

BULLYING & HARASSMENT POLICY & PROCEDURE

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Policy - Purpose and scope

This Policy applies to all Employment Education Training Group (EET Group) including contractors and all visitors. All students and staff are expected to support and promote the creation of a working and learning environment which is free from harassment, bullying and victimisation. Line managers should ensure that they positively promote this Policy and take responsibility for its implementation within their work area.

In this Policy:

- "Harassment" shall mean harassment, bullying or victimisation
- "Complainant" means the person or group who makes an allegation of harassment, bullying and/or victimisation
- "Alleged harasser" means the person or group who is the subject of allegations of harassment, bullying and victimisation

The purpose of this Policy is to:

- state the EET Groups position on harassment, bullying and victimisation
- raise awareness amongst EET Group's community about behaviour that can be considered harassment, bullying or victimisation
- guide informal and formal means of dealing with harassment, bullying or victimisation when it occurs.

What is the EET Group's position on Harassment, Bullying and Victimisation?

EET Group values the diversity of its learners and staff, and is committed to creating a learning and working environment in which everyone is treated with courtesy and respect, and where its community are protected from prejudice, hatred or intolerance.

Harassment, bullying and victimisation have a detrimental effect on the learning and working environment and on the wellbeing of those directly affected by such behaviour or who are witness to it and will not be tolerated.

EET Group actively encourages any student, staff member, or visitor who considers they are suffering harassment, bullying or victimisation to take action using the procedures set out alongside this Policy. EET Group, in turn, commits to take seriously and to investigate thoroughly any allegations that are formally brought to its attention.

No person will be treated less favourably for making an allegation in good faith. Where an allegation is found to be true, action will be taken against the perpetrators, up to and including dismissal of staff or expulsion of learners.

Individuals who engage in unlawful harassment, bullying and/or victimisation may also be held personally liable for their actions and subject to prosecution under criminal law.

EET Group recognises harassment as distinct from vigorous academic debate, which is characterised as being respectful, encouraging a variety of viewpoints and having the effect of stimulating and encouraging thought and discussion. While staff will hold a

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range of views on a variety of issues, all members of EET Group's community are expected to treat each other with respect and to ensure that the expression of personal views are not manifested in such a way that creates an environment that is intimidating, hostile, degrading, humiliating or offensive to others.

EET Group also recognises that in some circumstances it may be legitimate to use teaching materials which contain potentially offensive images or references intending to engage in academic debate.

Critical reviews and discussions about behaviour or performance are a healthy and necessary part of EET Group's academic and management processes, and are intended to support the development of staff and do not, of themselves, constitute harassment. Managers, supervisors and tutors giving feedback should, however, ensure that problems are clearly identified and addressed in an appropriate, constructive and objective way.

What is harassment?

Harassment in the workplace can occur where a person reasonably considers unwanted behaviour to be offensive, even if the effect was unintended by the alleged harasser.

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In addition to being in breach of EET Group’s Policy, harassment relating to any of the protected characteristics is unlawful. Harassment is defined under the Equality Act 2010 as 'unwanted behaviour related to a 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 protected characteristics are:

- age
- disability (physical or mental)
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race (including ethnic and national origins, colour and nationality)
- religion or belief (including those with no belief)
- sex (including sexual harassment)
- sexual orientation

Appendix 1 provides further details of forms of harassment relating to protected characteristics.

Harassment can be physical, communicated verbally, or be expressed through other means of communication, such as letters, digital communication channels, social media, emails, text messages and graffiti. It may be expressed directly to the complainant, occur in their presence or be communicated about them to a third party.

Examples of unwanted behaviour could include:

- spoken or written abuse
- offensive emails
- tweets or comments on websites and social media
- images and graffiti
- physical gestures
- facial expressions
- banter that is offensive to you

Typically, harassment is behaviour that is persistent and develops over time, although a one-off incident that is particularly serious could also constitute harassment.

Often the behaviour is directed specifically towards a particular individual; however, it can also be indirect and part of a prevailing culture where, for example, banter involving telling of racist jokes or sharing homophobic comments are tolerated.

Behaviour amounting to harassment may include:

- Insults, name-calling and offensive language and gestures
- Inappropriate jokes including racist, sexist, homophobic, biphobic, transphobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender
- Ridiculing and undermining behaviour
- Inappropriate or unnecessary physical contact

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- Physical assault or threats of physical assault
- Intimidating, coercive or threatening actions and behaviour
- Unwelcome sexual advances
- Isolation, non-cooperation or deliberate exclusion
- Inappropriate comments about a person's appearance, intrusive questions or comments about a person's private life and malicious gossip
- Outing or threatening to out someone as gay, lesbian, bi or trans
- Offensive images and literature
- Pestering, spying or stalking

These examples are not intended to be exhaustive. They are, however, indicative of behaviour that would be considered unacceptable conduct by EET Group.

