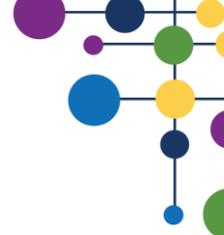


# BULLYING AND HARASSMENT AT WORK POLICY & PROCEDURE

Version	3.0
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## Record of Alterations

Version 1.0	Original
2.0	Amendments
3.0	Amendments

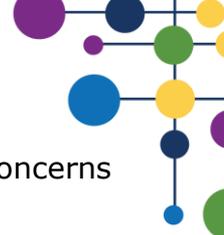


## 1. Introduction

- 1.1 All employees have the right to work in an environment where they are shown respect and consideration at work, and in which the dignity of each and every individual is valued and maintained.
- 1.2 The legal position with respect to bullying is complex as there is no single piece of legislation dedicated to addressing the issue of workplace bullying in isolation. Bullying might represent one element of discriminatory behaviour, or could relate to any one of several legal principles, for example:
- breach of contract – usually breach of the implied term that an employer will provide reasonable support to employees to ensure that they can carry out their job without harassment and disruption by fellow workers
  - the common law right to take care of safety of workers
  - the Employment Rights Act 1996 (for example, constructive or unfair dismissal)
  - the Trade Union and Labour Relations (Consolidation) Act 1992 (dealing with special types of intimidation, etc.)
  - protection for whistleblowers under the Public Interest Disclosure Act 1998.
- 1.3 According to the Equality Act 2010, harassment is defined as 'unwanted conduct related to a relevant protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation) which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'.
- 1.4 The word bullying is not specifically defined in law, however ACAS offers the following definition:
- "Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient".*
- 1.5 Additionally, the law covers harassment of an employee by a third party (a customer or client, for example). An employer is liable for incidents that have happened on two or more occasions, if the employer knows that these have happened and has not taken reasonable steps to stop them.

## 2. Purpose and scope

- 2.1 The trust is committed to the development and promotion of a positive work culture that is free from harassment and bullying.
- 2.2 The trust will ensure that any allegation of harassment or bullying at work is taken seriously, is properly investigated, and is dealt with effectively. The aim is to ensure that staff model behaviour showing respect for others including our students.
- 2.3 The trust will seek to ensure that any form of alleged harassment is dealt with both sensitively and speedily. Employees are encouraged therefore to raise any issues



immediately in accordance with this procedure in the knowledge that their concerns will be treated seriously and in confidence.

2.4 This policy applies to all staff employed in, or by, the trust.

### 3. Examples of bullying and harassment

3.1 Bullying and harassment may be directed against one or more individuals and involves inappropriate abuse of power. This may involve single or repeated incidents ranging from extreme forms of intimidating behaviour, such as physical violence, to more subtle forms such as ignoring someone. This can often occur without witnesses, examples including:

- unwanted physical contact
- unwelcome remarks about a person's age, dress, appearance, race or marital status, jokes at personal expense, offensive language, gossip, etc.
- posters, graffiti, obscene gestures, flags and emblems
- isolation or non-cooperation and exclusion from social activities
- coercion for sexual favours
- pressure to participate in political/religious groups
- personal intrusion from pestering, spying and/or stalking, (including social media)
- failure to safeguard confidential information
- setting impossible deadlines
- preventing individuals progressing by intentionally blocking promotion or training opportunities.
- deliberately undermining a competent worker by overloading and constant criticism
- misuse of power or position
- manipulation
- persistent unwarranted criticism.

### 4. Employee and employer responsibilities

4.1 Employees have a responsibility to behave in ways which support a non-hostile working environment for themselves and their colleagues. They should be prepared to challenge inappropriate behaviour and to take appropriate action if they observe (or have other evidence of) harassment, either of themselves or of a third party. Individuals guilty of harassment can be personally liable to pay compensation and can be prosecuted under criminal as well as civil law.

4.2 Employer responsibilities may extend to any environment where work-related activities take place. These can include social gatherings organised by the employer such as work parties or outings. An employer could be held liable for events which take place on these occasions unless they can show they took reasonable steps to prevent harassment.

