

Headteacher: Ms Angela Wallace BA Hons, PGCE, MA

ANTI-HARASSMENT AND BULLYING POLICY

Drafted by: HR in consultation with Judicium

Reviewed: January 2022

Next Review: November 2023

Introduction

The school is committed to ensuring all staff are treated, and treat others with dignity and respect, free from harassment or other forms of bullying.

This policy covers harassment or bullying which occurs both in and out of the workplace, such as on school trips or at events or work-related social functions. It covers bullying and harassment by staff and third parties such as students, parents, suppliers, governors, or visitors to the school.

Staff must treat colleagues and others with dignity and respect, and should always consider whether their words or conduct could be offensive. Even unintentional harassment or bullying is unacceptable.

The school takes allegations of harassment or bullying seriously and will address them promptly and confidentially where possible. Harassment or bullying by a member of staff will be treated as misconduct under the Disciplinary Policy and Procedure. In some cases, it may amount to gross misconduct leading to summary dismissal.

The policy applies to every individual working for the school irrespective of their status, level, or grade. It therefore includes Headteacher's, Heads of Department, members of the Senior Leadership Group, directors, employees, consultants, contractors, trainees, volunteers, home-workers, part-time or fixed-term employees, casual and agency staff (collectively referred to as "you" or "Staff" in this policy).

This policy does not form part of individuals' terms and conditions of employment and is not intended to have contractual effect. It does, however, reflect the school's current practices and all Staff are required to familiarise themselves with it and to comply with its contents. The school reserves the right to amend this Policy at any time or to depart from it where it is considered appropriate.

This policy should be read in conjunction with the school's Equal Opportunities and Diversity Policy, and its Grievance and Disciplinary Policy and Procedure.

Part of the

Mulberry
Schools Trust



Breach of this policy will be dealt with under the school's Disciplinary Policy and Procedure and, in serious cases, may amount to gross misconduct leading to summary dismissal.

Legislative Framework

The Equality Act 2010 prohibits harassment related to gender, sexual orientation, marital or civil partner status, pregnancy or maternity, gender reassignment, race, colour, nationality, ethnic or national origin, religion or belief, disability or age.

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, the school has a duty to provide its Staff with 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. In some cases, it can also amount to a criminal offence.

This policy confirms the school's commitment to identifying and eliminating harassment, intimidation and bullying within the work environment.

Bullying and Harassment

1. Harassment

It is the school's policy that the harassment of any of its Staff is unacceptable behaviour. Anyone employee found to be in breach of this policy will be liable to disciplinary action, which could result in dismissal without notice.

Harassment is any unwanted physical, verbal or non-verbal conduct which has the purpose or effect of violating the recipient'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 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 the victim's gender, sexual orientation, marital or civil partner status, pregnancy or maternity, gender reassignment, race, colour, nationality, ethnic or national origin, religion or belief, disability or age. Harassment is unacceptable even if it does not fall within any of these categories

The phrase 'relate to' is very wide and therefore covers:

- harassment based on a perception of another person, for example that the victim is gay, or is disabled, whether or not this perception is correct and even if the perpetrator knows that their perception is, in fact, wrong; and
- harassment that occurs because the victim is associated with another person, for example, someone who is harassed because they care for a disabled person, or who is harassed because

they are friends with a transsexual person, or a white worker who sees a black colleague being subjected to racially abusive language which also causes an offensive environment for him or her.

Harassment may include:

- 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;
- 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;
- continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;
- sending or displaying material that is pornographic or otherwise that some people may find offensive or insensitive (including e-mails, text messages, video clips and images sent by mobile telephone or posted on the internet);
- offensive or intimidating comments, language or gestures, including shouting or behaving in an intimidating manner or insensitive jokes or pranks or banter; mocking, mimicking or belittling a person's disability;
- racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
- outing or threatening to out someone as gay or lesbian; or

ignoring or shunning someone, for example, by deliberately excluding them from a conversation or a workplace 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 them.

The unwanted nature of the conduct distinguishes harassment from friendly behaviour that is welcome and mutual. Staff must always consider whether their words or conduct may be considered offensive.

Harassment can occur whether or not it is intended to be offensive, as it is the effect on the victim which is important, not whether or not the perpetrator intended to harass them. Harassment or bullying is unacceptable even if it is unintentional.

2. Bullying

Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined and threatened. Power does not always mean being in a position of authority, but can include both personal strength and the power to coerce through fear or intimidation.

Bullying can take the form of physical, verbal and non-verbal conduct. Behaviour that is considered bullying by one person may be considered firm management by another. Most people will agree on extreme cases of bullying and harassment but it is sometimes the 'grey' areas that cause most problems. Bullying may include (this is not an exhaustive list):

- shouting at, being sarcastic towards, ridiculing or demeaning others, picking on them or setting them up to fail;

- physical or psychological threats;
- overbearing and intimidating levels of supervision;
- inappropriate and/or derogatory remarks about someone's performance;
- abuse/misuse of authority or power by those in positions of seniority;
- deliberately excluding someone from meetings or communications without good reason;
- spreading malicious rumours, or insulting someone (particularly because of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, or sexual orientation);
- copying memos that are critical about someone to others who do not need to know;
- unfair treatment;
- making threats or comments about job security without foundation;
- deliberately undermining a competent worker by overloading and constant criticism; and
- preventing individuals progressing by intentionally blocking promotion or training opportunities.

Bullying does not include legitimate, reasonable and constructive criticism of a worker's performance or behaviour or reasonable instructions given to workers in the course of their employment.

Any member of Staff who genuinely believes that they are being subjected to harassment or that they are being bullied should not hesitate to use the procedures set out below.

