

# Policy for the Prevention of Bullying Harassment and Victimisation (‘unacceptable behaviour’)

## 1. Introduction

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The University is committed to protecting the dignity of all its employees at work and promoting positive and inclusive working relationships. It supports a safe and open culture, where equality, diversity and inclusion are encouraged, and dignity and respect are practised by everyone.

The university will not tolerate any behaviour exhibited by any employee which amounts to bullying, harassment or victimisation, whether this is covered by legislation, or not.

The university therefore expects all its employees, at all times, to behave with dignity, respect, and courtesy towards work colleagues, students, and visitors to its campuses. It also encourages each employee to speak out against behaviours or actions which are not consistent with the BCU Values ([I AM BCU Values: Birmingham City University](#)), and the underlying principles of this policy.

The policy, and which was known formerly as the Dignity at Work Policy, is underpinned by the university’s Policy Statement ‘Respect@BCU’ and accompanying definitions of unacceptable behaviour.

This policy is designed to help employees and line managers address behaviours which may amount to bullying, harassment, or victimisation. It may also be used to tackle minor infringements, which if not addressed promptly, may have the potential to escalate and undermine professional working relationships.

It is not intended to address allegations of sexual misconduct or sexual assault, or other instances of serious misconduct. If such issues arise, they should be raised as soon as possible, and in strict confidence with an employee's line manager, a member of the HR team, or using the Report and Support tool. Such matters would then normally be dealt with using the Disciplinary Policy.

This policy incorporates all relevant employment legislation. It reflects the requirements of the university's code of conduct, the BCU Values, and is aligned with the OFS Statement of Expectations for Preventing and Addressing Harassment and Sexual Misconduct.

It supersedes all previous **Dignity at Work** policies, procedures and guidance and should be considered, together with the Respect@BCU policy statement and associated definitions of unacceptable behaviour, alongside other HR policies – specifically:

- Equality, Diversity and Inclusion in Employment Policy
- Grievance Policy
- Disciplinary Policy
- Policy on Relationships Between Employees and Students
- Code of Conduct

This policy does not form part of an employee's contract of employment and may be amended from time to time.

## 2. Scope

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The policy applies to all employees, including visiting employees and casual workers.

It extends to conduct outside of work and which damages or has the potential to undermine the reputation of the university.

The policy:

- Defines the standards of behaviours it requires from all employees, at all times
- Explains the actions employees and line managers may take in response to any unacceptable behaviour either experienced, or witnessed
- Sets out the process for dealing with instances of unacceptable behaviour and the support available to employees who raise concerns as well as those who are the subject of those concerns

### 3. Principles

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- The university will take all reasonable steps to prevent unacceptable behaviours by employees (regardless of the seniority of those involved) and third parties. This includes the provision of appropriate training and awareness raising, and by promoting a culture of dignity, respect and courtesy.
- The university will implement accessible and transparent mechanisms for employees to be able to raise their concerns, and which simply and effectively clarify how complaints of inappropriate behaviour will be addressed. It will also ensure all employees understand the consequences where such behaviours impact the dignity of others and are proven to have undermined the BCU Values and the principles of this policy.
- All unacceptable behaviour by any employee towards other colleagues, students or visitors to its campuses, should be challenged, either informally, or as necessary by recourse to formal processes.
- Efforts, wherever possible, and appropriate to do so, should be made, to resolve concerns raised by employees informally in the first instance.
- Behaviour which actively breaches the BCU Values and requirements of its [Code of Conduct](#) may be considered to constitute misconduct or gross misconduct, and will be dealt with in line with the Disciplinary Policy.
- Concerns may be reported by an employee to their line manager, and / or using the university's Report and Support tool.
- All instances of unacceptable behaviour, as defined by this policy, which are raised formally, will be investigated.
- Allegations of sexual assault, physical assault or sexual misconduct will constitute gross misconduct and will be addressed using the Disciplinary Policy. This includes breaches of the Policy on Relationships between Employees and Students, involving intimate relationships.
- Support will be provided by the university through its [Employee Assistance Programme](#) for employees who raise complaints of harassment, bullying or victimisation, as well as for employees who are the subject of a complaint.
- Vexatious complaints - any employees who makes a complaint or who gives evidence which they know to be untrue may be subject to disciplinary action.
- The university will ensure that academic employees, and professional services employees who undertake academic work, have freedom within the law to question and

