



MDC MAX DELBRÜCK CENTER
FOR MOLECULAR MEDICINE
IN THE HELMHOLTZ ASSOCIATION



**GUIDELINE AGAINST
DISCRIMINATION,
BULLYING AND
HARASSMENT**



This interim guideline is the product of a diverse team of MDC employees working together: the anti-harassment task force.

When conflicts arise:
www.mdc-berlin.de/contact-points

www.mdc-berlin.de

IMPRINT

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INTRODUCTION



The MDC has a non-discriminatory culture in which all individuals are met with equal respect and value. Neither ethnicity, place of origin, sex, gender, sexual orientation, religion, disability, age nor world view¹ should lead to personal or professional disadvantages. The MDC opposes any form of behaviour that violates the dignity of its staff members and provides prevention, information and assistance to avoid or solve such infringements.

MDC staff members are committed to act in accordance with this guideline. Individuals must comply with applicable German laws and regulations, such as the General Equal Treatment Act (AGG) and all MDC Service Agreements.

All staff members should understand the guideline and utilise it as a guide for thought and action. Individuals are encouraged to help address violations of the guideline even if the behaviour was not directed at them. False accusations and attempts to silence individuals who complain about potential violations are also in themselves considered to be a violation of the guideline.

Detailed information on how to deal with problems and conflicts can be found in section 5.

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¹ As long as this is consistent with both German law and with MDC values of tolerance and respect for others.



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SCOPE

This guideline against discrimination, bullying and harassment applies to all MDC staff members at MDC locations, including employees with an MDC contract as well as guests and all individuals that are registered in the MDC personal database (including cooperation partners and employees of external companies working at the MDC).² The guideline also applies to all MDC staff members at off-site work-related events or temporary off-site work places.

As the guideline cannot cover every situation or potential problem, all employees are encouraged to visit the contact points listed in section 5 in case of doubt.

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² Furtheron referred to as staff members.



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DEFINITIONS



Below are definitions of behaviours that explicitly violate the guideline. Examples of each are given in the case studies (see Appendix).

The definition of harassment is highly dependent on the affected person's perception of the behaviour which may differ from the accused's original intention.

Individuals in vulnerable, exposed, dependent or subordinate positions might not feel able to freely and fully express non-consent. Thus, it is important to consider the situation of the targeted person.

3.1 DISCRIMINATION

The German General Equal Treatment Act (Allgemeine Gleichbehandlungsgesetz or AGG) defines discrimination as a behaviour – conscious or unconscious – that treats individuals or groups unequally on the basis of group-specific characteristics. These include: culture or ethnic origin, religion, sex, gender, sexual orientation, marital status, age and mental or physical disabilities.

Experiences of discrimination affect the self-esteem of the persons concerned and can have a direct or indirect impact on their ability to work. In addition to the personal burdens on the persons concerned, discriminatory behaviour endangers both good working environments

and successful scientific progress, which is enhanced by the diversity of the staff.

Indirect discrimination, according to the AGG, occurs when apparently neutral regulations, criteria or procedures have a disadvantageous effect on a certain group of people. Indirect discrimination is defined by the AGG as apparently neutral actions that are not intended to discriminate against particular groups or individuals, but end up doing so due to indirect consequences.

3.2 HARASSMENT / BULLYING

Harassment is defined as unwanted conduct that violates the dignity of the person concerned and creates an intimidating, hostile, degrading, humiliating or offensive environment. Harassment can take many shapes including unwanted contact or communication, insults, threats, or offensive language. The grounds for the harassment are based on that individual's membership of a certain group e.g. based on sex, ethnic group, LGBTQIA+ status³.

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³ LGBTQIA+: A common abbreviation for Lesbian, Gay, Bisexual, Transgender, Queer, Intersexed, Asexual, and other forms of attraction, gender and sex.

Bullying is a special form of harassment, which can occur without identifiable motives. In this case an individual, or a group of people, repeatedly cause hurt or harm to another person or group of people be that via intimidation, insults or humiliation. Bullying undermines a person's ability to function normally, and affects both their self-confidence and self-esteem. As a repetitive behaviour, it undermines and violates the dignity, work motivation and mental health of staff.

Bullying can come in many forms e.g.

- Face-to-face bullying (direct bullying including physical or verbal)
- Covert bullying (indirect bullying e.g. whispering campaigns)
- Cyberbullying (threatening or abusive behaviour carried out through an online portal)

3.3 SEXUAL HARASSMENT

Sexual harassment is non-consensual behaviour of a sexual nature. It includes unwanted sexual acts, unnecessary and unwanted physical contact, comments of a sexual nature, and the unwanted exhibition

of pornographic images. It also includes requests to carry out sexual acts, or implies that sexual acts will result in an unrelated reward (e.g. promotions or passing an exam). All sexes can experience sexual harassment.

