

Barningham CEVC Primary School

Dealing with Harassment and Bullying Policy

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1. Introduction

Harassment or bullying in any workplace is clearly undesirable and unacceptable. Not only can it have a detrimental effect on health and well-being of an employee who suffers it, but it can generally undermine good working relationships, affect staff morale and reduce overall effectiveness in a working environment. An employer has a legal duty to provide a safe working environment for its employees.

The purpose of this policy is to ensure that complaints of harassment or bullying are dealt with swiftly, fairly and consistently, that unwanted behaviour ceases, and that prompt and effective solutions are found, whilst maintaining all parties' rights.

2. Scope

This procedure applies to all teaching and support staff in maintained schools (including those seconded to other schools or organisations) in which the governing body has adopted them for use. It applies to staff in Pupil Referral Units in the same way. It also applies to local authority-employed 'unattached teachers' / FE staff.

The schools concerned are those Community and Controlled schools which have delegated budgets under S.45 of the School Standards and Framework Act 1998, or successor legislation. The Education (Modification of Enactments relating to Employment) Order 1999 provides for the governing bodies of schools concerned to be deemed the employer for the purpose of this policy.

The governing bodies of Voluntary Aided or Foundation Schools maintained by Suffolk County Council may also adopt this policy, with appropriate modification to reflect that in each case the governing body is the employer.

Academies and Free Schools, which are not maintained by the local authority, may choose to adopt this policy, with appropriate modification to reflect their employment status.

An employee working within a school but employed on another organisation's terms and conditions of employment should have any grievance managed under their own organisation's appropriate policy/procedure.

3. Confidentiality

The material involved in a complaint of harassment or bullying is of a sensitive nature. All the parties involved in these procedures, including the complainant, the person responding, and any witnesses, have a right to expect that the information which they provide will be treated in confidence by all parties.

Details should normally only be disclosed to those who have a role within the procedure, or for the purposes of seeking professional advice, and for legitimate purposes to expedite the procedure.

Any written instruction to an employee, or the outcome of any subsequent disciplinary proceedings associated with a complaint of bullying or harassment will normally be kept on the personal file of the employee receiving the instruction or warning.

Minutes of the proceedings of any committee of the Governing Body will usually be confidential to members of the committee, although the decision and outcome of the committee's deliberations will normally be reported to the delegated committee of the Governing Body. Other records, complaints, statements etc. collected during the process of investigation and assessment of the complaint should be held securely.

4. Exclusions

This policy is not intended to preclude the exercise of normal management functions, nor the issuing of reasonable and lawful instructions in an appropriate manner.

The procedure does not apply to authorised investigations into the conduct or capability of employees (including attendance and/or health), nor to the proper application of disciplinary, capability or similar procedures. Complaints about the conduct of such investigations and/or procedures should be raised through the appropriate appeals process or grievance procedure.

5. Roles and Responsibilities

All employees are reminded that they are expected to observe the highest standards of behaviour towards all members of the school community and that harassment or bullying of other employees may be regarded as a disciplinary offence.

It is a disciplinary offence to victimise an employee who has made a complaint of harassment or bullying, or an employee who gives evidence in good faith about a matter under investigation.

Where an employee has raised a complaint of harassment or bullying it must be recognised that this is likely to be a very stressful time for the employee concerned and Head Teachers, Governors and managers (as appropriate) must be mindful of this and consider what support may be necessary via school well-being programmes or similar. The same support should also be offered to alleged perpetrators who are being called upon to respond to such allegations.

6. Using this policy

This policy defines the key terms and expectations in this area. Complaints of bullying and/or harassment by colleagues should be made in accordance with the Locally Managed Schools' Grievance Policy (document P41), and will be dealt with via the process set out in that policy. This should be read by employees and Head Teachers, Governors or managers in conjunction with this Harassment and Bullying Policy. The Grievance Policy sets out both informal and formal measures. It is hoped that, in many cases, conflict between employees can be resolved by quick intervention and the use of informal measures, rather than resorting to a formal process, although it is recognised that there may be no alternative in serious cases.

Where a complaint of harassment or bullying has been upheld, the perpetrator's actions will usually be addressed under Disciplinary Policy.

7. Key terms: definitions of harassment and bullying

Harassment and bullying can take many forms. It can be directed at an individual, or a group, and examples include violence, abusive or offensive behaviour towards an individual or ignoring someone.

Employees can be subject to harassment and bullying on a wide variety of grounds, including their:

- age;
- gender;
- gender reassignment
- marital or civilly partnered status;
- pregnancy and maternity;
- physical characteristics;
- race, ethnic origin, nationality or skin colour;
- religion, belief or political convictions, or none;
- sensory or physical impairments, learning difficulties, ill health or medical condition;
- sexual orientation;
- trade union membership, or non-membership;
- willingness to challenge harassment and bullying, leading to victimisation;

This list is not exhaustive. Employees are also protected on the basis of being perceived to possess the above protected characteristics, whether they have them or not. They are also protected on an associative basis (e.g. parents of a disabled child are protected from harassment on this basis). Job applicants, as well as current employees, are also covered by the legislation.

7.1 Definition of Harassment

Harassment is unwanted conduct that has the purpose or effect of violating a person's dignity, or creating an intimidating, hostile, degrading or offensive work environment.

