

Bullying and Harassment

Dignity and Respect: Dealing with Bullying and/or Harassment UPR EQ10 version 04.0

Policies superseded by this document

This document replaces version 03.0 of UPR EQ10, with effect from 29 November 2021.

Summary of significant changes to previous versions

Significant changes to version 02.0

This document has been rewritten for clarification purposes. Some small amendments and additions have been made as follows:

- The University’s statement on zero tolerance approach to Bullying & Harassment has been added.
- Examples of Harassment have been provided.
- The number of investigators required has been reduced from two to one.
- Duties of the Recipient have been clarified to reflect current practice.
- Mediation is now offered as an outcome of formal process.
- The complaint process has been clarified.
- A definition of victimisation has been included.

The notification of formal complaint form is provided in Appendix II.

Significant changes to version 03.0

Appendix III ‘Sexual violence and harassment’ has been added.

Glossary

A glossary of approved University terminology can be found in [UPR GV08](#).

Table of contents

1	Policy Statement	2
2	Purpose and scope	3
3	Definitions	5
3.1	‘Harassment’:	5
3.2	‘Bullying’:	6
3.3	‘Victimisation’:	6
4	Roles	7
4.1	‘Complainant’:	7
4.2	‘Respondent’:	7
4.3	‘Recipient’:	7
4.4	‘Employee’:	7
4.5	‘Student’:	7

4.6	‘Visitor’:	7
4.7	‘Dignity and Respect Adviser’:	7
4.8	‘Investigator’:	7
4.9	‘Recognised Trade Union’	7
4.10	‘SBU’	7
5	Informal process	8
5.2.1	Confidential interview	8
5.2.2	Direct approach by the Complainant	8
5.2.3	Facilitated approach involving a third party	8
5.2.4	Mediation	8
6	Formal process	9
6.1	Recipients	9
6.2	Step 1 – Lodging a formal complaint	9
6.3	Step 2 – Initial Meeting	10
6.4	Step 3 - Investigation	10
6.5	Step 4 (Optional) - Further meeting	11
6.6	Step 5 - Decision	11
6.6.1	Where the complaint is not upheld	11
6.6.2	Where the complaint is upheld	11
6.6.3	Malicious, Frivolous or Vexatious complaints	12
7	Review of process	12
8	Support available	13
8.1	Staff Support	13
8.2	Student Support	13

1 Policy Statement

- 1.1 The University’s policy to prevent and deal with bullying and/or harassment (UPR EQ10) is part of the institution’s strategy for promoting equality and valuing diversity and for protecting and enhancing the wellbeing of employees and students. It has been the subject of wide consultation within the University and has the support of the Recognised Trade Unions and the Students’ Union. This policy (UPR EQ10) should be read in conjunction with the University’s Equality and Diversity Policy (UPR EQ03¹) and other relevant policies.

¹ UPR EQ03 ‘Equality and Diversity Policy’

- 1.2 The University is committed to providing an environment for all its staff and students that is comfortable and free from all forms of bullying and harassment. The University adopts a zero-tolerance approach towards bullying and harassment and any employee or student who is found to have harassed or bullied a member of the University community will be subject to disciplinary action in accordance with UPR HR02² and UPR SA13³.
- 1.3 Employees and students are encouraged to report any incidents of bullying and/or harassment that they experience or witness so that the University can investigate the matter. Such complaints will be taken seriously and anybody who makes a genuine complaint of bullying and/or harassment will not be penalised or victimised in any way.
- 1.4 Vexatious or frivolous use of this policy may result in disciplinary action being taken against the complainant. A vexatious complaint is one which is raised maliciously or in bad faith.
- 1.5 The University will provide advice and support for anyone who experiences bullying and/or harassment and encourages those individuals to seek advice and, as appropriate, to take informal and formal action.

2 Purpose and scope

- 2.1 This policy covers all forms of bullying and/or harassment and may be used by:
 - i. members of the Board of Governors, employees, and students of the University of Hertfordshire;
 - ii. contractors and self-employed consultants working on University premises;
 - iii. visitors to University premises including individuals who have or may apply for admission as students or who have applied for employment, persons hiring the University premises or persons otherwise using the University's premises or facilities;
 - iv. the employees, Directors and clients of the wholly-owned subsidiary companies and their wholly-owned subsidiaries where UPR EQ10 has been adopted by the relevant Board of Directors.

