



Bullying and harassment

Student Code for Dealing with Bullying and Harassment

This code can be used by students to put a stop to all forms of bullying and harassment occurring in Open University contexts, including residential schools, tutorials, day schools and research supervision sessions. Part 1 sets out the policy and Part 2 covers the procedures for making a complaint, and how complaints should be handled.

Members of staff who believe themselves to have been bullied or harassed by students are covered by a separate policy, the Bullying and Harassment Code of Practice for Staff. Students can request copies of this code from their regional or national centre (or in the case of research students, the Research School).

All complaints of bullying or harassment will be treated seriously and thoroughly investigated. Disciplinary action can be taken in cases where bullying and harassment have been proved. Equally, the University can take disciplinary action against anyone proved to have made a malicious allegation under this code.

Cases of alleged serious criminal offence, such as physical and sexual assault, must be immediately reported to the police. In such cases the University will take no action under this code (other than suspension, if considered necessary) until the outcome of any criminal investigation is known.

Informal procedure

You may choose to start by pursuing a complaint informally. If so, you should try to keep a record of all incidents so that you are clear about what happened, when, where, and whether anyone else was there. Such records will be particularly useful if it becomes necessary to take more formal action.

YES? NO? →

- Pursue one or more of the following options:
- Talk to the person who is bullying or harassing you and ask him or her to stop.
 - Write to the person who is bullying and harassing you and ask him or her to stop. You should keep a copy of the letter in case further action is necessary.
 - Ask another student or a member of staff to go with you to speak to the person.
 - Ask a member of staff if he or she is prepared to take up the matter on your behalf.
 - Ask for advice, possibly from your OUSA representative or an appropriate member of staff.

- A member of staff taking informal action might:
- contact the person complained about and give him or her an opportunity to respond
 - arrange to meet both parties together
 - consult witnesses
 - ask that there be no reoccurrence of the behaviour complained about
 - make a record of the action taken
 - monitor the situation to ensure no reoccurrence

The behaviour you are complaining about stops.

YES? NO? →

No further action but you may want to keep a record.

Formal procedure

If your complaint cannot be resolved informally, or if you believe informal action to be inappropriate (for instance if the behaviour complained about is serious or persistent), contact the appropriate disciplinary authority (see appendix). Formal complaints should usually be made in writing.

The appropriate University officer (see appendix), or his or her nominee, will investigate and decide whether to take further action according to the relevant disciplinary procedure.

The investigation may include asking you and anyone stated to have knowledge of the circumstances of the alleged offence to attend for interview or to submit a signed statement.

In the case of sexual harassment any interview will, if possible, be conducted by someone of the same sex as yourself to minimise any feelings of embarrassment.

Complainants may ask another student or member of staff in whom they have confidence to accompany them to any interview.

On the basis of interviews and statements received, the appropriate University officer will decide whether or not further action should be taken.

- If a formal complaint is upheld the sanctions that can be imposed under the appropriate disciplinary code include:
- for students, excluding them from future attendance at tutorial centres, residential schools or University premises or, in the most serious cases, from study with The Open University;
 - for staff, formal warning or, in the most serious cases, termination of employment.

All parties should make every endeavour to deal with matters as quickly as possible

Part 1 Policy

1.1 Ensuring dignity and respect in the learning environment

The purpose of this policy is to assist in developing and encouraging a learning environment and culture in which bullying and harassment are unacceptable. The policy explains what bullying and harassment are and what steps individuals can take if they encounter such behaviour.

Bullying and harassment can have a devastating effect on an individual and damage the learning environment.

1.2 What are bullying and harassment?

There are many definitions of bullying and harassment. The Advisory, Conciliation and Arbitration Service (ACAS) suggests the following.

