

### 3. Policy on Harassment including Sexual Harassment and Bullying

#### **Introduction**

Lincoln College is committed to equal opportunities and to providing an environment in which all staff (both employees and contractors), students and those for whom the College has a special responsibility (for example visiting academics and students – henceforth referred to as "visitors") are treated with dignity and respect, and in which they can work and study free from any type of discrimination, harassment, or victimisation. All members of College are responsible for upholding this policy and should act in accordance with the policy guidance in the course of their day-to-day work or study, ensuring an environment in which the dignity of other staff, students, and visitors is respected. Offensive behaviour will not be tolerated. Harassment is a serious offence which is punishable under the University's disciplinary procedures.

This Policy, and the Code of Practice which accompanies it, apply to the academic, office and domestic staff of the College, undergraduate and graduate students, and all others for whom the College is responsible. References to 'academic staff' include the Rector, Fellows, lecturers, and outside tutors teaching students of the College. Complaints will be considered under this Policy from any person whose relationship with any other person makes the College potentially responsible, whether or not the complainant is a member of the College.

The College is committed to making all staff and students aware of this policy and the accompanying guidance and to providing effective guidance and briefing on it. The College takes steps to ensure that both the policy and guidance are fully understood and implemented. The policy and guidance will be brought to the attention of all staff and students and are available on the College web-site. The policy forms a part of every employment, and student contract, or relationship, or contract for services. The College encourages a culture of non-tolerance of any form of harassment.

College officers and managers of College departments and all in positions of responsibility or seniority, including students who fall into these categories, have specific responsibilities. These include setting a good personal example, making it clear that harassment will not be tolerated, being familiar with, explaining, and offering guidance on this policy and the consequences of breaching it, investigating reports of harassment, taking corrective action if appropriate, and ensuring that victimisation does not occur as a result of a complaint.

#### **Definition of Harassment**

Harassment is unwanted conduct on the grounds of sex, marital status, gender reassignment, race, disability, religion/belief, sexual orientation or age that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.

Harassment may involve repeated forms of unwanted and unwarranted behaviour, but a one-off incident can also amount to harassment. Acts of harassment may be unlawful. Harassment on grounds of sex, race, religion, disability, sexual orientation or age may amount to unlawful discrimination. Harassment may also breach other legislation and may in some circumstances be a criminal offence e.g. under the provisions of the Protection from Harassment Act 1997. Harassment may occur through the use of internet, email, or telephone.

The other person's motives are not the main factor in deciding if behaviour amounts to harassment. Just because certain behaviour may be acceptable to the alleged harasser or another person does not mean it is not harassment. Being under the influence of alcohol or otherwise intoxicated will not be admitted as an excuse for harassment, and may be regarded as an aggravating feature.

Bullying. may be characterised by offensive, intimidating, malicious or insulting behaviour, or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. It includes any behaviour which makes someone else feel threatened, frightened, humiliated or taken advantage of. Some common forms of verbal abuse include verbal abuse; taunting; setting impossible deadlines or objectives; withholding key information or giving false information.

Victimisation occurs specifically when a person is treated less favourably because he/she has asserted his/her rights under this guidance, either in making a complaint or in assisting a complainant in an investigation. The College will protect any member of staff, student, or visitor from victimisation for bringing a complaint or assisting in an investigation. Victimisation is a form of misconduct which may in itself result in a disciplinary process, regardless of the outcome of the original complaint of harassment.

Sexual harassment has been characterised as 'a particularly degrading and unacceptable form of treatment', and is unacceptable to the College, as well as being unlawful, such that a victim may bring legal proceedings. If the conduct amounts to assault it may also constitute a criminal offence. All those to whom this Policy and the accompanying Code of Practice apply are under a duty not to engage in sexual harassment. Complaints that sexual harassment has occurred between persons to whom this Policy and the accompanying Code of Practice apply will be taken seriously by the College, and where appropriate may result in disciplinary proceedings. The College will monitor the incidence of sexual harassment in the College, and the resolution of complaints, by means of an annual statistical report to the Governing Body from the appointed Advisors.

