

Prevention of Bullying, Harassment and Sexual Misconduct Policy

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1 Purpose

- 1.1 This policy is designed to ensure a safe, welcoming and inclusive working environment for all staff members of Hugh Baird College (which includes those who encounter Hugh Baird College staff and students in the course of their work).
- 1.2 Bullying, harassment and sexual misconduct (which includes sexual harassment) are unacceptable behaviours and will not be tolerated.
- 1.3 These behaviours are contrary to the Equality Act 2010; the Protection from Harassment Act 1997; and the Workers Protection Act 2024, and to Hugh Baird College's values and mission.
- 1.4 Hugh Baird College is legally obliged to take reasonable steps to prevent sexual harassment of its workers. Throughout this policy the term "staff" or "worker" refers to employees and workers.
- 1.5 No member of Hugh Baird College's workforce is expected to tolerate such unacceptable behaviour, whether by a member of staff or by a third party such as a supplier or visitor to the College; or a member of the public. This policy seeks to ensure that staff members are protected from bullying, harassment and sexual misconduct. Staff have the right to disclose if they have experienced unacceptable behaviour whilst working, the College commits to listening, signposting the most appropriate support and take the necessary action.
- 1.6 Breaches of this policy by staff will be investigated under the relevant disciplinary procedure which may result in dismissal and/or referral to the police. Breaches by third parties will be dealt with appropriately and may be referred to the police.

2 Scope

- 2.1 This Policy applies to bullying, harassment and sexual misconduct that is committed or is alleged to have been committed by staff, appointee or third parties. An appointee or third party is someone engaged by Hugh Baird College such as a volunteer, agency worker or contractor.
- 2.2 Staff and appointees may (and are encouraged to) raise concerns of bullying, harassment or sexual misconduct (including sexual harassment) under this Policy.
- 2.3 The alleged misconduct may have occurred:
 - On or off college property.
 - Via college ICT Systems
 - [Online](#) whether via email, the internet or social media.

3 Definitions

Abuse of power

An abuse of power is where someone uses their position of power or authority in an abusive and unacceptable manner. Abuse of power can take various forms and may include, but is not limited to manipulation, coercion, pressuring staff to engage in workplace misconduct, bullying and harassment.

Abuse of power may also occur in the context of a close personal or professional relationship.

The above behaviours may be expressed in person, in writing and/or by electronic means.

Bullying

According to ACAS guidance, bullying is intimidating, hostile, degrading, humiliating or offensive behaviour, through means which have the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, or humiliating environment. Bullying usually involves a repeated course of conduct.

Consent

Consent is agreeing by choice and having the freedom and capacity to make that choice. The person seeking consent should always take steps to ensure that consent is freely given, that it is informed and recognises that it can be withdrawn at any time.

- Freedom to consent: a person is free to make a choice if nothing negative would happen to them if they said no. For example, a person may not feel free to make a choice if:
 - they are being threatened with violence (by the perpetrator and/or by someone else)
 - they are being threatened with humiliation
 - they believe that the continuation or assessment of their progression or advancement of their career, will be at risk if they refused
 - they are being blackmailed
 - there is a significant power imbalance and the party without power feels pressured to continue in the relationship against their will.
- Capacity to consent: Capacity is about whether someone is physically and/or mentally able to make a choice and to understand the consequences of that choice. For example, a person does not have capacity to give consent if:

- they are drunk or under the influence of drugs- this means someone may still be physically able to have sex but they may not be able to consent;
- they are asleep or unconscious;
- a person may also not have capacity to give consent if they have, for example, a cognitive or learning difficulty, a disability which impairs their speech, or are experiencing a mental health crisis.

Discrimination

The Equality Act 2010 states that it is against the law to treat any person unfairly or less favourably based on a protected characteristic. The 9 protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race (including ethnic origin, nationality and colour), religion or belief, sex and sexual orientation.

Grooming

Grooming can be defined as a gradual process that someone in a position of power uses to manipulate someone to do things they may not be comfortable with and to make them less likely to reject or report abusive behaviour. Grooming will initially start as befriending someone and making them feel special and may result in sexual abuse and/or exploitation.

Harassment under the [Equality Act 2010](#)

Harassment is unwanted conduct related to a relevant protected characteristic that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. The unwanted conduct can be physical, verbal or non-verbal.

Reporting

Reporting is the sharing of information with a staff member of the College regarding an incident of bullying, harassment or sexual misconduct experienced by that individual for the purposes of initiating the investigation process set out in this Policy and the accompanying procedure (different from *Disclosure*).

