



# Ashby Fields Primary School

## ANTI-HARASSMENT / BULLYING POLICY



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## **1. PURPOSE**

The purpose of this policy is to ensure that all colleagues are treated and treat others with dignity and respect, free from harassment and bullying.

## **2. COVERAGE**

This policy covers harassment or bullying which occurs both in and out of the workplace, including school trips, events or work-related social functions. It also covers bullying and harassment by third parties such as parents of pupils, suppliers or visitors.

This policy also extends to use of communications technology and social media as well as other communication mediums including letters, media, photo and video.

Indeed any action or inaction considered by a colleague to be bullying or harassment must be considered in accordance with this policy. Colleagues must treat each other and indeed all people with dignity and respect, and should always consider whether their words or conduct could be offensive. Even unintentional harassment or bullying is unacceptable. This does not mean that a person being offended automatically means bullying and/or harassment has occurred. It does mean that potentially bullying and/or harassment has occurred and potentially should be referred to this policy.

A complaint from a person being offended is not required to trigger the initial steps of this policy. In some circumstances, for example, it is the reasonable exercise of Duty of Care for a Manager to commence use of this policy even when not directly involved in events.

In a circumstance where there is an allegation of institutional bullying within the organisation, an appropriate independent person will be appointed to investigate the matter. The appointed person will be responsible for developing an appropriate procedure. In the most extreme circumstances of alleged institutional bullying/harassment; i.e. where a colleague does not feel able to approach any person within the Trust, the colleague is advised to seek guidance and support from their Union/Professional Association, ACAS, CAB, Police or other supportive body/person who they consider can most effectively support them. Generally this does not extend to the media, gossip, postings on social media or similar. Individuals are advised to seek professional advice before resorting to such mediums and methods.

## **3. LEGAL BASIS**

The Equality Act 2010 prohibits harassment related to age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex or sexual orientation. For more information see our Equal Opportunities Policy.

The Protection from Harassment Act 1997 also makes it unlawful to pursue a course of conduct which you know or ought to know would be harassment, which includes causing someone alarm or distress.

Under the Health and Safety at Work Act 1974 staff are entitled to a safe place and system of work.

Individual members of staff may in some cases be legally liable for harassment of colleagues or third parties, and may be ordered to pay compensation by a court or employment tribunal.

Bullying, in addition to the above regulations, is potentially a breach of contract, misconduct and/or gross misconduct. In certain circumstances it may instead or as well as indicate a lack of capability, including capability due to mental health issues.

In all instances this policy may run in parallel with one or more internal procedures and in accordance with statute and advice external procedures, including Police and safe-guarding procedures.

In certain circumstances this policy may be formally suspended or ended due to the implementation of other policies or procedures, in such instances a formal note of the circumstances causing this to arise should be made.

- a) Legal Investigation
- b) Mental Health Interventions
- c) Conflicting disciplinary/capability/grievance procedures

Suspension should not be for the specific purpose of seeking to avoid full and proper investigation and action.

#### **4. DEFINITIONS OF HARASSMENT**

Harassment is any unwanted physical, verbal or non-verbal conduct which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. A single incident can amount to harassment. It also includes treating someone less favourably because they have submitted to or refused to submit to such behaviour in the past.

Unlawful harassment may involve conduct of a sexual nature (sexual harassment), or it may be related to age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex or sexual orientation.

Harassment is unacceptable even if it does not fall within any of these categories. Harassment may include, for example:

- a) unwanted physical conduct or "horseplay", including touching, pinching, pushing, grabbing, brushing past someone, invading their personal space, and more serious forms of physical or sexual assault;
- b) unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless), and suggestions that sexual favours may further a career or that a refusal may hinder it;
- c) continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;

- d) sending or displaying material that is pornographic or that some people may find offensive (including e-mails, text messages, video clips and images sent by mobile phone or posted on the internet);
- e) offensive or intimidating comments or gestures, or insensitive jokes or pranks;
- f) mocking, mimicking or belittling a person's disability;
- g) racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
- h) outing or threatening to out someone as gay or lesbian;
- i) ignoring or shunning someone, for example, by deliberately excluding them from a conversation or a workplace social activity.