Sexual harassment is a form of sex discrimination. Direct and indirect sex discrimination is unlawful under the Sex Discrimination Act 1975 and as the law has been amended under the Equality Act 2006. Direct sex discrimination is less favourable treatment on the grounds of sex. Sexual harassment is direct sex discrimination by way of uninvited conduct based on the sex of the recipient which is intimidating, hostile or offensive to the recipient.

It can include harassment which has not been directed at them specifically, but that they have witnessed and which violated their dignity.

It may include unwelcome behaviour of a sexual nature which the recipient finds intimidating, hostile or offensive, ranging from unwelcome sexual advances, unpleasant or denigratory remarks, to the display of offensive material of an explicitly sexual nature. Such conduct may be physical, verbal or nonverbal. An aggravating feature of some cases of sexual harassment may be the abuse of a position of authority or trust. In general, the starting point for the determination of what is intimidating, hostile or offensive to the recipient will be the perceptions of the recipient of the alleged conduct. The College's policy dictates that the provisions of the Sex Discrimination Act and the Equality Act cover homosexual as well as heterosexual harassment.

Reasonable and proper management instructions administered in a fair and proper way, or reasonable and proper review of a member of staff's or a student's work and/or performance will not constitute harassment. Behaviour will not amount to harassment if the conduct complained of could not reasonably be perceived as offensive.

In summary, examples of behaviour that may constitute harassment are:

- suggestive comments or body language;
- verbal or physical threats;
- insulting, abusive, embarrassing or patronising behaviour or comments;
- offensive gestures, language, rumours, gossip or jokes;
- humiliating, intimidating, demeaning and/or persistent criticism;
- open hostility;
- isolation or exclusion from normal work or study place, conversations, or social events;
- publishing, circulating or displaying pornographic, racist, sexually suggestive or otherwise offensive pictures or other materials;
- unwanted physical contact, ranging from an invasion of space to a serious assault.

(The above list is not intended to be exhaustive.)

### **Advice to individuals who may be suffering one or more forms of harassment**

Individuals may be unsure whether certain behaviour amounts to harassment. The first step may be to discuss the matter in confidence with a friend or colleague who is familiar with the College setting. Members of staff may want to discuss the matter with immediate superiors, colleagues or trade union representative. Students may want to discuss the matter with the Dean, Chaplain, Senior Tutor or another college officer with pastoral responsibilities. Student Welfare Officers and Peer Supporters may be a good people to talk to. OUSU's Student Advice Service also provides a confidential and impartial listening and advice service. University departments and faculties also have

harassment advisers: there are about 300 around the University, and many of them specifically advise outside their own department / faculty / college. The University operates a dedicated telephone service, so individuals can call 01865 270760 to be put in touch with such a harassment adviser. There is also a confidential e:mail facility at [harassment.line@admin.ox.ac.uk](mailto:harassment.line@admin.ox.ac.uk)

Discussing the situation with a College Harassment Adviser (see below) may help in assessing the problem. The Adviser can also provide further information on the steps that can be taken if the behaviour in question does not appear to be harassment under the terms of this guidance.

### **The College Code of Practice for dealing with cases of Harassment**

Every attempt should be made by all those involved to restrict information about alleged incidents of harassment to those who need to know for the resolution of the allegations. Information concerning allegations of harassment should be treated in the strictest confidence. Breaches of confidentiality may give rise to disciplinary action.

In order to assist a potential complainant and to achieve, whenever possible, a fair, informed and confidential resolution of the problem, the Governing Body appoints two Harassment Advisors, one being a man and the other a woman.

The Harassment Advisors have three main functions:

- to listen effectively and discuss the situation with the complainant;
- to give the complainant clear information, help and guidance about the options available, the next steps to take, and how best to take them; and
- to support the complainant through the resolution process.