- test received wisdom, and which as a result will not be considered to be bullying or harassment provided that those involved are treated with dignity, respect, and courtesy.
- Where concerns raised by reference to this policy are subject to formal investigation, the investigator will be independent and impartial, experienced in undertaking investigations, and trained, and have the capacity and authority to complete the investigation in accordance with required policy timeframes.
  - All employees and managers are expected to maintain appropriate levels of confidentiality and not discuss cases of misconduct, bullying and harassment (actual or alleged) with anyone other than those directly involved in seeking a resolution

## **4. Roles and Responsibilities**

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The roles and responsibilities set out below include but are not limited to the following:

### **University Executive Group**

- Model the BCU Values and ensure their own behaviour is of the highest standard
- Create a working environment which has a safe, open, respectful, and inclusive culture at its heart, in which people's differences are genuinely respected and diverse contributions allowed to flourish.
- Set appropriate standards of behaviour for all employees and ensure they are communicated and understood, and that prompt action is taken if unacceptable behaviour is identified.

### **Line Managers**

- Model the BCU Values and ensure their own behaviour is of the highest standard
- Implement and uphold this policy and be familiar with other relevant HR policies, including participating in appropriate training
- Ensure employees access training related to equality, diversity and inclusion
- Ensure employees understand the standards of behaviour expected of them, and that any incidents of unacceptable behaviour in their areas of responsibility whether raised informally or formally are addressed promptly and fairly.
- Be supportive and sensitive and maintain confidentiality in response to complaints of bullying, harassment or victimisation.
- Prioritise investigations and formal hearings they have responsibility for, aligned to this policy.

- Encourage a culture within their team(s) which enables unacceptable behaviour to be 'called out' and reported without fear of negative repercussions for their employment..

## **Employees**

All employees of the university must:

- Model the BCU Values and ensure their behaviour is of the highest standard
- Behave in a way that respects the rights and dignity of others
- Treat everyone fairly
- Value differences in others and the contribution they make
- Communicate openly, supportively, and constructively
- Uphold the university's policies on Equality, Diversity and Inclusion
- Raise any issues of concern courteously and respectfully, and be prepared to acknowledge the feelings and perceptions of others
- Respond with understanding if concerns about their behaviour is raised with them, and participate in any efforts to resolve matters informally, including cooperating fully with any formal investigations

## **Human Resources**

- Monitor and report issues raised under in line with agreed reporting arrangements and keep the effectiveness of the policy under review.
- Provide relevant training for line managers and employees including equality, diversity, and inclusion, and to enable managers to conduct investigations effectively
- Be a confidential point of contact for any employee who may be experiencing bullying, harassment, or victimisation, ensuring any response is sensitive and supportive
- Promote awareness of the services available to support employees who may experience unacceptable behaviour at work including employees who may be the subject of a complaint, (i.e., the Employee Assistance Programme)..
- Appoint, train, support and oversee the volunteer Dignity at Work Advocates and any external agencies who may be engaged by the university to address issues arising under this policy (i.e., external investigators, or mediation services).

## Dignity at Work Advocates

Advocates are employees who have volunteered in a neutral capacity to help support other employees who may be experiencing bullying, harassment, or victimisation. Further information on the role of the Advocates and how to contact them can be found [here](#).

Advocates will:

- Maintain the highest standards of behaviour and be impartial
- Offer a safe and confidential space for employees to discuss their concerns
- Signpost employees to appropriate support mechanisms, and can offer guidance on and potential next steps, to help resolve issues.

## 5. Unacceptable behaviour

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The university and its Students Union (BCUSU) have developed an agreed set of definitions of what may constitute unacceptable behaviour. These can be found at [Overview | Birmingham City University \(bcu.ac.uk\)](#)

Examples of particular acts which may constitute unacceptable behaviour can be found in Appendix A of this policy, and which cover acts of bullying and harassment.