- Bullying can be defined as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.
- Harassment can be defined in general terms as unwanted conduct affecting the dignity of men and women. It may be related to age, sex, race, disability, religion, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

Some behaviour can cause offence where there is no malicious intent. The impact of behaviour on a person affected by it is more relevant than the motive behind it. It is relevant to ask the question: Would a reasonable person think that the behaviour amounted to bullying or harassment? In most cases people know, or should know, that remarks or actions are causing offence, and that causing such offence is unacceptable.

One trivial incident will not constitute bullying or harassment. However, a series of such incidents might do so, particularly where someone has expressed a dislike of such behaviour or has asked for it to stop. Threatened violence, threats relating to assessment issues, promises of special treatment in return for sexual favours, are examples where one incident would be sufficient.

Some forms of harassment are covered by legislation including the Sex Discrimination Act, the Disability Discrimination Act, and the Race Relations Act.

1.3 Examples of unacceptable behaviour

Unacceptable behaviour can manifest itself physically or in conversation, written communications, telephone calls, emails and electronic conference contributions. The following list provides a range of examples but is not exhaustive:

- Unnecessary and unwanted physical contact
- Excessive and unwanted contact of any kind
- Shouting or sarcasm
- Personal insults or name-calling
- Public humiliation, derogatory or belittling remarks concerning performance, opinions, or beliefs
- Constant non-constructive criticism
- Setting up for failure by imposing impossible workloads or deadlines
- Sexual innuendo
- Unwelcome advances, attention, invitations or propositions
- Staring or leering
- Suggestive and unwelcome comments or attitudes, insulting behaviour or obscene or offensive gestures
- Coercion, including promises of rewards in exchange for sexual or other favours
- Unwelcome comments on the effects of a disability on someone's personal life
- Offensive or derogatory comments relating to someone's gender, sexual orientation, colour, ethnic or national origin, age, socio-economic background, disability, religious or political beliefs, family circumstances or appearance
- Intrusion by pestering, spying, following, stalking etc.
- Persistently ignoring, patronising or excluding

- Displaying, transmitting or offering access to degrading, indecent, pornographic or racist material including posters, graffiti, websites and emblems.

1.4 Rights and responsibilities

All Open University students have the right to learn in an environment that is free from bullying and harassment. The University is committed to providing a learning environment in which all students and staff are given the dignity and respect to which they are entitled. The University has a responsibility to ensure that its activities are free from discrimination and do not endanger the health and safety of its students or its staff.

Everyone has a responsibility to respect the feelings and sensibilities of others in the study environment, and to behave in a way that does not cause offence. In some instances individuals may be genuinely unaware that their behaviour is causing offence, but it is the duty of each individual to be sensitive to the impact their conduct may have on others.

Students

Students have a responsibility to comply with this policy and to ensure that their behaviour towards other students and staff does not cause offence and could not in any way be considered to be bullying or harassment.

Differences in culture, religious and political beliefs, attitudes and experience, or the misinterpretation of social signals, can mean that what is perceived by the person experiencing the behaviour as bullying and harassment, may not be perceived in the same way by others. It is important to be sensitive to the feelings and reactions of others and adjust behaviour as necessary.

Students should discourage bullying and harassment by making it clear that they find such behaviour unacceptable and by supporting other students who experience such treatment.

Staff

Tutors and supervisors have a responsibility to comment critically but constructively on students' work and to challenge them academically. This is very different from bullying or harassment. However, it is important that consideration is given to style of dealing with others – tutors and supervisors should not behave in a way that would generally be considered offensive or unreasonable.

All members of staff (including associate lecturers, research student supervisors, staff at residential schools) are expected to:

- Set a good example by treating students and other members of staff with dignity and respect.
- Explain and promote awareness of the University's policy on bullying and harassment to students.
- Understand and implement this policy and make every effort to ensure that harassment and bullying do not occur.
- Respond speedily, sensitively and supportively to any student who makes an allegation of harassment.
- Attempt to resolve any incidents of bullying or harassment of which they are aware.
- Provide clear advice on the procedure and timescales to be adopted.
- Maintain confidentiality in accordance with this policy.
- Make sure there is no further problem of bullying, harassment or victimisation as a result of a complaint having been made.
- Report incidents of alleged bullying and harassment to the appropriate authority.

