SEXUAL HARASSMENT POLICY – Worker Protection (Amendment of Equality Act 2010 Act) Act 2023

Policy Statement

Operam Education Group are committed to providing a working environment free from sexual harassment and ensuring all staff are treated, and treat others, with dignity and respect. We recognise that sexual harassment can occur both in and outside the workplace, such as on business trips, or at work-related events or social functions, or on social media.

Sexual harassment or victimisation of any member of staff, or anyone they come into contact with during the course of their work, is unlawful and will not be tolerated. The law requires employers to take all reasonable steps to prevent sexual harassment of their staff during the course of their employment. We will take all active steps to help prevent the sexual harassment and victimisation of all staff. Anyone who is a victim of, or witness to, sexual harassment is encouraged to report it in accordance with this policy. This will enable the business to take appropriate action and provide support. Sexual harassment can result in legal liability for both the business and the perpetrator, whether they work for us or are a third party outside of our control. Sexual harassment and victimisation may result in disciplinary action up to and including dismissal.

About this policy

The purpose of this policy is to set out a framework for line managers to deal with any sexual harassment that occurs by staff (which may include consultants, contractors and temporary workers) and also by third parties such as customers, suppliers or visitors to our premises.
This policy does not form part of any contract of employment or contract to provide services, and we may amend it at any time.

Who does this policy apply to?

This policy applies to all employees, officers, consultants, self-employed contractors, casual workers, temporary workers, apprentices, and volunteers. Our obligations and your duties under this policy also extend to job applicants and former employees. It covers all areas of the business.

Who is responsible for this policy?

The Directors has overall responsibility for the effective operation of this policy but has delegated responsibility for overseeing its implementation to the HR Team.

The Directors has day-to-day responsibility for this policy and you should refer any questions about this policy to them in the first instance.

This policy is reviewed annually by HR. We will monitor its effectiveness and implement any changes that may be required.

What is sexual harassment?

Sexual harassment is any unwanted physical, verbal or non-verbal conduct of a sexual nature that has the purpose or effect of violating a person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. A single incident can amount to sexual harassment.

It also includes treating someone less favourably because they have submitted or refused to submit to unwanted conduct of a sexual nature, or that is related to gender reassignment or sex, in the past. Sexual harassment may include, for example:

- unwanted physical conduct or "horseplay", including touching, pinching, pushing and grabbing;
- continued suggestions for sexual activity after it has been made clear that such suggestions are unwelcome;
- sending or displaying material that is pornographic or that some people may find offensive (including emails, text messages, video clips and images sent by mobile phone or posted on the internet);
- unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless); or
- offensive emails, text messages or social media content.
- A person may be sexually harassed even if they were not the intended target. For example, a person may be sexually harassed by pornographic images displayed on a colleague's computer in the workplace.
- Victimisation includes subjecting a person to a detriment because they have done, or are suspected of doing or intending to do, any of the following protected acts:
- Bringing proceedings under the Equality Act 2010.
- Giving evidence or information in connection with proceedings under the Equality Act 2010.
- Doing any other thing for the purposes of or in connection with the Equality Act 2010.
- Alleging that a person has contravened the Equality Act 2010.

Victimisation may include, for example:

- Denying someone an opportunity because it is suspected that they intend to make a complaint about sexual harassment.
- Excluding someone because they have raised a grievance about sexual harassment.
- Failing to promote someone because they accompanied another staff member to a grievance meeting.
- Dismissing someone because they gave evidence on behalf of another staff member at an employment tribunal hearing.
- Sexual harassment and victimisation are unlawful and will not be tolerated. They may lead to disciplinary action up to and including dismissal if they are committed:
- In a work situation.
- During any situation related to work, such as at a social event with colleagues.
- Against a colleague or other person connected to us outside of a work situation, including on social media.
- Against anyone outside of a work situation where the incident is relevant to your suitability to carry out your role.

We will take into account any aggravating factors, such as abuse of power over a more junior colleague, when deciding the appropriate disciplinary action to take. If any sexual harassment or victimisation of staff occurs, we will take steps to remedy any complaints and to prevent it happening again.

