

**DEALING WITH BULLYING AND HARASSMENT IN THE WORKPLACE:
GUIDANCE AND POLICY FOR USE BY SCHOOLS AND EMPLOYEES**

(Adapted from Enfield Policy version March 2015)

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1. INTRODUCTION

Bullying and harassment in any workplace are serious matters and employers are responsible for taking steps to prevent this type of behaviour.

There are particular definitions of bullying and harassment which are set out overleaf. However, in practical terms, those making a complaint of this nature usually describe what they mean by bullying and harassment – something that has happened to them that is unwelcome, unwarranted and causes a detrimental effect. If employees complain that they are being bullied or harassed, then they have a grievance which must be dealt with regardless of whether or not their complaint accords with a standard definition.

Employers have a 'duty of care' for all their employees. If the mutual trust and confidence between employer and employee is broken, for example through bullying and harassment at work, then an employee can resign and may be able to successfully claim 'constructive dismissal', at an Employment Tribunal, on the grounds of breach of contract. Employers are usually responsible in law for the acts of their workers.

A breach of contract may also include the failure to protect an employee's health and safety at work. Under the Health and Safety at Work Act 1974 employers are responsible for the health, safety and welfare at work of all employees.

Bullying and harassment are also unacceptable on moral grounds. They can have serious consequences for both employer and employee.

Consequences for the employer may include poor performance, low staff morale, poor employee relations, loss of respect for management, increased absence, higher staff turnover, damage to reputation, tribunal and other court cases and payment of unlimited compensation.

For the employee, bullying and harassment may result in stress and affect his/her general health and relationships. Serious cases can even lead to mental illness.

This School is committed to creating a working environment free of bullying and harassment, where everyone is treated with dignity and respect.

Neither bullying nor harassment of any kind will be tolerated. All complaints or allegations of bullying and harassment will be investigated and, where appropriate, disciplinary action will be taken. In addition, victimisation of a person for making an allegation of bullying or harassment in good faith, or supporting someone else making a complaint, will not be tolerated. Such victimisation is also a disciplinary offence.

It should be noted that this document has been drawn up taking account of good practice guidance produced by ACAS (The Advisory, Conciliation and Arbitration Service).

2. SCOPE AND APPLICATION OF THIS DOCUMENT

This guidance and policy document covers bullying and harassment of and by any employee who is the direct responsibility of the Governing Body.

Where an employee is not the direct responsibility of the Governing Body, for example, an unattached teacher or centrally employed member of the support staff, an alternative Corporate procedure is likely to apply. In circumstances where an individual is not an employee of the Governors or the Council, for example any Agency worker or a worker employed by an external company, the policy may need to be applied with appropriate modifications, depending upon the circumstances. Any action to be taken against a worker employed by an Agency or external company would need to be addressed by that Body. In any such circumstances, further advice should be sought from the Schools' Personnel Service.

The document covers bullying and harassment in the workplace and in any work-related setting outside the workplace, for example, work-related trips and social events.

The document does not cover bullying or harassment by customers, suppliers or other visitors. In these cases, an employee should report any such behaviour to his/her line manager who will take the necessary action.

3. **BULLYING AND HARASSMENT EXPLAINED**

There are many definitions of bullying and harassment. In relation to employment, harassment has a legal definition under the Equality Act 2010, although bullying does not.

BULLYING may be characterised as:

Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

HARASSMENT is defined in the Equality Act 2010 as:

'Unwanted conduct related to a relevant protected characteristic, 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.'

The 'relevant protected characteristics' are age, disability, gender reassignment, race, religion or belief, sex and sexual orientation. (Harassment does not apply to 'pregnancy and maternity' as any unfavourable treatment may be considered discrimination, and 'marriage and civil partnership' where there is to date no significant evidence that it is needed).

The complainant need not possess the relevant protected characteristic him or herself, it can be because of his/her association with a person who has a protected characteristic, or because s/he is wrongly perceived to have one or is treated as though s/he has one.

The impact of bullying on the individual can be the same as harassment and these terms are often used together or interchangeably in the workplace. However, bullying does not have a legal definition and, unless it amounts to conduct defined as harassment in the Equality Act 2010, it is not possible to make a complaint to an Employment Tribunal.

4. VICTIMISATION EXPLAINED

Victimisation is treating someone less favourably than others because s/he has, in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing him/her or someone else, or supported someone to make a complaint or given evidence in relation to a complaint. This would include isolating someone because s/he has made a complaint, or giving him/her all the jobs that no-one else wants to do.

