

# Harassment and Bullying Policy for School Based Employees

*Personnel Services*

## Harassment and Bullying Policy for School Based Employees

The Governing Body is committed to a working environment that offers equal treatment and equal opportunities for all its employees. It recognises that all employees have a right to be treated with dignity and respect in order to realise their potential and to achieve the School's objectives. The Governing Body recognises that any person could be affected by unfair treatment including harassment, bullying or victimisation and is committed to eliminating such behaviour and will not tolerate it.

*The purpose of this policy is to give guidance on what is unacceptable behaviour and the procedure available for dealing with it. It is not intended to inhibit reasonable and effective management of employees or prejudice the rights of individual employees to take legal action.*

All employees should be aware of this policy and the procedure to follow and aware of their role and responsibilities.

## Definitions

This policy is specifically aimed at harassment related to sex, race, disability and sexual orientation and bullying, but also applies to all other forms of workplace harassment including harassment based on age, health, political or religious beliefs. Wherever the term harassment is used in this policy, it can be taken to apply to any form of harassment and/or bullying and/or victimisation. Harassment may be intentional or unintentional, overt or covert, explicit or subtle. It is always damaging whether psychologically, personally or professionally. It is the impact on the recipient which determines whether behaviour constitutes harassment and not necessarily the intention of the harasser.

Perpetrators of harassment may be held personally liable for acts of harassment in the event of any legal proceedings. Harassment may also constitute a criminal offence, the penalty for which could be a fine or imprisonment.

Perpetrators of harassment may be dealt with in accordance with the disciplinary procedure which may result in disciplinary action being taken.

## Discrimination

Harassment can amount to unlawful discrimination under the Sex Discrimination Act 1975, the Race Relations Act 1976 and the Disability Discrimination Act 1995, the Employment Equality (sexual orientation) Regulations 2003 and the Employment Equality (Religion or Belief) Regulations 2003. Claims of harassment under this legislation can be brought against the alleged harasser and against their employer. An employer is liable for the discriminatory acts of employees acting in the course of their employment, whether or not they are done with the employer's knowledge or approval unless they are able to show that they took all reasonable practical steps to prevent employees carrying out unlawful discrimination. Employers are expected to have taken steps to prevent harassment. Additionally harassment can be a crime (the Criminal Justice and Public Order Act 1994 and the Protection from Harassment Act 1997).

## What is Harassment?

Harassment can result from stereotyping and an assumption of a person's way of life. The School's policy in respect of harassment refers to an act(s) of intimidation or violence, threats and derogatory remarks, and to the withdrawal of opportunity and rights, which may be verbal, physical or written and which may be explicit or implied. It may include attacks on the person and on property, together with offensive remarks and "jokes" and the display of offensive materials, which is suffered by an individual or group because of their race, colour, nationality, ethnic or national origins, gender, sexuality, disability, gender reassignment, age, health or religious belief, or where the individual or group believes that the action was on racial, sexual, homophobic or religious grounds or an act(s) carried out as a response to a person's physical disability, learning difficulties or health (including HIV).

One can be a victim of different forms of harassment, eg a black woman can suffer both racial and sexual harassment. Below are listed some examples of the various forms of harassment:

### Sexual Harassment

This is defined as 'unwanted conduct of a sexual nature or conduct based on sex affecting the dignity of women or men at work'.

The perception of what constitutes harassment may vary from person to person but consists of conduct of a sexual or sexist nature which is neither invited nor welcome and which causes offence. This can include unwelcome physical, verbal or non-verbal conduct. This will also include harassment for reasons of gender reassignment. Such behaviour includes but is not limited to:

- suggestive comments or body language
- unwanted physical contact
- lewd jokes
- leering
- demands for sexual favours and threats of or actual denial of job opportunities if such demands are refused
- verbal threats
- display of pornographic or sexually suggestive pictures
- offensive comments about appearance or dress.

