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*Charity Number: 1190806*

## YIHA Bullying and Harassment Policy

### Policy Statement

This policy applies to all trustees, members, teachers, students, volunteers, staff and anyone representing YIHA or the Y4H protocol. Bullying and/or harassment may be committed by an individual against an individual or involve groups of people. In the context of YIHA it could take place between staff members, between students, between staff and students or vice versa. It may be obvious, or it may be insidious. It may take place in private or in public. It may be face to face or in written communications, electronic (e)mail or phone. Whatever form it takes, it is unwarranted and unwelcome to the individual. Bullying and harassment of any kind are in no-one's interest and will not be tolerated at YIHA. Everyone must be treated with dignity and respect and legitimate allegations of bullying and harassment at YIHA will be treated as disciplinary offences.

### What are Bullying and Harassment?

**Bullying** is offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate, or injure the recipient. Bullying itself is not against the law. Someone who is bullied might feel:

- frightened
- less respected or put down
- made fun of
- upset

Examples of bullying could include:

- spreading a false rumour about someone
- putting someone down in meetings/ training
- not allowing someone to go on training courses, but allowing everyone else to
- giving someone more work than everyone else
- excluding someone from team/ social events

**Harassment** has a specific meaning in the Equality Act 2010: 'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'. **Harassment is illegal** as it concerns unwanted behaviour related to the protected characteristics set out in the Equalities Act 2010, which are:

- age
- sex
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sexual orientation

The law on harassment treats also pregnancy and maternity differently from the other protected characteristics. Further guidance can be found at <https://www.gov.uk/discrimination-your-rights>.

As with bullying, the person being harassed might feel:

- disrespected
- frightened
- humiliated
- made fun of
- offended
- threatened

To be regarded as **harassment** the unwanted behaviour must have either:

- violated the person's dignity, whether it was intended or not
- created a hostile environment for the person, whether it was intended or not

The law on harassment also applies to:

- a person being harassed because they are thought to have a certain protected characteristic when they do not
- a person being harassed because they're linked to someone with a certain protected characteristic
- a person who witnesses harassment because of someone else's protected characteristic and is upset by it

The law on harassment does not cover marriage and civil partnership.

The following list of behaviours might be considered as harassment by YIHA, this list is not exhaustive:

- spreading malicious rumours, or insulting someone by word or behaviour on the grounds of race, sex, age, disability, sexual orientation and religion or belief;
- unwanted physical contact, including touching, pushing, grabbing, invading personal space;
- continued advances/ invitations for social activity after it had been made clear that such suggestions are unwelcome;
- Sending or displaying material that could reasonably be considered to be image-based abuse, or that may be considered to be offensive;
- Offensive or intimidating comments or gestures; insensitive jokes, pranks or 'banter';
- Mocking, mimicking or belittling an individual's disability;
- Racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular gender, or ethnic or religious group;
- Outing or threatening to out someone as lesbian, gay, bisexual, trans, queer (LGBTQ), or any other minority gender or sexual identity;
- Ignoring, shunning or deliberately excluding someone from a conversation or group.

**Sexual Harassment** is defined in the Equality Act 2010 as “unwanted conduct of a sexual nature, which has the purpose or effect of violating the recipient’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.” The following behaviours are examples of sexual harassment, this list is not exhaustive:

- Catcalling or following someone;
- Unwelcome sexual advances or suggestive behaviour and suggestions that sexual favours may be beneficial to the progression or security of the individual;
- Making unnecessary and unwanted physical contact, sexual jokes or comments; • Giving unwelcome personal gifts;
- Wolf-whistling, leering, derogatory or unwelcome comments about a person’s body or clothing;

- Asking unwelcome questions about a person's sex life and/or sexual orientation;
- Engaging in unwelcome sexual propositions, invitations and flirtation;
- Making somebody (directly or indirectly) feel uncomfortable through displaying or sharing material that could be considered to be image-based abuse.

**Discrimination:** It is against the law (except in very rare circumstances) to treat someone unfairly because of the protected characteristics outlined under harassment on page 2. To do so would be regarded as discrimination. Discrimination can be direct or indirect.

**Direct discrimination** is when someone is treated unfairly because of a protected characteristic, such as sex or race. For example, someone is not offered a promotion because they're a woman and the job goes to a less qualified man. Direct discrimination can also occur when someone is treated unfairly because of the protected characteristic of either someone they know or someone they're associated with. This is sometimes known as 'discrimination by association' or 'associative discrimination'. For example, Rishi has a close friend who had surgery to change their sex and Rishi's friends stop inviting him to social events. This could be discrimination by association as gender reassignment is a protected characteristic.

