

## STUDENT ANTI-HARASSMENT POLICY AND PROCEDURE

### Introduction

- 1 In this document, "we", "our" and "us" refer to Sheffield Hallam University. "You" and "your" refer to students at Sheffield Hallam University.
- 2 We are committed to ensuring that you have the right to be treated with dignity and respect and to operate in an environment free from harassment and bullying. This derives from our ethos as an institution which welcomes people from all backgrounds, respects individual differences, upholds equal treatment and seeks to create a culture in which everyone feels valued and able to fulfil their potential. Furthermore, the right to work and study without harassment is established in diversity and employment legislation and harassment may, in some circumstances, amount to a criminal offence.
- 3 We have faith in the decency of our students and staff and in the positive impact of exemplary behaviour and appropriate education and training. Where necessary we will take action against those who harass or bully to the limits of our power under the relevant student or staff disciplinary regulations. We may, in some circumstances, report harassment to the police or take legal action. Also, a harasser may face individual legal claims from a victim with the potential for significant financial loss.

### Definitions and Examples

- 4 Discrimination under the Equality Act 2010 includes:
  - Direct Discrimination which is where because of a protected characteristic a person is treated less favourably than others are treated.
  - Indirect Discrimination which is when a working practice, policy or rule is the same for everyone, but which puts or would put people with a protected characteristic at a particular disadvantage in comparison to others. Under the law indirect discrimination might be justified if it is a proportionate means of achieving a legitimate aim.

Direct Discrimination can also arise where a person is treated less favourably because, they are perceived or thought to have a protected characteristic even if they do not (discrimination by perception); or because although they do not have a protected characteristic, they have an association or connection with a person who does (discrimination by association).

- 5 Harassment has three definitions under the Equality Act 2010.
  - **Harassment related to a relevant protected characteristic** is unwanted conduct related to a protected characteristic which has the purpose or effect of violating a person's dignity or subjecting them to an intimidating, hostile, degrading, humiliating or offensive environment. It is not necessary for the person to object to the conduct for it to be unwanted. Harassment can occur even if this was not the intention.

- **Sexual harassment** is unwanted conduct (verbal, non-verbal or physical conduct) of a sexual nature which has the purpose or effect of violating a person's dignity or subjecting them to an intimidating, hostile, degrading, humiliating or offensive environment.
- **Harassment and less favourable treatment** is unwanted conduct of a sexual nature or that is related to the protected characteristics of gender reassignment or sex, which has the purpose or effect of violating a person's dignity or subjecting them to an intimidating, hostile, degrading, humiliating or offensive environment; and because of the person's rejection or submission to the conduct, they are treated less favourably than they would have been treated had they not rejected or submitted to the conduct.

In each of the three definitions of harassment, in cases where the conduct complained of had the effect (rather than the purpose) of violating a person's dignity etc., the following must be taken into account: (i) the perception of the person subjected to the conduct; (ii) the other circumstances of the case; and (iii) whether it is reasonable for the conduct to have that effect. The perception of the person subjected to the conduct is only one of the relevant considerations.

In some cases, harassment can amount to a criminal offence under the Protection from Harassment Act 1997. To be an offence there must be a course of conduct (which includes speech), which causes alarm or distress of another and which the person engaged in the conduct knows or ought to know amounts to harassment of another. The test is an objective one based on whether a reasonable person, in possession of the same information as the person engaged in the conduct, would think the course of conduct amounted to harassment.

- 6 Victimization under the Equality Act 2010 is where someone 'suffers a detriment' i.e. is treated less favourably because they have done or are believed to have done or may do a protected act. A protected act includes:
- making an allegation or complaint that a person has acted in breach of the Equality Act;
  - bringing proceedings under the Equality Act;
  - giving evidence or information in connection with proceedings under the Equality Act (whether this does or does not support a complaint);
  - doing any other thing for the purposes of or in connection with the Equality Act.
- 7 It is impossible to give a comprehensive list of behaviours which may constitute harassment. The following are some examples of unwanted conduct that may amount to harassment:
- Ridiculing, humiliating, or demeaning someone.
  - Gossiping or spreading malicious rumours.
  - Insulting or abusive behaviour or comments.
  - Unwanted physical contact or sexual advances ranging from invasion of personal space, touching, sending, or displaying sexually suggestive or pornographic material or requesting sexual favours.
  - Inappropriate content or tone of emails, social media or other digital communication channels.
  - Persistent unwanted isolation or exclusion.
  - Persistent unwanted attention.
- 8 Harassment involving students may be:
- experienced by students from other students, staff, or visitors.
  - by students on other students, staff, or visitors.

In the case of alleged harassment by visitors the University will take whatever action is appropriate and feasible.

## Early resolution

- 9 If you feel you are a victim of harassment, you can raise your concern via the following methods:
- through contacting Hallam Help
  - via the [Hallam Help Portal](#)
  - through a Student Support Adviser
  - contacting the Student Policy and Compliance team by emailing [StudentConduct@shu.ac.uk](mailto:StudentConduct@shu.ac.uk)
  - via [Report and Support](#)

You can also get independent advice and support from the Student Union Advice Service.