If staff are aware of behaviour of other staff or students that might cause offence they should not wait for a complaint to be made. If an incident is not serious it may be sufficient to call the individual aside and carry out 'awareness-raising'.

1.5 OUSA

Nearly all students are members of The Open University Students Association (OUSA). If they are raising a complaint, or have a complaint made against them, they can talk confidentially to a representative of OUSA and ask for advice and support. OUSA representatives can also accompany their members to meetings, which may result from a complaint under the procedure.

Part 2 Procedures

2.1 Introduction

These procedures provide a framework for dealing with complaints . They will also help to resolve problems quickly and informally wherever possible. Any student who experiences bullying or harassment will have the support of the University's management, and the Open University Students Association (OUSA) in putting a stop to it.

Timescales

Anyone who experiences or witnesses bullying or harassment should not wait until the situation reaches an intolerable level. It is easier to put a stop to unwanted behaviour as soon as it occurs. While there is no absolute time limit, if you wish to raise or report an incident, either informally or formally, it is advisable to do so as soon as possible after it has happened, because memories may fade.

It is particularly important to take immediate action if a complaint involves harassment or bullying at a residential school because it is very difficult to follow-up such complaints once a school is over and the students and staff have dispersed.

It is in everyone's interests that all complaints are dealt with as quickly as possible. A timescale for dealing with each complaint will be agreed and the parties involved will be kept fully informed of this.

Confidentiality

As a general principle the University will maintain confidentiality. Information will only be given to those who strictly need to know. If the complainant wishes to remain anonymous it is unlikely that it will be possible to take any action, although the University will seek to support all individuals in the resolution of genuine complaints and concerns. It may be possible to address such complaints through indirect methods, e.g. training initiatives, awareness-raising, publicising the Bullying and Harassment Policy.

There is a need to balance individual confidentiality with the nature of the risk. The decision as to whether a complaint should be progressed will usually rest with the complainant, but if there are unacceptable risks to health, safety or property it will be necessary to take action under this procedure whether or not the complainant agrees. If such action is necessary the complainant will be notified.

Group complaints

If several people are experiencing bullying or harassment from the same source, and complain as a group, individual statements should be made. If a complaint is made against several people, individual responses to complaints will be needed.

Accompaniment at meetings

An OUSA representative or a fellow-student or, in the case of a member of staff, a trade union representative or a work colleague may accompany either party (or a witness) to meetings which may result from a complaint under these procedures. In making their choice the parties involved should bear in mind that it would not be appropriate to insist on being accompanied by someone whose presence would prejudice the hearing or who might have a conflict of interests.

2.2 What to do if you wish to make a complaint

There are various ways in which individuals can deal with bullying or harassment. The approach taken can be either informal or formal but the onus is on staff and students to behave in a manner most likely to put a stop to objectionable behaviour as quickly as possible. In many cases this will mean choosing an informal route to begin with.

Informal complaints

If you choose to start by pursuing a complaint informally, you should try to keep a record of all incidents so that you are clear about what happened, when, where, and whether anyone else was there. Such records will be particularly useful if it becomes necessary to take more formal action.

You might take any of the following courses of action.

- Talk to the person who is bullying or harassing you, tell them about the behaviour that is causing you distress, and ask for it to stop. This should be done as soon as possible. In some cases, the person may be unaware that his/her behaviour is inappropriate or objectionable, or it

may be that his/her words or actions have been misinterpreted. In such cases, the misunderstanding needs to be cleared up speedily. Even where the behaviour was intentional, a swift and clear indication that it is objectionable may prove sufficient to stop it.

- Ask another student or a member of staff to go with you to speak to the person.
- Write to the person against whom you have a complaint, being specific about what offends you, and asking for the behaviour to stop. You should keep a copy of the letter in case further action is necessary.
- Ask a member of staff if he or she is prepared to take up the matter on your behalf.
- Ask for advice from your OUSA representative, an appropriate member of staff or an outside source. Following consultation you may decide to take no further action (but it might be necessary to take action even without your authority – see *Confidentiality* above).