Reported Party

The Reported Party is the person(s) whose behaviour it is alleged amounted to an incident of bullying, harassment or sexual misconduct.

Reporting Party

The Reporting Party is the person(s) who witnessed or is the subject of the alleged incident of bullying, harassment or sexual misconduct.

Sexual misconduct

Sexual misconduct is a form of harassment and is unacceptable behaviour of a sexual nature. It can include sexual harassment (as defined below); sexual violence; intimate partner violence; sexual assault; grooming; coercion or bullying with sexual elements; sexual invitations and demands; sexual comments; sexual non-verbal communication; creation of atmospheres of discomfort; and promised resources or advancement in exchange for sexual access.

Sexual Harassment

Sexual harassment occurs when someone is subjected to unwanted conduct of a sexual nature which has the purpose or effect of either violating that person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. A person can be sexually harassed by someone of the same or different sex. Sexual harassment can include, for example:

- (a)** unwanted physical conduct of a sexual nature, including touching, pinching, pushing and grabbing, invading personal space, groping, tugging or lifting someone's clothing, and more serious forms of sexual assault.
- (b)** continued suggestions for sexual activity after it has been made clear that such suggestions are unwelcome.
- (c)** sending or displaying material that is pornographic or that some people may reasonably find offensive (including emails, text messages, social media content, video clips and images sent by mobile phone or posted on the internet);
- (d)** unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless); sexual jokes; remarks or comments about someone's body or appearance; sexual derogatory comments about women or men; innuendos; wolf whistling; or stalking.

This list of examples is not exhaustive.

A person can be sexually harassed even if they are not the intended target.

Third-party harassment

This occurs where a person is harassed or sexually harassed by someone who does not work for Hugh Baird College but with whom that person has come into contact during their employment. Third-party harassment could include, for example, unwelcome sexual advances from a supplier visiting the premises, or where a person is visiting a supplier's premises or other location in the course of their employment.

Stalking

Following a person, watching or spying on them or forcing unwanted contact with the victim through any means, including social media. The effect of such behaviour is to curtail a victim's freedom, leaving them feeling that they constantly have to be careful. In many cases, the conduct might appear innocent (if it were to be taken in isolation), but when carried out repeatedly to amount to a course of conduct, it may then cause significant alarm, harassment or distress to the victim.

Victimisation

Treating someone less favourably because they have made a claim or complaint of discrimination, or helped someone else to make a complaint (under the Equality Act), or made a disclosure (whistleblowing) under the Public Interest Disclosure Act 1998, or in either case the affected person is believed to have made or helped make, or is believed that they may make or help make, a complaint or disclosure. Where Hugh Baird College becomes aware of victimisation taking place, this may lead to disciplinary action including dismissal.

4 Roles and Responsibilities

- 4.1 Hugh Baird College is committed to preventing incidents of bullying, harassment or sexual misconduct (including sexual harassment) where reasonably possible; and to provide educational and preventative training programs regarding such behaviours. Hugh Baird College also commits to make available timely support for those who have been affected by such behaviours; and to provide prompt and equitable methods of investigation and resolution to stop bullying, harassment and sexual misconduct, to remedy any harm, and to prevent its recurrence.
- 4.2 All staff have a responsibility to ensure a working and studying environment where everyone is treated with equal respect and dignity. Each member of staff is expected to contribute to preventing unacceptable behaviours, including harassment, bullying or sexual misconduct (including sexual harassment) through self-awareness; and by modelling positive behaviour for others, and raising any concerns.
- 4.3 Hugh Baird College staff are in a position of trust. It is important that exemplary behaviour is demonstrated. It must be remembered that actions can be misinterpreted by others, no matter how well intentioned. Due consideration should always be given as to what is an appropriate environment and what is appropriate conduct in relation to the activities which are being under-taken.

