UNIVERSITY OF BIRMINGHAM

Harassment and Bullying Policy

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Part I – Introduction and Definitions

1 Purpose and Scope of the Policy

1.1 In this Policy:

- "Harassment" shall mean harassment, bullying or victimisation as defined in Part I, sections 3-8 of this Policy.
- "Complainant" shall mean the person or group who make an allegation of Harassment
- "Alleged Harasser" shall mean the person or group who are the subject of allegations of Harassment
- "Friend" shall mean a registered student of the University, a member of academic staff of the University, or a Sabbatical Officer of the Guild of Students

1.2 This Policy has the status of a Code of Practice in the University's legislative framework.

1.3 The purpose of this Policy is to state the University's position on Harassment, to raise awareness amongst the University community of behaviour that would be considered Harassment and to provide guidance on informal and formal means of dealing with Harassment when it occurs.

1.4 This Policy applies to all registered students of the University, including those on part-time, distance and collaborative/validated programmes, all members of staff, including honorary staff, and all visitors to the University.

1.5 Copies of this Policy are available on the University website www.hr.bham.ac.uk/policy or in hardcopy format from Human Resources, the Employee Support Programme Manager (Workplace Wellbeing Unit), Academic and Student Administration Enquiry Counter, Student Counselling and Guidance and the Guild of Students. Copies of the Policy in accessible formats are available from Design and Publications.

2 University Policy Statement on Harassment

2.1 The University believes that Harassment pollutes the working and learning environment and has a detrimental effect upon the wellbeing, health, confidence, morale and performance of those directly affected by such behaviour or who are witness to it. The University is committed to creating a working and learning environment free from Harassment and discrimination in which all staff, students and visitors to the University are treated with dignity and respect. These principles are enshrined in the University Charter and its Statutes, which states:

'No discrimination on the grounds of political opinion, age, colour, disability, ethnic or national origin, gender, marital status, race, religion or sexual orientation shall be exercised by the University in the admission of students, or the appointment or promotion of staff or the awarding of any Degree, Diploma or Certificate, or generally, in the execution of any of its Objects as laid down by the Charter.'[1]

[1] University of Birmingham Charter of Incorporation (revised 21st October 1998), paragraph 13.

2.2 All staff and students are expected to uphold these principles and to support and promote the creation of a Harassment-free working and learning environment.

2.3 The University strongly encourages any staff, student or visitor who considers they are suffering Harassment to take action using the procedures set out in this Policy. The University in turn commits to take seriously and thoroughly investigate any allegations of Harassment that are formally brought to its attention. No person will be treated less favourably for making an allegation in good faith. Where such an allegation is found to be true, action will be taken against the perpetrators, up to and including dismissal of staff or expulsion of students. Individuals who engage in unlawful Harassment may also be held personally liable for their actions and subject to prosecution under criminal law.

3 What is Harassment?

3.1 Harassment is any behaviour that is unwelcome and affects the dignity of those subjected to it. For the purposes of this Policy, the University will use and apply the following definition of Harassment as being:

'Unwanted conduct that has either the purpose or the effect of:

- violating a person's dignity; or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for them.'[2]

3.2 Harassment may take place for any number of reasons. A person may be subjected to Harassment because they are perceived as being 'different to the norm' in some way or are in a less powerful position than the harasser. For this reason, people who are in a minority position – be it numerical or hierarchical – may be more vulnerable to being harassed. It is important to recognise however, that Harassment can occur in less obvious scenarios and outside of traditional power relationships. For example a staff member could be harassed by a student or a manager by a member of staff.

3.3 Prevalent forms of Harassment are Harassment on the grounds of:

- race (including ethnic and national origins, colour and nationality)
- sex (including sexual harassment, Harassment on the grounds of sex and gender reassignment)
- physical or mental disability
- religion or belief
- sexual orientation
- age

3.4 Harassment on these grounds is unlawful[3]. Appendix 1 provides further details of these forms of Harassment.

[2] Sex Discrimination Act 1975 and subsequent amendments; Race Relations Act 1976 and subsequent amendments; Disability Discrimination Act 1995 and subsequent amendments; Employment Equality (Religion or Belief) Regulations 2003; Employment Equality (Sexual Orientation) Regulations 2003; Employment Equality (Age) Regulations 2006.