Provided a manager has acted fairly and reasonably, 'unacceptable behaviour' will not include any reasonable action taken by them under the Capability or Disciplinary Policies where the intention is to support and encourage an employee to perform in their job to the expected standards, or to take formal action to address concerns about their performance or conduct.

This will not prevent any employee from exercising their right of appeal under those policies in response to any resulting formal outcomes or sanctions.

## 6. Raising concerns / reporting issues

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If an employee considers that they have experienced any form of unacceptable behaviour as defined within Appendix A of this policy, they should in the first instance, where appropriate, and where they feel capable and comfortable in doing so, raise this with the individual or individuals concerned.

In such instances, an informal approach may be all that is necessary to highlight the unwanted behaviour and address it without recourse to formal processes. In pursuing an informal approach, employees may want to seek the advice of their Trades Union representative, a member of the HR team, or a Dignity at Work Advocate, on how to approach matters. It will not normally be the case that employees will need to be accompanied at informal meetings with other employees.

Guidance for employees on actions they may take if they experience (or witness) unacceptable behaviour can be found in Appendix B.

Whilst the university would prefer employees to follow an informal approach wherever possible, it recognises this may not be appropriate in all cases. Where an informal approach does not result in a change in behaviour, or where an employee's concerns are sufficiently serious as to suggest an informal approach is not appropriate, they should raise the matter formally with their line manager. Employees may also raise their concern using the Report and Support tool.

Where an employee reports a concern using Report and Support, this will be reviewed by HR in conjunction with the employee's line manager (or more senior manager if the concerns relate to the behaviour of the line manager) in order to determine an appropriate response under this, or other HR policies.

The Student Governance Team will similarly review and respond to concerns reported by students, about the alleged behaviour of an employee.

## **7. Dealing with concerns raised formally**

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Complaints or concerns raised formally, will normally be dealt with using the Grievance Policy.

Line managers will therefore be expected to follow the provisions of that policy, and which includes meeting with the employee, investigating their concern, or identifying another appropriate manager to do so (noting the requirement for investigating managers to be trained), exploring how matters may be resolved, and providing a written response.

In receiving a formal complaint or concern, the line manager should also explore in line with the Grievance Policy whether the employee has attempted to resolve matters informally. Where this has not happened, and if appropriate, the employee will be encouraged to attempt to address their concerns under Section 6 of this policy.

Depending on the nature of the concern raised, a line manager may determine, following advice from HR, that it is necessary to investigate matters formally under the Disciplinary Policy.

## **8. Witnessing unacceptable behaviour**

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Employees are encouraged to bring to the attention of their line managers, and / or by using the Report and Support tool, examples of any unfair treatment, unacceptable behaviour or misconduct they have witnessed or strongly suspect is taking place, and which affects the dignity of others. They will also be expected to cooperate with any ensuing investigation.

Where an employee reports their concern, they will not be subject to victimisation or any other detriment for doing so. An employee who has witnessed unacceptable behaviour may report their concern anonymously, although in doing so should be aware that this may limit the opportunity for further investigation.

## **9. Dealing with Third Party Harassment**

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Guidance is available in Appendix C on the different actions that can be taken to support employees who may experience harassment from a member of the public or another third party.

Further support is also available from the university's Legal and Compliance Team.

## **10. Review**

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This policy will be formally reviewed by the Human Resources Department (HRD) every three years or sooner, where new developments in employment legislation necessitate such a review, where factual clarification is required or changes to operational practices take place.



The review will be carried out in consultation with the recognised Trade Union, managers and other key stakeholders. The next review will be undertaken by June 2025.

