.4 The Panel should confine itself to seeking factual information from the alleged harasser in relation to only the formal complaint that has been made, for example:

- can you tell us what happened?
- when/where did it happen?
- can you tell us about anyone who might have witnessed what happened?
- have there been other occasions when similar things have happened? If so, what/when/where?
- were there any other witnesses on any of these occasions? If so, whom?

4.5 A note-taker (who has relevant experience in taking notes in similar proceedings and is not a Panel member) should be present and a record of the interview should be agreed

with, and signed by, the alleged harasser. The note-taker should be appointed at the same time as the Investigatory Panel is set up.

4.6 The alleged harasser may wish the Panel to interview witnesses on his/her side. Witnesses should be restricted to supplying factual information rather than acting as character witnesses (see 3.1 above).

5 Wider Recommendations

If appropriate, the Panel may make recommendations on institutional action as well as on the particular case. The Panel may wish to seek evidence of the culture and values that the behaviour reflected, so that it can recommend action(s) to improve the institutional culture or procedures.

6 The Investigatory Panel's final report & follow up action

6.1 This report should be confidential and accompanied by relevant documentation, including copies of statements and agreed notes of interviews. The report should provide a summary of the investigation procedure, clarify the allegation(s) and list the evidence. Separate reports should be made in cases where there is more than one alleged harasser. The Panel may produce a separate report identifying institutional issues raised during the investigation, with recommendations for action to address these issues.

6.2 The report of the Investigatory Panel (excluding the statements and notes of interviews) will be made available, on a confidential basis, to both the complainant and the alleged harasser.

6.3 The Panel's report will be sent to the senior staff member (appointed by the Registrar and Secretary to consider the case, see paragraph 12.6 of the Code), who may decide to recommend that the complaint should be subject to the appropriate disciplinary procedure; (see paragraph 12.12 of the Code for details as to whom such a recommendation would be made).

6.4 Apart from making recommendations about whether or not the complaint should be subject to the appropriate disciplinary procedure, the senior staff member may make recommendations about other remedial action. He/she will also be responsible for justifying, in appropriate cases, why no further action is necessary.

6.5 Where the senior staff member appointed to consider the case decides that the complaint of harassment is not well-founded, he/she may, if appropriate, ask the Investigatory Panel to investigate whether the complainant's allegation(s) was (were) made maliciously and/or made on knowingly false information and, if that is found to be the case, whether further action is recommended to be taken in the circumstances.

References:

Guidelines on harassment for universities and colleges in higher education: The Commission on University Career Opportunity (CUCO) April 1999

Appendix 4

Guidance for witnesses involved in the investigation of formal complaints of harassment

1 General Points

1.1 Investigations of formal complaints of harassment should be fair to both parties and need to be handled with care and sensitivity. The members of the Investigatory Panel should not (a) have been involved in any informal consideration of the case, or (b) be from the same department as the complainant or the alleged harasser. Members should have recognised equal opportunities expertise, be trained in matters relating to harassment and include as wide a range of diversity as possible and as appropriate for each case (in terms of gender, ethnicity, disability etc).

1.2 Investigations should be carried out objectively, avoiding prejudice and assumptions. The previous performance or behaviour of the complainant and/or the alleged harasser should not influence objectivity. Confidentiality should be maintained as far as is possible. Cases should not be discussed with individuals who are not directly involved and all paperwork should be kept secure. A breach of confidentiality by any of the parties, or those undertaking the investigation, may itself be considered to be a disciplinary offence.

1.3 The investigation by the Investigatory Panel should be completed as soon as possible after the formal complaint has been received and both the complainant and the alleged harasser should be kept informed of progress by the Panel.

1.4 The Investigatory Panel should carry out investigatory interviews in the following order: the complainant, any witnesses and then the alleged harasser.

2 Interviews with witnesses

2.1 As part of its investigation of the formal complaint of harassment, the Investigatory Panel will want to interview any witnesses to the alleged harassment.

2.2 Witnesses will not be victimised or suffer detriment as a result of coming forward to assist with an investigation of a formal complaint of harassment. Witnesses may find it helpful to get support from individuals such as members of the HYMS Support Network, who may accompany them to meetings with the Investigatory Panel, (see Appendix 1 for a list of members).

2.3 The Panel should confine itself to seeking factual information from witnesses in relation to only the formal complaint that has been made, for example:

- can you tell us what you witnessed?
- when/where did you witness this happen?

- did you witness similar things on other occasions? If so, what/when/where?
- were there any other witnesses on any of these occasions? If so, whom?

2.4 The alleged harasser may wish the Panel to interview witnesses on his/her side. In these circumstances, the Investigatory Panel will ask such witnesses to supply factual information rather than acting as character witnesses.

2.5 Witnesses must maintain confidentiality about the details of the case which is being investigated (see 1.2 above). In the course of an investigation, witnesses **or anyone else** involved in the case, should not divulge any information relating to confidential matters such as the personal and/or medical circumstances of the complainant or the alleged harasser. They should provide factual information to the Investigatory Panel in relation to the formal complaint that has been made, in response to the sorts of questions indicated in 2.3 above.


2.6 A note-taker (who has relevant experience in taking notes in similar proceedings and is not a Panel member) will be present at interviews with witnesses and a record of the interview will be agreed with, and signed by, the witnesses. (The note-taker will be appointed at the same time as the Investigatory Panel is set up.)


2.7 In serious cases of harassment, a decision may be taken to recommend that the complaint should be subject to the appropriate disciplinary procedure. The Investigatory Panel will inform witnesses that they may be needed as witnesses at possible disciplinary hearings and, if this is the case, that they will be given support (for example, by the HYMS Support Network or Second Contact Network).

References:


Guidelines on harassment for universities and colleges in higher education: The Commission on University Career Opportunity (CUCO) April 1999.

 [Equal Opportunities Employment Policy](#)

 [Equal Opportunities Policy for Students](#)

 [Equal Opportunities Committee](#)

 [Secretarial, Clerical and Related Staff 'Handbook'](#)

 [Technical Staff 'Handbook'](#)

 [Personnel Office Welcome Page](#)

 [University of York Welcome Page](#)