

# HARASSMENT AND SEXUAL HARRASSMENT POLICY

## Purpose

The purpose of the harassment policy is two-fold: firstly to ensure a working environment at the Canon Collins Trust in which all staff members can expect to be treated with dignity and respect. Harassment of any kind is unacceptable and will not be condoned within or outside of the workplace. Allegations of harassment will be investigated fully and where substantiated disciplinary action will be taken as per the disciplinary procedure. This policy applies equally to paid employees, casual workers, interns or unpaid volunteers.

The second purpose is to increase employees' and Board members' awareness of harassment issues insofar as they relate to the Trust's partners. The same 'zero tolerance' outlook which applies to staff members is also expected of project partners and scholars, but clearly the sanctions which the Trust can apply will be different. Section C of this document deals with this.

## Section A – definitions and examples

### A.1 What is Harassment?

Harassment is defined as unsolicited, offensive and humiliating behaviour, practices or conduct which may threaten a person's job security, cause personal offence or create a stressful and intimidating working environment.

It is not necessary for the target of the harassing behaviour to make it clear that the behaviour is considered offensive and/or unacceptable. It is sufficient if the perpetrator should have known that the behaviour could be regarded as offensive and/or unacceptable.

Harassment can take many forms and may be directed at an individual or group of individuals. The grounds of harassment can include:

- race, ethnic origin, nationality or skin colour
- sexual harassment (see separate section below)
- sexual orientation
- religious or political beliefs
- disabilities
- status as ex-offenders
- age
- real or suspected HIV status
- willingness to challenge harassment, leading to victimisation

It is also important to note that sexual and racial harassment can be seen as discrimination under the Sex Discrimination Act 1975, Race Relations Act 1976 and the Disability Discrimination Act 1995 and claims for victimisation can be taken under these Acts.

## **A.2 What is sexual harassment?**

Sexual harassment occurs when a person engages in unwanted conduct of a sexual nature that has the purpose or effect of violating someone's dignity or creating an intimidating, hostile, degrading, humiliating, or offensive environment for them.

Conduct can still be considered sexual harassment notwithstanding the absence of intention on the part of the alleged harasser. Furthermore such conduct does not have to be intentionally directed at a specific person.

Sexual harassment is prohibited in all workplace contexts and related activities, including at office functions and parties, on training courses, business travel and at conferences. Sexual harassment can be perpetrated by other workers and non-workers, including contractors, agency staff, clients or customers.

Experiencing sexual harassment is one of the most difficult situations a worker can face.

This policy is intended to prevent and protect all Canon Collins workers from sexual harassment in the workplace. This applies to one-off incidents and ongoing incidents. This protection comes from both employment law and criminal law, depending on the circumstances involved.

In terms of the Equality Act, 2010 sexual harassment is unlawful and amounts to a form of discrimination.

Unwanted conduct of a sexual nature includes behaviour such as:

Physical	<ul style="list-style-type: none"><li>• All unwanted physical contact, including but not limited to touching, hugging, massaging, kissing and criminal behaviour including sexual assault and rape. Allegations concerning rape or sexual assault are both a criminal matter as well as an employment matter.</li></ul>
Verbal	<ul style="list-style-type: none"><li>• Sexual comments or jokes, innuendos, suggestions, hints, wolf-whistling or insults;</li><li>• Propositions and sexual advances;</li><li>• Comments with sexual overtones including comments about a person's body made in their presence or directed towards them;</li><li>• Intrusive questions about a person's private or sex life, and discussing your own sex life;</li><li>• Spreading sexual rumours about a person.</li></ul>
Non verbal	<ul style="list-style-type: none"><li>• Unwelcome or inappropriate gestures, actions, suggestive looks, staring or leering;</li><li>• Indecent exposure;</li><li>• Unwelcome display of sexually explicit pictures/objects/written words;</li><li>• Unwelcome Sexual posts or contact on social media;</li><li>• Sending unwelcome sexually explicit emails or text messages .</li></ul>
Power-play	<ul style="list-style-type: none"><li>• Occurs where a supervisor, manager or trustee undertakes to or attempts to influence a situation (including job offer, promotion, salary increment, training, or other benefits), in exchange for sexual favours.</li></ul>

The above list is by no means exhaustive and is meant to be a guideline of conduct that is deemed unacceptable in the workplace.