Provided that an employee acts in good faith, i.e. that s/he genuinely believes that what s/he is saying is true, then s/he has a right not to be victimised for making a complaint or doing anything in relation to a complaint of bullying or harassment. This would include, for example, supporting another employee and/or acting as a witness in a case of alleged bullying or harassment. Action will be taken to deal with any alleged victimisation, which could include disciplinary action against anyone found to have victimised another employee.

Note, however, that if an employee makes a complaint that s/he knows to be untrue, or gives false evidence in a case, then s/he may be subject to disciplinary action.

5. EXAMPLES OF BEHAVIOUR THAT IS UNACCEPTABLE

Examples of behaviour that the Governors considers to be unacceptable and are covered by this policy document include (but are not limited to):

- physical conduct ranging from unwelcome touching to serious assault;
- unwelcome sexual advances (e.g. touching, standing too close, facial gestures);
- the offer of rewards for going along with sexual advances, for example, promotion, access to training;
- threats for rejecting sexual advances, for example, suggestions that refusing advances will adversely affect the employee's employment, pay, assigned work or any other condition of employment or career development;
- unwelcome jokes or comments of a sexual or racial nature or about an individual's age;
- questions or comments about a person's sex life;
- unwanted nicknames related to a person's age, race, disability, sexuality, religion or gender;
- the use of obscene gestures;
- the open display of pictures or objects with sexual or racial overtones, even if not directed at any particular person, for example magazines, calendars or pin-ups;
- ridiculing or demeaning someone, including making demeaning comments about them or their appearance;
- spreading malicious rumours or insulting someone by word or behaviour;
- making threats or comments about someone's job security without good reason;
- overbearing supervision or other misuse of power or position;
- picking on someone or setting him or her up to fail;
- isolation or non-cooperation at work;
- copying memos, letters or emails that are critical about someone to others who do not need to know;
- preventing individuals progressing by intentionally blocking promotion or training opportunities;

- being dismissive of someone's work or views; and/or
- any unfair treatment, victimisation or exclusion, including excluding someone from social activities.

The above are examples and are neither exclusive nor exhaustive.

Bullying and harassment may not always be face to face. It may also arise, for example, through written communications, visual images (e.g. posters or photographs), email, telephone and recording of telephone conversations if not universally applied to all.

Conduct may be perceived as harassment whether or not the person behaving in that way intends to offend. Something intended as a 'joke' may offend another person. Different people find different things acceptable and unacceptable. Everyone has the right to decide what behaviour is acceptable or unacceptable to him or her and to have his or her feelings respected by others.

Behaviour that any reasonable person would realise would be likely to offend will be harassment without the recipient having to make it clear in advance that behaviour of that type is not acceptable to him or her, for example, sexual touching.

It may not be so clear in advance that some other forms of behaviour would be unwelcome to, or could offend, a particular person, for example, certain 'banter', flirting or asking someone for a private drink after work. In these cases, first-time conduct, which unintentionally causes offence will not be harassment but it may become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to him or her.

All bullying and harassment is misconduct and will be dealt with as a disciplinary offence. Bullying or harassment may potentially amount to gross misconduct, which could lead to dismissal without notice.

6. RECOGNISING BULLYING AND HARASSMENT

Bullying and harassment may sometimes be difficult to identify or recognise.

This may be due to a number of factors, e.g.

- the bullying or harassment is carried out in subtle or discreet ways;
- staff may assume it is part of the 'culture' of the workplace;
- an individual may be too scared to draw it to anyone's attention and/or feel too humiliated to raise it as an issue.

The Governors, the Headteacher and Managers are aware of these potential difficulties and the need to keep a general 'eye out' for tell-tale signs. These may include:

- absenteeism that is more frequent, or longer than usual;
- high turnover in particular areas/departments or where staff work for a particular manager;
- stress symptoms, e.g. fatigue, anxiety, aches/pains, panic attacks;
- changes in an individual's performance or behaviour.

It is also recognised that although bullying and harassment may take place through face-to-face contact, it may also be carried out in more underhand ways, for example, by e-mail or phone, at work-related social events or by discussing an individual with others in a malicious manner, making comments to others about him/her, spreading rumours etc.

7. PREVENTING BULLYING AND HARASSMENT

Employers are responsible for taking action and all reasonable steps to prevent bullying and harassment in the workplace.

This policy document is in place to help avoid such behaviour and to deal promptly with any issues that do happen to arise.