Harassment and bullying procedure

Due to the seriousness with which the school views harassment and bullying, informal and formal reporting procedures are set out below.

All allegations of harassment and/or bullying will be dealt with seriously, promptly and in confidence. Employees who feel they have been subject to harassment and/or bullying must not hesitate in using this procedure nor fear victimisation. Retaliation against an employee who brings a complaint of harassment and/or bullying is a serious disciplinary offence which may constitute gross misconduct and could result in dismissal.

Informal Procedure

If you believe you are being bullied or harassed, you should initially consider raising the problem informally with the person responsible, if you feel able to do so. You should explain clearly to them that their behaviour is not welcome or makes you uncomfortable. You should make it clear to them that you want the behaviour to stop. If this is too difficult or embarrassing to do on your own, you should speak to your line Manager or HR Manager or the Headteacher, who can provide confidential advice and assistance in resolving the issue formally or informally.

If you are in any doubt as to whether an incident or series of incidents may amount to bullying or harassment within the scope of this policy, then in the first instance you should approach either the HR Manager, your line Manager or the Headteacher confidentially, on an informal basis, for advice. They will be able to advise you as to whether the complaint necessitates further action, in which case the matter will be dealt with formally/informally as appropriate.

If informal steps have not been successful or are not possible or appropriate, you should follow the formal procedure set out below.

Formal Procedure

If you wish to make a formal complaint about bullying or harassment, you should submit it in writing to the HR/Headteacher, whose role is to achieve a solution wherever possible and to respect the confidentiality of all concerned. If the matter concerns that person, you should refer it to Headteacher or Board of Governors.

Your written complaint should set out full details of the conduct in question. These details should include:

- the name of the harasser or bully;
- the nature of the harassment or bullying;
- the date(s) and time(s) when the harassment or bullying occurred;
- the names of any witnesses; and
- any action taken so far to attempt to stop the harassment or bullying.

As a general principle, the decision whether to progress a complaint rest with you. However, the school has a duty to protect all its Staff and may be obliged to pursue a complaint independently if, in all the circumstances, it is considered appropriate to do so.

Consideration will be given to whether the alleged harasser or bully should be redeployed temporarily, or suspended on full pay or whether reporting lines or other managerial arrangements need reasonably to be adjusted pending an investigation into your written grounds of complaint and the outcome of the grievance hearing.

Further information is set out in the school's Grievance Policy and Procedure.

Protection from Victimisation

The school will take all reasonable steps to ensure that any member of Staff who makes a complaint or who participates in any investigation conducted under this policy in good faith will be protected from any form of intimidation or victimisation because of their involvement.

Victimisation is treating someone less favourably than others because they have in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing them or another member of Staff, or have supported someone to make a complaint or given evidence in relation to a complaint.

Provided that a member of Staff acts in good faith, i.e. that they genuinely believes that what they are saying is true, they have the right not to be victimised for making a complaint or doing anything in relation to a complaint of bullying or harassment and the school will take appropriate action to deal with any alleged victimisation which may include disciplinary action against anyone found to have victimised that member of Staff.

Any member of Staff who considers that they have been subjected to any such intimidation or victimisation should seek support from HR Manager or their Line Manager or the Headteacher. They may alternatively or additionally raise a complaint in writing under the school's Grievance Policy and Procedure.

Any member of Staff who is, after investigation, found to have provided false information or to have acted in bad faith will be subject to disciplinary action under the school's Disciplinary Policy and Procedure.

What happens if I am accused of Bullying and Harassment?

If someone approaches you informally about your behaviour, do not dismiss the complaint out of hand because you consider that you were only joking or because you think the complainant is being too sensitive.

You should remember that different people find different things acceptable and perceptions can differ significantly from individual to individual. It is possible that you may have offended someone without intending to do so. If this is the case, the person concerned may be content with an explanation, an apology from you and an assurance that you will be careful in the future not to behave in a way that you know might cause offence. Provided that you do not repeat the behaviour, which causes offence, this may well be the end of the matter.

Where a colleague has attempted to address the matter with you informally, appropriate and in good faith, any failure on your part to respond in kind or to take proactive steps to prevent future occurrences will be taken into account should disciplinary proceedings subsequently be instigated against you.

You are reminded that taking the time to listen and communicate constructively with colleagues at an early stage may prevent matters from escalating to the level where formal grievance and disciplinary procedure may need to be instigated. It is therefore in both party's clear interests to seek to resolve the matter amicably, cooperatively and constructively.

If a formal complaint is made about you, this will be fully investigated, and the school may bring disciplinary proceedings if appropriate. Complaints of bullying and harassment will often be allegations of gross misconduct, which if proved could lead to summary dismissal (termination of your employment with the school without notice). You may be suspended on full pay during the investigation and (if a disciplinary hearing is to be called) until disciplinary proceedings have been concluded.

Members of Staff should refer to the school's Disciplinary Policy and Procedure for further information.

The school will treat complaints of bullying and harassment sensitively and will endeavour to maintain confidentiality as far as reasonably practicable whilst discharging its duties under this policy.

As above, allegations which prove to be made in bad faith or maliciously will be treated as potential disciplinary offences in themselves under the school's Disciplinary Policy and Procedure.

Confidentiality

Confidentiality is an important part of the procedures provided under this policy. Every member of Staff involved in the operation of the policy, whether making a complaint or involved in any investigation, is responsible for observing the high level of confidentiality that is required.

Breach of confidentiality will be treated as a serious disciplinary offence and may give rise to disciplinary action under the school's Disciplinary Policy and Procedure.