### **A.3 Who can be affected by sexual harassment?**

Sexual harassment can happen to anyone at any time and in any place. This includes the workplace.

Both men and women can be victims of sexual harassment. Workers can experience unwanted conduct from someone of the same or opposite sex. The recipient of the behaviour decides whether or not it is unwanted. Unwanted conduct need not be repeated in order to constitute sexual harassment. It is sufficient if such unwanted conduct is experienced once-off.

In addition, unwanted conduct does not need to be directed at a person. It can be witnessed or overheard. It is irrelevant whether the conduct is acceptable to others or is common in the work environment.

Sexual interaction that is invited, mutual or consensual is not sexual harassment because it is not unwanted. Sexual conduct that has been welcomed in the past can however become unwanted in the future.

### **A.4 Purpose or effect of sexual harassment**

Even if unwanted conduct is not *intended* to cause distress, it can still have the effect of violating a person's dignity or creating an offensive environment and intention (or lack of) is irrelevant.

Whether or not unwanted sexual conduct violates a person's dignity or creates an offensive environment, depends on the victim's perspective and whether their reaction is reasonable in all the circumstances. People have different reactions to sexual conduct and behaviour that might appear harmless to one person can be more serious to another. Factors that affect the creation of an offensive environment include the relative power, seniority, age, race and cultural background of the people involved.

<p><b>In view of the extreme seriousness of sexual harassment and the likely additional distress caused by it, the procedure for dealing with sexual harassment is different from the procedure relating to other forms of harassment, as shown in the next section.</b></p>
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## **Section B – Procedural guidance for Canon Collins staff and volunteers**

### **B.1 Sexual Harassment**

#### **B.1.1 Lodging a complaint of sexual harassment**

Any worker (or beneficiary of the Trust, such as a scholar) who has been the victim of sexual harassment or who has witnessed a member of staff, volunteer, intern or trustee being sexually harassed should lodge a grievance in writing to any member of the Fair Treatment Committee. If the complainant wishes his/her identity to be kept from the alleged harasser in the ensuing process s/he should make this clear, but anonymous complaints will not normally be acted upon. Members of the Fair Treatment Committee are:

- 1 The Chief Executive
- 2 Trustee Nicolette Naylor
- 3 Trustee Kai Easton

#### **B.1.2 Procedure**

- B.1.2.a As soon as a grievance of sexual harassment has been lodged to a member of the Fair Treatment Committee (hereinafter referred to as the Fair Treatment Contact or FTC), an initial meeting will be arranged with the complainant within three working days of the complaint being made. If the person making the complaint is not the person harassed, the meeting will in part be to ascertain whether the person harassed wishes to complain.
- B.1.2.b The meeting will be carried out by the FTC and another member of the Fair Treatment Committee. In circumstances where any member of the Fair Treatment Committee is the alleged harasser, the meeting will be with an independent and impartial individual who has no connection to the Trust as well as a member of the board of trustees. It is to be understood that convening independent members may take longer than the target three days, but the Trust will do its utmost to convene members promptly.
- B.1.2.c Where the complainant wishes to be interviewed by either a male or female Committee member due to the distress they may feel, this will be arranged.
- B.1.2.d It can be distressing and humiliating to make a complaint of sexual harassment and therefore the staff member should be told that they have the right to be accompanied by a work colleague, friend or family member for support.
- B.1.2.e The purpose of the initial meeting is to establish the following as far as possible:
- what happened from the complainant's point of view
  - if there were any witnesses to what happened
  - what action they have taken so far, if any
  - what outcome the complainant would like to see as a result of this process
  - if the complainant is prepared to be identified to the harasser
  - if the complainant is prepared to be a witness in a formal disciplinary hearing
  - whether the complainant is willing to produce a written, signed statement (support to the complainant will be offered if s/he wants this).

- B.1.2.f The FTC should reassure the complainant that he/she will be supported appropriately if formal disciplinary action is taken and will not be victimised or disadvantaged in any way on the basis of having made complaint of sexual harassment.
- B.1.2.g The initial meeting and any further investigation and action must be dealt with confidentially and as far as possible other people should only be informed about it on a strictly 'need to know' basis and with the consent of the complainant.
- B.1.2.h At the end of the interview the fair treatment contact will produce confidential minutes of the meeting, a copy of which should be given to the complainant.