Formal complaints

If your complaint cannot be resolved informally, or if you believe informal action to be inappropriate (for instance if the behaviour complained about is serious or persistent), you will need to contact the appropriate disciplinary authority (see appendix). Formal complaints should usually be made in writing.

2.3 If someone complains to you about being bullied or harassed

Someone who is experiencing bullying or harassment and is unable or unwilling to take the appropriate action, may talk to you about it. In these circumstances you should respect the confidence placed in you and give any support you can. You cannot take action on that person's behalf unless they explicitly ask you to.

2.4 If you witness harassment

You have a right to learn in an environment free from bullying and harassment. If you witness bullying or harassment you can complain on your own account. This would also apply to any perceived harassment of a more general nature, such as public disparagement of a group.

2.5 What the University will do in response to a complaint

Informal complaints

If a member of staff is asked to take informal action, the following steps will be taken.

- The member of staff will contact the person against whom the complaint has been made, explaining the nature of the complaint, and who has made it. The person will be given the opportunity to respond (any written complaint or written response will be made available to both parties). If he/she acknowledges that the behaviour has taken place, the situation will be monitored to ensure no reoccurrence. He/she will also be given a copy of this policy and advised of the procedure that would be followed if a formal complaint were to be made, or if there were to be a reoccurrence of the behaviour.
- If, after separate discussions with the parties involved, it is clear that there are differing views and perceptions of the situation, the member of staff may arrange to meet both parties together. Where this meeting does not lead to clarification or reconciliation, and the matter remains unresolved, the member of staff may consult any witnesses to clarify the situation. Where the member of staff decides that there is substance to the complaint the person who is being complained against will be asked to ensure no future reoccurrence, and the situation will be monitored. Support, guidance and/or counselling will be offered as appropriate.
- The member of staff will lodge a record of action taken, as detailed in *Records* – see below.

If the person complained against is a member of staff he or she may choose to involve his or her line manager in any informal proceedings. If a complaint is made against an external supplier of goods or services, the issues should be resolved locally if possible but the officer of the University responsible for arranging the contract must be kept informed.

Formal complaints

The appropriate University officer (see appendix), or his or her nominee, will investigate all formal complaints of bullying and harassment to decide whether to take further action according to the relevant disciplinary procedure. The investigation may include asking the complainant and anyone stated to have knowledge of the circumstances of the alleged offence to attend for interview or to submit a signed statement. In the case of sexual harassment any interview will, if possible, be

conducted by a member of senior staff of the same sex as the complainant to minimise any feelings of embarrassment. Complainants may ask another student or member of staff in whom they have confidence to accompany them to any interview. On the basis of interviews and statements received, the appropriate University officer will decide whether or not further action should be taken. The disciplinary procedures under which further action can be taken are designed so that the University can fulfil its obligations:

- To the complainant – to take the matter seriously, to investigate the allegation thoroughly and, if it is proved, to take swift and effective action to prevent a recurrence.
- To the person against whom the complaint is made – to investigate impartially, to make sure that the person has the opportunity to be represented, and to give a clear account of the allegation so that a case can be stated and witnesses can be called or cross-examined.

At any time during formal procedures, action to support the complainant's academic progress (for example, a move to another tutorial group) may be taken.

Action that can be taken as a result of a formal complaint

If a formal complaint is upheld the sanctions that can be imposed under the appropriate disciplinary code include:

- For students, excluding them from future attendance at tutorial centres, residential schools or University premises or, in the most serious cases, from study with The Open University.
- For staff, formal warning or, in the most serious cases, termination of employment.

2.6 Outcomes

The parties to a complaint about harassment or bullying will be informed individually of the final outcome of any investigation. The outcome will be expressed in terms of whether the complaint has been upheld or not. Information about outcomes will, as far as possible, be confidential to the parties involved. The parties will not be given information about any action taken as a result of a complaint being upheld.