(Note for guidance:

The Student's Union will deal with any incident of bullying and/or harassment that occurs on its premises involving employees or students of the University, or at an event which it has organised (regardless of whether the incident(s) happened on its premises), by means of its internal procedures. Where appropriate, the Students' Union may refer an incident to the University, for example, where an employee is involved.)

² UPR HR02 'Staff Disciplinary Policy'

³ UPR SA13 'Student Discipline'

- 2.2 This policy has two purposes:
- i to assist in developing an institutional ethos in which bullying and/or harassment are unacceptable, and to empower individuals to deal with any incidents that occur;
 - ii to provide a process whereby complaints relating to bullying and/or harassment may be resolved by means of informal and/or formal action.
- 2.3 UPR EQ10 may only be used for the consideration of complaints of bullying and/or harassment. Complaints concerning any other types of unfair or discriminatory treatment should be made using either the staff grievance policy (UPR HR03⁴) or the student and applicant complaints procedure (UPR SA16⁵).
- 2.4 Where a complaint includes, but is not solely related to, bullying and/or harassment, advice on how to proceed should be sought from those listed in section 8 of this document.
- 2.5 Where either of the parties involved in the complaint is unable to maintain the usual work or study relationship, the University will seek to address this in a way that causes minimum distress and disruption.
- 2.6 Where a complaint of bullying and/or harassment is made against an employee prior to, or during, performance management or disciplinary proceedings where the employee is already the subject of these procedures, all matters will be dealt with concurrently.
- 2.7 Other than in mediation meetings, the Complainant and Respondent have the right to be accompanied, as appropriate, by a workplace colleague employed by the University or an employee or official of a Trade Union, in the case of a staff member, or a Student's Adviser, at any meeting at which the matter is to be discussed. The role of the person accompanying does not permit them to answer direct questions for the employee or student, but they may present the student's or employee's information during proceedings. Although the student might, for example, invite a lawyer or a Trade Union representative to act as their Adviser, it should be noted that the person attends the meeting purely in an advisory capacity and does not, therefore, act as the students' representative.
- 2.8 Where the Vice-Chancellor (or nominee) has reason to believe that there is a risk to the personal safety, either of the Complainant or of another person, or where it is believed that a criminal offence has taken place, the Vice-Chancellor (or nominee) may inform the Police and/or take legal advice, before proceeding with any internal action. Complainants will be supported in reporting hate crimes or any other criminal harassment such as stalking, to the Police.

⁴ UPR HR03 'Staff Grievance Policy'

⁵ UPR SA16 'Student and Applicant Complaints'

3 Definitions

For the purposes of this document the following definitions will apply.

3.1 'Harassment':

Unlawful Harassment is unwanted conduct related to a protected characteristic, which has the purpose or effect of violating a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for that person. The effect of the conduct (and not the intentions behind it) is key to deciding whether harassment has occurred. A single event or a series of incidents might constitute harassment.

Unlawful harassment therefore may involve conduct of a sexual nature (sexual harassment), or it may be conduct related to age, disability, gender reassignment, marital or civil partnership status, pregnancy or maternity, race, sex or sexual orientation, religion or belief.

Harassment may take many forms including, but not limited to,

- i unwanted physical conduct or 'horseplay', including touching, pinching, pushing or grabbing;
- ii offensive jokes or language;
- iii continued suggestions for social activity;
- iv 'outing' or threatening to 'out' someone's sexual orientation;
- v misuse of correspondence including email, social networking and any other technology;
- vi sending or displaying material that some people may find offensive;
- vii racist, sexist, homophobic or ageist jokes or derogatory or stereotypical remarks about particular ethnic or religious groups or gender;
- viii mocking, mimicking or belittling a person's disability.

A person may be harassed even if they were not the intended 'target'. For example, a person may be harassed by jokes about a different ethnic group if the jokes create an offensive environment.

Harassment can occur either on University premises or elsewhere, between employees; between students; between employees and students, and between employees or students and others, for example external partners, in the course of their direct working, professional, academic and social relationships.