[3] Sex Discrimination Act 1975 and subsequent amendments; Race Relations Act 1976 and subsequent amendments; Disability Discrimination Act 1995 and subsequent amendments; Employment Equality (Religion or Belief) Regulations 2003; Employment Equality (Sexual Orientation) Regulations 2003; Employment Equality (Age) Regulations 2006. Protection from Harassment is also provided by the Protection from Harassment Act 1997.

4 What behaviour constitutes Harassment?

4.1 As the definition of Harassment makes clear, any behaviour that is unwanted and could reasonably be considered as violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them is potentially Harassment. Typically, for behaviour to be considered Harassment, it must be persistent and continue or develop over a period of time. However, a one-off incident that is particularly serious can in itself constitute Harassment.

4.2 Harassment can be communicated verbally, be physical in nature, or be expressed through other means of communication, such as letters, emails, text messages and graffiti. It may be expressed directly to the person concerned, occur in their presence or be communicated about them to a third party. Often Harassment is targeted at a particular individual. However, a prevailing workplace or learning culture, where, for example, the telling of racist jokes or homophobic comments is tolerated, can also constitute Harassment.

4.3 Behaviour generally accepted as amounting to Harassment includes:

- Insults, name-calling and offensive language and gestures
- Inappropriate jokes
- Ridiculing and undermining behaviour
- Inappropriate or unnecessary physical contact
- 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
- Offensive images and literature
- Pestering, spying or stalking

4.4 These examples are not intended to be exhaustive. They are, however, indicative of behaviour that would be considered unacceptable conduct by the University. Appendix 1 provides further examples.

5 Reasonableness

5.1 On occasion, individual perceptions of behaviour may differ - perhaps due 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 if behaviour 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.

5.2 When considering allegations of Harassment, the University will therefore 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, could the behaviour in question 'reasonably be considered' to cause Harassment, e.g. could it reasonably be considered to:

- violate the Complainant's dignity, or

- create an intimidating, hostile, degrading, humiliating or offensive environment for them.

5.3 The University 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. Whilst staff and students will clearly hold a range of views on a variety issues, they would be expected to treat all members of the University community with dignity and respect and ensure that the expression of their views is not manifested in such a way that creates an environment that is intimidating, hostile, degrading, humiliating or offensive to others.

6 What is Bullying?

6.1 Bullying can be defined as unwanted 'offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.'[4] Typically, bullying is one person against another or a group of people against an individual. Bullying can also occur in less obvious scenarios and 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.

7 What behaviour constitutes Bullying?

7.1 Behaviour generally accepted as amounting to bullying includes:

- Ridiculing a person
- Shouting or screaming at a person
- Setting someone up to fail, e.g. withholding necessary information or deliberate work overload
- 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

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

7.3 When considering allegations of bullying, the University will apply the test of 'reasonableness' to determine if bullying has taken place. The test will be applied as outlined in paragraphs 5.1-5.2 above, with due regard in particular to the perception of the Complainant and whether the behaviour in question could reasonably be considered to undermine, humiliate, denigrate or injure the Complainant.

7.4 Bullying is distinct from vigorous academic debate, or the actions of a supervisor or manager making reasonable (if unpopular) requests. It is also distinct from techniques used to manage and improve performance, the distinguishing factor being that these have the effect of supporting and developing potential or promoting desired work performance, whereas bullying has the effect of undermining, humiliating, denigrating or injuring the recipient.

[4] ACAS "Bullying and Harassment at Work: A Guide for Managers and Employers."

8 Victimisation

8.1 Victimisation is the less favourable treatment of a person because they have, in good faith, made allegations of Harassment, intend to make such an allegation or have assisted or supported a person in bringing an allegation.

8.2 Examples of victimisation may include labelling an individual a 'troublemaker' and/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.

8.3 Victimisation is unlawful under Harassment legislation and will be treated as a form of Harassment under this Policy.

9 Hate Crimes

9.1 The University accepts the following definition of hate crime and intolerance, put forward by Universities UK, the Equality Challenge Unit and SCOP:

'Crimes or 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 and which give rise to an environment in which people will experience, or could reasonably, fear harassment, intimidation or violence.'[5]

9.2 The University reaffirms its belief that the diversity of its staff and students is a source of strength. Accordingly, it will actively seek to protect its community from prejudice, hatred or intolerance.

[5] 'Promoting Good Campus Relations: Dealing with Hate Crimes and Intolerance,' Universities UK, Equality Challenge Unit, SCOP, 2005. The University understands the term 'religion and belief' to mean religion or similar philosophical belief, as defined in the Employment Equality (Religion or Belief) Regulations 2003.

