



Bullying, Harassment and Sexual Misconduct Student Policy

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1) Introduction

The College commits to providing a safe, secure and respectful environment, free from harassment, victimisation or discrimination of any kind.

The College will not tolerate any form of bullying, harassment or sexual misconduct.

The College actively seeks to promote a positive learning environment and culture where staff model respectful and appropriate behaviour, all students are clear about what is acceptable and unacceptable behaviour, and where students are confident to ask for help and support when they need it.

Alongside this policy the College will educate and raise awareness of issues around harassment, bullying and sexual misconduct.

For the purpose of the policy, a person raising a concern is referred to as complainant and the person/people about whom the concern is being raised as respondent.

2) Purpose

The purpose of this policy is to define what constitutes bullying, harassment and sexual misconduct and outline principles and procedures to follow when issues occur.

3) Scope

This policy sets out the College's arrangements for responding to matters of bullying, harassment and sexual misconduct concerning students, in which the party who is complained of is a current student or member of staff (including Governors, volunteers, visiting lecturers and other visitors) or a contractor.

This policy does not apply to issues arising between members of staff who should refer to the College's Dignity at Work policy.

The policy applies to all students enrolled on courses delivered by HCA including all further, higher and short course students. Please note that where incidents concern students who are under 18 (children) and vulnerable adults the Peer on Peer Abuse Policy must be consulted.

The Department of Health defines a vulnerable adult as a person aged 18 or over who may need community care services because of a disability (mental or other), age, or illness. A person is also considered vulnerable if they are unable to look after

themselves, protect themselves from harm or exploitation or are unable to report abuse.

Questions about definition should never hinder a staff member from seeking advice on Peer on Peer abuse from the College's Designated Safeguarding Lead or Deputy Safeguarding Leads.

The policy applies to reports of bullying, harassment and sexual misconduct that occur in a range of contexts and media, including in person, in writing, text, email or other electronic / social media. The policy is primarily aimed at where inappropriate behaviour has taken place on campus, whilst working remotely or during educational visits and activities. The College will also support students and intervene as appropriate where the behaviours have taken place off campus including (but not limited to) when socialising or interacting in shared accommodation.

Reports relating to bullying, harassment and sexual misconduct by a third party contractor of the College will be investigated in line with this procedure and with reference to the contractor's codes of conduct where necessary.

The College expects any organisations offering student work placements or study visits to provide a safe environment, and to take appropriate measures to prevent bullying, harassment and sexual misconduct. We are currently developing a new procedure to ensure organisations can provide this assurance. The College will seek to support the student in resolving any concern, with reference to this policy, or that of the partner institution where appropriate.

4) Frivolous or vexatious complaints

The College may reject a complaint if in the judgement of the Head of HE or FE in consultation with another member of the Senior Leadership Team it is considered to be frivolous or vexatious.

Examples might be:

- Complaints that are designed to cause disruption or annoyance
- Demand redress that lacks serious purpose or value

If the complaint is judged frivolous or vexatious the Head of FE or HE will explain in writing the decision not to pursue the consideration of the complaint further.

5) Timescales

Reports about bullying, harassment and sexual misconduct should be made as quickly as possible to facilitate resolution. Students who are no longer enrolled at the College, and who wish to report an incident that took place during their time at HCA, should contact the College Complaints Officer or Principal's office in the first

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instance and normally within 3 months of leaving. The College determine whether to investigate non-recent cases of bullying, harassment and sexual misconduct, depending on their seriousness and other circumstances. Historic allegations of sexual violence will be referred to the police. The likely timescales for completion of informal or formal investigations are addressed within the section 11 on Procedure and in relevant policies around Student Complaints and Student Behaviour and Discipline.

6) Principles

HCA is committed to taking all reported instances of bullying, harassment and sexual misconduct seriously, to treating them with sensitivity and impartiality and to ensuring that all parties involved have access to support.

The College will actively seek to prevent bullying, harassment and sexual misconduct.

The College will never take an attitude of 'it couldn't happen here'.

Where appropriate, the College will support students to resolve matters informally.

Where matters cannot be resolved informally, the College will consider other ways to take the matter forward including mediation and formal investigation and disciplinary procedures.

Where appropriate, disciplinary action will be taken in accordance with the relevant student or staff disciplinary policies.

College investigation is not a substitute for a police investigation and students are advised to report potentially criminal acts promptly and will be supported to do so by the College where required.

If a student feels personally at risk or sees someone whom they think are at risk of serious harm they should call the emergency services.

The College will not tolerate any form of victimisation of a person for making a complaint or allegation of bullying, harassment or sexual misconduct in good faith, or supporting someone else to make such a complaint.