The University has a legal responsibility to have 'due regard' in carrying out its functions to:

- i eliminate harassment and any other conduct prohibited by the Equality Act 2010; and

- ii advance equality of opportunity between people who have a protected characteristic and those who do not; and
- iii foster good relationships between people who share a protected characteristic and those who do not.

3.2 'Bullying':

Bullying is offensive, intimidating or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure another person. It has the purpose or effect of controlling individuals, making them unsure and insecure in their relationships or roles and undermining their confidence and self-esteem. It may include ridiculing or demeaning someone; setting a person up to fail; deliberately undermining a person's confidence or competence, for example, by deliberate work overloading or unjustified constant criticism.

3.3 'Victimisation':

Victimisation is when a person is treated unfairly because they complain about discrimination or help someone who has been the victim of discrimination. The Equality Act recognises that individuals may be worried about complaining, and so provides further legal protection for such complainants.

Therefore, a person (A) victimises person (B) if A subjects B to a detriment as an individual because:

- Person B does a protected act, or
- Person A believes that B has done, or may do, a protected act.

Each of the following is a protected act:

- i making a claim of discrimination/bringing proceedings under the Equality Act 2010;
- ii giving evidence or information in connection with proceedings under this Act (for example, providing a witness statement in relation to someone else's discrimination claim);
- iii doing any other thing for the purposes of or in connection with this Act;
- iv making an allegation (whether or not express) that Person A or another person has contravened the Equality Act.

Giving false evidence or information, or making a false allegation, is not a protected act if the evidence or information is given in bad faith, or if the allegation is made in bad faith. A person is still protected from victimisation if they give information which they believed to be true even if it later proves to be wrong or if the proceedings are unsuccessful.

4 Roles

4.1 'Complainant':

A person making a complaint.

4.2 'Respondent':

The person against whom a complaint is made.

4.3 'Recipient':

The individual with whom a formal complaint of bullying and/or harassment should be lodged.

4.4 'Employee':

A member of staff employed by the University, and in cases where this policy (UPR EQ10) has been adopted by their respective Board of Directors, the wholly-owned subsidiary companies or their wholly-owned subsidiaries.

4.5 'Student':

A person registered by the University, following a University owned and/or delivered programme delivered at the University which will be assessed and will normally lead to a University award.

4.6 'Visitor':

An individual who is neither a student nor an employee, for example, an individual who has or may apply for admission as a student or for employment, a person hiring University premises or a person otherwise using the University's premises or facilities.

4.7 'Dignity and Respect Adviser':

An employee trained by the Equality Office as a Dignity and Respect Adviser, with whom concerns about possible bullying and harassment may be discussed in a confidential interview.

4.8 'Investigator':

An employee trained to investigate complaints of bullying and/or harassment.

4.9 'Recognised Trade Union'

a trade union formally recognised by the University for the purposes of collective bargaining (i.e. The University and Colleges Union (UCU) and UNISON).

4.10 'SBU'

Strategic Business Unit.

5 Informal process

5.1 It is expected that, initially and where appropriate, complaints of bullying and/or harassment will be resolved informally. An informal route can include bringing the matter to the attention of a line manager, the Equality Office, Human Resources, the Office of the Dean of Students, a Dignity and Respect Adviser or a Trade Union or Students' Union representative.

5.2 The following options are available to resolve complaints informally:

5.2.1 Confidential interview

A confidential interview with an appropriate person can be sought as a way of addressing the matter informally, and for advice and guidance to deal with the matter. The confidential interview does not oblige the person who has sought the interview to take any action. It is an opportunity to discuss their perception of events and their effects, and to consider the options outlined in this section (5).

The informal interview will remain confidential. However, where it is considered that there is a risk to personal safety and/or a potential criminal offence, the interviewer will immediately seek advice, as appropriate, from the Director of Human Resources and/or the Office of the Dean of Students.

5.2.2 Direct approach by the Complainant

This usually involves the Complainant outlining to the Respondent, either in person or in writing, their complaint and asking the Respondent to make comment and either change or stop the perceived unwelcome behaviour. Where a Complainant makes an approach in person, it is strongly recommended that they are accompanied. If the approach is made in writing, the Complainant should keep a copy of the correspondence.

