Avenue
CENTRE FOR EDUCATION

PREVENTION OF BULLYING AND HARASSMENT POLICY

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Prevention of Bullying and Harassment Policy

Contents

Policy 2
Scope 2
Definitions 3
What is **harassment?** 3
Sexual Harassment 3
Racial Harassment 4
Disability-related Harassment 4
Ageist Harassment 4
Sexual Orientation related Harassment 4
Religion or Belief Harassment 4
Gender Reassignment Harassment 5
Associative Harassment 5
Third party Harassment..... 4
What is **Bullying?** 5
Impact of bullying and harassment 6
Victimisation 6
Responsibilities 6
Responsibilities and Rights of Employees 6
Responsibilities of Governing Bodies and Headteachers 6
Procedure 7
Informal Procedure 7
Formal Procedure 7
Disciplinary and Appeal Hearings 8
Malicious Complaints 9
Counselling 9
Grievance Procedure 9
Confidentiality 10
Follow up 10
Monitoring 10

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This model procedure has been drawn up by Luton HR Traded Services after consultation with trades unions.

1.0 Policy

1.1 The School/Trust* is committed to equality of opportunity and seeks to create a respectful and positive working environment in which every individual can seek, obtain and continue employment free from harassment or bullying. The School/Trust* expects all employees to treat one another with dignity and respect at all times.

The School/Trust* will treat any such incidences of bullying or harassment seriously, and this policy sets out how all our employees can seek support and report any unwanted behaviours.

1.2 This policy incorporates:

- Definitions of the kind of behaviour that is unacceptable and unlawful
- The responsibilities of headteachers, managers, the governing body and trust to ensure that such matters are investigated and handled fairly and promptly. (Where a formal complaint is substantiated, it may be treated as a disciplinary matter and could lead to dismissal)
- A clear process for employees to follow in the event of them being subjected to bullying and harassment by another employee or third party
- the provision of education and training
- support for 'victims' and 'alleged harassers'

2.0 Scope

2.1 This policy applies to all school employees. All employees have the right to be treated with dignity and respect and to work in an environment which is safe and free from bullying and harassment, including sexual harassment. Ensuring the implementation of and adherence to this policy is the duty of all governing bodies, headteachers and school employees.

2.2 Proven bullying, sexual harassment or harassment in relation to an individual's age, disability, gender reassignment, race, religion and belief, sex or sexual orientation is unlawful and may lead to legal action. Each of these characteristics are 'protected' in accordance with the Equality Act 2010.

2.3 Employees may therefore have the right under the Equality Act to bring a complaint of unlawful discrimination before an Employment Tribunal that may leave the governing body vulnerable to legal action in which financial remedies may be awarded.

2.4 Employers are legally required to take all reasonable steps to prevent harassment by third parties. The school will not tolerate any behaviour amounting to harassment by third parties. This includes contractors, visitors, parents and pupils. If any employee experiences harassment from a third party, the school is committed to protecting our employees in such cases.

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2.5 Once aware of any third-party harassment, employers must take all reasonable steps to prevent it from happening again.

3.0 Definitions

3.1 What is **harassment?**

Harassment is any unwanted physical, verbal or non-verbal conduct that has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. A single incident can amount to harassment.

3.2 It is the deed itself and the impact on the recipient which determine what constitutes harassment rather than the intention of the perpetrator.

3.3 It is however important for employees to recognise that, in the work context, it is the legitimate role and duty of a manager to direct and instruct employees to monitor, provide feedback and to appraise the performance of duties required of them in their job.

3.4 Unlawful harassment may involve unwanted conduct of a sexual nature (sexual harassment) or it may be related to age, disability, gender reassignment, marital or civil partnership status, pregnancy or maternity, race, colour, nationality or ethnic origin, religion or belief, sex or sexual orientation. Harassment can include behaviour that individuals find offensive even if it's not directed at them, and even if they do not have the relevant protected characteristics themselves.