Malicious or deliberately frivolous allegations, or failure to participate in an investigation without reasonable grounds (such as illness), may be treated as a disciplinary issue.

This policy recognises that bullying, harassment and sexual misconduct may be complex. It can involve multiple people, groups, factors, and cultural issues.

The College has a [Freedom of Speech Code of Practice](#) which helps define acceptable and unacceptable communication and conduct.

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There are a number of other policies and procedures that may be relevant in consideration of a report of bullying and harassment. For example, Peer on Peer Abuse Policy and the Student Behaviour and Disciplinary Policy, Staff Code of Conduct.

As part of the assessment of a report the College will consider which policy/policies are most appropriate.

7) Responsibilities

All members of the HCA community (staff, Governors, visitors and students) are expected actively to promote an environment that is free from harassment, bullying and sexual misconduct. All members of the HCA community should take reasonable measures to ensure that harassment, bullying and sexual misconduct do not occur.

Staff should look out for any behaviour that suggests someone may be being bullied/harassed even if they have not raised it.

If members of the HCA community witness bullying, harassment or sexual misconduct and feel safe and confident to do so, they should intervene immediately and report the incident.

If members of the HCA community experience bullying, harassment or sexual misconduct they should address and/report it following the procedure outlined.

8) Definitions

Bullying, harassment and sexual misconduct cover a wide range of behaviours.

Bullying is not defined in law but can be understood as behaviour that is repeated and intended to hurt physically or emotionally. Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, or the abuse or misuse of power (which does not always mean being in a position of authority) through means intended to undermine, humiliate, or denigrate a person. It is often aimed at certain people because of their race, religion, gender or sexual orientation or any other aspect such as appearance or disability.

It is not necessary for a person to object to a behaviour for it to be unwanted.

Bullying can affect adults and children.

Staff need to be aware of the signs that someone may be being bullied even if they have not disclosed it. Signs that may indicate that someone is being bullied include but are not limited to:

- Isolating themselves

- Suddenly doing less well at their course work
- Anxiety and nervousness that wasn't displayed previously
- Missing money and possessions
- Bruises, cuts and marks that cannot be explained

9) Harassment and sexual misconduct

This policy uses the definitions of 'harassment and sexual misconduct' as set out in the Office for Students' (OfS) 'Statement of Expectations for preventing and addressing harassment and sexual misconduct affecting students in higher education'; and our definitions for the purposes of this policy are as follows:

Harassment (as defined by Section 26 of the Equality Act 2010) includes unwanted behaviour or conduct which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment because of, or connected to, one or more of the following protected characteristics:

- age
- disability
- gender reassignment
- race
- religion or belief
- sex
- sexual orientation

Under our definition, we understand harassment to include domestic violence and abuse (which can also involve control, coercion, threats), and stalking.

We would also consider harassment to include any incidents of physical violence towards another person(s) on the basis of a protected characteristic, and hate crimes, such as those criminal offences which are perceived by the victim or any other person, to be motivated by hostility or prejudice, based on a person's disability or perceived disability; race or perceived race; religion or perceived religion; sexual orientation or perceived sexual orientation or transgender identity or perceived transgender identity.

Sexual misconduct relates to all unwanted conduct of a sexual nature.

Examples of sexual misconduct include but are not limited to:

- Sexual harassment (as defined by Section 26 (2) of the Equality Act 2010)
- Unwanted conduct which creates an intimidating, hostile, degrading, humiliating or offensive environment (as defined by the Equality Act 2010)
- Assault (as defined by the Sexual Offences Act 2003)
- Rape (as defined by the Sexual Offences Act 2003)
- Physical unwanted sexual advances (as set out by the Equality and Human Rights Commission: Sexual harassment and the law, 2017)

- Intimidation, or promising resources or benefits in return for sexual favours (as set out by the Equality and Human Rights Commission: Sexual harassment and the law, 2017)
- Distributing private and personal explicit images or video footage of an individual without their consent (as defined by the Criminal Justice and Courts Act 2015)

Our definitions include harassment and sexual misconduct through any medium and include unwanted sexting or pressure to sext.

Differences of attitude, background or culture and the misinterpretation of social signals can mean that what is perceived as bullying or harassment by one person may not seem so to another; nevertheless, this does not make it acceptable. It is the perception of the recipient and the impact of the behaviour which is most relevant, not the motive or intent behind it.

For the purpose of this policy, the recipient/complainant can include the person subjected to harassment, or witnesses who feel exposure to such behaviour has had a negative impact on them.