## **Racial Harassment**

Racial harassment is unwanted conduct of a racial nature. Racial harassment can take many forms which may involve intimidation, hostile or offensive physical, verbal or non-verbal behaviour of a racist nature. Racial harassment includes but is not limited to:

- abusive language, racist 'jokes', stereotyping
- racial name calling
- display or circulation of racially offensive written or visual material including graffiti
- physical threats, assault and insulting behaviour or gestures
- open hostility
- unfair allocation of work and responsibilities
- exclusion from normal workplace conversation or events
- harassment suffered by an individual or group because of their race, culture, colour, nationality, ethnic or national origin.

## **Disability Harassment**

This consists of undignified treatment, ridicule or exclusion of people with disabilities including people with HIV/AIDS or people with a mental disability. Disability harassment includes but is not limited to:

- intimidation or violence
- the use of derogatory language or remarks
- jokes or abuse directed against a person with a physical or mental disability or sensory impairment
- unfair allocation of work and/or responsibilities
- display of offensive material
- isolation of an individual by deprivation of communication creating an environment which is hostile to an individual or group.

In the case of people with disabilities or who are differently abled, a poor working environment may be created by simple neglect or disregard of their special needs and this can be a form of harassment.

## **Sexual Identity or Orientation Harassment (including lesbians and gay men/transsexuals)**

Sexual identity or orientation (including lesbians and gay men) harassment includes but is not limited to:

- intimidation or violence
- use of derogatory language, remarks, 'jokes', threats, offensive actions
- physical abuse
- display of offensive material
- the threat of disclosure of a person's sexuality as a means of intimidation
- the threat of, or actual, dismissal of a person on grounds of sexuality
- denial of access to support
- isolation of an individual by deprivation of communication or creating a hostile environment.
- unfair allocation of work and/or responsibilities

Harassment of lesbians and gay men and transsexuals can also result from assumptions, therefore no assumption should be made about a person's sexuality.

## **Bullying**

Bullying is usually where an individual abuses a position of power or authority over another person. It can take many different forms. Bullying includes but is not limited to:

- shouting at an individual to get things done
- humiliating an individual in front of his or her colleagues
- picking on one person when there is a common problem
- conduct that denigrates, ridicules or humiliates an individual, especially in front of his or her colleagues
- conduct which is intimidating, physically abusive or threatening
- consistently undermining someone and his or her ability to do the job
- setting impossible deadlines for work to be completed.

## **Victimisation**

This occurs when a person is treated less favourably because they have asserted their rights (or are believed to have done so) under this or any other policy. This includes both those bringing claims under this policy and any others acting as witnesses in any investigation of a complaint.

## **Harassment on Grounds of Trade Union Activity**

Under the Trade Union and Labour Relations (Consolidation) Act 1992 Trade Union Representatives may claim harassment/bullying if they feel they are treated differently or are being victimised as a result of their Trade Union Activity.

## **Roles and Responsibilities**

### **LEA Responsibilities**

The LEA is responsible for the production and review of this policy. The LEA is responsible for ensuring that the contents of the policy have been consulted and agreed with all relevant parties.

This policy should be made available to all schools/Governing Bodies and school based employees, who have adopted this policy.

The LEA will provide training and offer further advice and guidance on the contents of the policy as required.

The LEA will also be responsible for monitoring and production of statistics relating to this policy and will follow up on any action resulting from this as required.

### **Governing Body**

The Governing Body will ensure the promotion of this policy to all employees and will ensure that, relevant Governors, the Head Teacher and other relevant employees (for example, Senior Managers who may be asked to carry out an investigation in the event of a complaint being made) have suitable training and fully understand the policy and can ensure its effective implementation.

In the event that the complainant is the Head Teacher, the Chair of the Governing Body will undertake the Head Teacher responsibilities detailed in the procedure.

To ensure that the investigation of complaints under this procedure are carried out in a fair and consistent manner.

## All Employees

All employees have a responsibility to help ensure a working environment in which the dignity of employees is respected. It is the duty of all employees:

- to comply with this policy and to treat colleagues with respect and dignity
- to create a climate at work in which it is clear that harassment of any sort will not be tolerated
- to set a personal example
- to challenge offensive behaviour, whether addressed at them or at a colleague and bring it to the attention of the Head Teacher, nominated Governors, or Line Manager
- to support colleagues who suffer such treatment.