4.3 Senior managers should be especially aware of 'cyberbullying'. Detrimental texts sent via mobiles or images of work colleagues posted on external websites following



work events could amount to bullying. As this would be seen to have its origins in the workplace, the employer could be held liable.

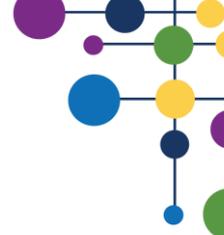
- 4.4 Employers and individuals can be ordered to pay unlimited compensation where harassment involving discrimination has occurred, including the payment of compensation for injury to feelings.

## 5. Dealing with allegations of bullying and harassment

- 5.1 All complaints or allegations of bullying and harassment should be dealt with promptly.
- 5.2 Some instances may be dealt with internally and informally. In minor cases it may be sufficient for the recipient of harassment to raise the problem with the perpetrator, pointing out the unacceptable behaviour, making it clear that the behaviour is offensive and unwelcome, and asking for it to stop, but should the employee find this too challenging they must instigate formal procedures. Mediation may be used during any stage of these procedures.
- 5.3 If the complaint or allegation is directed against the headteacher, the employee should write to the CEO detailing their concerns and should also contact their trade union. The CEO should ensure that the allegations are investigated to determine whether further action should be taken. Where the allegation is in relation to the CEO, the employee should write to the Chair of the Board of Directors.
- 5.4 At any stage of these procedures, both the complainant and the alleged bully or harasser may be accompanied by their trade union representative or a work colleague.

## 6. Informal procedure

- 6.1 An employee who feels that they are being subjected to bullying and harassment should, if possible, keep a record of the incident(s), including the date, time, nature of incident(s), and the names of any witnesses. It is important that employees who feel subjected to bullying and harassment raise the issue with an appropriate person at the time the incident(s) occur, in order that matters can be dealt with swiftly and that further potential harassment is prevented.
- 6.2 If the employee feels able, they should raise the problem with the alleged harasser, either verbally or in writing, making it clear that the behaviour is offensive and unwelcome, and asking for it to stop. Alternatively, the issue may be brought to the attention of a line manager who can initially raise the allegations informally on behalf of the complainant.
- 6.3 Where resolution is reached through the informal stage of the process, with both parties' acceptance, a copy of the outcome should be given to both parties and a further copy placed on their personal files.
- 6.4 Where resolution cannot be achieved through the informal stage, an employee can pursue an allegation through the formal stage of the process.



## 7. Mediation

- 7.1 In the event that both parties are agreeable this is another informal option, whereby a meeting may be held in the presence of a mediator who will give both parties an opportunity to express their viewpoints in the hope of brokering a mutually acceptable solution.
- 7.2 Any discussions which took place during mediation remain confidential and 'without prejudice' and may not be used by either party in any subsequent internal or external process, unless this is with the explicit consent of all parties.

## 8. Formal procedure

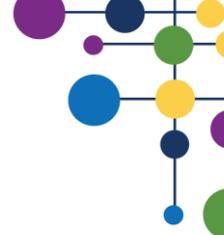
- 8.1 If an employee wishes to make a formal complaint or allegation they should report it in writing to either their principal/headteacher. In circumstances where the alleged perpetrator of bullying and/or harassment is the individual's line manager the complaint or allegation should be reported to the next senior manager (or to the headteacher).
- 8.2 If the complaint or allegation relates to the headteacher then it should be reported in writing to the CEO (and in such circumstances the CEO will normally, throughout the formal procedure as described in the following clauses, perform the role more usually undertaken by the headteacher).
- 8.3 The principal/headteacher will acknowledge receipt of the formal complaint in writing within 5 working days. This letter should outline the next steps to be taken, information on any sources of support that may be available, and also (where applicable) identify by name any investigating officer appointed to look into the matter.
- 8.4 The principal/headteacher (or investigating officer if applicable) will then undertake a formal investigation, which must be carried out with due regard to the need for a swift conclusion and which should normally take no longer than three to four weeks from the date of initial acknowledgement of the complaint.
- 8.5 The principal/headteacher (or investigating officer if applicable) will keep both parties informed of the progress of the investigation, including any necessary alteration to the above timescale. Where a counter complaint is made by the alleged bully or harasser, this will be dealt with as part of the same investigation.
- 8.6 At any stage of the formal procedure the complainant may decide that they wish to attempt to resolve the situation through an informal approach instead. They will be supported in this decision wherever possible. However, principal/headteacher has a duty of care to manage allegations appropriately. If they deem informal resolution inappropriate due to the seriousness of the allegations, or they perceive that an employee may be at serious risk, they should continue with formal action.