Examples

Examples of bullying and harassment include verbal or physical abuse, offensive language, spreading malicious rumours, deliberate exclusion from conversations or social activities, name calling, teasing or unwelcome physical contact.

Some of the most prevalent forms of harassment and bullying include the following:

- **Sexual harassment:** unwanted behaviour which is of a sexual nature, for example, ridicule, sexually provocative remarks or jokes, offensive comments about clothing or appearance, the display or distribution of sexually explicit material, unwelcome sexual advances or physical contact, demands for sexual favours or assault.
- **Racial and / or religious harassment;** for example, jokes about, or gratuitous references to, a person's skin colour, race, ethnicity, religion or nationality. It can also include offensive remarks about dress, culture, or customs which have the effect of ridiculing or undermining an individual or fostering hatred, oppressive behaviour and/or prejudice towards individuals or particular groups.
- **Harassment of disabled people;** for example, can take the form of individuals being ignored, disparaged or ridiculed because of assumptions about their capabilities. Their disability rather than their ability can become the focus of attention and harassment can include inappropriate personal remarks, jokes or inappropriate reference to an individual's appearance.

- **Harassment on the grounds of a person's sexual orientation and / or gender identity** may include homophobic or transphobic remarks or jokes, offensive comments, threats to disclose a person's sexual orientation or trans status to others, intentionally using the wrong pro-noun when addressing a trans person or non-binary person (miss-gendering), invasive jokes or comments about people's bodies/ body parts, or inappropriate and invasive questions about sexual orientation.

See appendix A for further guidance on examples of harmful behaviour.

10)Confidentiality

Any student or member of staff involved in informal or formal proceedings covered in the policy is expected to keep information confidential. This is to protect the confidentiality of the person making a complaint and the reputation of the person being complained about.

The College is mindful of its obligations under relevant data protection regulations and the Equality Act 2010 in relation to information shared. Information associated with the case will be disclosed to as few people as possible. In submitting a complaint, however, students must accept that limited disclosure of all or part of their submission will be required to enable investigation of their case to proceed.

If it is felt the safety of an individual(s) is at risk of serious harm, confidentiality may be overridden by duty of care or legal obligations to disclose.

Where a student submits information about other people they should limit any personal information to the essentials.

When an allegation is made against another person they will usually want to know who has made the allegation. The College will discuss the question of anonymity with the student making the complaint. Students should be aware that it can be difficult for the College and external agencies to investigate an allegation fully if they do want to remain anonymous.

Where a complaint has been raised against a student or member of staff and has been upheld the student raising the complaint will be informed of this and given information as appropriate, for example if some new training has been introduced. However, it may not be appropriate to share specific details affecting specific students or other people complained about, particularly where disciplinary action is being taken.

11)Anonymous reporting

The College is committed to supporting all students who raise concerns in good faith and encourages all students to raise issues personally so they can be addressed effectively. In the event of a student wanting to raise a concern about bullying or

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harassment anonymously they may currently submit an unsigned written note to the SU feedback box although the College will accept another mechanism. Under no circumstances should this be used to raise an urgent, serious concern that threatens the safety of any individual. Students must be aware that reporting in this way will mean that they will not receive direct advice or initiate formal procedures. However, the College will review anonymous reports within the Safeguarding Committee/SLT and take actions considered appropriate.

12) Procedure

All students are encouraged to report incidents (or suspected cases) of bullying, harassment and sexual misconduct to a member of their Course Team, the Wellbeing Development Lead, or by using the report a concern button on studentnet.

Students may report to any member of staff and in all cases a member of staff receiving a report of bullying, harassment or sexual misconduct should record the concern on MyConcern. (In the event of not being able to access Myconcern they should immediately alert their manager and record a confidential note until they can access).

If the report involves anyone under 18 or a vulnerable adult the College's Designated Safeguarding Lead must be informed.

Incidents between under 18s (or vulnerable adults) will be dealt with following HCA's Peer on Peer Abuse Policy.

Informal Resolution

Where the complainant wishes to resolve the matter informally, and it is appropriate to do so, the College will support this through the course teams, or through other staff, if agreed by the Head of HE/Head of FE/as nominated by the Principal.

In facilitating informal resolutions, staff have discretion to make a professional judgement as to how to resolve a case as quickly as possible. In some cases, where it is thought appropriate, they may address the situation immediately, for example by:

- Speaking separately to those people involved in the situation
- Holding an informal meeting between the person who has made a report and the person responding and any others who might help to resolve the situation.

An immediate apology by the person against whom a report is made may, for example, resolve the situation.

Unless they have taken the opportunity to resolve an incident on the spot, staff should consult their Course or Curriculum Leader or the Head of HE or Head of FE ahead of progressing informal resolution.

