



HARASSMENT AND BULLYING POLICY AND PROCEDURES FOR STUDENTS

1. INTRODUCTION

- 1.1 The University has a duty to foster an environment in which students, staff and those associated with University activities may work and study effectively. Unwelcome behaviour of the kind described in this Policy Statement is unacceptable.
- 1.2 All members of the University, staff and students, are responsible for ensuring that individuals do not suffer sexual, racial or any other form of harassment, and that they are encouraged and supported in any legitimate complaint.
- 1.3 Harassment may occur where the harasser has a position of authority or in other contexts (for example, by students of fellow students or of staff members).
- 1.4 The University Harassment and Bullying Policy and Procedures detailed here should be adopted in any case where harassment of a student may have taken place.
- 1.5 Students will be made aware of the policy at the time of Enrolment, Induction and on the New Students website. It is also published on the University website and all students will have access to it. A parallel document covers staff.

2. POLICY STATEMENT

- 2.1 “Heriot-Watt University is committed to a working, learning and living environment that is free of discrimination and intimidation. Harassment is contrary to the University’s Charter and Statute law and disability discrimination is contrary to the Disability Discrimination Act 1995. Harassment may seriously worsen working and social conditions for staff and students at the University and therefore any incidents of harassment will not be tolerated, will be regarded extremely seriously and may be grounds for disciplinary action including dismissal or expulsion.”

This means that:

- (a) The University, through its appointed Designated Officers (see Appendix), will take prompt action on becoming aware that incidents involving alleged harassment have taken place.
- (b) Harassment may be grounds for disciplinary action including formal warnings, suspension, transfer, expulsion or dismissal (if involving a member of staff).
- (c) Any unwarranted allegations of harassment, made in bad faith with malicious intent, may also be grounds for disciplinary action which may include formal warnings, suspensions, transfer or expulsion.
- (d) Students subjected to harassment should raise the matter using the procedures outlined below.

Complaints will be handled with all possible speed and confidentiality. In dealing with the complaint the University will take such measures as are practicable to minimise anxiety for the individual concerned and conduct an investigation of the complaint in order to bring about a fair resolution

3. DEFINITION OF HARASSMENT

3.1 The University defines harassment as “unwanted conduct which has the purpose or effect of (a) violating another person’s dignity, or (b) creating an intimidating, hostile, degrading, humiliating or offensive environment for [another individual].”

3.2 Harassment can take many forms, occurs in a variety of circumstances and may be directed at an individual or group of individuals. It is not the intention of the harasser, but the conduct itself and the impact on the recipient, which determines what constitutes harassment. The impact of harassment can result in the recipient feeling discomfort or humiliation and may adversely affect the recipient’s performance, undermine security or prospects, or create a threatening or intimidating learning or living environment. It may provoke aggressive, retaliatory attitudes and actions. Certain behaviour will be, by its nature or severity, unwelcome even on a single occasion.

3.3 Social interaction in the University involving mutually acceptable behaviour should be distinguished from harassment. However, it should be borne in mind that what is initially acceptable to some may be offensive to others, and what is acceptable between persons A and B may not be acceptable to person C. The key element in harassment is that it is the conduct that is repeated, unwanted, unreasonable and offensive to the recipient.

3.4 Harassment and bullying can encompass matters relating to sex, sexual orientation, gender, gender reassignment, race or ethnic or national origins, socio-economic status, age, religion or similar philosophical belief, union membership or disability.

3.5 Examples of harassment include:

- Unnecessary touching;
- Unwanted physical contact or physical attack;
- Offensive, suggestive or derogatory remarks, gestures, mockery, taunts, pranks, jokes, insults or ridicule; in person, on the telephone, by emails or social networking sites
- Verbal abuse, threats or intrusive questioning;
- Insulting remarks based on the grounds of personal appearance or personal circumstances;
- Using an individual’s known disability to demoralise them;
- Leering at another individual’s body;
- Compromising invitations or gifts;
- Requests or demands for sexual favours;
- Circulation or displays of offensive, suggestive or degrading materials (such as pictures, graffiti or objects) in the teaching, learning, living or working environment;
- Sending of unwanted messages via e-mail and social networking sites;
- Ridicule for cultural differences such as appearance, dress, diet, religion or ethnic background;
- Subjecting an individual to group pressure;

- Derogatory or belittling remarks in front of others regarding appearance, work or personal attributes;
- Deliberately or repeatedly ignoring someone;
- Unwarranted exclusions;
- Any comments which imply that gender, age, sexual orientation, disability, race or ethnic or national origins, religious or other belief impairs the individual's ability to perform satisfactorily;
- Any other unwelcome physical, verbal or non-verbal conduct;
- Incitement to commit any such act.