The motivation for sexualized forms of behaviour is not always sexual in nature, but can also be motivated by anger, sadism, hate, superstition, competition, a demonstration of power or control. The original motivation in no way justifies the behaviour.

3.4 POWER ABUSE AND WORK-RELATED HARASSMENT

Power abuse is the misuse of a power position to gain personal advantage for oneself or for another person by disadvantaging, harming or harassing another person. This type of misconduct also includes pressure exerted directly or indirectly by a supervisor to work longer than is permitted by law.

Power abuse can also lead to scientific misconduct. Power abuse can arise from anyone in a position of power over someone else, even if that position is not formally defined. It is the responsibility of group leaders and other managers to create a working atmosphere in which power abuse and work-related harassment are not tolerated.

3.5 TOKENISM

Tokenism is the practice of making a merely symbolic effort to be inclusive to members of minority groups, e.g. by recruiting one person from an underrepresented group to committees, panels or project groups in order to give the appearance of diversity but without any intention of giving the individual equal status. The reason behind including a token employee to such working groups is usually intended to deflect accusations of discrimination.



RESPONSIBILITIES

4.1 RESPONSIBILITIES OF THE DIRECTORATE

The MDC directorate is committed to:

- Ensuring compliance with the guideline against discrimination, mobbing and harassment in the workplace.
- The MDC directorate undertakes to ensure that, when recruiting dual career couples, persons do not work in the same team.
- Supporting leaders who adhere to the guideline.
- Assisting its staff in all matters relating to the content of the guideline.
- Ensuring and encouraging all MDC individuals to undertake conflict management and professional conduct training courses.
- Informing individuals in leadership positions that they are expected to undertake regular courses on leadership and conflict management.
- Ensuring that new staff members are introduced to the guideline.
- Developing mechanisms for ensuring that all individuals who work for the MDC as non-staff members are informed of the guideline.
- Providing transparent and binding procedures for dealing with all forms of harassment and discrimination.
- Responding in a timely manner (see procedures) to alleged violations of the guideline and allegations of wrongdoing.
- Providing impartial mechanisms to resolve disputes.
- Ensuring that anyone who reports a suspected wrongdoing in good faith is not subject to retaliation or pressure to keep silent.
- Providing a fair opportunity to staff against whom an allegation is made.
- Taking appropriate administrative action including disciplinary sanctions (see disciplinary actions) in cases of corroborated allegations of misconduct.
- If necessary, the directorate shall update the guideline in collaboration with the Staff Council.

4.2 RESPONSIBILITIES OF INDIVIDUAL STAFF MEMBERS

MDC staff members are expected to follow the spirit of this guideline.

In particular, staff members should be aware that misconduct can lead to disciplinary actions.

Individuals affected by misconduct of others should seek advice to ensure that further steps are consistent with the principles of the guideline.

Individuals who are confronted with sexual harassment, bullying and other forms of discrimination need understanding and support. This requires empathy for the situation of those affected as well as the willingness to mediate and to offer help. The MDC encourages all staff to support affected individuals.

Misconduct should be addressed openly, even if it was not directly directed against one's own person. Early warning of misconduct can help to avoid more serious violations of the guideline.

Each person working at the MDC has a responsibility to acknowledge that views, opinions held and decisions made by managers and supervisors may not always coincide with their own views; such discrepancies themselves do not

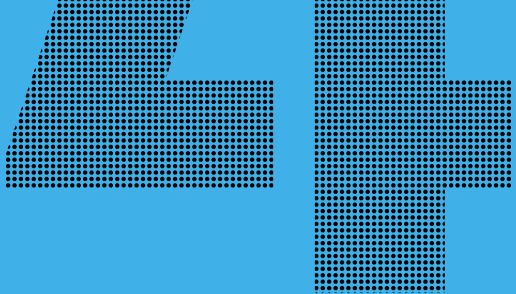
constitute harassment. Similarly, every individual should be aware that a critical scientific debate or a legitimate performance assessment is part of everyday professional life. However, criticism should also be conveyed respectfully and appropriately.