5.2.3 Facilitated approach involving a third party

The Complainant may request that a third party, for example, the Equality Office, Human Resources, Dean of Students or the Students' Union, facilitates a meeting between them and Respondent to resolve the problem. Such a meeting can provide an opportunity for both sides to discuss the situation, perhaps from different perspectives, with the aim of achieving a resolution whereby the alleged behaviour is not repeated.

Both parties involved in the meeting must agree that the meeting, and any resolution, will be confidential and that no record will be placed on any individual's personal file.

5.2.4 Mediation

Mediation is undertaken by a trained mediator. It is a voluntary process where the mediator facilitates two or more people in dispute in an attempt to reach an agreement. Any agreement comes from those in dispute and not the mediator. Mediators will be neutral from the individuals involved in the complaint. Mediation is an option available during the informal stage of this policy but can also be recommended upon the conclusion of an investigation undertaken in accordance with the formal stage.

- 5.3 It will not always be possible or appropriate to attempt to resolve a complaint through informal action. In some cases, an informal approach may have been tried and proven unsuccessful and in other cases, the alleged incident(s) may be so serious that it is not appropriate to attempt informal resolution.

6 Formal process

6.1 Recipients

For the purposes of the Formal Process and in the following circumstances, the Recipients under this stage are:

(Note for guidance:

Where the individual who would normally act as the Recipient is the subject of the complaint or has had previous involvement in the matter, the complaint should be directed to the alternative person/department below.)

Type of complaint	Recipient
Student complaints	the Head of the relevant SBU or the Office for Dean of Students
Employee complaints	the Head of the relevant SBU or Human Resources via employeesupport@herts.ac.uk
Visitors' complaints	Secretary and Registrar
Any complaint from a student, member of staff or visitor involving the Deputy Vice-Chancellor, Group Finance Director or the Secretary and Registrar	Vice-Chancellor
Any complaint from a student, member of staff or visitor involving the Vice-Chancellor or a member of the Board of Governors other than the Chair of the Board	Chair of the Board
Any complaint from a student, member of staff or visitor involving the Chair of the Board	Chair of the Audit and Risk Committee (a copy of the formal complaint is also to be submitted to the Vice-Chancellor)

6.2 Step 1 – Lodging a formal complaint

6.2.1 A formal complaint:

- i must be made in writing using the '**Formal Complaint: Allegation of Bullying and/or harassment**' form. Complaints made in another format may require further clarification by the recipient and/or investigator;

- ii must be lodged with the appropriate Recipient not more than three (3) months from the date of the incident, or if there have been a number of incidents over a period of time, not more than three (3) months from the date of the last incident.

6.2.2 The Recipient:

- i will inform Human Resources or the Office of the Dean of Students that a complaint has been received;
- ii will liaise with Human Resources or the Office of the Dean of Students before proceeding to determine whether or not, at this point, it is necessary either to restrict contact between the parties;
- iii will formally acknowledge receipt of the complaint to the Complainant within five working days of receipt or as soon as possible thereafter;
- iv will formally notify the Respondent that a complaint has been made.

6.3 Step 2 – Initial Meeting

The Recipient:

- i will invite the Complainant to an initial meeting to discuss the complaint which may include a discussion of any scope for informal resolution or may conclude that the matter should be referred for other appropriate action, such as mediation;
- ii where the Recipient concludes that the matter should be formally investigated, they will initiate the investigation process (see section 6.4) and will liaise, as appropriate, with Human Resources and/or the Office of the Dean of Students;
- iii where the Recipient concludes that investigation is not required, they will:
 - a communicate this to the Complainant in writing; and
 - b advise the Complainant that this decision is final; and
 - c advise the Complainant of the limited grounds on which they may request a review (see section 7).

6.4 Step 3 - Investigation

6.4.1 Where the Recipient decides that in order to reach a decision, an investigation of the complaint is necessary, the Recipient must liaise, as appropriate, with Human Resources and/or the Office of the Dean of Students before proceeding.