**Director of Human Resources**

**June 2022.**

## Appendix A Examples of Unacceptable Behaviour

Examples of unacceptable behaviour that are covered by this policy include (but are not limited to) the following:

- Demeaning comments about a person's appearance
- Unwelcome references, jokes, comments or nicknames related to an individual's age, disability, gender identity and / or trans identity, marriage or civil partnership status, pregnancy, maternity, race, ethnic origin, colour, nationality, national origin, religion or belief, sex and sexual orientation
- Posting material on websites and / or social media or sending e-mails or text messages that are considered to be abusive, harassing, or defamatory to the university, its employees and/or students, including disclosing personally identifiable data online.
- The use of obscene gestures
- The open display of pictures or objects with sexual or racial overtones, even if not directed at any particular person, e.g., magazines, pornography, calendars or pin-ups
- Spreading malicious rumours or insulting someone, either directly, or indirectly
- Targeting someone or setting them up to fail, for example, deliberately undermining a competent worker by overloading them with work, requiring them to meet unrealistic deadlines or constant criticism
- Making threats or inappropriate comments about someone's job security
- Ridiculing someone
- Using inappropriate supervision methods, such as computer recording or the recording of telephone conversations or meetings – without their prior consent
- Speaking to someone as if they are a 'child' or as if they have below average intelligence rather than speaking to them as if they are a reasonable adult
- Forcing one's own beliefs onto others or actively promoting a religion or belief in the workplace
- Isolation or non-cooperation at work
- Excluding someone from social activities
- Micro aggression
- Shouting and bawling

The following are examples of the types of behaviour which will be considered as potential **gross misconduct** and subject to disciplinary action and which could result in the employee being dismissed:

- Physical contact ranging from unwelcome touching to serious sexual assault

- Unwelcome sexual advances
- The offer of rewards for complying with sexual advances, e.g., promotion, access to training
- Threats or being victimised for rejecting sexual advances, e.g., suggestions that refusing advances will adversely affect the employee's employment, performance evaluation, pay, assigned work, or any other condition of employment or career development
- Breaches of the university's Policy on Relationships between Employees and Students as these relate to intimate relationships

## **Harassment**

The Equality Act (2010) defines harassment as *'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'*.

## **Bullying**

Bullying is not specifically defined in UK law, but ACAS has said that bullying 'may be characterised as: *'Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate, or injure the recipient'*.

## **Victimisation**

Victimisation is treating someone unfavourably because he or she has, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing him or her (or someone else), or supported someone to make a complaint or given evidence in relation to a complaint. This would include isolating someone because he or she has made a complaint or giving him or her inappropriate work.

It would also apply if a person was treated unfavourably because they had complained that they had been subjected to any unlawful discrimination or other breach of their employment rights.

## **Legislative framework**

The Equality Act 2010 outlines the University's duty to create a work environment for all staff that is free from harassment and unlawful discrimination. It also sets out the different ways in which it is unlawful to treat another person such as by discrimination, harassment, victimisation and failing to make reasonable adjustments for disabled staff.

The Equality Act also extends protection to members of staff in 'protected characteristic' groups. These include: Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race including ethnic origin, nationality and colour, Religion or Belief, Sex; and Sexual Orientation.

Under the Protection from Harassment Act 1997 it is an offence to pursue a course of conduct that amounts to harassment of another person. You could therefore be personally liable in law if you harass anyone at work.

## **Appendix B**

### **Dealing with behaviour which is unacceptable**

The university encourages employees in the first instance, to address any unacceptable behaviour they may experience through informal resolution wherever possible and appropriate.

Seeking to address the situation informally, by approaching the employee concerned and explaining why their behaviour is a concern, may lead to a quicker resolution enabling minimal disruption to relationships and the work of the university (see below).

The university recognises that it can be difficult for an employee, to raise a complaint of harassment, discrimination, bullying or victimisation whether on an informal or formal basis and encourages employees to access the appropriate sources of support and advice available, in order to assist them.

The actions an employee should consider if they experience or witness unacceptable behaviour are outlined below:

#### **1. Log the issue on Report & Support**

[Report + Support - Birmingham City University \(bcu.ac.uk\)](https://www.bcu.ac.uk/report-support) This

tool is for the use of all employees.

It may also be used by line managers, to record a concern raised with them by an employee (and provided the prior consent of the individual is obtained).

#### **2. Approach the person concerned**

This response is more appropriate when the working relationship is still reasonably positive and when the unwanted behaviour is recent.