### **B.1.3 Courses of Action**

- B.1.3.a Depending on the outcome of the meeting, the fair treatment contact should decide the next course of action, taking into consideration the wishes of the complainant.
- B.1.3.b If the complainant is not willing to be identified the fair treatment contact should do the following:
- give the staff member adequate support including referral to specialist agencies where necessary
  - make a decision on whether an investigation can be launched (see below) using anonymised evidence from the complainant
  - make sure that staff in general are aware of the harassment policy
  - monitor the situation closely
  - keep a confidential record of the complaint

### **B.1.4 Investigation**

- B.1.4.a If the complainant is willing to be identified, or for his/her evidence to be used but in an anonymous way, the allegation must be investigated fully by the fair treatment contact including the following:
- interview the alleged harasser who has the right to be represented by a work colleague
  - interview any witnesses to the harassment
  - establish whether there is any other corroborating evidence
- B.1.4.b A written record must be kept by the FTC of all action taken as part of the investigation.
- B.1.4.c Having completed the investigation, the investigating FTC must decide whether there is sufficient evidence to support the grievance.

### **B.1.5 Disciplinary Proceedings**

- B.1.5.a If the evidence supports the complaint, a full report should be compiled and filed securely in Personnel Records. The FTC will then arrange a disciplinary hearing following the disciplinary procedure.
- B.1.5.b Prior to the disciplinary hearing the FTC will determine whether the allegations are serious enough to warrant the suspension of the harasser pending the outcome of the

disciplinary hearing. If suspension is deemed appropriate, the harasser will be issued with a written notice of suspension detailing the reasons therefor. If the alleged harasser is the Chief Executive Officer, then consent from the Board of Trustees is required before the CEO may be suspended.

B.1.5.c The only exceptions to the normal disciplinary procedure will be as follows:

- Both the complainant, who will need to give evidence (even if in private) as a witness, and the alleged harasser will be allowed to bring with them a union representative, shop steward or work colleague for support.
- The disciplinary hearing will be chaired by an independent and impartial individual who has no connection to the Trust. At the conclusion of the disciplinary hearing, the chairperson will compile a report of his/her findings and submit same to the fair treatment contact within 48 hours of having concluded the disciplinary enquiry.
- If the chairperson concludes that the harasser is guilty of the allegations levelled against him/her, the latter has the right to appeal those findings. An employee's right to appeal is detailed in the paragraph below.
- If the chairperson concludes that the harasser is not guilty of the allegations levelled against him/her, the latter will be informed in writing immediately and any suspension will be lifted. Appropriate support will be given to the alleged harasser, for whom this will also have been a distressing experience.
- The charity will be as flexible as possible about the working environment to enable both parties to continue working together (such as one working from home for a time) but it must be understood that in a small organisation, options are limited.

### **B.1.6 The Right to Appeal**

Either party to the dispute will have the right to appeal to the Board, if they are not satisfied with the outcome of the disciplinary process.

- To do this they must formally write to the Chair of the Board of Trustees outlining their dissatisfaction, giving reasons and requesting an appeal hearing.
- The Chair will then arrange for three Trustees to form a panel that will make the final decision.
- The parties have a right to be accompanied by a union representative, shop steward or work colleague for support.

## **B.2 Other forms of harassment (non-sexual harassment)**

### **B.2.1 What to do if you experience or witness harassment**

If you believe you or someone else are being harassed at work you have a number of options:

- B.2.1.a You can speak to the Chief Executive informally about your concerns. If the Chief Executive is the alleged harasser, you can speak another member of the Fair Treatment Committee described in section B.1.1. They will talk through the situation with you and will explore with you what action to take, in which they may also act as your advocate. They will facilitate a meeting with you within seven working days of your informal complaint or expression of concern. If after consulting with you it is jointly agreed to speak to the alleged harasser to resolve the matter without formal action, remedies might include (but are not limited to) training or counselling for either party. If you and the CEO/FTC cannot agree on the action to take, you have the right to escalate it to a formal complaint (see B.2.1.c below).
- B.2.1.b You can talk directly to the alleged harasser explaining why you feel their behaviour is unacceptable, asking them to stop. If you choose to do this you can ask the CEO/FTC to act as an advocate for you. Choosing this option does not preclude making a formal complaint later if the harassment continues.
- B.2.1.c You can make a formal complaint through the CEO or FTC. In cases of formal complaints the procedure outlined below will be followed.
- B.2.1.d Canon Collins will always treat allegations of harassment speedily, and will act quickly. Therefore false allegations of harassment will be viewed in a serious light. Should it be proved that an employee has maliciously accused another employee of harassment without basis, the complainant will face disciplinary action.