It is important to recognise that harassment can occur outside of traditional power relationships; for example, a staff member could be harassed by a learner or a manager by a member of staff they manage.

An individual can also feel harassed even when the behaviour is not directed at them (harassment by association) or when they are treated as though they have a particular characteristic, even if this isn't true (harassment by perception), and regardless of whether the specific characteristic is protected under the law.

What is bullying?

Bullying can be defined as unwanted offensive, intimidating, malicious or insulting behaviour, abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. The Health and Safety Executive stresses that bullying is likely to be a pattern of behaviour rather than isolated instances that "involves negative behaviour being targeted at an individual, or individuals, repeatedly and persistently over time".

Bullying can be one person against another, or a group of people against an individual, and can take place outside of traditional power relationships, e.g. a member of staff may be bullied by a student or a manager by a member of staff they are managing.

Examples of bullying behaviour include:

- ridiculing a person
- shouting or screaming at a person
- setting someone up to fail, e.g. withholding necessary information or deliberately overloading them with work
- unwarranted or invalid criticism and criticism which lacks the necessary constructive support to help the recipient improve their performance
- persistently 'singling out' a person without good reason or deliberately excluding, isolating or ignoring an individual
- making threats or comments about job security or academic success or failure without foundation
- trolling, stalking or 'cyberbullying' through online and social channels

The above examples are not exhaustive. They are, however, indicative of behaviour that would be considered unacceptable conduct by EET Group.

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What is victimisation?

For the purposes of this Policy, victimisation is when a person is subjected to detrimental treatment because they have (or are believed to have), in good faith:

- made allegations of harassment or discrimination
- intend to make such an allegation
- have supported another person in bringing an allegation

Examples of victimisation may include labelling an individual as a 'troublemaker' or refusing to advance them academically or professionally, refusal to provide a reference once the working or learning relationship has ended, or to treat them in any way less favourably as a result of their actions.

Victimisation is unlawful and will be treated as a form of harassment under this Policy.

Hate Crimes

EET Group defines hate crime as criminal behaviour motivated by prejudice, hatred or intolerance that intentionally demean individuals and groups defined by their ethnicity, race, religion and belief, sexuality, gender, conscience, disability, age or lawful working practices. This can give rise to an environment in which people experience or could reasonably fear, harassment, intimidation or violence.

Hate crime is unlawful and is treated as a form of harassment under this Policy.

Bullying via electronic media, including the use of social media

Harassment can take place through electronic and social media (Social channels such as Twitter, Blogs, Wikis, Forums, email, etc.). In sending emails, all learners and staff should consider the content, language and appropriateness of such communications. If instances of online harassment are reported, they will be dealt with in the same way as if they had taken place in a face-to-face setting.

Learners and staff should avoid:

- using language which would be deemed to be offensive to others in a face-to-face setting
- avoid forming or joining an online group that isolates or victimises learners or colleagues
- ensure that you never use such sites to access or share illegal content

If instances of what might be online harassment are reported they will be dealt with in the same way as if they had taken place in a face-to-face setting.

Reasonableness

On occasion, individual perceptions of behaviour may differ due, for instance, to differences in attitude, experience or culture, and what one person would consider acceptable behaviour may be unacceptable to another.

The defining factor in determining whether conduct amounts to harassment is that the behaviour is unacceptable to the recipient and could 'reasonably be considered' to amount to harassment. The intention of the person engaging in the behaviour, whether or not they meant to harass, is not a primary factor in determining if harassment has taken place.

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When considering allegations of harassment, the person hearing the complaint on behalf of EET Group will need to apply a test of 'reasonableness' to determine if harassment has taken place. That is, with due regard to the circumstances, including in particular the perception of the complainant, and whether the behaviour in question could 'reasonably be considered' to cause harassment, thereby creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

Good Faith

Where complaints of harassment or bullying are made in good faith, EET Group will take them seriously and do everything reasonable to resolve the issue including, where appropriate, taking disciplinary action against the perpetrator(s).

If at any time, there is evidence that allegations of harassment or bullying have been made vexatiously, that false information has been provided or that the complainant has otherwise acted in bad faith, disciplinary action may be taken. Any investigation based upon those allegations will be terminated.