The Governors will ensure that the policy is properly implemented, drawn to the attention of and understood by all employees, is used properly and kept under review.

The Governors, the Head teacher and senior staff in particular will ensure that:

- they are seen to be fully committed to this policy;
- they are clear about their own responsibilities relating to the implementation and use of the policy;
- this policy and any issues arising from its use, are appropriately linked to other disciplinary and grievance procedures and appraisal system;
- the policy is adequately advertised to the whole workforce, including new employees;
- a record is kept of any complaints of bullying or harassment in order to detect any particular patterns of inappropriate behaviour. (However, it is also recognised that an absence of complaints does not necessarily mean that bullying and harassment is happening [See 5. above]).

The Governors, the Headteacher and senior staff are also aware of their responsibility to:

- set a good example by their own behaviour;
- ensure that there is a supportive working environment;
- make sure that staff know what standards of behaviour are expected of them;
- intervene to stop bullying or harassment; and
- report and/or deal promptly with any formal complaint of bullying or harassment that is made.

Everyone has a responsibility to help create and maintain a working environment free of bullying and harassment.

All employees can help to do this by:

- being aware of how their own behaviour may affect others and changing it, if necessary - it can still cause offence even if someone was 'only joking';
- treating colleagues with dignity and respect;
- taking a stand if it is considered that inappropriate jokes or comments are being made;
- making it clear to others if their behaviour may be considered to be unacceptable;
- intervening, if possible, to stop harassment or bullying and giving support to recipients/victims;
- making it clear that any form of harassment and bullying is unacceptable;
- reporting harassment or bullying to a manager and providing support in any investigation of complaints;

- if a complaint of harassment or bullying is made, not prejudging or victimising the complainant or alleged harasser;
- having due regard to the Code of Conduct applicable to the workplace.

The *School* is fully committed to carrying out their responsibilities to prevent bullying and harassment at work. All employees are similarly expected to be aware of, and be committed to, their own responsibilities for preventing bullying and harassment at all times, as set out above.

8. BEING ACCUSED OF BULLYING AND/OR HARASSMENT

In circumstances where an employee or worker is approached informally by another about his/her behaviour, s/he should not dismiss it because s/he was 'only joking' or considers that the complainant is being too sensitive. It must be remembered that different people view things differently and may find different things acceptable or unacceptable. It is an individual's perception of another's behaviour that is important. Everyone has the right to decide what is acceptable to him/her and what is not.

An employee may offend another without intending to do so. If that is the case, the person concerned may be content with an explanation and an apology and an assurance that care will be taken in future not to behave in a way that may cause offence. Provided that the behaviour which has caused offence is not repeated, that may well be the end of the matter.

However, if a formal complaint is made about an employee's behaviour, this will be fully investigated and disciplinary proceedings may be brought, if appropriate, under the relevant disciplinary procedure. The employee will have the right to be informed of the allegations against him/her and s/he will be able to state his/her side of the matter and be accompanied to meetings by a Trade Union/Professional Association representative or a colleague.

The relevant procedure will be implemented at the appropriate stage, depending on the seriousness of the allegation and/or circumstances of the case. Complaints of bullying and harassment will often be allegations of gross misconduct, which, if proved, could lead to dismissal without notice.

All complaints of bullying and harassment will be treated sensitively and confidentiality maintained to the maximum extent possible. Investigation of allegations and future management of risk, if complaints are upheld, will normally require limited disclosure on a 'need to know' basis. For example, some details may have to be given to potential witnesses but the importance of confidentiality will be emphasised to them.

If at all possible, the alleged harasser and the complainant will not be required to work together whilst the complaint is under investigation. In some circumstances, the accused employee may be suspended on full pay during the investigation and until any disciplinary proceedings have been concluded.

If the complaint against an employee is upheld, on a balance of probabilities, a disciplinary penalty may be imposed up to and including dismissal, having regard to the seriousness of the offence and all the relevant circumstances.

If a complaint is made against an employee that is not upheld, and there are good grounds for believing that the complaint was not made in good faith, disciplinary action will be taken against the person making the false complaint.

An employee must not victimise a person who has made a complaint in good faith against him/her or anyone who has supported that person in making the complaint or given evidence in relation to such a complaint. Disciplinary action will be taken if there is good reason to think that an employee may have victimised the complainant or someone else.

If a complaint against an employee is not upheld, his/her manager will provide support for the two parties to continue or resume working, and to help repair working relationships. Alternative working arrangements may be considered if this is deemed necessary and if it is practical to do so.