4.3 RESPONSIBILITIES OF SUPERIORS

MDC staff members in supervisory positions are particularly responsible for preventing harassment, bullying and discrimination. Supervisors lead by example and are expected to:

- Know and understand the guideline so as to provide guidance to their staff
- Act in accordance with MDC service agreements and guidelines
- Listen to staff without prejudice concerning topics as discrimination, bullying and harassment
- Ensure and document fair and factual assessments of the performance of the staff members under their supervision
- Encourage regular dialogue surrounding conduct at the workplace and allow staff to express their concerns and needs
- Initiate appropriate responses to misconduct, either when directly witnessed or when informed about

- Ensure that internal policies and procedures are applied consistently
- Support staff members who raise a conflict and potentially need protection against retaliation
- Participate in available management training courses to further develop leadership skills
- Name and document supervisory relationships and associated responsibilities in their working groups



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WHEN CONFLICTS ARISE

WHEN CONFLICTS ARISE

When conflicts arise, individuals are encouraged to directly address problems and to try to find amicable solutions in order to ensure the ability to work and psychological well-being of every individual. Individuals are expressly encouraged not to tolerate any form of discrimination or harassment but to seek help in dealing with it at the earliest possible stage they are able to. In the first instance individuals are encouraged to directly communicate to the individual causing the perceived problem, that their conduct is undesirable and should be stopped.

It is recognized that there are some workplace conflicts where the person concerned either cannot or should not be attempting to deal with the problem alone – this would include severe cases of bullying, sexual or other types of harassment or violence. In this case, the individual is asked to save any evidence and approach their superior. If the supervisor is directly involved or the relationship of trust with them is problematic, the individual can speak to one of the first points of contact who have training in conflict management and who can provide information about external contact points, if desired from the person concerned:

INTERNAL CONTACT POINTS

- Staff Council
- AGG Complaints Office (“AGG Beschwerdestelle”)
- Welcome & Family Office
- Women’s Representative
- Graduation Office and Postdoc Office
- Ombudspersons for PhD students
- Technical Assistants’ Representatives
- Disabilities Officer
- Youth and Apprentice Representatives

EXTERNAL CONTACT POINTS

- Psychosocial Counselling
- Company Physician
- Federal Anti-Discrimination Agency (incl. free legal counselling)

An up to date list of individuals who occupy these positions can be found on the MDC website. Any of the mentioned contact points can be contacted.

When conflicts arise:
www.mdc-berlin.de/contact-points

Depending on the severity of the situation and their own wishes, individuals can seek informal or formal advice. Informal counselling is possible at all contact points.

If an informal consultation does not lead to a solution, the AGG Complaints Office at the MDC can support the formalisation of a complaint and thus start a formal process.

In cases of serious complaints, e. g. sexual assaults, disciplinary action of the MDC directorate is imperative (see section 6). Criminal activity should be reported directly to the police.

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In cases of harassment, witnesses are encouraged to offer help and support to those affected. Witnesses can also report violations of the guideline.

All who are aware of a harassment case or similar complaint, or are involved in its resolution, should be aware of the sensitivity of the situation and treat the incident confidentially. Parties to the complaint must also observe this requirement of confidentiality.

For more detailed information on how to resolve problems, see also Complaints Procedure.

The MDC has a non-discriminatory culture in which all individuals are met with equal respect and value. Neither ethnicity, place of origin, sex, gender, sexual orientation, religion, disability, age nor world-view should lead to personal or professional disadvantages. The MDC opposes any form of behaviour that violates the dignity of its staff members and provides prevention, information and assistance to avoid or solve such infringements.



DISCIPLINARY ACTIONS

Infringements of the guideline could also be relevant under labour law. The following disciplinary measures are possible:

6.1 REPRIMAND

- An employee is reprimanded orally or in writing due to misconduct and is instructed to refrain from such misconduct in the future.
- The warning does not include a threat of dismissal.

6.2 RELOCATION

- The employee is assigned a new role or is transferred to a new team or department.
- However, relocation must be fair and appropriate in the sense of the applicable labour laws.

6.3 WARNING NOTICE

- The warning is in the form of a written statement which sets out the violations of the GRU and states that the individual must refrain from misconduct in the future.
- It also states that in the event of a repeat offence there is a risk of termination of contract.
- The warning is stored in the personnel file and can serve as evidence before the labour court.

6.4 RELEASE / SUSPENSION

- If the relationship of trust between the employee and the employer is severely disrupted (e.g. in the case of urgent suspicion of criminal offences), the employer can release the employee from his or her duties.
- In this case, the employee is released from his or her obligation to work but is still entitled to his or her salary.

6.5 EXTRAORDINARY DISMISSAL

- In the event of extraordinary termination, the employer can terminate the employment relationship with immediate effect.
- An extraordinary termination can only take place for serious reasons.
- In the case of dismissals due to behaviour (e.g. unexcused absence, insulting colleagues), a warning must usually have been issued beforehand.
- In the case of serious violations of trust, e.g. theft, act of violence and sexual harassment⁴, no prior warning is required.