**Indirect discrimination** can happen when there are rules or arrangements that apply to a group of people that in practice are less fair to a certain protected characteristic. The person experiencing indirect discrimination may be able to prove that:

- the behaviour is unfair to them and others with the same protected characteristic, for example a woman who believes she is experiencing sexual discrimination against women because she did not have access to an opportunity that has only been advertised in male orientated settings
- the behaviour is unfair compared to those who do not have the protected characteristic, for example setting meeting or events times that clash with religious responsibilities such as prayer times could be unfair to those practising the religion and not unfair to those that do not practice that religion.

**Victimisation:** is when someone is treated unfairly because they made or supported a complaint to do with a 'protected characteristic', or someone thinks they did or might do. For example, if a YIHA student 'Oliver' makes a claim of harassment against another student 'Claire' and student 'Ruth' gives evidence to support 'Oliver's' claim. If 'Ruth' were to be treated differently by other students or staff for being the witness, this would be victimisation.

## Online Bullying and Harassment

**Online bullying** is defined as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient (emotionally or physically) through the use of information and communication technologies (ICT).

**Online harassment** is defined as unwanted conduct through the use of information and communication technologies (ICT) which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

YIHA might consider the following behaviours to be examples of online bullying or online harassment. This is not intended to be an exhaustive list and other behaviours may also be considered relevant:

- Repeated and deliberate use of the internet and other electronic communications tools to engage in persistent, unwanted communication intending to frighten, intimidate or harass someone, or to spy on someone;
- Sending or posting harmful, untrue or cruel statements about a person to other people;
- Sharing someone else's personal information without their permission;
- Purposeful isolation of individuals from online communications with others in a network;

- Image-based sexual abuse; or online disclosure of sexual or intimate photos or videos, without the consent of the person pictured;
- Pretending to be someone else online;
- The exchange of online sexual image or videos. This is illegal for under-18s. Where sexual photos of adults are shared online between adults (that is, over 18), without permission of the person/people photographed, this is usually classified as 'revenge porn';
- Sending or posting deliberately inflammatory, inappropriate or controversial messages or comments on the internet in order to upset and provoke responses from other internet users

**Hate Crime:** Hate crime is any offence committed against a person or property which is motivated by the offender's hatred of people because they are seen as being different. People do not have to be a member of a minority community to be a target of hate crime. Any incident where an individual or group of people are targeted because they are believed to be of a different race, religion/belief, sexual orientation, gender identity or have a disability can be reported as a hate crime.

## How can bullying and harassment be recognised?

Behaviour that is considered bullying by one person may be considered firm management by another. Most people will agree on extreme cases of bullying and harassment, but it is sometimes the "grey" areas that cause most problems

Bullying and harassment can often be hard to recognise, they may be insidious and therefore not obvious to others. The recipient may think "perhaps this is normal behaviour". They may be anxious that others will consider them weak, or not up to the job, if they find the actions of others intimidating. They may be accused of "overreacting" and worry that they won't be believed if they do report incidents.

People being bullied or harassed may sometimes appear to overreact to something that seems relatively trivial, but which may be the "last straw" following a series of incidents. There is often fear of retribution if they make a complaint. Colleagues may be reluctant to come forward as witnesses, as they too may fear the consequences to themselves. They may be so relieved not to be the target of the bully that they collude with the bully as a way of avoiding attention.

Bullying and harassment make someone feel anxious and humiliated. Feelings of anger and frustration at being unable to cope may be triggered. Some people may try to retaliate in some way. Others may become frightened and demotivated. Stress, loss of self confidence and self-esteem caused by harassment or bullying can lead to job insecurity, illness, absence from work, and even resignation.

## Why do we need to take action?

Bullying and harassment are not only unacceptable on moral grounds but may, if unchecked or badly handled, create serious problems:

- ✓ Poor morale and poor interpersonal relations
- ✓ Loss of respect for managers and supervisors
- ✓ Poor performance
- ✓ Lost productivity
- ✓ Absence
- ✓ Damage to organisational reputation
- ✓ Tribunal and other court cases and payment of unlimited compensation.

## Reporting Bullying and Harassment Procedures

These reporting procedures aim to ensure incidents of bullying and harassment can be recognised and dealt with swiftly and effectively. Reports of incidents of bullying and harassment will be taken seriously and investigated promptly, objectively, and independently. It is not common for individuals to make serious allegations of bullying or harassment unless they feel truly aggrieved. However, it is important to remember that misinterpretation can lead to false allegations which can also be damaging so a thorough investigation must be triggered promptly to minimise any potential negative impact.