Some types of bullying or harassment may constitute unlawful discrimination and allegations may give rise to the possibility of other civil claims or criminal proceedings against an employee. These would proceed independently of any internal disciplinary proceedings. An employee could be personally liable to pay compensation to the complainant if a successful claim in an employment tribunal or other court was brought against him/her. Criminal proceedings could lead to conviction and criminal penalties.

9. DEALING WITH BULLYING AND/OR HARASSMENT CLAIMS

The Governors take complaints of bullying and harassment complaints very seriously.

In these circumstances this policy:

- is intended to encourage victims of bullying or harassment to come forward and makes this possible in a manner that provides a way to bypass the bully or harasser;
- provides an informal route to complain within a formal procedure that will be used when the matter cannot be resolved informally and balances the interests of the victim and the alleged bully/harasser;
- informs both staff and managers what they should do if they become aware of someone being bullied or harassed.

Sometimes, a claim of bullying or harassment could be malicious. To ensure that there is a process that is fair to both parties this policy allows:

- for any investigation will be carried out by someone who is impartial;
- for the possibility of suspension of the alleged bully or harasser on full pay while the investigation is carried out;
- both parties to be accompanied at a hearing(s) and makes clear that the complainant has the right of appeal;
- for a range of appropriate actions to be considered and/or taken – whether against the complainant or bully/harasser. These could include counselling, training, informal or formal warnings, suspension, transfer (this would only apply to the guilty party) and/or dismissal.

APPENDIX 1 attached sets out guidelines and initial steps **for employees** to take if they consider that they are suffering from bullying and/or harassment.

APPENDIX 2 attached sets out guidelines and initial steps **for employers/managers** to take if they receive a complaint of harassment and/or bullying.

Note that the attached Appendices set out the initial steps to be taken. If it is considered that the bullying/harassment does not stop after these initial steps have been taken, **then the process will become a formal grievance.** This should then be dealt with under the *School's Grievance Procedure*.

APPENDIX 1**DEALING WITH BULLYING AND HARASSMENT IN THE WORKPLACE****FOR EMPLOYEES:****GUIDELINES AND INITIAL STEPS TO TAKE IF YOU CONSIDER THAT YOU ARE SUFFERING FROM BULLYING AND/OR HARASSMENT**

You should ensure that you have read 'JCAT Bullying and Harassment Policy' which is a guidance and policy document for use by schools and employees.

If you consider that you are being bullied and/or harassed you should take action as described below.

Any complaint of harassment and/or bullying that is ultimately substantiated may result in disciplinary action. This could lead to dismissal.

Steps to take when suffering from bullying and/or harassment

Initially you should approach the person who is bullying and/or harassing you, you should:

1. Explain to the harasser that his/her behaviour offends you and ask for it to stop.
or
2. If you feel too intimidated to take the action in 1. above, you may wish to ask another person to make the initial approach or to accompany you. This could be your Trade Union/Professional Association Representative or a colleague.
3. Keep a record of the conversation and the date. Also make sure that you have a record of the bullying/harassment, the dates and times of any occurrences and any witnesses.
4. If the bullying/harassment does not stop, or you feel unable to try and resolve the matter yourself or with the assistance of another person, you should refer the matter to your Headteacher or Manager. (If your manager is the person bullying/harassing you then you should refer the matter to a more senior manager, as appropriate). This may be done verbally or in writing. S/he will then discuss the situation with you with a view to continuing to try and find a way to resolve the matter informally.

*(Note - If you put your complaint in writing, it is strongly recommended that you use the 'Grievance Notification Form' that is attached as **Appendix 1 to the School's Grievance Procedure**. You should seek further advice from your Trade Union/Professional Association Representative, the School's Personnel Service or your Manager (a more senior Manager, as appropriate. If you raise a complaint verbally, you may be asked to put it in writing, depending upon all the circumstances. Where a complaint later proceeds to a formal grievance, you will be required to put it in writing).*

5. If, after taking the above action, the bullying/harassment still doesn't stop (and/or you feel that it is inappropriate to continue trying to deal with the matter informally) you may decide that you wish to pursue the matter formally through the **School's 'Grievance Procedure'**. (Refer initially to Section B of that document). You should consult your Trade Union/Professional Association Representative, the Schools' Personnel Service or your Manager (or more senior Manager, as appropriate) for advice.

Note that, for health and safety reasons, it is important that if you suffer physical abuse or attack, an accident form is completed. Seek further advice in relation to the relevant form from one of the persons mentioned in 4. above.