Procedure – How to take action against harassment

It can be challenging to deal with harassment, especially where close colleagues, tutors or managers are involved, but it is important to seek help and to do it at an early stage. EET Group encourages learners, staff and visitors to take action against harassment with reference to the guidance set out below. No one will be treated less favourably or suffer any detriment for having raised or supported an allegation made in good faith.

EET Group will ensure that anyone who raises an allegation of harassment is appropriately supported throughout the complaints process. If necessary, EET Group will consider steps such as a change of line management/working area/working hours. EET Group will ensure that reasonable adjustments are made to facilitate any process for learners or staff who have disabilities. HR or a Director will also be able to provide details of EET Group's wellbeing resources.

If a person believes they are being subjected to harassment, it is recommended that, where possible and appropriate, they attempt to resolve the situation informally in the first instance. It is, however, up to the complainant to decide how they wish to proceed.

Whichever approach is chosen, it is recommended that a written record of any incident of harassment is made as soon as possible after an incident occurs. This should be signed, dated and kept for future reference and should include:

- Details of when and where the harassment took place, including dates and times;
- Details of the behaviour; and
- Details of any witnesses to the behaviour.

Written records are useful and can aid EET Group during investigations into formal complaints. However, if you have not kept a written record, this does not prevent you from raising an issue.

EET Group can provide support and advice for learners affected by bullying and

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harassment.

Human Resources can provide information for staff on the options available under this Policy. Staff should be aware, however, that if specific allegations are reported to Human Resources, the Director may be obliged to take this forward as a formal complaint of harassment. Staff who do not wish to make a formal complaint should take action under the informal procedures below or discuss their options with Human Resources or a Director.

Behaviour that is extreme or violent should be reported directly to a Director as soon as possible. A Director, having dealt with the immediate safety issue arising, will then inform health and safety and HR, should the incident require further investigation or considerations for future intervention.

Informal Procedures for Addressing Harassment

If a person believes they are being subjected to harassment, there are several ways to deal with the matter quickly and effectively.

An 'informal approach' can effectively address the unwanted behaviour without recourse to formal procedures. Informal approaches can have the advantage of resolving the situation quickly and with minimal disruption to relationships.

It is recommended that informal methods be considered in the first instance, as this is often sufficient to resolve the matter without the need for more formal means. It is, however, up to the individual to decide if this approach is appropriate to their situation. There are several 'informal approaches' that can be adopted, as outlined below.

Individual Action

EET Group recommends that anyone who believes they are being subjected to harassment should speak directly to those involved or, if more suitable, put their concerns in writing to them. It may be appropriate to ask a third party to assist. Ideally, the alleged harasser should be approached at the earliest opportunity.

When taking individual action, the complainant or a person acting on their behalf should try to:

- Pick a time and a place where they can speak privately and without interruption;
- Clearly identify the behaviour that is causing concern, giving examples and instances of when it has occurred;
- Make it clear that the conduct is unwelcome and must stop immediately. Further guidance for the alleged harasser who may be approached informally about their behaviour is contained in the guidance notes associated with this procedure.

Although asking someone to assist with discussions of this type might be helpful, complainants should avoid involving too many people in the situation. This can be counterproductive and may lead to allegations being made against the complainant.

It is advisable to keep a record of any discussions or correspondence at this stage, as this may be useful if further action becomes necessary.

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Support from Colleagues

If directly approaching the alleged harasser does not resolve the situation, or is inappropriate, seeking support from colleagues may be helpful. Asking someone who is not directly involved in the situation to speak with the alleged harasser can often help get the right message across.

For learners, it may be a personal or welfare tutor or senior member of EET Group or a representative. It would not usually be appropriate to engage the support from fellow learners.

For staff, 'a colleague' might be their line manager following the relevant staff grievance procedure or, where this is not possible, the next senior level of management.

The colleague should seek to resolve the situation quickly and with minimal disruption. Options may include meeting with the alleged harasser to discuss the allegation and make clear that any behaviour that could be considered harassment under this Policy must stop immediately.

Alternatively, the colleague may facilitate a meeting between the people involved to discuss the situation and jointly reach agreement on the way forward. Outcomes may include a recommendation of ongoing mediation to help rebuild the relationship (see below). Learners may be accompanied by a friend or a representative at their request. In the case of staff, both the complainant and alleged harasser have the right to be accompanied by a work colleague or union representative to any meetings at this stage in the process.