Third-party harassment occurs where a person is harassed or sexually harassed by someone who does not work for, and who is not an agent of, the same employer, but with whom they have come into contact during the course of their employment. Third-party harassment could include, for example, unwelcome sexual advances from a client, customer or supplier visiting the employer's premises, or

where a person is visiting a client, customer or supplier's premises or other location in the course of their employment.

Third-party sexual harassment can result in legal liability and will not be tolerated. The law requires employers to take all reasonable steps to prevent sexual harassment by third parties. Although a member of staff cannot bring a claim for third-party harassment alone, it can still result in legal liability for an employer when raised in other types of claims. All staff are encouraged to report any third-party harassment they are a victim of, or witness, in accordance with this policy.

Any sexual harassment by a member of staff against a third party may lead to disciplinary action up to and including dismissal.

We will take active steps to try to prevent third-party sexual harassment of staff. These may include warning notices to customers or clients.

If any third-party harassment of staff occurs, we will take steps to remedy any complaints and to prevent it happening again. These may include warning the harasser about their behaviour, banning them from our premises/events or reporting any criminal acts to the police.

If you are being sexually harassed: informal steps

If you are being sexually harassed, consider whether you feel able to raise the problem informally with the person responsible. You should explain clearly to them that their behaviour is not welcome or makes you uncomfortable. If this is too difficult, you should speak to your line manager or another manager, who can provide confidential advice and assistance in resolving the issue formally or informally. If you feel unable to speak to your line manager because the complaint concerns them, you should speak informally to the HR Department. If this does not resolve the issue, you should follow the formal procedure below.

If you are not certain whether an incident or series of incidents amounts to sexual harassment, you should initially contact your line manager or HR informally for confidential advice.

If informal steps are not appropriate, or have been unsuccessful, you should follow the formal procedure set out below or refer to our Grievance Procedure.

Raising a formal complaint

If you wish to make a formal complaint about sexual harassment, you should submit it in writing to your line manager or the HR Department. If the matter concerns your line manager, you should submit it to the HR Department. hr@operam-education.co.uk

Your written complaint should set out full details of the conduct in question, including the name of the harasser, the nature of the sexual harassment, the date(s) and time(s) at which it occurred, the names of any witnesses and any action that has been taken so far to attempt to stop it from occurring. If you wish to make a formal complaint about victimisation, you should submit it in writing to your line manager or the HR Department. If the matter concerns your line manager, you should submit it to the HR Department – hr@operam-education.co.uk

Your written complaint should set out full details of the conduct in question, including the name of the person or persons you believe have victimised you, the reason you believe you have been

victimised, the nature of the victimisation, the date(s) and time(s) at which it occurred, the names of any witnesses and any action that has been taken so far to attempt to stop it from occurring.

As a general principle, the decision whether to progress a complaint is up to you. However, we have a duty to protect all staff and may pursue the matter independently if, in all the circumstances, we consider it appropriate to do so.

If you witness sexual harassment or victimisation

Staff who witness sexual harassment or victimisation are encouraged to take appropriate steps to address it. Depending on the circumstances, this could include:

- Intervening where you feel able to do so.
- Supporting the victim to report it or reporting it on their behalf.
- Reporting the incident where you feel there may be a continuing risk if you do not report it.
- Co-operating in any investigation into the incident.

All witnesses will be provided with appropriate support and will be protected from victimisation.

Formal investigations

We will investigate complaints in a timely, respectful and confidential manner. Individuals not involved in the complaint or the investigation should not be told about it.

We will arrange a meeting with you, usually within one week of receiving your complaint, so that you can give your account of events. You have the right to be accompanied by a colleague or a trade union representative of your choice, who must respect the confidentiality of the investigation.

Where your complaint is about an employee, we may consider suspending them on full pay or making other temporary changes to working arrangements pending the outcome of the investigation, if circumstances require. We will also consider what additional action may be appropriate to protect you and other staff pending the outcome of the investigation. The investigator will also meet with the alleged harasser who may also be accompanied by a colleague or trade union representative of their choice to hear their account of events. They have a right to be told the details of the allegations against them, so that they can respond.