The types of harassment set out in the Equality Act 2010 are as follows:

1. General: based on a protected characteristic
2. Conduct of a sexual nature
3. Less favourable treatment because of rejection of or submission to conduct of a sexual nature, or harassment based on sex or gender reassignment

The Equality Act 2010 protects staff and customers from harassment because of: age, disability, gender, gender reassignment, marriage and civil partnerships, pregnancy and maternity; race, religion or belief, and sexual orientation. It should be noted that behaviour does not have to be directed at a person in order for them to make a claim; they simply have to be able to demonstrate that the behaviour had the effect of creating an intimidating, hostile or offensive environment for them. For example, that derogatory terms were used as a joke, or that the perpetrator was unaware the complainant was of a particular protected group when they made the offensive remarks, or that they treat everyone equally badly. Harassment is defined not by the intention of the perpetrator, but by the negative impact on the recipient.

Harassment can take many forms including:

- physical contact, ranging from touching to serious assault;
- verbal and written harassment through jokes, offensive language, gossip, slanderous correspondence;
- graffiti or obscene gestures;
- sending offensive material by email, by post, by text, or via social networking media;
- isolation or non co-operation at work; exclusion from social activities;
- coercion ranging from pressure for sexual favours to pressure to participate in particular activities;
- intrusion by pestering, spying, following;
- "outing" someone - to state openly and publicly someone's sexual orientation without their permission.

The scope of the various forms of harassment is explained in more detail below.

- Harassment on age grounds can affect people of any age
- Harassment on disability grounds affects people with physical and sensory impairments, learning difficulties and mental health conditions.
- Harassment on gender grounds affects people of any gender.
- Harassment on gender reassignment grounds affects people as soon as they manifest their transgendered status (e.g., by dressing in the clothes of the opposite sex).
- Harassment on marriage or civil partnership grounds affects those who are currently married or civilly partnered. There is no legal protection for previous or future relationships.
- Harassment on pregnancy or maternity grounds affects female employees who are pregnant or on statutory maternity leave.
- Harassment on race grounds affects people of all races, and includes race, colour, nationality, citizenship, caste, and ethnic or national origins.
- Harassment on religion or belief grounds affects people from all religions and religious groups; people with certain belief systems and also people who have no religious belief.
- Harassment on sexual orientation grounds affects people of all sexual orientations, whether they are heterosexual, lesbian, gay or bisexual.
- Sexual harassment refers to unwelcome conduct of a sexual nature. If an incident of perceived sexual harassment persists once it has been made clear that it is regarded by the recipient as offensive or

unwelcome, this is deemed to be harassment. In certain cases, however, one incident of harassment may constitute sexual discrimination if sufficiently serious. It is the unwanted nature of the conduct that distinguishes sexual harassment from friendly behaviour that is welcome and mutual. People are also protected from less favourable treatment because of rejection of or submission to conduct of a sexual nature. Further details as to the forms it can take are given below.

- (i) Physical contact of a sexual nature is commonly regarded as meaning unwanted physical contact, ranging from unnecessary touching of a colleague, to sexual assault and coercing intercourse.
- (ii) Verbal conduct of a sexual nature may include unwelcome sexual advances, offensive flirtations, continued unwelcome suggestions for social activity outside the workplace, suggestive remarks, and lewd comments.
- (iii) Non-verbal conduct of a sexual nature refers to the display of pornographic or sexually suggestive pictures, objects or written materials; leering, and/ or making sexually suggestive gestures.

Third party harassment – please see section 8.

7.2 Definition of Bullying

Bullying is the misuse of power or position to criticise and condemn unreasonably; to humiliate and undermine an individual's professional ability. In terms of legislation, an employer's duty to prevent bullying comes under the health and safety provision of a "duty of care".

Obvious bullying may include:

- shouting at employees
- displaying instantaneous rages
- using personal insults and name-calling
- criticising unreasonably
- humiliating publicly
- threatening with demotion.

Less obvious bullying may include:

- setting objectives with impossible deadlines
- removing areas of responsibility
- setting menial tasks
- changing working guidelines
- ignoring or excluding an individual
- talking only through a third party
- refusing reasonable requests
- blocking a person's promotion
- stealing credit for the work of the victim
- subjecting the employee to excessive scrutiny or 'micromanagement'

It is the pattern of such events that determines if bullying is taking place. Any one of these examples may occur in isolation and can be 'out of character' for the person who perpetrates it. A bully, however, will consistently use one or more of the above methods to harass and intimidate the victim.

7.3 Definition of Victimisation

Victimisation is treating someone less favourably than others because he or she has reported harassment (whether formally or otherwise), or supported someone in making a complaint, for example by giving evidence as a witness in relation to a complaint. It includes when A *believes* B has made, or may make, a complaint or support another's complaint.

In these situations the employee can use this policy or report the incident to a manager. If they choose not to report the issue formally, then it may not be appropriate for any further action to be taken. However, if the offence was very serious, the school, or county council, would consider that it was failing in its duty to provide a safe working environment, free from unlawful discrimination, if it did not act. In this situation, where the school/county council is aware of the incident, formal action could be taken without the employee's permission, although he or she would be informed.

8. Complaints of Harassment or Bullying by Third Parties

Employees should report any complaint to their Head Teacher, or, in the case of "unattached" teachers employed directly by the Local Authority, their line manager, who will determine, with appropriate assistance where required, what action may be taken. In some cases, it may be appropriate to report incidents via the incident reporting procedure. Suffolk County Council has a duty to provide a safe working environment.

~~Written Feb 2016~~

To be reviewed by Personnel and Communications Committee annually

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