3.5 A wide range of behaviour can be identified as harassment and can involve any visual, physical or verbal conduct that is:

- unsolicited and unwanted;
- creating an intimidating, hostile, degrading, humiliating or offensive environment for one or more employees.
- an unwelcome term or condition for decisions that would affect continued employment, promotion, salary or any other job condition

Examples of different types of harassment (this list is not exhaustive) are as follows:

3.6 Sexual Harassment

Unwanted conduct of a sexual nature which violates someone's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them. This could include:

Physical conduct

- unwelcome physical contact including patting, pinching, stroking, kissing, hugging, fondling or inappropriate touching
- physical violence including sexual assault
- the use of job-related threats or rewards to solicit sexual favours

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Verbal conduct

- any comments of a sexual nature that result in an individual feeling uncomfortable e.g comments about a person's appearance, age, private life, etc
- sexual comments, stories, joke or spreading sexual rumours
- comments with an innuendo
- repeated and/or unwanted social invitations for dates or physical intimacy
- sending sexually explicit messages or comments by phone, social media, email or handwritten
- sexual posts or contact in online communications including social media and Whatsapp

Non-verbal conduct

- display or sharing of sexually explicit or suggestive material
- sexually suggestive gestures
- whistling
- leering
- upskirting

Anyone can be a victim of sexual harassment regardless of their gender or the gender of the harasser.

3.7 Racial Harassment

Derogatory name calling, racist jokes, reference to the colour of a person's skin, ridiculing cultural differences, making stereotypical remarks about particular ethnic groups, verbal abuse or assault.

3.8 Disability-related Harassment

Mocking, mimicking or belittling a person's disability. Ignoring or criticising a person because of their disability, name calling, derogatory or stereotypical remarks or jokes based on a person's disability.

3.9 Ageist Harassment

Ageist jokes or comments. Excluding a person from activities based on age. Demeaning or ridiculing competencies.

3.10 Sexual Orientation related Harassment

Outing or threatening to 'out' someone as gay or lesbian. Homophobic jokes or remarks.

3.11 Religion or Belief Harassment

- Disparaging or stereotypical remarks about religious groups, offensive remarks or jokes, ridiculing religious dress.
- Lack of support for religious requirements.

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3.12 Gender Reassignment Harassment

Mocking dress or personal appearance, offensive jokes, remarks or comments.

3.13 Associative Harassment

- Denigrating or ridiculing a person based on their association with a protected group.
- Wrongful perception of a person because of their association with a protected group.

3.14 Third Party Harassment

- Unwanted, offensive or discriminatory behaviour towards an employee by a non-employee.
- Abuse or harassment can take place online, face to face or over the phone.

4.0 What is **Bullying?**

4.1 Bullying is defined by ACAS as behaviour that:

- is offensive, intimidating, malicious or insulting
- is an abuse or misuse of power, and
- uses means intended to undermine, humiliate, denigrate or injure the recipient

Bullying may include harassment and harassment may include bullying.

4.2 Bullying occurs when a person uses their superior strength or power persistently to coerce, persecute or oppress others by fear. It may take the form of humiliating or undermining an individual's skills and abilities to such an extent that they may become fearful, their confidence crumbles and they lose belief in themselves. This does not always arise from a superior/subordinate relationship and can result from unacceptable peer pressure.

4.3 Examples of bullying behaviour include:

- physical or psychological threats
- constant criticism of competent staff or removing their responsibilities and trivial fault finding
- overbearing and intimidating levels of supervision
  exclusion, isolation, being singled out and treated differently
- being scapegoated, marginalised and belittled
- being shouted at, threatened, intimidated, persecuted, humiliated publicly
- being set unrealistic goals and deadlines, taking credit for work undertaken by others
- leave or training being unreasonably refused
  actively discouraging employees from seeking professional advice, including from professional associations and unions

This list is not exhaustive.

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5.0 Impact of bullying and harassment

5.1 Bullying or harassment can lead to illness, increased absenteeism, poor performance, an apparent lack of commitment or resignation. It can also result in tension and conflict within the workplace and can have a direct impact on the effectiveness of the school and the educational experience of pupils.

5.2 Bullying and harassment are generally thought of in terms of a manager's behaviour in respect of others. However, employees may be harassed by colleagues or subordinates and bullying or harassment may occur between people of the same sex or the opposite sex.

6.0 Victimisation

6.1 Victimisation occurs when someone is treated poorly because they have made or are supporting a complaint or raised a grievance under, or relating to the provisions of the Equality Act, or because they are suspected of doing so.

6.2 Employees who make complaints or who participate in good faith in any investigation must not suffer any form of retaliation or victimisation as a result. Any employee found to have victimised someone in this way will be subject to disciplinary action.

7.0 Responsibilities

7.1 Responsibilities and Rights of Employees

Every employee has a right to freedom from bullying or harassment. Any individual who believes themselves to have been subjected to harassment or bullying has the right to ask for it to stop. This includes the right to make a formal complaint.