A person may be harassed even if they were not the intended "target". For example, a person may be harassed by racist jokes about a different ethnic group if they create an offensive environment for him.

## **5. DEFINITIONS OF BULLYING**

Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined or threatened. Power does not always mean a position of authority; it also includes personal strength and the power to coerce through fear or intimidation. Power does not automatically mean physical power; it also includes social and emotional attributes and/or circumstances. This includes factors unique to specific circumstances, relationships and events.

Bullying can take the form of physical, verbal and non-verbal conduct. Bullying may include, by way of example:

- a) shouting at, being sarcastic towards, ridiculing or demeaning others;
- b) physical or psychological threats;
- c) overbearing and intimidating levels of supervision;
- d) inappropriate and/or derogatory remarks about someone's performance, appearance, actions, social circumstance, personality, or similar
- e) abuse of authority or power by those in positions of seniority
- f) purposefully excluding someone from meetings or communications without good reason

Legitimate, reasonable, professional and constructive criticism of a colleague's work or conduct; potentially including aspects of life beyond the work-place, especially if potentially bringing the employer into disrepute, or contravening this policy; will not automatically be termed bullying. Reasonable direction given to colleagues in the course of their employment, will not automatically amount to bullying. Professional interaction with non-colleagues will not automatically be considered bullying. Personal style will not automatically be considered bullying but will also not be automatic mitigation nor should recognition of personal style be assumed to condone all conduct.

## **6. PROCEDURE**

### **6.1 Informal**

- a) If you consider you are or maybe being bullied or harassed; or you identify that such is potentially happening to somebody else; you should initially consider raising the problem informally with the person/s responsible, if you feel able. You should explain clearly to them that their behaviour is not welcome or makes you uncomfortable.
- b) If this is too difficult or embarrassing or otherwise in your opinion not reasonably possible, you should speak to your line manager, who can provide confidential advice and assistance in resolving the issue formally or informally.
- c) If your line manager is involved or in your opinion not appropriate you should either seek to communicate your concerns with a suitably senior colleague or approach your Professional Trade Association/Union who may be able to offer advice.
- d) If you are not certain whether an incident or series of incidents amount to bullying or harassment, you should initially contact your line manager or a suitably senior colleague or approach your Professional Trade Association/Union; informally for confidential advice.

## **6.2 Informal Intervention**

Where possible informal intervention may be identified as a preferred way to progress with an aim to resolve matters. An informal intervention may be triggered by request and agreement at any stage in the process but cannot be imposed.

Informal intervention can suspend or if successful remove any requirement to proceed with formal procedure unless there is a statutory obligation regarding some or all of the concerns raised or discovered. Informal interventions include:

- a) Mediation (including ACAS mediation)
- b) Guided restorative discussion. (Involve representatives as early as reasonably possible)
- c) Noted but informal quiet words.

Any suspension or halting of process due to informal intervention should usually entail a planned follow-up. If this is not to occur then the reasons must be considered and ideally noted. There is no requirement at this stage to place any record in a personnel file although certain actions may indicate this is appropriate. If a record is to be placed on file this should be notified in advance to the individual concerned; they would then have a corresponding right to usual procedures regarding the contents of personnel files.

If informal steps have not been successful or are not possible or appropriate, the grievance policy will usually be followed unless an alternative appropriate procedure or external intervention makes this inappropriate; in which case the fact that this has occurred should be formally recorded.

If an acceptable standard of performance has been achieved and there is confidence that this will be sustained, the capability procedure will end. On occasion there will have been no further opportunity to improve due to suspension in which case only review of previous progress as a second opinion can occur.