Part II – Staff and Student Procedures

1 Addressing Harassment and Sources of Support

1.1 Any person who believes they have been subjected to Harassment has the right to be listened to and have their concerns taken seriously. The University would not wish that any person suffer distress or leave the University because they consider others are subjecting them to Harassment. The University encourages staff, students and visitors to take action using the guidance set out below. No person will be treated less favourably or suffer any detriment for having raised or supported an allegation made in good faith.

1.2 If a person believes they are being subjected to Harassment, a number of informal and formal options are available to them. It is recommended that, where possible and appropriate, attempts to resolve the situation informally should be taken in the first instance. It is, however, up to the individual to decide how they wish to proceed.

1.3 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 takes place, including dates and times;
- Details of the behaviour; and
- Details of any witnesses to the behaviour.

1.4 The University Harassment Advisers' Service can also provide support and advice for staff and students affected by Harassment. Advisers can provide guidance on the informal and formal options available and assist individuals in thinking those options through. All Advisers are trained staff volunteers and the service they provide is completely confidential. Harassment Advisers can offer support at any stage of the procedure, from initial concerns to formal complaints/allegations. Further information about the Harassment Advisers Service and other sources of support is attached in Appendices 2 and 3.

1.5 Staff may also wish to make an appointment with the University Confidential Assessment Service (contact details as for the Harassment Advisers) or speak with their union Harassment adviser as an alternative source of support and advice.

1.6 Human Resources can provide signposting 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 of HR has the right to take this forward as a formal complaint of Harassment. Staff not wishing to make a formal complaint should take action under the informal procedures below and/or discuss their options with a Harassment Adviser.

1.7 The Student Conduct and Appeals Section can provide advice to students on the options available under this Policy, as well as details of the sources of help and support available to advice.

1.8 A full list of sources of help and advice, including contact details, can be found in Appendix 2.

1.9 Behaviour that is extreme and/or violent should be reported directly to the Police or Campus Security.

2 Informal Procedures for Addressing Harassment

2.1 If a person believes they are being subjected to Harassment there are a number of 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 approaches be used 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 a number of 'informal approaches' that can be adopted, as outlined in sections 2.2 - 2.4 below.

2.2 Individual Action

2.2.1 In many cases, speaking directly with the person concerned can be enough to bring the situation to a close. Sometimes people do not realise that their conduct is causing offence and explaining this to them is enough to make them rethink their behaviour. Ideally, the person should be approached at the earliest opportunity to prevent the behaviour from continuing or escalating.

2.2.2 When taking individual action, the Complainant 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 behaviour is unwelcome and must stop immediately.

2.2.3 If the Complainant feels unable to speak directly to the person concerned, they could try putting their concerns to them in writing.

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

2.2.5 Persons who are approached about their behaviour are advised to consider what is being said carefully. They should listen to the request and ensure that they understand what they are being asked to do/not do. Persons are advised to try and follow reasonable requests to cease the behaviour described. Even if it was not the intention to cause offence, actions can still constitute Harassment if they could reasonably be considered to have this effect. If this is the case, then behaviour will need to change.

2.2.6 In many cases people may feel that there has been a misunderstanding, and that they did not intend to cause Harassment. In this case the person engaging in the behaviour should explain that the behaviour would not be repeated and come to an agreement with the Complainant regarding what is/isn't acceptable. Behaviour that some individuals find acceptable, or even friendly, may be offensive to someone else and this should be respected.

2.2.7 All persons involved in an allegation of Harassment can seek support and advice from the people/groups listed in Appendix 2. Specific advice regarding procedures can be obtained from Human Resources or Student Conduct and Appeals as appropriate.

2.3 Third-party intervention

2.3.1 If approaching the person directly does not resolve the situation, or is inappropriate, seeking third party intervention may be helpful. Asking an appropriate person who is not directly involved in the situation to speak with the person concerned can often help get the right message across. For staff, an appropriate third party would be their line manager or, where this is not possible, the next senior level of management. For students, it may be a personal or welfare tutor.

2.3.2 The third party will 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 third-party may facilitate a meeting between the persons 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 section 2.4 below). 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. Students may be accompanied by a Friend at their request.

2.3.3 Although asking someone to act as a third party may be helpful, Complainants should avoid involving too many independent people in the situation. This can be counter-productive and may lead to allegations being made against Complainant.