Further Support

You should note that:

- Where your *School* buys into an Occupational Health Service, counselling may be available to you. You will need to find out about the arrangements in place at your *school*.
- The Schools' Personnel Service may be able to provide a Personnel Officer to assist you, if required. .
- Confidentiality will be respected as far as possible, taking into account all the circumstances.

DEALING WITH BULLYING AND HARASSMENT IN THE WORKPLACE

FOR HEADTEACHERS/MANAGERS:

GUIDELINES AND INITIAL STEPS TO TAKE IF YOU RECEIVE A COMPLAINT OF HARASSMENT AND/OR BULLYING

Bullying or harassment of any kind must not be tolerated. They are very distressing for those involved and complaints are rarely made lightly. All such complaints received should be taken seriously and dealt with sensitively and promptly. No attempts should ever be made to persuade the complainant not to pursue the matter.

Bullying and harassment can have serious consequences for both employer and employee and cannot, therefore, be allowed to continue.

Steps to take on receipt of a complaint of bullying and/or harassment

When you receive a complaint from an employee s/he will have decided that s/he has been unable to resolve the matter informally him/herself or feels unable to do so. At this stage, you should clarify with the employee whether s/he wishes to continue to try and resolve the matter informally or if s/he now wishes to invoke the formal Grievance Procedure to pursue his/her complaint, as set out in the '**JCAT Grievance Policy**'. The steps in the formal procedure itself are set out in '**Section C: Formal Grievance Procedure**.'

If, however, the employee wishes to continue with an informal approach to seek a resolution, '**Section B: Informal Grievance Procedure**' in the Grievance Procedure document will refer you back to the steps set out below. The aim with grievances and complaints of bullying and/or harassment, is to first make every attempt to find a solution informally without the need to progress to the later, formal stages of the Grievance Procedure.

Initially, therefore, unless it is not practical or reasonable to do so, or the employee now wishes to pursue the matter formally through the Grievance Procedure, you should continue to try and resolve the matter informally by taking the following steps:

1. Discuss with the complainant and/or his/her representative the way in which the alleged harasser will be approached.
2. Discuss with the alleged harasser the nature of the complaint (and provide him/her with a copy if it has been put in writing). The discussion should also outline the consequences of any continuing offensive behaviour. Listen to what s/he has to say in response.
3. Further discussions may then be necessary with one or both parties. Make it clear that the aim is to resolve the matter, preferably informally. (However, the wishes of the complainant should be respected).
4. Record details of the date the complaint was received, action taken and the outcome on the '**Grievance/Complaint Record Form**' attached as an Appendix to the Grievance Procedure. This form should be retained by you in the event of a formal process becoming necessary. It will also help you to see all the possible steps that have been taken to resolve the matter.

5. Managers can, at any time, decide to initiate disciplinary action through the disciplinary procedure where either a complaint of harassment is substantiated or it has been found to be malicious or vexatious, as an alternative to invoking the grievance procedure.
6. Where an informal approach fails to resolve the matter, is deemed to be inappropriate, or is against his/her wishes, the complainant may invoke the formal stage(s) of the school's **Grievance Procedure**. You should refer initially to '**Section B: Informal Grievance Procedure**' in that document. You will either be referred back to this document or on to Stage One of the formal grievance procedure, '**Section C: Formal Grievance Procedure**', according to the wishes of the individual and whichever process is appropriate to the circumstances.

Additional Note(s):

- (a) In relation to the above steps, where there is more than one person making the complaint, you may need to speak with all the employees and their representatives, or there may be a spokesperson with his/her own representative. This will depend upon all the circumstances of the case. You should agree a practical approach on the way forward with the employees/representatives concerned - the aim being to reach a satisfactory resolution as soon as possible.
- (b) For health and safety reasons, it is important that if an employee has suffered physical abuse or attack, an accident form is completed.
- (c) Confidentiality must be respected as far as possible, taking into account all the circumstances.

Options to be considered in relation to a complaint of bullying or harassment

- Precautionary suspension of the alleged harasser under the terms of the school's disciplinary procedure while the investigation continues.
- Granting of authorised absence for the complainant (for example, if very distressed).
- Maintaining the present working arrangements, if that is possible in the circumstances.
- Relocation of the alleged harasser (or complainant, if requested) to other duties/place of work, as appropriate, for the duration of the investigation.
- Transfer of the complainant, if practical or possible (but only if s/he requests it).
- Disciplinary action, as appropriate. (Note that this could relate to either party).