3.6 Any difficulty in defining what constitutes harassment should not deter a student from complaining of behaviour which causes distress. Nor should anyone be deterred from making a complaint because of embarrassment or fear of intimidation or publicity. The University will respect the sensitivity involved in harassment complaints and their consequences as well as the need for the utmost confidentiality. Students must comply with the University's procedures and regulations. The making of malicious, vexatious or spurious allegations may, however, give rise to action under the relevant University Disciplinary procedures for students.

Sexual Harassment

3.7 Sexual harassment includes unwelcome conduct of a sexual nature, or other conduct based on sex, affecting an individual's dignity, in the teaching, learning, living or working environments, which cause the recipient discomfort or humiliation.

Racial Harassment

3.8 Racial harassment includes unwelcome and/or repeated derogatory statements or racially derogatory remarks by individuals or groups based on race, colour, nationality or ethnicity, which are offensive or objectionable to the recipient. The harassment may relate to racial discrimination and may involve inappropriate racial comments or activities in the teaching, learning, living and working environments.

Racial harassment includes hostile or offensive acts or expressions by an individual of one racial or ethnic origin against an individual of another racial or ethnic origin, or incitement to commit such an act.

Personal Harassment

3.9 Personal harassment includes inappropriate comments or activities in the teaching, learning, living or working environments concerning an individual's disability, age, socio-economic group, sexual orientation, gender orientation, religion or any other form of personal victimisation.

Bullying

3.10 Bullying is a particular form of personal harassment and may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power, position or knowledge through means intended to undermine, humiliate, denigrate or injure the recipient. It may occur in public or in private and may arise from the combination of an authoritarian personal style in the bully and a lack of assertiveness and self-confidence in the person being bullied. Examples of bullying include:

- Threats; abuse; public humiliation; ridicule; repeated shouting or swearing at an individual; undermining an individual; intimidating behaviour.

4 POSSIBLE CRIMINAL PROCEEDINGS

- 4.1** In certain circumstances harassment can be unlawful behaviour contrary to statute law including general provisions regarding Breach of the Peace as well as specific provisions made in: the Protection from Harassment Act 1997; the Criminal Justice Scotland Act 2003 (relating to antisocial behaviour orders) and the Protection from Abuse (Scotland) Act 2001, which provides that the court must, under certain circumstances, attach a power of arrest to an interdict for the purpose of preventing abuse and sets out the circumstances and procedure under which a person can be detained.

5 PHYSICAL ASSAULTS

- 5.1 If you have been physically assaulted, seek help immediately and report the incident to the police.**

6. PROCEDURES FOR DEALING WITH COMPLAINTS

- 6.1** Many individuals subjected to harassment do not complain because they feel embarrassed, they are worried they will be victimised, or they do not want to get the harasser into trouble.

- 6.2** The University operates a network of Harassment Advisers (see Appendix). The network comprises members of staff working in a variety of areas of the University and students are free to make contact with any one of them. The Harassment Advisers are there to listen to what has happened, to provide help and support, and to explain the options, whether or not someone wishes to make a formal complaint. They also have the names and addresses of external support groups and other professional bodies if referral is more appropriate.

- 6.3** The University guarantees that all complaints will be taken seriously and will be investigated swiftly, and that all parties involved will be treated with respect. Victimisation as a result of a student raising a complaint of harassment will not be tolerated and will be treated as harassment and subjected to disciplinary action. Likewise students (and staff) will be protected from victimisation or discrimination for assisting in an investigation.

- 6.4** There are two ways in which harassment may be dealt with: the informal approach and the formal approach, both of which are outlined below. If complainants are unsure of which route to follow they should approach one of the Harassment Advisers for help.

- 6.5** In situations where a student feels at serious risk of harm from another student, they should report this to one of the Designated Officers as soon as possible and University will aim to process this complaint as a matter of urgency and where necessary involve the Police.

7. INFORMAL APPROACH

- 7.1** Any student who is being subjected to harassment in any form by a fellow student or a member of staff should not feel that it is his or her fault or that it has to be tolerated.

- 7.2** If at all possible any student who feels subjected to harassment or bullying should consider telling the individual(s) concerned that their behaviour is causing offence and ask them to stop, indicating that such behaviour is interpreted as harassment as defined in this document. Such action may be sufficient to stop the offensive

behaviour. It may be helpful to prepare for this by talking the situation through with a friend or colleague, practising what to say and making a note of specific examples of behaviour which have caused offence.