2.4 Mediation

2.4.1 Where relationships have been damaged, the University's Mediation Service can help both parties to rebuild their relationship. Mediation is a voluntary and confidential process, whereby parties in dispute go through a structured process to enable them to resolve issues with the assistance of a neutral third party. The process encourages open communication of feelings and incidents and empowers parties to deal directly with the conflict and determine the resolution.

2.4.2 Staff referrals for mediation should be made to the Employee Support Programme Manager (Workplace Wellbeing Unit), who will first meet with the parties to determine whether the case can be mediated in a 'mediation suitability conference'. Suitability is determined according to the nature of the alleged Harassment, risk to individuals involved, the individual situation and the nature of Harassment. Further information about the mediation and conflict resolution service is available from the Workplace Wellbeing Unit.

2.4.3 Students who may wish to consider mediation as a way forward should contact either the Student Conduct and Appeals Section or the Employee Support Programme Manager. In either case a 'mediation suitability conference' will be conducted to determine whether the case is suitable for mediation.

3 Formal Procedures for Addressing Harassment

3.1 In most cases following the informal procedures will be effective in resolving the situation. If informal methods do not achieve satisfactory results, or if the Harassment is particularly serious, a formal allegation of Harassment should be submitted.

3.2 Formal allegations of Harassment should be made in writing and include:

- The Complainant's personal details (including student ID number where appropriate);
- 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 to resolve the situation and the outcome(s).

3.3 Members of staff should address their letter to their Head of School or Budget Centre, whether their allegation is against a member of staff or a student. If this is not appropriate, the letter should be addressed to the next senior line of management or to the Director of Human Resources. Formal complaints are made under the relevant staff grievance procedure and will involve a formal investigation into the allegations. The procedure for investigating staff complaints is outlined in sections 3.7 – 3.8 below.

3.4 Students who wish to make a formal allegation should address their letter to the Student Conduct and Appeals Section, Academic and Student Administration, whether the allegation is against another student or a member of staff. The procedure for investigating student allegations is outlined in sections 3.9 – 3.10 below.

3.5 Where an investigation finds that Harassment has taken place, this may result in disciplinary action against the harasser under the relevant staff disciplinary procedure or Ordinance 5.5 or 5.6 for students.

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

3.7 Complaints from Staff - Investigation

3.7.1 Once an allegation of Harassment has been received, the Head of School or Budget Centre will inform Human Resources and then agree and appoint an appropriate person to carry out a formal investigation into the allegation. If the Alleged Harasser is a student, the investigator shall be free to obtain assistance from the Student Conduct and Appeals Section in conducting the investigation. The investigator will not be in any way connected with the allegation and Human Resources will provide full support and guidance for the investigator in carrying out their duties.

3.7.2 The line managers - or other appropriate persons - of the individuals concerned will meet with them separately, inform them that an investigation will be taking place and provide written notification to this effect. In the case of the Alleged Harasser, a clear account of the allegations made against him or her will be provided.

3.7.3 At this meeting each party will also be informed of the identity of the investigator, the likely timescales for the investigation, the right of both parties to be accompanied by a representative at subsequent meetings, and sources of support, such as the University Harassment Advisers Service. The parties will also be informed that there should be no communication between them, either directly or indirectly, in relation to the allegation.

3.7.4 Harassment investigations are clearly difficult for those concerned, particularly when they involve people who work together. The issue of contact between the two parties may need to be given further consideration and, taking into account the views of both parties, and the practical implications of such an arrangement, a recommendation may be made to limit or prescribe all contact for the duration of the investigation. This may involve:

- Structuring work in such a way that there is little or no contact between the two parties;
- Relocating either party for the duration of the investigation.

3.7.5 The Complainant, the Alleged Harasser and any witnesses to the alleged behaviour will be interviewed as part of the investigative process and may be accompanied by a Friend (in the case of students) or work colleague or union representative (in the case of staff). As the investigation develops and more information is collected, it may be necessary to interview individuals on several occasions. As part of this process, the Alleged Harasser will be given the opportunity to consider and respond to any additional evidence that may arise during the course of the investigation.

3.7.6 Allegations of Harassment will be investigated as confidentially as possible. Information about the allegation will be released only to parties who need to be aware that an investigation is taking place. As part of the investigation process, witnesses may need to be given details of the charges. Where this is the case, they will be made aware that these details must not be disclosed to others.

3.7.7 It is in the interests of all parties concerned that any allegation of Harassment be resolved quickly, and that investigations into the allegations be carried out within a reasonable amount of time. Sometimes, due to the complexity or number of people involved in a particular case, investigations are more time-consuming to ensure that the allegation is investigated thoroughly and fairly. It is for the investigator to determine a reasonable timescale for the investigation and to keep all parties appraised of the process.