### **B.2.2 Procedure for dealing with formal harassment complaints**

- B.2.2.a As soon as a complaint of harassment is raised formally or reported formally by a staff member, an initial meeting will be arranged with the complainant within seven working days of the complaint being made.
- B.2.2.b The meeting will normally be carried out by the Chief Executive and another Senior Manager. In circumstances where the Chief Executive is the alleged harasser, the meeting will be with a member of the Fair Treatment Committee and/or another Senior Manager who is not connected with the allegation.
- B.2.2.c Where the complainant wishes to be interviewed by either a male or female manager due to the distress they may feel this will be arranged.
- B.2.2.d It can be distressing and humiliating to make a complaint of harassment and therefore the staff member should be told that they have the right to be accompanied by a work colleague for support.
- B.2.2.e The purpose of the initial meeting is to establish the following as far as possible:
  - what happened from the staff member's point of view
  - if there were any witnesses to what happened

- what action they have taken so far, if any
- what outcome the staff member would like to see as a result of the intervention
- if the staff member is prepared to be identified to the harasser
- if the staff member is prepared to be a witness in a formal disciplinary hearing
- the complainant will be asked to produce a written, signed statement.

B.2.2.f The CEO or FTC should reassure the staff member making the complaint that they will be supported appropriately if formal disciplinary action is taken.

B.2.2.g The initial meeting and any further investigation and action must be dealt with confidentially and as far as possible other people should only be informed about it on a 'need to know' basis and with the consent of the complainant .

B.2.2.h At the end of the interview the CEO or FTC will produce confidential minutes of the meeting, a copy of which should be given to the complainant.

### **B.2.3 Courses of Action**

B.2.3.a Depending on the outcome of the meeting, the CEO/FTC involved should decide the next course of action, taking into consideration the wishes of the complainant.

B.2.3.b If the complainant is not willing to be identified the CEO/FTC should do the following:

- give the complainant adequate support including referral to specialist agencies where necessary
- make a decision on whether an investigation can be launched (see below) using anonymised evidence from the complainant
- make sure that staff in general are aware of the harassment policy
- monitor the situation closely
- keep a confidential record of the complaint

### **B.2.4 Investigation**

B.2.4.a If the complainant is willing to be identified, or for his/her evidence to be used but in an anonymous way, the allegation must be investigated fully by the CEO/FTC including the following:

- interview the alleged harasser who has the right to be represented by a work colleague
- interview any witnesses to the harassment
- establish whether there is any other corroborating evidence

B.2.4.b A written record must be kept by the CEO/FTC of all action taken as part of the investigation.

B.2.4.c Having completed the investigation, the CEO/FTC must decide whether they feel the complaint has been substantiated.



## **B.2.5 Disciplinary Proceedings**

- B.2.5.a If the investigating CEO/FTC is satisfied that the complaint has been substantiated, a full report should be compiled and filed securely in Personnel Records. The CEO/FTC will arrange a disciplinary hearing following the disciplinary procedure.
- B.2.5.b Prior to the disciplinary hearing the CEO/FTC makes a decision, based on the seriousness of the allegation and current work situation, as to whether it is necessary to transfer the alleged harasser out of the immediate work area or whether it is necessary to suspend them on full pay. If either of these actions is deemed necessary, the alleged harasser will be informed verbally and in writing as to the details and reason for the temporary transfer or suspension. The Chief Executive may not be transferred or suspended without the consent of the Board.
- B.2.5.c The only exceptions to the normal disciplinary procedure will be as follows:
- Both the complainant, who will need to give evidence (even if in private) as a witness, and the alleged harasser will be allowed to bring with them a union representative, shop steward or work colleague for support.
  - If the allegation is substantiated at the disciplinary hearing the harasser will have the right to appeal as detailed in the next paragraph.
  - If the allegation has not been substantiated the alleged harasser will be informed in writing immediately and any suspension will be lifted. Appropriate support will be given to the alleged harasser, for whom this will also have been a distressing experience.