## Head Teacher and Managers/Supervisors

As well as the responsibilities detailed above for individual employees, the specific responsibilities as a Head Teacher/Chair of Governors, Manager or Supervisor are:

- to create a climate at work in which it is clear that harassment and bullying of any sort will not be tolerated.
- to examine your own management style to ensure it is not bullying or discriminatory
- to comply with this policy and ensure that employees are treated with respect and dignity
- to challenge offensive behaviour
- to be familiar with the procedure for dealing with harassment and bullying complaints
- to explain this policy to employees
- to stress the importance of the policy and the possible consequences of any breach of the policy
- to offer guidance to employees who seek it regarding this policy and the procedure for bringing complaints
- to support and protect employees who bring a complaint of harassment and/or bullying – this may be required prior to, during or following an investigation or at any stage referred to in this policy
- to deal with any complaint quickly, sympathetically and confidentially

- to take corrective action if acts of harassment and/or bullying are witnessed
- to ensure that no employee is victimised for making a complaint of harassment and/or bullying
- to recognise and deal with potential harassment and/or bullying even if the victim does not

### **Role of the Trade Union Representative**

Employees who are Trade Union members can contact their Trade Union Representative who will provide advice and guidance within the terms of the Policy so that:

- employees feel supported and receive advice throughout the procedure
- they understand their rights and responsibilities
- they explore options open to them
- the issue is resolved

### **The Role of the Investigating Officer**

The Investigating Officer(s) carry out the investigation into the alleged harassment and/or bullying in a fair and consistent manner.

The Investigating Officer(s) will act in a neutral manner when collecting evidence and documenting facts regarding the incident(s). The investigation report will be submitted to the Head Teacher/Chair of Governors who will decide if there is a case to answer.

## **Additional Support**

### **Employee Counselling Service**

Employees can contact the Employee Counselling Service, which is free, in confidence and is provided by an independent organisation. They can be contacted on 0121-580 2715.

Further information regarding the Employee Counselling Service can be found in school or from the Personnel Section.

## Recognised Trade Unions

Unison	0121-569 5996
GMB	0121-550 4888
T&GWU	0121-569 6143
NUT	0121-544 9344
NASUWT	0121-555 6351
ATL	0121-569 2358
SHA	01384 830971
NAHT	07770 608019

## The Procedure

The following principles will be adopted during the procedure to deal with matters of harassment and bullying:

- At either the informal or formal stage of the procedure, the employee making the complaint may seek advice on the procedure from the Local Education Authority Personnel Section.
- Throughout the procedure, the employee may seek advice or be represented by a trade union or professional association representative or a work colleague who will provide personal support.
- In the event that the employee does not believe an informal approach, (which has the aim of resolving the problem by mutual agreement) will work, or that the nature of the complaint renders such an approach inappropriate, there will be access to the formal process.

**Allegations or complaints from an employee of harassment/ bullying by other service providers, a pupil(s) and/or parents should be reported to the Head Teacher immediately. Such complaints will be dealt with separately and not in accordance with this policy/procedure.**

**Complaints of harassment and bullying by a member of staff or member of the Governing Body should be pursued in the following way:**

### Informal Stage 1

The alleged harasser must be approached and told to stop the unwanted behaviour.

Employees may find it difficult to approach the person concerned, who may be in a more senior position. If employees feel they cannot approach the alleged harasser, they can ask a colleague, Line Manager or trade union representative to ask the alleged harasser to stop on their behalf.

Employees may find it helpful to keep confidential records of incidents of behaviour which they consider to be harassment or bullying, noting the date and time of the incident and details of any witnesses. Such records can be helpful in describing the problem and may also be used if any formal action is subsequently taken.

If the complaint has not been resolved at the informal stage either by approaching the alleged harasser or a meeting of all concerned then the formal process should be followed.

### **Formal Procedure**

Once it has been determined that a formal allegation should be made, this should be done by completing Appendix 1 - Formal Notification of Complaint. This form should be sent to the Head Teacher/Chair of Governors.