3.8 Complaints from Staff - Outcome

3.8.1 The investigator will produce a written report for the Head of School or Budget Centre with conclusions and recommendations for action. The recommendations will take into account the test of reasonableness as outlined in Part I of the Policy.

3.8.2 The Head of School or Budget Centre will then consider the report and, on the basis of the evidence collected, determine what course of action should be taken. This may include:

- That a disciplinary process under the relevant disciplinary procedure begin;
- That remedial action, such as mediation, training or counselling be taken;
- That no action can be taken as there is no evidence, or inconclusive evidence, to support the allegations and so the allegation cannot be upheld;
- That, where the harasser is a student, the case be referred to the Student Conduct and Appeals Section, Academic and Student Administration, for further action.

3.8.3 When deciding on a course of action, factors including the nature of the Harassment, the individual's recognition of the need to change their behaviour and whether previous, informal attempts to resolve the situation had been made, will also be taken into account.

3.8.4 A meeting will then be held with the Complainant, who will have the right to be accompanied by a work colleague or union representative, and where they will be informed of the outcome of their allegation. The Complainant has the right to appeal against the outcome under the relevant University grievance procedure.

3.8.5 The Head of School or Budget Centre, or appropriate designated person, will be responsible for ensuring that any disciplinary process or recommended remedial action takes place.

3.8.6 Where the Complainant and Alleged Harasser continue to work in the same environment, the line managers of both staff will be expected to take action to support the development of a reasonable working relationship between them and for the two parties to work towards this outcome.

3.9 Allegations from Students - Investigation

3.9.1 All persons involved in an allegation of Harassment can seek advice and support from the people/groups listed in Appendix 2. Advice regarding the investigation process can be obtained from the Student Conduct and Appeals Section.

3.9.2 Once a formal allegation of Harassment is received the Complainant will be invited to meet with a Student Conduct Officer, accompanied by a Friend if they wish, to discuss the allegations in more detail. The meeting is to enable the Student Conduct Officer to establish the facts of the case and is a necessary part of the process. If the Alleged Harasser is a member of staff the Student Conduct Officer shall be free to obtain assistance from Human Resources in conducting the investigation.

3.9.3 The Alleged Harasser will be contacted by a Student Conduct Officer and invited for interview, accompanied by a Friend if they wish (usually within 10 days of the allegation being made), so that they might respond to the allegations. Any investigation will be conducted in line with the Guidelines on Student Discipline Investigations, available at www.studserv.bham.ac.uk/sca/conduct/guidelines.htm

3.9.4 If the Alleged Harasser refuses to attend for interview or to provide comments in response to the allegations they will be deemed to be in breach of this Policy and therefore liable to disciplinary measures.

3.9.5 Any witnesses named by either party will also be invited to attend for interview, although they cannot be compelled to do so.

3.9.6 If the Student Conduct Officer finds that Harassment has taken place the case will be considered under University Ordinance 5.5 (or 5.6 for students who follow a programme of study that is subject to fitness to practise legislation) which can be found at www.ppd.bham.ac.uk/policy/legislation/ordinance/ord.htm#O5

3.10 Allegations from Students - Outcome

3.10.1 Once the investigation has been concluded the Student Conduct Officer will outline the outcome of the investigation in writing to all parties. The letter will include a rationale for the decision and details of the next stage (if any).

3.10.2 The University is committed to providing high quality services for its students. It does recognise however that from time to time, things do go wrong. If a student feels their case has not been dealt with correctly, they may be able to make a complaint under the Student Complaints Procedure: (www.ppd.bham.ac.uk/policy/cop/compproc.htm). Being unhappy with the outcome of an investigation is not grounds for a complaint, unless there was some error on the part of the University that lead to this outcome.

4 Guidance

4.1 Guidance for Persons Accused of Harassment

4.1.1 Persons who are accused of Harassment, either under the formal procedure or who are approached informally about their behaviour, can seek support and advice from the University Harassment Advisers' Service. If a formal complaint/allegation has been made, the Human Resources Team (for complaints by members of staff) or Student Conduct and Appeals (for allegations made by students) can provide guidance on the investigatory process. Details of other sources of help and advice can be found in Appendix 2.