Although asking someone to act as a supporter may be helpful, complainants should avoid involving too many independent people in the situation. This can be counterproductive and may lead to allegations being made against the complainant.

Mediation

Mediation is a voluntary and confidential process which enables parties to resolve issues with the assistance of a professionally-qualified mediator. The process encourages open communication of feelings and incidents and encourages parties to deal directly with the conflict and determine the resolution. Where relationships have been damaged, EET Group will provide support through mediation in an attempt to help both parties to rebuild their relationship.

Learners who may wish to consider mediation as a way forward should contact EET Group.

Staff referrals for mediation should usually be made to Human Resources who will first meet with the parties to determine whether the case can be mediated. Suitability is determined according to the nature of the alleged harassment, risk to individuals involved, the individual situation and the nature of the harassment. Further information about the mediation and conflict resolution is available from Human Resources.

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Formal Procedures for Addressing Harassment

If informal methods do not resolve the matter, or if the harassment is particularly serious, a formal allegation of harassment should be submitted.

Formal allegations of harassment should be made in writing and include:

- The complainant's personal details;
- An outline of the allegation (including dates, times and places);
- Details of the alleged harasser;
- Details of any witnesses; and, if relevant
- Details of any informal attempts which have been taken to resolve the situation and the outcome(s).

Learners who wish to make a formal allegation against members of staff, contractors/visitors or other learners should be directed to the Complaints Procedure.

Where a complaint is raised under the Complaints Procedure and the alleged harasser is a member of staff, the Officer appointed to investigate the student complaint should inform HR of the allegations and keep them informed throughout the process to enable HR to decide whether and when a separate staff procedure is needed.

Members of staff should address their letter following the requirements of the relevant formal grievance procedure. This applies whether their allegation is against a member of staff, contractor/visitor or a learner. Formal complaints are made under the applicable staff grievance procedure and will involve a formal investigation into the allegations.

Contractors or visitors who have complaints about staff should address their complaints to the HR department in the first instance. Contractors or visitors wishing to raise complaints about student conduct should raise the matter with a Director in the first instance.

Where an investigation finds that harassment has taken place, this may result in disciplinary action under the relevant staff or learner procedure.

Allegations should be made by named individuals. EET Group cannot guarantee that anonymous allegations will be taken forward, as the anonymous nature of the allegation may prevent a fair investigation.

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Appendix 1 - Forms of Harassment

Introduction

Harassment related to protected characteristics, i.e. age, disability, gender reassignment, race, religion or belief, sex (including sexual harassment) and sexual orientation, is unlawful and defined under the Equality Act 2010 as 'unwanted conduct that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.'

There are few examples where discrimination may be deemed lawful. These included where there is an occupational requirement to select an individual based on a particular characteristic. This is also referred to as a 'Genuine Occupational Qualification' (GOQ), for instance, a gym could advertise for a female changing room attendant for the female changing rooms. Another example where discrimination may be deemed lawful, is where an organisation is taking 'positive action' to actively encourage and develop people in under-represented groups.

The following section provides examples of how various forms of harassment can be manifested. These examples are not intended to be exhaustive, and specific examples under each section may also relate to some or all of the other protected characteristics contained below. They are, however, provided to demonstrate behaviour or conduct that would be considered unacceptable by EET Group.

Racial Harassment

Racial harassment is unwanted conduct related to a person's race, including their ethnic or national origins, colour or nationality. It is usually, although not exclusively, directed at individuals from minority ethnic groups.

Examples of racial harassment include:

- racist jokes, 'banter' or derogatory language
- the expression of racist views including the display of racist materials
- excluding or refusing to cooperate with someone because of their race
- negatively focusing on a person's appearance, dress, culture or customs
- fostering hatred and/or prejudice towards individuals of particular racial groups

Sexual Harassment

Sexual harassment is unwanted conduct by either sex that is sexual in nature.

Conduct that would amount to sexual harassment includes:

- Physical contact, ranging from invasion of personal space, inappropriate touching or physical assault
- Intrusive questions and remarks about a person's private life
- Inappropriate remarks about a person's appearance or dress
- Sexually explicit language, including jokes, and verbal and physical innuendo
- Using demeaning, gender-specific terminology
- Displaying or circulating sexually explicit materials

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- Coercive demands for sexual favours (such as promotion or academic success in response to the demand)
- Intrusion by pestering, spying or stalking
- Persistent, unwanted advances (e.g. inviting a colleague or friend out would not in itself amount to harassment, however, if it was indicated that the approach was unwelcome and the individual's approaches persisted, this is likely to be considered harassment by the recipient).