Any person to whom this Policy and Code of Practice apply may approach an Advisor for advice and assistance. The Advisor shall initially seek to assist the potential complainant him/herself to deal with the problem. At the request of the potential complainant, the Advisor may also attempt an informal resolution of the problem, e.g. by clarifying misunderstandings or securing an apology.

In the event that either the potential complainant or the Advisor considers that informal steps are insufficient or inappropriate, then the Advisor shall make available, and if necessary, guide the potential complainant through, the College's procedures for dealing with formal complaints of harassment.

The Advisor will generally try to act in accordance with the wishes of the complainant in determining whether there should be a formal complaint. However, in certain cases, e.g. in cases where there are indications or evidence of particularly serious, persistent or widespread harassment, the Advisor may consider that the allegations require further investigation with a view to possible disciplinary action. In this event, if the complainant is not prepared to bring a formal complaint, the Advisor will take a statement from him/her, and all reasonable steps will be taken (subject to the College's need to apply its

policy and any disciplinary sanctions) to preserve the anonymity of the complainant if possible.

If informal steps are insufficient or inappropriate for resolving the complaint, the Advisor will be available to assist the complainant to prepare a formal case for presentation to the Rector. In cases where the Advisor considers that the matter should be investigated and the complainant is unwilling to take it further, the Advisor him/herself will prepare the formal case for presentation to the Rector.

The Rector will receive the complaint and will attempt to resolve the matter. If the Rector is unable to resolve the matter to the satisfaction of both the complainant and the alleged perpetrator, or if the general interest so requires (e.g. where there are indications or evidence of particularly serious, persistent or widespread harassment), the Rector shall institute an investigation. If the alleged perpetrator is part of the staff of the College, the Rector may temporarily suspend him/her from duties, with pay, pending final resolution of the issue. If the alleged perpetrator is a student, the Rector may require him/her to vacate the College pending final resolution of the issue.

The investigation shall be conducted by two members of the Governing Body, appointed by the Rector, one being a man and the other a woman.

The investigating Fellows will report the outcome of their investigation to the Governing Body. If the Governing Body decides that a prima facie case for complaint has been made out, the Governing Body shall convene a Panel to conduct a hearing. The Panel shall consist of three members, including at least one man and at least one woman. Not less than two of the members of the Panel shall be members of the Governing Body, excluding the Rector and those fellows who conducted the investigation.

The Panel shall conduct itself in whatever manner it considers most appropriate to enable it to investigate and determine the issues before it. The case against the alleged perpetrator will normally be presented by one or both of the investigating Fellows. But the Panel may ask other persons to present the case in addition to or instead of the investigating fellow(s) if it considers this more appropriate to the particular case before it.

The alleged perpetrator will be informed of the nature of the case against him/her and have sufficient detail of the evidence to present his/her defence. The alleged perpetrator and/or his/her friend, colleague or representative shall be given the opportunity to be heard at the hearing of the Panel.

The complainant may be accompanied to the Panel hearing by his/her friend, colleague or representative.

After its hearing the Panel shall report its finding to the Governing Body. If the Panel finds the complaint made out, it will determine what penalty, if any, should be imposed on the perpetrator. The penalty must be one within the lawful competence of the Governing Body. Where the perpetrator is a Fellow, the maximum penalty shall be that he or she be deprived of his or her fellowship; where the perpetrator is a member of staff who is not a Fellow, the maximum penalty shall be dismissal in accordance with the

College's disciplinary procedures; where the perpetrator is a student member of College, the maximum penalty shall be that he or she be expelled. The Panel will report its determination to the Governing Body, which will act in accordance with the Panel's determination.

Thereafter, a right of appeal will lie to the Visitor.

Precisely because harassment is viewed as a serious matter and is unacceptable behaviour, so too mischievous or malicious charges or complaints of harassment would be viewed seriously by the College.