The Head Teacher (Chair of Governors) should consider any immediate action such as alternative working arrangements or suspension of the alleged harasser pending investigation. The allegation must be investigated in accordance with the school's disciplinary procedure. The Head Teacher/Chair of Governors should also put in place appropriate support for the member of staff making the allegation.

In accordance with disciplinary procedure, where the person causing the concerns is the Head Teacher, the Chair of the Governing Body, in consultation with the LEA will consider appropriate action such as alternative working arrangements during an investigation or suspension pending investigation or.

The Head Teacher/Chair of Governors, after liaising with the Personnel Adviser, must appoint an appropriate person to investigate the complaint. The investigation should be independent and objective, carried out by persons unconnected with the allegation. Your School Personnel Adviser will assist with this process.

It is not expected, however, that such records would be kept for longer than 12 months without the complainant's concerns being raised.

Where the Head Teacher is the person causing concerns, the LEA may investigate the matter at the request of the Chair of the Governing Body. (This service is additional to the Service Level Agreement and would be subject to an extra charge.)

#### Guidance for timescales:

- The complainant should receive a written confirmation of receipt of the complaint, and name of the investigating officer (within 5 working days).
- The alleged harasser must be advised in writing of the allegation and the name of the investigating officer (within 5 working days).
- Investigating officer must advise both the complainant and the alleged harasser of any delays during the investigation. Complete records should be kept of all meetings and investigations and must be kept strictly confidential. (Both parties should be provided with an update the progress of the investigation on every 4 weeks.)

The investigation will be carried out in accordance with the Schools Disciplinary Procedure. During the investigation the complainant, the alleged harasser and any witnesses will be interviewed and asked to give statements and both the complainant and the alleged harasser will have the right to be represented throughout the process.

All investigations will be carried out sensitively and the importance of confidentiality will be stressed at all times. Investigations of this nature will be completed without undue delay and an indication of the likely timescale will be provided to all parties at the start of the process.

#### **Action**

Following completion of the investigation and formal consideration of the matter in accordance with the school's disciplinary procedure, the Head Teacher/Chair of Governors will consider if disciplinary action is necessary.

Where the Head Teacher/Chair of Governors decides that there is no case to answer, this decision will be confirmed to all parties in writing.

There may be instances whereby the Head Teacher/Chair of Governors may need to take other action outside of this policy.

Following an allegation it may be appropriate for the Head Teacher/Chair of Governors to consider and recommend:- any training issues that may have arisen, remedial action, counselling etc as deemed appropriate.

## Appeals Procedure

Appeals against any decisions taken within the disciplinary procedure will be dealt with in accordance with the disciplinary appeals procedure.

If the Head Teacher/Chair of Governors decides there is no evidence from the investigation report to call a disciplinary hearing and the complainant is not satisfied with the decision: the employee can appeal to the Head Teacher/Chair of Governors in writing within 10 working days stating his/her views, incorporating a clear statement of the nature of the reason for being dissatisfied with the results.

*If such a request is made, the Head Teacher/Chair of Governors will arrange for the Appeals Committee to meet within 15 working days of receipt of the request and prepare a written report for presentation to the Appeals Committee.*

*The Appeals Committee of the governing body should consider the Head Teacher/Chair of Governors report and any written statements, before coming to a decision. The Appeals Committee can also call the Investigating Officer(s) for any clarification they may need on the investigation report.*

*The Appeals Committee do not re-investigate the complaint, they consider the grounds for the original decision.*

*The Appeals Committee will detail in writing their decision and notify parties of the result within 5 working days.*

*The Head Teacher/Chair of Governors will have to reconsider action taken as a result of the outcome of the Appeals Committee.*

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## **Guidance from Personnel**

When a complaint is not upheld, it is important that the complainant and witnesses are not victimised for having made the complaint.

**Malicious complaints will be dealt with in accordance with the school's disciplinary procedure.**

Any counter allegations that are made during the course of an investigation will be dealt with as separate complaints, which may result in separate investigations and hearings in accordance with this procedure.

At all stages schools should seek advice from the Personnel Section.