In the event of behaviour that is deemed criminal under German law, the individual may additionally be subject to criminal prosecution.

.....
⁴ Whether the sexual harassment entitles to extraordinary termination depends on the circumstances of the individual case, including its extent and intensity.



ENFORCEMENT TIMELINE

The **guideline against discrimination, bullying and harassment** will enter into force as interim guideline on January 1st, 2020. It replaces the existing policy about sexual harassment at the working place at the MDC and the guidelines for noticing and dealing with conflicts at the MDC.

It will remain in force until revoked by the Directorate. An initial joint review is to take place no later than two years after it has come into force.

Berlin, 20.12.2019

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APPENDIX
EXAMPLES AND CASE STUDIES
FOR SECTION 3 (DEFINITIONS)

In order to make the definitions described in section 3 easier to understand, the following examples are given:

Indirect discrimination

- An important meeting is scheduled outside normal working hours, although it is known that one of the participants has caring responsibilities and therefore cannot attend. In this case, the employee is disadvantaged due to his or her family status.
- In a job advertisement, the applicant is expected to be a “native speaker”. The activity of the job to be filled requires however only fluent German knowledge. This is an indirect disadvantage for applicants who were not born in Germany.

Harassment/Bullying

- Ostracism
- Constant criticism of another’s achievements
- Spreading rumours, lies, or misrepresenting someone
- Inappropriate jokes
- Blocking the progress of somebody’s work
- Stalking someone

- Misgendering (e.g. deliberately not using names and pronouns consistent with an individual’s stated gender identity).

Sexual harassment

- Unwelcome sexual comments
- Jokes of a sexual nature
- Physical behaviour, including unwelcome sexual advances, touching and various forms of sexual assault
- Displaying pictures, photos or drawings of a sexual nature
- Sending unwanted E-mails and text messages with a sexual content
- Rape

Power abuse and work related harassment

- Misplaced blame for errors
- Sabotage of work
- Unreasonable work demands
- Claiming credit for someone else’s work
- Discounting accomplishments
- Intimidation by superior
- Insults and put-downs
- Denial of access to opportunities or information that may be reasonably anticipated given the individual’s status and performance

- Threats in relation to the workplace
- Limiting professional development based on contract status, position or career choice
- Denial of work/life balance
- Ostracism

Tokenism

- A woman is invited to form part of a research program or a project but not allowed to enjoy full participation due to e.g. denial of advancement opportunities, alienation, or devaluation.
- A man is invited to join a group discussing life as a parent at the company. He finds that he is the only man invited, despite there being several other fathers in the company. The women in the group dismiss his points of view and make unsubstantiated and derogatory comments based on outdated stereotypes about his abilities as a parent.
- A secretary is invited to join a group advising on general matters to the Directorate. The secretary is there to represent all members of the administration, but when they try and express the administration’s point of view, they are not allowed to speak, or their comments are repeatedly dismissed.

LEGAL WAYS

Incident

THE FOLLOWING LEGAL WAYS CAN BE TAKEN IN THE COURSE OF THE COMPLAINT (SEE PAGE 28):

LEGAL WAY 1

LAW
within the **GETA**

OPPONENTS
Affected person and employer

The AGG regulates organizational obligations for the employer (preventive measures, training for employees and supervisors etc.). The affected persons have no right to have the accused person dismissed.

Employees have

1. Right to appeal
2. Right to refuse performance
3. Right to claim damage

This claim must be made within **2 months**. The employer is only informed when the AGG Complaints Office or the leader has been informed, but not the point of contacts, as they are considered to be trusted persons.

LEGAL WAY 2

LAW
within the **labor law**

OPPONENTS
Affected person and employer

The employer must prove that the dismissal was justified. (It is difficult without criminal proceedings, witnesses and clarification).



LEGAL WAY 3

LAW
within the **criminal law**

OPPONENTS
Affected person and accused person

Affected person files criminal complaint against accused person (affected person goes to police).

Offences can be

- Defamation
- Slander
- Harassment

The criminal complaint must be filed within **3 months**. The prosecution will then investigate. The statute of limitations (**3 years**) runs from the time of the offence.

The advantages here consist in the protection of potential further victims and the facilitation of disciplinary actions against the accused person, e.g. a dismissal.

BESCHWERDEABLAUF // PROCEDURE

VERANTWORTLICH // RESPONSIBLE

PROZESS // PROCESS

DOKUMENTE // DOCUMENTS

RECHTSWEGE (SIEHE SEITE 27) // LEGAL WAYS (SEE PAGE 27)