## 9. Investigation

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- 9.1 In appropriate circumstances the principal/headteacher may take precautionary action which could involve either temporary redeployment or suspension of the alleged bully or harasser (as a non-judgemental and neutral act) to allow the matter to be investigated fully.
- 9.2 The alleged perpetrator will be informed of the allegations made against him or her. The principal/headteacher (or investigating officer if applicable) will then interview, and obtain signed statements from, both the complainant and the alleged perpetrator. Interviews may also be held with any witnesses to the alleged incident(s) of bullying and/or harassment.
- 9.3 The questions asked in the course of the investigation will be crucial to establishing the facts. Prior to conducting interviews, the principal/headteacher (or investigating officer if applicable) should prepare a list of proposed questions (which may be either open or closed). Consideration should also be given to those areas where it could be anticipated that supplementary questions may be required.
- 9.4 The scope of the investigation should include attempts to establish the facts by addressing (amongst others) the following questions:
- **what** allegation(s) or incident(s) are being investigated and what policy has potentially been breached?
  - **when** did the alleged incident(s) take place?
  - **where** did the alleged incident(s) happen?
  - **who** was involved in (or witnessed) the incident(s)?
  - **why** has the incident or behaviour created a problem?
- 9.5 During the interview, the principal/headteacher (or investigating officer if applicable) should take time to consider the responses provided, and where these appear unclear or inconsistent should seek clarification.
- 9.6 All sensitive information will be treated confidentially in accordance with the requirements of data protection legislation.
- 9.7 The investigating officer (where applicable) will, on completion of the investigation, prepare an impartial written report for presentation to the principal/headteacher who commissioned the investigation.
- 9.8 The findings of the investigation report will form the basis of the principal/headteacher's decision as to whether further action should be taken. In the event that the principal/headteacher concludes that there is still insufficient detail to make a decision on the matter, the investigating officer may be asked to seek further information and/or clarification.
- 9.9 Following completion of the investigation there are three possible outcomes (as detailed below).

## 10. Outcomes

- 10.1 The possible outcomes (all of which should be set out in writing before being communicated to both the complainant and the subject of the complaint) are as follows.



#### 10.2 Allegation not upheld

If it is decided that there is no case to answer, support will be provided for both parties, with additional consideration being given to managing their ongoing working relationship. This might include, where practicable, the voluntary transfer of either of the employees concerned.

#### 10.3 Evidence of unacceptable behaviour that may be dealt with informally

In some cases, where bullying/harassment is substantiated but does not warrant disciplinary action, it may still be possible to agree an acceptable resolution. For example, the manager may address the situation through supervisory processes (counselling, advice, instruction, training and/or support) and make it clear that ongoing monitoring will be undertaken. The manager must make it clear to the employee that their behaviour is unacceptable and that further similar instances may lead to disciplinary action.

#### 10.4 Disciplinary action

Where an investigation concludes that there is sufficient evidence of unacceptable conduct, it will be necessary to commence disciplinary proceedings in accordance with the trust's disciplinary policy.

### **11. Vexatious claim**

11.1 Following investigation, if it is found that the allegation of harassment/bullying was false or malicious then the complainant may be dealt with under the trust's disciplinary policy.

### **12. Appeal process**

12.1 Should the complainant be dissatisfied with the outcome of their complaint they have a right of appeal against the decision.

12.2 They should submit their grounds for appeal in writing to the principal/headteacher (or to the CEO if the headteacher was the alleged perpetrator) within five working days of receiving written notification of the decision.

12.3 Appeals will be heard no later than ten working days from the date of the appeal letter being submitted.

12.4 All members of the appeal panel must have had no previous involvement in the matter.

### **13. Other policies and procedures**

13.1 This policy will be supported by the following policy and procedures:

- Disciplinary Policy