4.1.2 Persons who are approached about their behaviour are advised to consider what is being said carefully, and not to dismiss the claims out of hand. Even if it was not the intention to cause offence, actions can still constitute Harassment if they could reasonably be considered to have this effect. If this is the case, then behaviour will need to change. If a person believes the accusation against them to be unfounded, they should still participate willingly in any proceedings so that the situation can be resolved and their name cleared.

4.1.3 In many cases people may feel that there has been a misunderstanding, and that they did not intend to cause Harassment. In this case the Alleged Harasser should explain that the behaviour would not be repeated and come to an agreement with the Complainant regarding what is/isn't acceptable. Behaviour that some individuals find acceptable, or even friendly, may be offensive to someone else and this should be respected.

4.1.4 Persons subject to a formal allegation of Harassment should not contact the Complainant or any named witnesses as this is unlikely to solve the situation and may indeed make things much worse.

4.1.5 Staff who are, or who have been, the subject of a complaint, should be aware of the guidance on victimisation in Part I, section 8 of this Policy.

4.2 Guidance for Persons Witnessing Harassment

4.2.1 In the case of staff, when Harassment occurs in a group situation the person in authority in the group has the responsibility to recognise this behaviour and to take action to stop it. This may mean reporting the behaviour to a more senior colleague or, if they are the line manager of the person, by speaking with the perpetrator directly. It is important that it is made clear to the person engaging in the behaviour that such actions are unacceptable and can result in disciplinary action. Silence or inaction can be interpreted as collusion or endorsement of such behaviour and creates a working environment in which Harassment is deemed to be ‘acceptable’.

4.2.2 If the person in authority is the harasser, or there is no identifiable person to take the lead on the matter, others within the group should support the subject of the Harassment in taking one of the courses of action outlined in this Policy.

4.2.3 Students who believe they may have been a witness to Harassment may want to consider;

- Speaking to the ‘victim’ of the Harassment to ask how they felt about the behaviour and to offer support;
- Speaking to the ‘Alleged Harasser’ – do they know what they did/said was potentially hurtful?

4.2.4 Any person who thinks they may have witnessed Harassment can seek help and advice from the persons/groups listed in Appendix 2.

Appendix 1
Forms of Harassment

1. Introduction

1.1 Harassment on the grounds of race (including ethnic and national origins, colour and nationality), sex (including sexual harassment and gender reassignment), physical or mental disability, religion or belief, sexual orientation and age is unlawful. Harassment on these grounds is defined as being:

'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.'[6]

1.2 The following section describes these forms harassment in greater detail and provides examples of how such harassment may be manifested. These examples are not intended to be exhaustive. They are, however, indicative of conduct that would be considered unacceptable by the University.

2. Racial Harassment

2.1 Racial harassment is unwanted conduct that occurs on the grounds of 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.

2.2 Specific manifestations of racial harassment may include racist jokes, 'banter' and language, the expression of racist views and stereotypes on the grounds of race, the display of racist materials, or deliberately excluding or refusing to cooperate with someone on the grounds of their race. Conduct that focuses upon a person's appearance, dress, culture or customs can also constitute racial harassment, as does behaviour that has the effect of fostering hatred and/or prejudice towards individuals of particular racial groups. Racial harassment in employment and vocational training is explicitly prohibited under the Race Relations Act 1976 and subsequent amendments.

3. Sexual Harassment

3.1 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, jokes, verbal and physical innuendo
- Using demeaning, gender-specific terminology
- Display or circulation of sexually explicit materials

[6] Harassment in employment and vocational training is unlawful under the Sex Discrimination Act 1975 and subsequent amendments; Race Relations Act 1976 and subsequent amendments; Disability Discrimination Act 1995 and subsequent amendments; Employment Equality (Religion or Belief) Regulations 2003; Employment Equality (Sexual Orientation) Regulations 2003; Employment Equality (Age) Regulations 2006. Protection from Harassment is also provided by the Protection from Harassment Act 1997.

- Coercive demands for sexual favours, (such as promotion or academic success depending on the 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 persisted in making such approaches, this is likely to be considered harassment by the recipient).

3.2 Sexual harassment in employment and vocational training is specifically prohibited under the Sex Discrimination Act 1975 and subsequent amendments.

4. Harassment on the grounds of Sex

4.1 Harassment on the grounds of 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, group or class would be considered sex harassment. Harassment on the grounds of sex is distinct from sexual harassment as, whilst the behaviour relates to a person's sex, it is not sexual in nature. Harassment on the grounds of sex in employment and vocational training is unlawful under the Sex Discrimination Act 1975 and subsequent amendments.