A mutual willingness to discuss the issues and to work towards a solution for both parties can be a good indicator of success.

Before speaking to the other person, it is important for an employee to be able to clearly explain the unacceptable behaviour(s) that they have experienced.

It is also helpful to make sure that any specific incidents are clearly defined in terms of their nature, date / time they occurred and frequency.

### **3. Seek help from a Dignity at Work Advocate**

Advocates are trained to listen and will be able to signpost appropriate pathways for further action or support.

<https://icity.bcu.ac.uk/HR/Human-Resources/Dignity-At-Work>

### **4. Seek advice from the Trade Union**

Employees who are a member of a Trade Union, can access confidential advice and support from their Trades Union representative. Involving a representative may be necessary where an employee submits a formal complaint but may also assist any process for resolving issues informally.

### **5. Contact the Employee Assistance Programme**

Support is available for employees through the Employee Assistance Programme – [Accessing EAP : Birmingham City University \(bcu.ac.uk\)](#) This includes any employee who may have experienced or witnessed unacceptable behaviour as well as those who may be the subject of a complaint.

### **6. Talk to a line manager**

If approaching the individual is too difficult or embarrassing or this approach is not successful, the individual experiencing or observing unacceptable behaviour should approach their line manager in the first instance. If the issue is with an individual from another team, both line managers should agree how matters will be handled.

If the concerns relate to the behaviour of the line manager, unless the employee feels able to approach their line manager directly, they should raise their concern with the next level of manager.

Employees may also approach the HR team for confidential advice or support

## **7. Formal actions in dealing with allegations of unacceptable behaviour**

Unless a manager feels it is necessary to instigate a disciplinary investigation in response to a concern raised formally the matter will be addressed using the Grievance Policy.

If action becomes necessary under the Disciplinary Policy, the employee raising the concern will be notified, and the subject of the concern will be advised of the allegations in writing.

Both parties will be provided with support as set out within this policy.

Actions which a manager may take in attempting to resolve matters, may include the temporary transfer of either party to another team/department if reasonable and practicable, a change in working hours / pattern (to minimise contact between both parties), coaching, counselling, or the clarification of workplace rules in respect of the required standards of behaviour.

## **8. Mediation**

Mediation may be appropriate in response to a concern raised formally, or informally. It is a voluntary process supported by an independent party, to help individuals resolve workplace issues or disagreements and improve working relationships.

Mediation can be a good way to appreciate the other person's perspective and to appreciate the understand the effect of an individual's behaviour on others.

Guidance for managers on accessing the services of trained mediators is available from the HR team.

## **Appendix C**

### **Guidance for dealing with harassment by a third party**

This note considers the different actions that employers can take to support employees who are alleging that they are experiencing harassment from a member of the public or another third party.

This guide should not be confused with internal cases of alleged harassment (i.e., where there is no third party/member of the public involvement), in which case the Dignity at Work policy should be referred to.

This guide only concerns allegations of harassment affecting members of employees of the University. Allegations of harassment affecting students of the University should be referred to the Student Governance, Mental Health and Wellbeing Team.

This is a guide only and managers should continue to take advice from HR when required. In addition, employees' members should not be hindered or limited in any way from taking any external advice/support that they require (e.g., from the police).

### **Support for the individual**

Any employee who reports that they have experienced or witnessed unacceptable behaviour, should be supported and guided through the University's [Employee Assistance Programme](#).

### **What does harassment include?**

Harassment by a member of the public or third party against a member of employees may include bullying behaviour or other unwanted conduct whilst interacting with a member of employees as part of their job. It could relate to any protected characteristic of the individual and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning, offensive and unacceptable to the recipient.

Examples of harassment could include:

- unwanted phone calls, letters, emails or visits
- abuse and bullying online
- stalking
- verbal abuse and threats

The harassment could involve a customer, client, supplier or any other third party or member of the public.

### **Why does it concern the University?**

The University has a number of general and specific duties of care towards its employees. Some examples are set out below:

#### Statutory duties:

The Health and Safety at Work Act 1974 places a duty on the University to ensure, as far as is reasonably practicable, the health, safety and welfare at work of all their employees.