2.7 Records

Record of informal action

Where informal action is taken under this code, records will be held as follows:

- Where a complaint is found to have no substance no record will be kept unless the individual against whom the complaint has been made asks for a record to be made. In this case it will be kept by the relevant disciplinary authority for one year after the investigation is closed.
- Where it is accepted by the person against whom the complaint has been made that there is substance to the complaint, a record will be kept by the relevant disciplinary authority for a period of one year of any correspondence relating to the informal complaint and the outcome. At the end of this period, provided no further accusations of harassment have been made and found to have substance, the record will be removed from the file and may not be referred to again.
- Where it is determined by the relevant disciplinary authority that there is substance to the complaint, a record will be kept for a period of one year of any correspondence relating to the informal complaint and the outcome. At the end of this period, provided that no further accusations of harassment have been made and found to have substance, the record will be removed from the file and may not be referred to again.
- Where it is not possible to decide whether there is any substance to the complaint, a record of correspondence relating to the informal complaint, the action taken to review the complaint, and any statements from the complainant and the person complained against, will be held for a period of one year on a separate confidential file in the offices of the appropriate disciplinary authority (see appendix). At the end of this period the record will be removed from the file and the incident will not be referred to again.

Record of formal action

A record of formal action will be held in accordance with the appropriate disciplinary procedures.

2.8 Victimisation

Victimisation or retaliation as a result of action being taken under this code is unacceptable and may lead to disciplinary action.

2.9 Appeals

Anyone who considers that they have been unfairly treated in terms of this code can write to the University's Complaints and Appeals Office and request that their case be referred to the Director, Students.

2.10 Monitoring

In order to evaluate the effectiveness of this code, the University wishes to monitor the level and kinds of problems that occur. For that purpose any member of staff who is approached by a student who claims to have been bullied or harassed should complete a copy of the monitoring form at the end of this code and return it to the Secretary, Office of the Director, Students for statistical analysis. The monitoring form should not contain names.

Nothing in this code will prevent members of staff or students from exercising their legal rights.

Appendix

Activity covered	Contact for advice/informal action	Disciplinary or Executive Authority for students *
All activities engaged in by research students	Head of Research Degrees Team	Chair of the Research Degrees Committee
Relationships with tutors	Staff Tutor	Student's National Director/Assistant Director, Student Services†
Tutorials, day schools and similar events	Staff Tutor	Most senior member of OU staff present at the event (reporting to student's National Director/Assistant Director, Student Services‡)
Residential schools	Residential school learning adviser	School Director ‡ reporting to student's National Director/Assistant Director, Student Services‡
Electronic conferences moderated by OUSA	Conference moderator	President of OUSA (reporting through LTS to the student's National Director/Assistant Director, Student Services‡)
Electronic conferences moderated by members of OU staff	Conferencing Team Leader	Director of LTS (reporting to student's National Director/Assistant Director, Student Services‡)
Examinations	Invigilator	Senior invigilator§ reporting to the student's National Director/Assistant Director, Student Services‡
OUSA events	Most senior OUSA officer present at the event or President of OUSA	President of OUSA (reporting to the student's National Director/Assistant Director, Student Services‡)

Notes

A complaint against the person listed as the informal contact should be made direct to the appropriate Disciplinary Authority.

If a complaint is against the Disciplinary Authority the contact for advice/informal action will, if necessary, request the Director, Students to take action in his/her place.