Where your complaint is about someone other than an employee, such as a customer, supplier or visitor, we will consider what action may be appropriate to protect you and other staff pending the outcome of the investigation, bearing in mind the reasonable needs of the business and the rights of that person. Where appropriate, we will attempt to discuss the matter with the third party.

We will also consider any request that you make for changes to your own working arrangements during the investigation. For example, you may ask for changes to your duties or working hours to avoid or minimise contact with the alleged harasser.

It may be necessary to interview witnesses to any of the incidents mentioned in your complaint. If so, the importance of confidentiality will be emphasised to them.

At the end of the investigation, the investigator will submit a report to a senior manager. The manager will arrange a meeting with you, usually within a week of receiving the report, in order to discuss the outcome and what action, if any, should be taken. You have the right to bring a colleague or a trade

union representative to the meeting. A copy of the report and the manager's findings will be given to you and to the alleged harasser.

Action following the investigation

If the manager considers that there is a case to answer and the harasser is an employee, the matter will be dealt with as a case of possible misconduct or gross misconduct under our Disciplinary Procedure. Our investigation into your complaint may be put on hold pending the outcome of the Disciplinary Procedure. Where the disciplinary outcome is that sexual harassment occurred, prompt action will be taken to address it. We will also consider what additional measures need to be taken to prevent future sexual harassment of staff. If the harasser is a third party, such as a customer or other visitor, we will consider what action would be appropriate to deal with the problem and prevent a reoccurrence.

Whether or not your complaint is upheld, we will consider how best to manage the ongoing working relationship between you and the person concerned. It may be appropriate to arrange some form of mediation or counselling, or to change the duties, working location or reporting lines of one or both parties.

Any staff member who deliberately provides false information in bad faith, or who otherwise acts in bad faith as part of an investigation, may be subject to action under our Disciplinary Procedure. However, you will not be disciplined or treated detrimentally because your complaint has not been upheld.

Appeals

If you are not satisfied with the outcome you may appeal in writing to HR stating your full grounds of appeal, within one week of the date on which the decision was sent or given to you.

We will hold an appeal meeting, normally within one week of receiving your written appeal. Where practicable, the appeal hearing will be conducted by a senior manager who has not been previously involved in the case. They may ask anyone previously involved to be present. You have the right to bring a colleague or trade union representative to the meeting.

We will confirm our final decision in writing, usually within one week of the appeal hearing. This is the end of the procedure and there is no further appeal.

Protection and support for those involved

Staff who make complaints, report that they have witnessed wrongdoing, or who participate in good faith in any investigation must not suffer any form of retaliation or victimisation as a result. Anyone found to have retaliated against or victimised someone in this way will be subject to disciplinary action under our Disciplinary Procedure.

If you believe you have suffered any such treatment you should inform HR If the matter is not remedied, you should raise it formally using our Grievance Procedure or this procedure if appropriate.

We will monitor the treatment and outcomes of any complaints of sexual harassment or victimisation we receive to ensure that they are properly investigated and resolved, those who report or act as witnesses are not victimised, repeat offenders are dealt with appropriately, cultural clashes are identified and resolved and workforce training is targeted where needed.

Support and guidance can be obtained from the following external services:
The Equality Advisory and Support Service (www.equalityadvisoryservice.com).
Protect (www.protect-advice.org.uk).
Victim support (www.victimsupport.org.uk).
Rape crisis (www.rapecrisis.org.uk).
Rights of women (England and Wales) (www.rightsofwomen.org.uk).

Reporting outcomes, confidentiality and record-keeping

Confidentiality is an important part of the procedures provided under this policy. Details of the investigation and the names of the person making the complaint and the person accused must only be disclosed on a "need to know" basis. Breach of confidentiality may give rise to disciplinary action under our Disciplinary Procedure.

When appropriate and possible, where a complaint is upheld, we will advise the complainant of the action that has been taken to address their specific complaint and any measures put in place to prevent a similar event happening again.

Information about a complaint by or about a staff member may be placed on their personnel file, along with a record of the outcome and of any notes or other documents compiled during the process.