The Equality Act 2010 contains duties to prevent harassment at work, although the law in this area focuses on allegations of internal harassment, rather than alleged harassment from 3<sup>rd</sup> parties or members of the public.

#### Contractual duties:

Both implied and express contractual duties as per the contractual relationship (for example, the implied duty of the employer to provide a suitable working environment).

#### Tortious duties:

The tort of negligence also places various duties on the University in relation to its employees. For example, the duty to provide a safe place and system of work. A breach of such duties could create a liability for the University.

### **What options do we have to assist employees?**

There are a number of options that the University can take to support employees and whether they are applicable will depend on the circumstances (advice should be taken from HR when required). In addition, it may be appropriate to investigate matters before any action is taken, although interim protective measures may need to be considered to protect any potential employees during such an investigation. The main options are set out below and some matters will involve a combination of options being considered:

#### 1. Changing personnel/lines of communication or mediation

Where the alleged harassment involves a third party that has an ongoing relationship with the University (e.g., a supplier / customer) informal resolution may be considered. Depending on the circumstances, it may be appropriate and possible to change lines of communication between the individual and member of employees to resolve the issue. Similarly, there may be an opportunity for an informal discussion/mediation to resolve the issues. This is unlikely to be appropriate where there is any ongoing risk of harassment or unwanted conduct and would not be appropriate where there is any element of discrimination. It may, however, be appropriate in cases of personality clashes.

Managers can often consider this action at an early stage and may want to confer with HR.



## 2. Blocking phones/e-mails

Blocking calls/e-mails from the harasser is another possible avenue – this would need to be explored with and actioned by the IT department.

## 3. Property and Trespass

Where any harassment involves coming onto private premises, another route that can be taken is that provided by the law on trespass to property. More specifically, if the perpetrator of harassment comes onto BCU property/ BCU campus, with the intention to cause nuisance and disturbance, the law enables our security personnel to remove them off our premises. The law defines trespass as “any unjustifiable intrusion by a person upon the land in possession of another”. In these cases, a private owner-occupier can ask the police to direct a trespasser to leave the land if the owner of the land has already asked the trespasser to leave.

Action for trespass can be taken by the University in conjunction with the police, and managers should speak to security in first instance.

## 4. Contacting the Police

The police may be able to assist in cases of alleged harassment and they may take a number of actions depending on the circumstances and any potential offence caused. For example, they may:

- a) have the power to apply for an Anti-Social Behaviour Injunction (ASBI) under the Part 1 of the *Anti-social Behaviour, Crime and Policing Act 2014* (ASBCPA), if they are satisfied that there has been conduct that has caused, or is likely to cause, harassment, alarm or distress to any person. ASBIs can tackle a range of anti-social behaviour problems.
- b) take action under the Protection from Harassment Act 1997. Under this legislation it is an offence to pursue a course of conduct that amounts to harassment of another person; and/or
- c) take action in relation to trespass of a person where there has been a direct or an intentional interference with a person’s body or liberty.

The above list is non-exhaustive, and the police will provide advice on the best course of action depending on the circumstances.

An individual can contact the police at any time on their own volition and this should not be prevented or limited in any way. In addition, a manager may contact police about a matter, but this should always be discussed first with the employee’s member and the employee’s

member's views on this should be fully considered. Advice should be sought if there remains any issues.

#### 5. First Steps/ Letter before action – potential civil action

Depending on the issues, it may be important to involve the legal team of an occurrence of this sort so as to ensure the correct procedure is followed.

In particular, if more informal steps of resolution are not successful or appropriate, it may be appropriate to consider taking civil action against the alleged perpetrator. This may be considered alongside consultation with the police (as set out above) and the individual. In particular, as a precursor to any formal civil action we may consider sending a formal robust letter to the other party requesting that they cease and desist from the harassment. Such a letter could also seek undertakings the other party to refrain from similar conduct in future.

Injunctive action may be considered (in consultation with the legal team and potentially police) although this is usually only appropriate in more extreme and sensitive cases.

Discuss matters with Legal Services for further assistance.