- 10 You will not be disadvantaged because of raising a matter of concern about harassment provided it is made in good faith. It is victimisation under the Equality Act 2010 to treat someone less favourably because they have raised a matter of concern, an allegation or complaint about harassment (or because they provided evidence or information relating to such a concern). The person who treats the other less favourably may face disciplinary action under the appropriate regulations. We expect that students will not engage in frivolous complaints or make malicious complaints that are unfounded. Disciplinary action may be taken against anyone making malicious complaints that are unfounded.
- 11 Your concerns will be dealt with promptly, sympathetically and with respect for privacy and confidentiality. Information will only be disclosed to other parties involved in addressing your concerns, or as required by law.
- 12 Examples of advice and action at this stage include:
- reducing contact with the alleged perpetrator, e.g. moving you to a different seminar/study group/placement, advising you to block emails, etc.
  - advice regarding the use of the Extensions and Exceptional Circumstances Policy and Procedure
  - referral to Student Wellbeing service which may include mediation
  - advising to you contact the police (in cases where the harassment is long-term and/or consists of actual violence or threats of violence)
  - instigation of the Disciplinary Regulations and Procedures or Disciplinary Procedure for Staff.

No action will be taken without your express agreement.

- 13 It is not possible for us to resolve domestic issues between students, we can only reasonably be expected to provide advice and take action against students who breach the Student Code of Conduct. If you raise an allegation of harassment with us, it may feel unreasonable that we are advising **you** to take some of the actions above rather than moving the alleged perpetrator to another seminar group, for example. It is important that you understand that we cannot normally take immediate action against the alleged perpetrator. We must first take the appropriate steps through the relevant procedures to assess the situation fully. You must take responsibility for taking appropriate action to address your situation whilst the allegation is being investigated.
- 14 Where an allegation of harassment is the subject of police investigation or has led to criminal charges, precautionary action may be taken against the alleged perpetrator. This would be considered following a review of the matter through a risk assessment and is in line with the Disciplinary Regulations and Procedures or Disciplinary Procedure for Staff.

- 15 We recognise that both you and your alleged perpetrator may both be acutely distressed. You need to be aware that we will be supporting both you and the alleged perpetrator. A number of services are available to support you: Faculty Student Support Officer, Counselling Service, Multifaith Chaplaincy and [Student Support Services](#). The [Student Union Advice Service](#) can also offer you free and independent advice and support.
- 16 We will take initial action against the alleged perpetrator under the relevant staff or student disciplinary procedure if there is sufficient evidence that a student has breached our Student Code of Conduct (point 6 in the [Disciplinary Regulations for Students](#)), or a member of staff has breached our Staff Code of Behaviour.

### **Formal action**

- 17 If early resolution is unsuccessful, or inappropriate, your allegations will be referred to either the Student Policy, Casework and Compliance team (for allegations regarding a student), or to the Human Resources and Organisational Development team (for allegations regarding a member of staff).
- 18 If formal action through the Student Disciplinary Regulations and/or the Disciplinary Procedure for Staff is not appropriate, you will be informed of this together with our reasons and advice on any further action you might be able to take. A Completion of Procedures letter may be issued to you at this stage (see point 25-26).
- 19 It will not be possible for an allegation of harassment to be pursued formally until and unless the alleged perpetrator is aware of the substance of the allegation and, normally, the identity of the person or persons making the allegation.
- 20 You will be informed when action through the appropriate Disciplinary procedure has been completed with any further advice on actions you can take. Due to data protection legislation, it is not possible to inform you of the detail of any sanctions set as a result of the action taken. A Completion of Procedures letter may be issued to you at this stage (see point 25-26).

### **General points**

- 21 It is expected that you engage in resolving the issues you raise with us. Only in exceptional circumstances can a third party raise allegations on your behalf. You must request permission in writing stating reasons why you are unable to raise issues yourself. The person dealing with your allegation will decide if your reasons are acceptable.
- 22 If an allegation of harassment is being investigated by the police or if criminal justice proceedings are in progress, we will not normally complete our own disciplinary procedures until the outcome of these has been completed. At that point, we will consider whether any further action, in addition to any action taken by the police or courts, is appropriate. Such action is likely to be at the formal University disciplinary stage.
- 23 If an allegation of harassment is made against a placement provider, we will provide advice and help you to engage with the provider's policies and liaise with the placement provider where appropriate. We are, however, unable to investigate allegations made against staff employed at external organisations.
- 24 An annual report of student disciplinary cases is considered by the Board of Governors. This highlights any formal cases related to harassment. This report will be anonymous and will primarily focus on a statistic analysis of disciplinary cases against protected characteristics to provide assurance that the procedures have been fairly applied.

## The Office of the Independent Adjudicator for Higher Education (OIA)

- 25 Under the Higher Education Act 2004 the University subscribes to the independent scheme for the review of student complaints (the term 'complaints' encompasses the Academic Appeals policy and procedure, the Student Complaints policy and procedure and Student Disciplinary Regulations). If you are dissatisfied with our final decision regarding the allegation you raised, you may be able to take your case to the OIA if it is eligible under its rules. You should check out the OIA rules and timescales for contacting the OIA on their website at <http://www.oiahe.org.uk/>.
- 26 The Completion of Procedures letter will explain that you have exhausted internal procedures and give details about what you can do if you remain dissatisfied with the outcome.

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