- 7.3 If this approach does not work or is not appropriate, support and guidance on how to take the matter forward can be obtained from one of the Harassment Advisers who may also be able to act as a mediator if the matter can be resolved informally.
- 7.4 It is not essential to approach the individual(s) informally and deciding not to do so will not prejudice any further complaint made.
- 7.5 If the harassment continues and/or cannot be dealt with as suggested above, an informal approach to a tutor, mentor, supervisor or Head of School, either in person or through one of the Harassment Advisers or a designated friend may be more appropriate in order to resolve the matter informally.
- 7.6 If it is considered more appropriate, advice may be sought from one of the Designated Officers of the University (See Appendix). The Designated Officer consulted will conduct informal interviews with the student and the alleged harasser, and will advise both the individual and the alleged harasser in writing of the outcome of the discussions, where possible within one week of the meetings, setting out clearly what was discussed, the decision made and rationale for arriving at this decision. It should be noted that the University may not be able to disclose the full background details because of the need to protect confidential information.
- 7.7 In some cases, it may not be possible to approach someone informally or it might be inappropriate due to the seriousness of the complaint or the informal approach may not have been successful. Formal action might then be required.

8. FORMAL APPROACH

Stage 1

- 8.1 If the informal approach is not appropriate, does not result in a satisfactory outcome, and/or the harassment does not cease, the matter should be taken up by the student, Harassment Adviser or designated representative in writing with the appropriate Designated Officers (See Appendix).
- 8.2 The Designated Officer will deal with the complaint as follows:
 - (a) The complaint will be investigated promptly and tactfully, and in a way which meets the needs and merits of each situation. At all times confidentiality must be fully observed.
 - (b) Where possible, the Designated Officer will inform the individual causing offence in writing where possible within one week of receipt of the letter of complaint that a formal complaint has been made in accordance with this policy and of the nature of that complaint, and that the alleged harasser has the right to seek representation from a trade union, the Students Association or a colleague (as appropriate).
 - (c) The Designated Officer will call separate investigatory meetings with the student and the alleged harasser, together with their representatives if so desired, to attempt to resolve the matter. If both parties agree, a joint meeting may be convened instead of separate investigatory meetings. If witnesses

are to be involved at the investigation stage they will be advised of the seriousness of the investigation and of the necessity for strict confidentiality.

- (d) The Designated Officer will, where possible within one week of completion of investigatory meetings, reply in writing to all parties advising of the outcome of the investigation.
- (e) If at any stage it is not possible to respond within the specified time limit an explanation will be given for the delay and a date given for when a response can be expected.

Stage 2

- 8.3** If the outcome of Stage 1 is not satisfactory or the student continues to be aggrieved, the matter may be taken further by the student, designated representative or Designated Officer within five days of being notified of the outcome of the investigation by writing to:
- (a) the Director of Human Resources if the alleged harasser is an employee of the University. In such cases the matter will be dealt with under Stage 2 of the Harassment and Bullying Grievance Procedure for Staff, copies of which are available from the Human Resources Office; or
 - (b) one of the Deans of the University if the alleged harasser is a student. In such cases the procedures outlined in Ordinance 9 will be followed.

Stage 3

- 8.4** If a student feels that there has been an irregularity in the procedure followed up to and including Stage 2, there is a right of appeal to the University Court within fourteen days of receipt of confirmation of the outcome of the preceding stage(s).
- 8.5** The appeal should be made in writing to the Secretary of the University, specifying the grounds for appeal. The Secretary of the University will arrange for an appeal committee to be set up comprising three members nominated by the University Court. The need for diversity on the Committee must be borne in mind when choosing its members to ensure appropriate representation. For example, in a case of sexual harassment, there should be male and female representation on the Committee and all members should be familiar with the University harassment and bullying policy and procedures.
- 8.6** The appeals committee will, where possible, be convened within ten working days after receipt of the written request and will communicate its decision in writing to all parties concerned as soon as possible thereafter.

9. REVIEW

- 9.1** The Academic Registrar and Deputy Secretary must be informed of all formal Harassment and Bullying grievances raised in relation to students and will monitor progress of each case through the various stages.
- 9.2** At the end of each stage, a complete record of all appropriate documentation generated must be passed to the Academic Registrar and Deputy Secretary. The records will be maintained confidentially and retained in accordance with the UK Data Protection Act.

- 9.3 This policy and the procedures contained therein are subject to ongoing review by the Academic Registrar and Deputy Secretary and the Director of Student Welfare Services.

APPENDIX

HARASSMENT ADVISERS

Harassment Advisers have been appointed by the University to help anyone who feels that they are being harassed to resolve the situation either formally or informally.

			<u>Telephone Extension</u>
Morag Patten	-	Senior Counsellor Student Support and Accommodation	3387
Eleanor Drummond	-	Student Adviser Scottish Borders Campus	2178
Gail Edwards	-	Chief Executive Students Association	4499
Rev. Dr Alistair Donald	-	University Chaplain	4508

DESIGNATED OFFICERS

Kathy Patterson	Academic Registrar and Deputy Secretary K.Patterson@hw.ac.uk	3368
Christine Johnston	Director of Student Support and Accommodation <u>C.Johnston@hw.ac.uk</u>	4505