## **B.2.6 The Right to Appeal**

Either party to the dispute will have the right to appeal to the Board, if they are not satisfied with the outcome of the disciplinary process.

- To do this they must formally write to the Chair of the Board of Trustees outlining their dissatisfaction, giving reasons and requesting an appeal hearing.
- The Chair will then arrange for three Trustees to form a panel that will make the final decision.
- The parties have a right to be accompanied by a union representative, shop steward or work colleague for support.

## Section C – Canon Collins scholars and project partners

### C.1 Scholars

The Trust expects similar levels of probity among its scholars as well as among staff. Of course, incidents of harassment are much harder to detect, monitor or investigate from a distance, and there are likely to be other channels which complainants can use (e.g. at the university concerned) instead of approaching Canon Collins. Nevertheless, the Trust needs to be prepared for possible approaches and be ready to act if a harassment complaint is made against a scholar.

In the absence of a complaint 'hotline' or email facility via the Trust's website, the Trust relies on complainants to come forward in more mainstream ways. There is a need to ensure that any evidence presented can be corroborated by a reliable source to guard against malicious allegations, as there is likely to be no sanction available against a vexatious complainant.

In the event of a seemingly credible complaint being made in writing, or coming to the Trust's attention in a different way such as a report alleging that a scholar has raped or assaulted someone, it is the duty of the Scholarships Manager, in conjunction with the Chief Executive, to satisfy themselves that the complaint is credible and investigate as quickly and as thoroughly as possible.

Depending on the seriousness of the allegation (such as might result in the dismissal of the scholar if they were an employee of the Trust, or if the scholar has been suspended by the University) any further scholarship payments should be suspended immediately and the scholar informed in writing. Such payments should not be suspended for lesser allegations and this process should be used only *in extremis*. In the meantime, appropriate guidance should be sought from the institution concerned.

An investigation must be carried out as quickly as possible, and the scholar interviewed by two members of staff. Depending on availability, if possible one of these should be physically present (e.g. the South Africa Manager) rather than the interview being conducted only on Skype.

If both interviewers believe the case against the scholar is overwhelmingly strong and backed up by clear evidence (or admitted by the scholar), and the harassment is serious in nature, the interviewers should recommend termination of the scholarship to the Chief Executive. If the offence is considered minor or moderate, an appropriate warning should be issued to the scholar in writing.

A detailed record of the process must be kept throughout.

It is worth noting that as from November 2018, a separate Code of Conduct is issued to all scholars, which emphasises that they are 'ambassadors' of the Trust. Scholars are asked to sign this as part of the scholarship acceptance process. The Code of Conduct covers not only their responsibilities under this Harassment / Sexual Harassment Policy, but also their behaviour and treatment of other people and their dealings with Canon Collins Trust in a broader sense.

## **C.2 Project partners**

Civil Society organisations with which the Trust works in partnership should have been ‘vetted’ at an early stage for the robustness of their own harassment policies and alignment with the Trust’s values. As this may have happened many years before, and/or not necessarily documented, it is the responsibility of staff who engage with the Trust’s partners to conduct appropriate due diligence with a view to assessing the culture of the organization, manner of dealing with harassment and discrimination etc. of each organisation on an annual basis. The aim of such questioning should be to establish whether their policies and procedures continue to be adequate, and should include:

- A request to see and examine the organisation’s current harassment policy, noting when last updated or reviewed;
- A direct question on the number of complaints made under the policy in the last year, and the nature of these.
- In the case of either a significant number of complaints and/or the seriousness of them, a discussion about how these are being handled and recorded, what the risks are (noting in particular any potential reputational risk to Canon Collins), and the actual or likely outcomes.

It is the responsibility of the Chief Executive to ensure that such conversations are held with each project partner on an **annual basis** and that an appropriate report is filed on the Trust’s computer server and **shared with the Board**. It may be necessary for the project’s donors to be informed of the findings, and/or for the Trust’s Risk Register to be updated.

In addition to the above, each partner receiving Canon Collins funding (no matter how derived) will be asked to sign a form committing them to informing the Trust immediately any complaint of harassment is made to them or comes to their attention, and of the action taken.

Approved by the Board on 10<sup>th</sup> October 2018.