5. Harassment on the grounds of Disability

5.1 Harassment on the grounds of disability is unwanted conduct directed at a person on the grounds of their physical or mental disability. It may relate to the disability itself or the person's real or presumed capabilities.

5.2 Specific examples of disability-related harassment include individuals being ignored, disparaged or ridiculed because of their disability, inappropriate personal remarks, unnecessarily intrusive and inappropriate questions about a person's condition or excessive and unnecessary references to a person's disability. At its extreme, it can manifest as refusal to work or study alongside someone with a disability. Harassment on the grounds of disability is prohibited under the Disability Discrimination Act 1995 and subsequent amendments.

6. Harassment of the grounds of Religion or Belief

6.1 Harassment of the grounds of religion or belief is unwanted conduct directed at a person on the grounds of their religion or a comparable belief system. It can also occur because a person is presumed to be of a particular religion or belief, even if this is not the case, or on the grounds of a person's non-adherence to a religion or belief system.

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

6.3 Harassment on the grounds of religion or belief is specifically prohibited by the Employment Equality (Religion or Belief) Regulations 2003. Specific advice

regarding cults can be found in Chapter 1 ‘Welfare, advice and guidance’ of the Student Handbook.

7. Harassment on the grounds of Sexual Orientation

7.1 Harassment on the grounds of sexual orientation is unwanted conduct directed at a person on the grounds 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 on these grounds may often go unreported because a person does not wish to disclose their sexuality.

7.2 Harassment on the grounds of sexual orientation may be specifically manifested as 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 on the grounds of their sexuality and actual physical assault. ‘Outing’ someone by, for example, the release of personal information, would also be considered harassment. Harassment of staff on the grounds of sexual orientation is specifically prohibited under the Employment Equality (Sexual Orientation) Regulations 2003.

8. Harassment on the grounds of Gender Reassignment

8.1 Harassment on the grounds of gender reassignment is unwanted conduct directed at a person who intends to undergo, is undergoing or has undergone a gender reassignment process, (that is, to change their identity from one gender to the other). Specific examples of such harassment include excluding a person, jokes and name-calling and refusing to acknowledge the person in their acquired gender. This type of harassment is prohibited under the Sex Discrimination Act 1975 and subsequent amendments.

9. Harassment on the grounds of Age

9.1 Harassment on the grounds of age is unwanted conduct related to a person’s age. It can occur on the grounds of a person’s real or perceived age and applies to the ‘young’ and ‘old’ alike. Specific examples of age-related harassment include jokes, name-calling and comments relating to a person’s age or comments about their presumed abilities. Harassment of staff on the grounds of age is specifically prohibited by the Employment Equality (Age) Regulations 2006.

Appendix 2
Sources of Help and Advice

The University recommends the Harassment Advisers Services as the first source of support and advice for anyone who believes they are being subjected to Harassment. The Harassment Advisers Services is also available to offer support and advice to any person involved in an allegation of Harassment. Full details of the Harassment Advisers Service are provided in Appendix 3.

The groups/people below will also be able to offer support, help and advice to those subjected to, witnessing or accused of Harassment.

Service	Contacts
Harassment Advisers Service	Visit www.hr.bham.ac.uk/empsupport/ for a full list of direct contacts or email harassment@contacts.bham.ac.uk
Specifically for Staff	
Confidential Assessment Service	0121 414 5117 confidentialassessment@contacts.bham.ac.uk
Occupational Health	0121 414 5251
Line Manager/Senior Manager	
Union Representative	
Specifically for Students	
The ARC at The Guild of Students	0121 251 2400 thearc@guild.bham.ac.uk
Student Counselling and Guidance	0121 414 5130 www.as.bham.ac.uk/study/support/counsell/
Niteline at The Guild of Students	students.bugs.bham.ac.uk/niteline/ niteline@guild.bham.ac.uk
Personal/Welfare Tutor	

Appendix 3
Harassment Advisers' Service

1. Who can a Harassment Adviser Assist?

1.1 Harassment Advisers are dedicated to making the University of Birmingham a safe and positive environment in which to work and study. Harassment Advisers are here to assist any member of the University of Birmingham affected by Harassment including staff, students, and visitors. The service they provide is completely confidential and allows members of the University to discuss their problems without recourse to formal University processes.

2. What can a Harassment Adviser do?

2.1 A Harassment Adviser is a sympathetic, unbiased, neutral colleague who can assist alleged victims of Harassment or those accused of Harassment.