5 Sexual Harassment

- 5.1 Sexual harassment is unlawful and will not be tolerated. It may lead to disciplinary action up to and including dismissal if committed:
- (a) In a work or educational situation.
 - (b) During any situation related to work or study, such as at a social event with colleagues, during or outside working hours.
 - (c) Against a colleague or other person connected to Hugh Baird College outside of the college, including on social media.
 - (d) Against anyone outside of a work situation where the incident is relevant to the worker's suitability to carry out the role.
- 5.2 Hugh Baird College will consider any aggravating factors, such as abuse of power over a more junior colleague, when deciding the appropriate disciplinary action to take.
- 5.3 If any sexual harassment or victimisation of staff occurs, Hugh Baird College will take steps to remedy any complaints and to prevent it happening again. *(These may include updating relevant policies, providing further staff training and taking disciplinary action against the perpetrator)*
- 5.4 Hugh Baird College will take active steps to prevent sexual harassment and victimisation of all staff and students.
- 5.5 Staff and students are required to disclose criminal convictions acquired during employment at Hugh Baird College.
- 5.6 Third Party sexual harassment of Hugh Baird College staff will not be tolerated. The law requires employers to take reasonable steps to prevent sexual harassment by third parties. While an individual cannot bring a claim for third-party harassment alone, it can still result in legal liability when raised in other types of claims.
- 5.7 Where staff experience third-party harassment, they are encouraged to report it through to their Line Manager or HR. Hugh Baird College will monitor any potential risk areas for third-party harassment and take steps to prevent it occurring where possible. Where third-party harassment does occur Hugh Baird College will take steps to remedy any complaints and prevent it from happening again (e.g. by warning the third-party about their behaviour, banning a third-party from site, reporting any criminal acts to the police or sharing information with other branches of the organisation).

6 Informal Resolutions

- 6.1 A person affected by bullying, harassment or sexual misconduct under this policy may wish to resolve the behaviour informally if it is a one-off occurrence or is not considered serious. Staff are encouraged to speak to their manager or a member of HR.
- 6.2 Hugh Baird College recognises it is for the person affected to determine the preferred pathway for resolution, and that engaging in informal resolution is not a barrier to bringing a formal complaint at a later time. However, Hugh Baird College may be under a duty of care to investigate the behaviour
- 6.3 If a member of staff is approached and told that their behaviour could be construed as bullying, harassment or sexual misconduct, they should be prepared to listen patiently and calmly. Whilst it may be upsetting, they should allow the colleague to express their concerns, and if appropriate, try to reach common ground to remedy the situation and allow a positive working/learning relationship to be resumed. If the nature of the complaint is serious or inappropriate, the staff member should speak with their line manager or a member of HR to agree the next steps.

7 Formal Procedure

- 7.1 If the informal resolution in section 6 has not worked or is not appropriate, Members of staff who feel they have experienced or witnessed bullying, harassment or sexual misconduct should make a formal complaint against a staff member by using the Staff Grievance Policy and Procedure. A member of HR will be able to support with this.
- 7.3 Members of staff who feel they have experienced or witnessed bullying, harassment or sexual misconduct by a third party, or a member of the public should discuss this with their line manager or HR. This may involve notifying third parties and using their complaints procedure or notifying the police when involving members of the public.
- 7.4 Third parties or members of the public who feel they have experienced or witnessed bullying, harassment or sexual misconduct by an employee or while at Hugh Baird College or participating in a Hugh Baird College activity, may make a formal complaint using the [Complaints Policy and Procedure.pdf](#)

8 Outcome of Formal Procedure

- 8.1 The Reporting Party will be told whether their complaint has been upheld or not.
- 8.2 If the complaint is not upheld or the Reported Party is not dismissed, information will be shared with the Reporting Party to minimise any adverse effects in accessing their work environment, where possible, but there may be limits to the information about the consequences to the Reported Party that can be shared with the Reporting Party.
- 8.3 Where the Reporting Party is told the outcome they will be asked to respect confidentiality with regards to the outcome.

9 Police Proceedings

- 9.1 Where criminal investigations and/or judicial proceedings are ongoing or are likely to commence in respect of a disclosure or report, the College will usually continue its own investigation and any disciplinary action, subject to the circumstances of the case and police advice.
- 9.2 Where, following police advice or otherwise, the college decides not to undertake its own investigation until the case has concluded, Hugh Baird College reserve the right to review this decision and to initiate its own investigation and/or disciplinary action at a later stage in or on completion of the criminal investigation and/or judicial proceedings.
- 9.2 A decision by the Police or Crown Prosecution Service (or other law enforcement agency) to take no further action in relation to a criminal matter, or an acquittal at a trial, does not preclude or negate the outcome of the College's investigation and/or disciplinary action. Where the trial has completely exonerated the subject of the complaint and it has been found that the Reporting Party has made a false, bad faith or misleading complaint, the college may revisit any disciplinary sanction issued to the Reported Party and may consider disciplinary action against the Reporting Party.
- 9.3 An internal investigation is focused exclusively on whether a breach of the Prevention of bullying, harassment and sexual misconduct policy and/or other applicable obligations or policies has occurred. The internal process may therefore be considering different issues from a Police investigation or criminal prosecution. This is why it may, depending on the circumstances, be possible to proceed with an internal investigation at the same time as a criminal process.
- 9.4 Where a staff member is convicted of a criminal offence or accepts a Police caution in relation to behaviour that falls within the scope of the college's Prevention of Bullying, harassment and sexual misconduct policy, they must declare this to the College. The conviction/caution will be taken as conclusive

evidence that the behaviour took place, and no further investigation shall be required by the college.