7.2 Every employee has a responsibility to ensure that they do not incite, perpetrate or condone any form of bullying or harassment within their place of work. Some behaviour may be so serious, that it may not be appropriate to be resolved informally, and a formal process will be required.

7.3 Employees should be aware that such behaviour may also be unlawful, and perpetrators may be held personally liable in the event of any legal proceedings.

7.4 Employees who are subjected to bullying or harassment are encouraged to seek the support of a colleague(s), and their trade union/professional association in taking the procedure forward.

8.0 Responsibilities of Governing Bodies and Headteachers

8.1 While all employees have a responsibility for the prevention of unfair treatment, management including headteachers and governing bodies have a duty to ensure that harassment, bullying or victimisation does not occur in the workplace. This includes a legal duty to take reasonable steps to prevent sexual harassment and third party harassment of their workers.

These responsibilities can be achieved by:

- ensuring awareness and availability of the policy to all employees

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- responding to and actively supporting any complainant by providing full and clear advice on the procedure to be followed
- ensuring all complaints are treated seriously and dealt with promptly
- maintaining confidentiality and ensuring that no repetition or victimisation occurs after the complaint has been resolved
- ensuring that the school's risk assessment to prevent sexual harassment in the workplace is undertaken, actioned and reviewed as needed
- maintaining centralised, confidential records of concerns raised to enable any trends to be identified
- role modelling respectful behaviour and visibly promoting a positive and inclusive workplace culture

9.0 Procedure

9.1 All complaints of bullying, harassment or sexual harassment will be treated seriously, confidentially and will be handled as quickly as possible. If an investigation under this policy reveals that the complaint is valid, prompt attention and disciplinary action will be taken to stop the behaviour and prevent its recurrence. The procedure should not be used in place of an appeals mechanism within an alternative formal procedure.

Informal Procedure

9.2 Victims of bullying, harassment, sexual harassment, discrimination or victimisation may not always want to raise a formal complaint in the first instance.

9.3 This may be because they may lack the confidence to do so, fear reprisals or do not want the alleged perpetrator to get into serious trouble. They may also be unsure as to whether they have been treated unfairly. Therefore, an informal process should exist for solving such problems.

9.4 Any individual who believes they have been bullied or been a victim of harassment or sexual harassment should, where appropriate as a first step, ask the perpetrator to stop and state that the behaviour is regarded as offensive, unacceptable and unwanted. (They may be accompanied by a work colleague or trade union representative in doing this or the discussion facilitated by a manager). This may be enough to resolve the problem. If any individual finds that they are unable to take such action personally they may:

- ask a work colleague, manager or trade union representative to speak to the alleged perpetrator on their behalf
- write to the alleged perpetrator keeping a dated copy of the email or letter speak to their line manager or the headteacher about their concern

9.5 Any informal action should be taken as soon as possible after the behaviour has taken place and should be recorded by the individual with a note of the date and what was said by all involved. This may be needed as evidence should there be the requirement to resolve the matter through more formal stages.

Formal Procedure

9.6 There is no obligation on the employee to take matters further if they do not wish to do so. However, if the incident is so serious that an informal approach would not be

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reasonable or appropriate or if the behaviour/conduct continues after a request to stop, the individual should then make a formal complaint (in writing) as follows:

a) if the employee complaint is against an employee(s) (other than the headteacher) to the headteacher

b) if the employee complaint is against the headteacher, to the Chair of Governors

c) if the employee complaint is against a governor/trustee (other than the Chair of Governors) to the Chair of Governors/Chair of the trust board

d) If the complaint is in relation to third party harassment ie by a non employee of the School, the matter will be escalated in accordance with the School Complaints policy if the complaint relates to a personal external to the school or the Behaviour Policy where the complaint relates to a pupil of the school

9.7 In (a) above, the headteacher may conduct the investigation or delegate it to a senior teacher or staff member with no involvement in the case. In (b) and (c) above, the investigation will be undertaken by a nominated governor or the Chair of Governors. In (d) above the scheme of delegation in the appropriate policy will apply. In all cases the School/Trust may decide to commission an independent investigation.

9.8 The first step of the investigation will be a fact-finding investigation to determine whether the complaint should be investigated in accordance with the school's disciplinary procedure. Aggravating factors, such as abuse of power over a more junior colleague, will be taken into account in deciding what action to take. If that is not appropriate the matter will be resolved by counselling or mediation.