Harassment related to Sex

Harassment related to sex describes unwanted conduct that is directed at a person because they are male or female. For example, to deliberately exclude someone because they are the only man or woman in a team or class would be considered harassment. There are some exceptions, however, whereby sex discrimination would be deemed lawful for hiring purposes. For example, there may be a 'genuine occupational requirement' to recruit a female to undertake support work in a women's refuge. Genuine Occupational Requirements in the area of sex discrimination are limited and would include jobs which require someone of a particular sex for reasons of privacy and decency such as choosing attendants in toilets or swimming baths or where services are provided relating to welfare (e.g. doctors, therapists).

Unless there is a genuine occupational requirement or genuine occupational qualification (GOQ) for making a hiring decision, harassment related to sex is unlawful and distinct from sexual harassment since sex discrimination is not sexual in nature.

Harassment related to Disability

Harassment related to disability is unwanted conduct directed at a person because of their physical or mental disability. It may relate to the disability itself or the person's real or presumed capabilities. A person can also be harassed on the grounds of disability even when they themselves are not disabled, for example, if they are the carer of a child with disabilities and suffer harassment on that basis.

Specific examples of disability-related harassment include individuals:

- being ignored, disparaged or ridiculed,
- inappropriate personal remarks,
- unnecessarily intrusive and inappropriate questions about a person's condition
- excessive and unnecessary references to a person's disability
- refusal to work or study alongside someone with a disability

Harassment related to Religion or Belief

Harassment related to religion or belief is unwanted conduct directed at a person because of their religion or a comparable belief system.

For instance, The All Party Parliamentary Group (APPG) define Islamophobia as "rooted in racism and is a type of racism that targets expressions of Muslimness or perceived Muslimness", while the International Holocaust Remembrance

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Alliance (IHRA) provides a working definition of Antisemitism as “a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”

For belief to be classed as a protected characteristic under UK discrimination law, the belief must fit with the following:

- The belief must be genuinely held.
- It must be a belief not an opinion or viewpoint based on the present state of information available.
- It must be a belief as to a weighty and substantial aspect of human life and behaviour.
- It must attain a certain level of cogency, seriousness, cohesion and importance.
- It must be worthy of respect in a democratic society, not be incompatible with human dignity and not conflict with the fundamental rights of others.

The law includes protection in respect of religion, religious belief (including no religious belief) and philosophical belief, such as ‘ethical veganism’ is classed as a belief in this regard.

Harassment relating to religion or belief can also occur because a person is presumed to be of a particular religion or belief, even if this is not the case, or because of a person's non-adherence to a religion or belief system.

Harassment may take the form of insults or ridicule of a person's religion or belief or focus upon a particular aspect of a religion or belief system, such as clothing, religious artefacts, beliefs and rituals. It can also take the form of coercive pressure to convert or conform to a religion or belief system.

Harassment related to Sexual Orientation

Harassment related to sexual orientation is unwanted conduct directed at a person because of their actual or perceived sexual orientation. It most frequently affects individuals who are gay, lesbian or bisexual, but can sometimes be directed at heterosexuals too. Harassment related to sexual orientation may go unreported because a person does not wish to disclose their sexuality.

Examples of harassment relating to sexual orientation include:

- intrusive questions about a person's private life,
- homophobic comments, jokes and 'banter' about sexuality,
- gossip and speculation about a person's sexuality,
- refusal to work or study alongside someone because of their sexuality
- physical assault

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- 'Outing' someone by releasing personal information about a person's sexuality

Harassment related to Gender Identity

Harassment related to gender identity is defined as being unwanted conduct

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directed at a person who does not identify with the sex to which they were assigned at birth (for example, someone who is transgender or non-binary). This includes individuals who are undergoing, have undergone or plan to undergo a gender reassignment process to change their gender identity.

Specific examples of such harassment include:

- excluding a person because of their trans identity,
- making jokes or disparaging comments about trans people,
- refusing to work or study with someone because of their trans identity,
- name-calling and refusing to acknowledge their acquired gender,
- 'dead-naming', where someone refers to a person who is transgender by the name they used before they transitioned.
- 'Outing' someone by releasing personal information about a person's identity

Harassment related to Age

Harassment related to age is unwanted conduct related to a person's age. It can occur because of a person's real or perceived age and applies to all ages.

Specific examples of age-related harassment include:

- jokes, name-calling and comments relating to a person's age
- comments about their presumed abilities

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