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The member of staff seeking informal resolution may decide those involved need more notice of the conversation to prepare. In this case they will usually arrange the meeting with at least 24 hours' notice (written or verbal) and may include a note-taker.

Students may also bring another student as a friend and supporter although the friend would not usually take part in the discussion. Where the student is under 18 the member of staff may consider it appropriate to involve a parent/guardian/carer even at an informal stage.

Where a separate note-taker is not present the staff member who has convened the meeting or interview must take a summary note as soon as possible. These notes may be referred to if the incident moves into a formal process.

Wherever possible, outcomes should be agreed within the meeting/s.

Where resolution cannot be reached immediately a timeline for next steps should be outlined and agreed by all parties. This timeline should avoid prolonging the process without good cause.

Actions during or following informal resolution may include moving students into different teaching groups.

In such cases a risk assessment should be done.

A review period should be agreed on any risk assessment and also the resolution outcomes.

All stages and actions must be documented on MyConcern in chronology.

Where a situation has been identified which is not resolved informally, or not suited to be resolved informally, the Head of HE or Head of FE or another manager as appointed by the Principal, will consider whether an investigation under the Student Disciplinary Procedure or Staff Code of Conduct should take place. In some circumstances it may be decided that there are other avenues, such as mediation, which should be pursued.

Any formal investigation into bullying, harassment and sexual misconduct will be conducted under either the staff or student disciplinary procedures depending on who the respondent to the complaint is.

If at any time following a report it is believed that any party has broken the law or it is believed that they are at risk, the staff member handling the report will report this to Designated Safeguarding Lead or Deputy Safeguarding Leads who may contact the relevant statutory agencies such as the police.

In serious cases where the police are involved the College investigation may be suspended, if for example, the College is advised to do so by the police.

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Formal investigations

The investigation should be thorough, objective, and impartial and carried out with sensitivity and due respect for all parties concerned.

An investigating lead will be appointed who has not previously been actively involved in the incident or its informal resolution.

Complainants will be advised of the investigative process by the investigator. A typical investigation would involve meeting and taking statements from both the complainant and the respondent (the person complained about) along with any witnesses to the incident, though other forms of evidence such as emails, texts or extracts from social media may be gathered.

From this a report will be written recommending either a formal outcome (that the case goes to a disciplinary hearing), informal action or that there is insufficient evidence to proceed.

If a matter goes to a formal hearing, then the respondent will receive the investigation report and supporting documentation prior to the hearing to enable them to receive natural justice and consider their response. To allow this to occur, it is only in exceptional circumstances that anonymity can be guaranteed to complainants and anonymous statements used.

The investigation should be completed as quickly as possible and the College aims to complete investigations within 15 working days of the appointment of an Investigating Lead. If this is not possible, students should be informed of reasons for delay.

At any meetings arranged as part of the investigation the complainant and respondent (person about whom the complaint is made) may be accompanied, although not represented, by a fellow student who is a friend, or a member of the SU. They should not be someone who might also be an independent witness.

Students who are under 18 (or vulnerable adults) may also be accompanied by a parent, carer or guardian.

During an investigation the College may take some actions to reduce contact between students as outlined in the Student Behaviour and Disciplinary Policy.

For example, students may be moved into different teaching groups.

A risk assessment will be recorded.

Exceptionally, both parties may be suspended during an investigation.

13)Mediation

Some complex complaints (where for example the complainant or other involved parties have become entrenched in their position) may benefit from a different approach to resolving the complaint. Using mediation may help both parties to understand what is driving a complaint and may be more likely to result in a mutually satisfactory conclusion being reached. Mediation should be a voluntary process that has been agreed by all parties involved. Where the College proposes and student agrees to mediation, revised timescales should be agreed. Mediation can be requested where no formal complaint is being pursued.

14)Support

It is recognised that harassment and/or bullying can cause upset and harm to the mental health and wellbeing all parties involved. HCA is committed to supporting all students who have been affected. Another member of staff, for example the Wellbeing Development Lead, may be invited to attend a meeting at both the formal and informal stage as part of this support. Students may also consult the Wellbeing Development Lead or wellbeing information on studentnet, for information about various free counselling services available to them externally.

15)Monitoring

The nature, incidence and outcomes of reports of bullying, harassment and sexual misconduct will be regularly monitored within the College Safeguarding Committee and Senior Leadership Team. These will be presented to the Academic Quality and Standards Committee at least annually.

Student records will be kept in line with the College's retention of data procedure (currently under review) and data protection issues will need to be considered in reports made around small numbers.