Updated August 2011

* *The Disciplinary Authority for staff is the relevant Head of Unit.*

† *National Director (for national centres in Scotland, Ireland and Wales) and Assistant Director, Student Services (for English regional centres)*

‡ *If a complaint has not been resolved by the end of the school, the Director of Assessment, Credit and Qualifications will assume responsibility for passing information to the students' National Director(s)/Assistant Director, Student Services) and, if more than one National Director/Assistant Director is involved, fulfilling a co-ordinating role, if required.*

§ *If a complaint has not been resolved at the end of the examination, the Director of Assessment, Credit and Qualifications will assume responsibility for passing information to the students' National Director(s)/Assistant Director, Student Services) and, if more than one National Director/Assistant Director is involved, fulfilling a co-ordinating role, if required.*

Student Code for Dealing with Bullying and Harassment Monitoring Form

Any member of staff who is approached by a student who claims to have been bullied or harassed should complete a copy of this form and send it to the Secretary, Office of the Director, Students, The Open University, Walton Hall, Milton Keynes, MK7 6AA.

The purpose of the form is to provide anonymous information about claims of bullying and harassment made by students. The information will be used for monitoring the overall level and nature of allegations of bullying and harassment within the University and the production of an annual report. Please tick appropriate boxes.

1.	Indicate your own staff category			
	Associate Lecturer	<input type="checkbox"/>	Central Administrative Staff	<input type="checkbox"/>
	Regional Academic Staff	<input type="checkbox"/>	Regional Administrative Staff	<input type="checkbox"/>
	Central Academic Staff	<input type="checkbox"/>	Other (indicate)	<input type="checkbox"/>
	Signed: _____		Date: _____	
	Print name: _____		Email: _____	

2.	Indicate the staff category of anyone with whom the allegation has already been discussed			
	Associate Lecturer	<input type="checkbox"/>	Central Administrative Staff	<input type="checkbox"/>
	Regional Academic Staff	<input type="checkbox"/>	Regional Administrative Staff	<input type="checkbox"/>
	Central Academic Staff	<input type="checkbox"/>	Other (indicate)	<input type="checkbox"/>

3.	Indicate the status of the person or persons complained against			
	Student	<input type="checkbox"/>	Central Administrative Staff	<input type="checkbox"/>
	Associate Lecturer	<input type="checkbox"/>	Regional Administrative Staff	<input type="checkbox"/>
	Regional Academic Staff	<input type="checkbox"/>	Other (indicate)	<input type="checkbox"/>
	Central Academic Staff	<input type="checkbox"/>		

STRICTLY CONFIDENTIAL

4.	Situation in which the alleged bullying or harassment took place			
	On-line conference	<input type="checkbox"/>	Telephone conversation	<input type="checkbox"/>
	Tutorial or day school	<input type="checkbox"/>	Email	<input type="checkbox"/>
	Study group	<input type="checkbox"/>	Other (indicate)	<input type="checkbox"/>
	Letter	<input type="checkbox"/>		
	Residential school	<input type="checkbox"/>		

5.	Nature of the alleged bullying or harassment			
	Physical contact	<input type="checkbox"/>	Exclusion	<input type="checkbox"/>
	Verbal abuse	<input type="checkbox"/>	Coercion	<input type="checkbox"/>
	Pestering	<input type="checkbox"/>	Obscenity	<input type="checkbox"/>
	Patronising	<input type="checkbox"/>	Other (indicate)	<input type="checkbox"/>
	Intrusion	<input type="checkbox"/>		

6.	Content of alleged verbal bullying or harassment, if applicable			
	Sexual	<input type="checkbox"/>	Physical characteristics	<input type="checkbox"/>
	Cultural	<input type="checkbox"/>	Physical abilities	<input type="checkbox"/>
	Racial	<input type="checkbox"/>	Intellectual abilities	<input type="checkbox"/>
	Religious	<input type="checkbox"/>	Other (indicate)	<input type="checkbox"/>
	Political	<input type="checkbox"/>		

7.	Outcome			
	No action taken at student's request	<input type="checkbox"/>	Other (indicate)	<input type="checkbox"/>
	Resolved following informal action	<input type="checkbox"/>		
	Referred to my line manager	<input type="checkbox"/>		
	Referred to appropriate National Director/Assistant Director, Student Services	<input type="checkbox"/>		

8.	Additional comments if any			