2.2 A Harassment Adviser can:

- Provide a supportive, confidential environment in which to discuss problems;
- Support those seeking their advice in making decisions that are right for them and their situation;
- Provide information on the options that are available;
- Assist those seeking advice in thinking those options through;
- Empathise without judgement;
- Accompany service users at meetings in an informal capacity or under their 'right to be accompanied'; and
- Provide a visitation record as proof that assistance was sought upon request by the service user.

3. What can't a Harassment Adviser do?

3.1 Harassment Advisers cannot:

- Force those seeking advice to do anything they don't want to do;
- Pass on specific information or details about who has accessed the service except for a visitation record at the request of the service user;
- Make decisions for service users or 'fix' their situation;
- Take action against the Alleged Harasser;
- Mediate or negotiate between the Complainant and the Alleged Harasser. There is a separate Mediation Service to assist with this;
- Provide counselling. The Confidential Assessment Service can assess and signpost staff to counselling service. Student Counselling and Guidance can provide confidential counselling to registered students;
- Give directional advice;
- Act as an advocate. Harassment Advisers can provide informal support only;
- Meet with other parties to the complaint; or
- Meet with service users outside of office hours or outside of the University premises.

4. Who are the Harassment Advisers and how can they be contacted?

4.1 The Harassment Adviser Service is provided by volunteer members of staff for the benefit of the University community. Harassment Advisers have volunteered their own time to the programme and are dedicated to making the University a safe and productive environment in which to work, study and visit. Harassment Advisers are from a variety of areas of the University, including the Guild of Students, Corporate Services and the Colleges, and represent a wide range of staffing levels and social groups.

4.2 The Harassment Advisers contact details are listed on the University of Birmingham website at www.hr.bham.ac.uk/empsupport/. Alternatively a list can be obtained through the Employee Support Programme Manager (Workplace Wellbeing), the Security Office, Academic Office, Student Counselling and Guidance, Occupational Health and the Guild of Students.

4.3 Service users can select whichever Harassment Adviser they consider to be most appropriate, although it is strongly recommended that the Advisers based in their own or the Alleged Harassers department are not selected to avoid potential conflict of interests.

4.4 Occasionally, a Harassment Adviser may need to refer service users to another colleague on the panel. This may be due to personal commitments, a potential conflict of interest or because another Adviser is better equipped to assist with the particular issue.

4.5 At the end of each session a Harassment Adviser will provide service users with a Harassment Adviser Feedback Form. This form should be completed and returned either to the Harassment Adviser or to the Employee Support Programme Manager. If users feel that the service does not meet their needs or wish to be referred to a different Harassment Adviser, the Employee Support Programme Manager should be contacted.

5. How can I become a Harassment Adviser?

5.1 The Harassment Adviser Service endeavours to work towards maintaining the highest standard of service possible. Recruitment to the service is undertaken either every two years or on an as needed basis. Interested parties can either contact the Employee Support Programme Manager to register interest in becoming a Harassment Adviser, or wait for recruitment periods. Recruitment will be advertised through Buzz, information booths at Staff House and through emails sent to Heads of Schools.

5.2 To ensure best practice, the Harassment Advisers undergo initial training covering the legal definition of Harassment, relevant University policies and procedures, how to assist clients and when to seek further support. Further training and casework/supervision meetings with the Employee Support Programme Manager then take place on an as needed basis.

5.3 The recruitment process will involve completing an application form and must have the support of the applicant's line manager. All applicants will go through an interview process with the Employee Support Programme Manager and a current member of the Harassment Adviser Team.

6. Confidentiality

6.1 The Harassment Advisers adhere to the Employee Support Programme Confidentiality Policy. Advisers will not release any names or identifiable information about staff, students, or visitors that use the service without consent. Any information recorded by Advisers will be kept in a secure place for reference for future appointments. Copies of requested Visitation Records will be kept both by the Harassment Adviser and the Employee Support Programme Manager. All records and information will be maintained in accordance with the Data Protection Act.

6.2 Information on service users' race, gender, disability and the reasons for their using the service are collected for statistical purposes, but will not be used or presented in such a way that individual service users could be identified.

7. Contact Details

7.1 A full list of Harassment Advisers can be found at:
www.hr.bham.ac.uk/empsupport/

7.2 Alternatively a list of Advisers can be obtained through the Employee Support Programme Manager (Workplace Wellbeing Unit), the Security Office, Academic Office, Student Counselling and Guidance, Occupational Health and the Guild of Students.