6.4.2 The purpose of the investigation is to determine whether, on the basis of that investigation and on the balance of probability, harassment and/or bullying has occurred.

6.4.3 The Recipient:

- i will appoint an investigator who has had no previous involvement in the case, to investigate the complaint;

- ii will determine the timescale for that investigation and the date by which the investigation report is to be received by them (normally **30** working days from the date on which the investigation is commissioned);
- iii will write to all parties confirming:
 - a that an investigation will be conducted;
 - b the names of the investigator appointed;
 - c that all parties involved in the investigation are required to maintain confidentiality;
 - d that the Complainant and the Respondent have the right to be accompanied at any meeting at which the matter is to be discussed;
- iv will, throughout the formal process:
 - a ensure that the Complainant and the Respondent receive appropriate information concerning the progress of the investigation and appropriate support;
 - b be the contact person for the recognised Trade Unions/Students' Union supporting the Complainant and the Respondent.

6.5 Step 4 (Optional) - Further meeting

Having received the investigation report and before reaching a final decision, the Recipient may meet with the Complainant and/or the Respondent, but is not bound to do so.

6.6 Step 5 - Decision

6.6.1 Where the complaint is not upheld

The Recipient will write to the Complainant and Respondent within five (**5**) working days of receiving the investigation report, or as soon as possible thereafter, and

- i provide them with copies of the investigation report, including any appendices, and
- ii inform them of the decision, and
- iii advise the Complainant of the limited grounds on which they may request a review (see section 7).

6.6.2 Where the complaint is upheld

- i The Recipient will write to the Complainant and Respondent within five (**5**) working days of receiving the investigation report, or as soon as possible thereafter, and
 - a provide them with a copy of the investigation report, including any appendices, and

- b inform them of the decision, and
 - c advise that the decision is final, and
 - d that the matter has been referred for consideration under the relevant disciplinary process, and
 - e that the disciplinary process is confidential, and
 - f that the Complainant is not entitled to know the outcome of the relevant disciplinary process and is not entitled to challenge the outcome or eligible to use the appeal mechanisms within the disciplinary procedure;
- ii Where the Respondent remains employed by the University, the University will give full consideration to the possibility of relocation or redeployment of the Complainant/Respondent where appropriate.

6.6.3 Malicious, Frivolous or Vexatious complaints

The Recipient will write to the Complainant and Respondent within five (5) working days of receiving the investigation report, or as soon as possible thereafter, and

- i provide a copy of the investigation report, including any appendices, and
- ii inform them that the complaint has been deemed malicious, frivolous or vexatious; and
- iii that, where the Complainant is a student or an employee, the matter has been referred for consideration under the relevant disciplinary procedure;
- iv that, where the Complainant is a visitor, the matter will be referred to the Secretary and Registrar who will determine the course of action to be followed.

7 Review of process

- 7.1 In all cases, the decision of the Recipient is final. The Complainant is not entitled to request a review of the process where they are dissatisfied with any action taken in respect of the Respondent.
- 7.2 The Complainant may request a review of process on the following grounds:
 - i where the Complainant believes there have been procedural irregularities in the administration of the process;
 - ii where the Complainant believes that there has been bias on the part of the Recipient of the Investigators.
- 7.3 Review requests should be lodged with the Secretary and Registrar (or nominee) for consideration and decision.

8 Support available

8.1 Staff Support

Human Resources	employeesupport@herts.ac.uk
Equality Office	equality@herts.ac.uk 01707 289362 (internal 8562/4817)
Dignity and Respect Advisors	List available here .
Employee Assistance Programme	https://validium.com/vClub Username: Herts Password: support 0800 358 48 58
Occupational Health	occupational.health@herts.ac.uk
Recognised Trade Union	The University and Colleges Union contactucu@herts.ac.uk UNISON unison@herts.ac.uk

8.2 Student Support

Office of Dean of Students	deanofstudents@herts.ac.uk
Student Wellbeing	studentwellbeing@herts.ac.uk +44 (0)1707 284453
Equality Office	equality@herts.ac.uk
Students' Union	advice@hertfordshire.su 01707 285022

Sharon Harrison-Barker
Secretary and Registrar
Signed: **29 November 2021**

Alternative format

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