If there has been some improvement which is sufficient to provide confidence that an acceptable level of performance can be achieved within an acceptable period or, the panel requires evidence that any further and sustained improvement can be achieved, they may decide that a further period of monitoring and review is appropriate. In these circumstances the decision meeting will reconvene at the end of this period. On occasion there will have been no further opportunity to improve due to suspension in which case only review of previous progress as a second opinion can occur.

If there has been insufficient progress and a realistic opportunity given to demonstrate an acceptable level of performance, the panel may dismiss the employee. The panel must be satisfied that all reasonable efforts to support the employee have been made. If dismissal is the outcome, the chair of the panel will ensure appropriate notifications and documentation are provided.

The panel will confirm their decision in writing to the employee within 5 working days of the meeting. If possible, the panel will verbally inform the employee of the Panel's decision at the conclusion of the meeting. If dismissal is the outcome, notice will start from the date of the determination to dismiss letter. Generally a template letter will be available at the meeting and it will be appropriate for this to be issued without delay. This letter should also include details of the right to appeal and an appeal can also be lodged immediately following the meeting and receipt of letter if desired. A standard template may be available if required.

## **7 FORMAL INTERVENTION**

Formal intervention may commence either:

- a) Following the exhaustion of informal measures
- b) Where no informal measure seems appropriate
- c) Where an external and/or statutory procedure requires it.
- d) Where the matter is allegedly of such seriousness that any potential delay due to informal measures would be, in the opinion of the manager/decision maker involved, unreasonable.

## **8. INVESTIGATION AND POTENTIAL OUTCOMES**

This is to proceed in accordance with the grievance procedure unless or until a specific referral to another procedure is identified as appropriate. If it found that harassment or bullying has occurred, prompt action will be taken to address it.

Where the harasser or bully is an employee the matter will usually be dealt with as a case of possible misconduct or gross misconduct under the Disciplinary Procedure. In certain circumstances an Investigation may reveal that Capability (including health/mental health) procedures are appropriate.

Where the harasser or bully is a third party, appropriate action might include putting up signs setting out acceptable and unacceptable behaviour; speaking or writing to the person and/or their superior about their behaviour; or, in very serious cases, banning them from the premises or terminating a contract with them.

In all circumstances of harassment/bullying consideration of risk assessments and support procedures will apply.

It is generally appropriate to involve representatives from professional unions/associations as early as reasonably possible in the process, ideally when still informal but more certainly at the point of formal investigation.

Note: No actual action against an elected Union official should occur without proper notification as identified in the appropriate formal policies, especially Disciplinary and Capability. No action to be taken against an elected officer without prior notification and as far as reasonably possible, discussion with a full time paid official of the relevant body. Whether or not your complaint is upheld, we will consider how best to manage the on-going working relationship between the colleagues and persons involved.

## **9 RESPONSIBILITIES**

All employees are responsible for their own behaviour and should ensure that they comply with the Policy at all times. All Managers are responsible for implementing this Policy and bringing it to the attention of all employees. Any complaints under this Policy brought to the attention of a Manager must be dealt with promptly, confidentially, fairly and consistently

Any indication of a case entailing matters that should be referred to the Police must be dealt with promptly and efficiently, there must be no attempt to engage in any action; that could actually, or by alternative perception; be considered as 'covering-up'.

Any indication that safeguarding issues are involved must immediately be referred to the appropriate safe-guarding officer or more senior safe-guarding officer if necessary. If there is no appropriate officer an appropriate external body must be informed, e.g. Police, Social Services

## **10 CONFIDENTIALITY**

As far as is reasonably and legally possible any complaint received under this Policy will be treated confidentially. However there can be no guarantee as the employer has many duties of care which should not be compromised. As far as is reasonably possible any person raising a concern will be informed and have the opportunity to discuss alternatives if it is likely that retaining confidentiality will not be possible. All employees involved are required to respect the need for confidentiality. Any breaches in confidentiality outside of those appropriate to fulfil statutory duties or ensure Duty of Care is maintained may be subject to disciplinary action.