**Counselling or mediation** may be used where appropriate, particularly where investigation shows no cause for disciplinary action, or where doubt is cast on the validity of the complaint. Counselling may be used to resolve the issue or help support the person accused as well as the complainant.

### Stage One

In the first instance an email reporting the bullying and harassment should be sent to the CEO: [contactyoga4health@gmail.com](mailto:contactyoga4health@gmail.com) If the complaint is about the CEO then the email should be directed to a member of the YIHA Board.

All reports of bullying and harassment should offer a factual account of events and avoid language that is insulting or abusive. Details such as the time, date and location of the incident, who was present, including witnesses and the event that triggered the bullying and harassment complaint should all be included in this email report as well as a request for a desired outcome. YIHA Grievance Policy and Disciplinary Policy can also be referred to as a guide.

The CEO will respond within seven working days. Where possible an informal discussion will take place between the CEO and the person reporting the incident and those involved in the incident. Unfounded allegations caused by misunderstanding should be captured during this initial investigation at Stage 1. If an agreed informal outcome can be reached, this will be placed in writing by email and all parties must respond with written consent via email within one week to approve the agreement.

If the agreement is upheld the matter will be closed. If an agreement is not reached the case will be progressed onto stage two below. If the agreement is not upheld then the matter will progress onto stage three below.

Bullying and harassment are considered as gross misconduct and where there is a clear case that this has occurred the matter will be immediately escalated to stage three.

### Stage Two

A complaint will be escalated to stage two in the event that an agreement is not reached between the aforementioned parties during informal discussions at stage one or the agreement is not upheld. In such circumstances a formal investigation and meeting will be arranged to review evidence and establish the next course of action. Both the complainant and the accused parties will be required to submit a written account of events with supporting evidence. Both the complainant and the accused will receive confirmation of receipt of their account of events within five working days. This will contain detail concerning how the matter will be formally investigated with expected timelines. Both the complainant and accused may be invited to a grievance hearing as part of this investigation.

If it is necessary to gather further information before deciding the outcome of the investigation the complainant and accused will be informed of this and the likely timescale will be written. The outcome of the investigation will be sent in writing within the agreed timeframe. If this is not possible the complainant and accused will receive notification in writing of any changes/ delays.

It may be that the investigation concludes that bullying and harassment has not taken place but behaviour still needs to be addressed. The stage two investigation and grievance hearings will then result in an agreed outcome and action plan being put in place to resolve the behavioural or other concerns. This action plan will include a timeline for review and the resolution of the actions will be monitored until the matter has been proven to be resolved. If the agreed actions are not honoured then the matter will progress onto stage three.

If the investigation at stage two confirms that bullying and harassment have taken place, this is regarded as gross misconduct and will progress onto stage 3.

### Stage 3

Confirmed cases of bullying and harassment are considered as gross misconduct as addressed in the YIHA Disciplinary Policy. In some cases of gross misconduct dismissal without notice (or refund of fees in the case of students) may be appropriate whether staff or student.

### Unfounded Allegations

It is important to remember that misinterpretation can lead to false allegations which can also be damaging so a thorough investigation must be triggered promptly to minimise any potential negative impact. Unfounded allegations caused by misunderstanding should be considered in the initial investigation at Stage 1. When somebody makes an unfounded allegation of bullying and/or harassment for **malicious reasons** the case should be investigated and dealt with fairly and objectively at stage 3 in reference to YIHA Disciplinary Policy.

### The Legal Position – Employment

#### Discrimination and harassment

It is not possible to make a direct complaint to a tribunal about bullying. However, employees might be able to bring complaints under laws covering **discrimination and harassment**.

#### Unfair dismissal

Employers have a duty of care for all their employees. If the mutual trust and confidence between employer and employee is broken – for example through bullying and harassment at work – then an employee can resign and claim “constructive dismissal” on the grounds of breach of contract. Employers are usually responsible in law for the acts of their workers.

Breach of contract may also include the failure to protect an employee’s health and safety at work. Under the Health and Safety at Work Act 1974 employers are responsible for the health safety and welfare at work of all employees.

The Health and Safety Executive’s [\*“Guidance on stress in the workplace”\*](#) includes the advice that *“stress should be treated like any other health hazard”* and that employers have a *“legal duty to take reasonable care to ensure health is not placed at risk through excessive and sustained levels of stress”*.

## Change Record

Date of Change:	Changed By:	Comments:
26.11.20	Paul Fox	Policy approved by the Trustees
02.12.2022	AJC	Reviewed and revised
07.12.2022	PF	Approved
30.11.2023	AJC	Reviewed for currency
06.05.2024	AJC	Reviewed for currency
15.05.2024	PF	Approved