- 9.5 Appropriate measures may be taken (if they have not already) under the respective Staff Disciplinary Policy and Procedure

10 Victimization

- 10.1 Hugh Baird College will not tolerate any form of victimisation against someone who has raised a complaint, or supported a complaint, or for cooperating in an investigation, or challenging unacceptable behaviour, or in each case is believed to have or is believed to be likely to take such steps.
- 10.2 If a formal complaint of victimisation is made about an employee's behaviour it will be fully investigated and dealt with in accordance with the Staff Disciplinary Policy and Procedure. Aggravating factors, such as abuse of power, will be considered when deciding what disciplinary action to take.

11 False, bad faith or misleading complaints

- 11.1 Submitting a complaint that is not in good faith or providing false or misleading information in any investigation of complaints is also prohibited. If a complaint is found to be false, misleading or in bad faith, it will be dealt with in accordance with the Staff Disciplinary Policy and Procedure.

12 Confidentiality

- 12.1 Confidentiality is very important in dealing with cases of alleged unacceptable behaviour. The Reporting Party, the Reported Party and senior staff handling the report should only divulge information to relevant people on a 'need-to-know' basis.

Appendix 1- Example of Unacceptable Behaviours

Examples of unacceptable behaviour that are covered by this statement include (but are not limited to) the following:

- Shouting at, being sarcastic towards, ridiculing or demeaning others
- Repeatedly or deliberately ignoring people who are waiting to contribute to a meeting; continuously cutting people off whilst they are speaking; persistent aggressive questioning; wilfully being dismissive of someone and their suggestions.
- Deliberately excluding someone from meetings, communications or a social activity without a good reason.
- Abuse of power by blaming a team member if something has gone wrong, rather than taking personal responsibility.
- Deliberately creating an environment where a team member is side-lined or has their responsibilities limited or narrowed.
- Physical or psychological threats.
- Overbearing and intimidating levels of supervision.
- “Grooming” behaviour, for example making someone feel special by buying them gifts, for example, then gradually manipulating them to carry out duties outside of their normal remit.
- Allocating staff unreasonable workloads with unreasonable deadlines that require an individual to work excessive hours for sustained periods.
- Inappropriate and/or derogatory remarks about someone’s performance
- Unwanted physical contact, including touching, pinching, pushing, grabbing, invading their personal space and more serious forms of physical or sexual assault.
- Making offensive jokes or derogatory or stereotypical remarks, or mocking, mimicking or belittling a person’s protected characteristic.
- Outing or threatening to out someone as gay, lesbian, bisexual or trans
- Speculating or gossiping about someone's perceived sexuality or gender identity, refusing to use someone's preferred gendered pronoun (e.g. using 'he' to refer to a trans woman) or continuing to use their former name ('dead naming').
- Practices which are potentially discriminatory and have the effect of excluding certain people. Examples may include regularly holding a meeting at a time or on a day that a part-time worker cannot make or arranging an away day with a physical activity which a wheelchair-user cannot access.
- Not providing equal development opportunities or promotional prospects to those in a team.
- Being discriminatory in recruitment practices or appointing staff in a non-transparent way.
- Any unwanted sexual advances, sexual comments or comments about someone’s body or appearance; innuendos; wolf whistling; groping; tugging or lifting someone’s clothing, or stalking.

- Racist behaviour, which can include (but is not limited to) making racist jokes, name calling, making assumptions about someone based on their race or religion, racial harassment (for example, anti-Semitism or islamophobia) or racialised micro-aggressions.
- Not giving due consideration and/or an explanation of a refusal to a reasonable request covered by college policy, such as flexible working, or requests for annual leave.
- Overtly or covertly recording colleagues in order to gather evidence that may be used against them.

Appendix 2- Partner Institutions Serious Incident Flow Chart

Partner Institutions: Harassment and Sexual Misconduct Related Serious Incident Flow Chart

The Framework is intended to support partners in responding to situations which may arise in the context of the OfS Condition E6.



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