9.9 The investigating officer will advise the complainant that a copy of their original complaint may be provided to the subject of the complaint and that sufficient information will be given in confidence to any witnesses in order to enable a proper investigation to be carried out. Strict confidentiality must be maintained throughout any fact finding or investigations and where it is necessary to interview witnesses or seek written statements, the importance of confidentiality must be emphasised.

9.10 Bullying, harassment and sexual harassment are considered to be gross misconduct in the school's disciplinary policy. Dependent upon the seriousness of the allegations and the circumstances, it may be deemed appropriate to remove the alleged perpetrator from the workplace whilst the investigation is being carried out as a precautionary measure in accordance with the disciplinary procedure (paragraph 4.3). If the investigation brings to light circumstances that may warrant a referral to the police, the headteacher, after seeking advice from HR and/or the LADO, should be responsible doing so, or where the alleged perpetrator is the headteacher, the Chair of Governors.

10.0 Disciplinary and Appeal Hearings

10.1 Should the matter lead to a disciplinary hearing, in exceptional cases, management may decide to continue with a disciplinary hearing even if the complainant indicates that they do not wish to appear as a witness. The advice of Human Resources should be sought on such occasions.

10.2 In determining the composition of the disciplinary (and if necessary, appeal) panel every effort will be made to ensure a balanced panel. Disciplinary proceedings will

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be conducted in accordance with the school's disciplinary procedure.

10.3 Where the complaint is upheld by a disciplinary hearing the appropriate penalty should be applied. This may range from a formal warning through to dismissal depending upon the circumstances and severity of the case. If the case is proven but does not lead to a dismissal the complainant and/or perpetrator may, where it is practical to do so, be given the choice of remaining in their post or being transferred to an alternative post or department/location within the school. No element of penalty should be seen to attach to the complainant whose complaint is upheld. Where either the complainant or perpetrator is transferred due regard should be given to their contractual terms to ensure that there is no breach of contract.

10.4 Where the complaint is not upheld but it would be difficult for the parties to work together, consideration should be given to a process of mediation. Mediation is voluntary and confidential with all parties agreeing to participate. It involves an independent impartial person mediating a solution acceptable to both parties. Advice on this approach should be sought from HR. If not practicable, consideration should be given to moving one of the employees concerned on a voluntary basis or rescheduling of work rather than requiring them to continue to work together against the wishes of either party.

10.5 If the complaint is upheld by the disciplinary hearing and a formal warning and/or other penalty or dismissal is the outcome, the alleged perpetrator may appeal the decision in accordance with the disciplinary policy.

11.0 Malicious Complaints

11.1 It should be recognised that allegations of unfair treatment are sometimes falsely made, and in all cases, the rights of alleged perpetrators need to be recognised. Complaints of harassment or bullying which are found to be intentionally frivolous, vexatious or unreasonable will be treated as misconduct in accordance with the disciplinary procedure.

12.0 Counselling

12.1 Employees who feel that they have been subjected to, or accused of harassment and/or bullying, are encouraged to seek counselling and practical assistance from their trade union/professional association representative.

12.2 Independent, external counselling may be provided by the school; for example, where the school buys into an Employee Assistance Programme.

13.0 Grievance Procedure

13.1 Employees who feel that they have not been dealt with fairly through this procedure (either party) may raise the matter through the school’s grievance procedure at stage two. However, this will not override any disciplinary proceedings, and both procedures will be conducted concurrently.

13.2 Any employee who feels that he/she has received unfair treatment which does not fall within the scope of the harassment and bullying procedure should also make use of the grievance procedure to bring forward their complaint, for example where an employee feels that he/she has not received fair treatment in recruitment and

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promotion and in other employment matters. Guidance and support will be available from professional associations and trades unions as appropriate.

14.0 Confidentiality

14.1 The confidential nature of any complaint and/or investigation will be strictly preserved and any employee involved in the case may be subject to disciplinary action if this confidentiality is breached. This does not preclude individuals from discussing their own cases with their line manager, union representative or counsellor.

15.0 Follow up

15.1 Following the apparent resolution of a case of harassment, sexual harassment or bullying, steps should be taken after an appropriate period of time has elapsed for the investigating officer to speak informally with the complainant to ensure that the conduct/behaviour has stopped, that she/he has no further problems in this respect and to ascertain how they are now feeling following this incident.

16.0 Monitoring

16.1 Where employees feel that they have been subject to abuse which falls under the scope of the Violence and Aggression at Work policy, the appropriate forms should be completed in accordance with that procedure.

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