



BULLYING AND HARASSMENT POLICY & PROCEDURE

Approved by: The Trust Board

Date: January 2016

Review Date: To be reviewed annually and updated as required following changes in legislation

Owner: Human Resources Manager, Cumbria Education Trust

1 Introduction

- 1.1 The Trust seeks to ensure that all staff across the academies are treated and treat others with dignity and respect, free from harassment and bullying. Staff should always consider whether their words or conduct could be offensive. Even unintentional harassment or bullying is unacceptable.
- 1.2. We will take allegations of harassment or bullying seriously and address them promptly and confidentially where possible. All employees, Trust Board Directors, Local Advisory Board (LAB) members and volunteers must comply with this policy and take appropriate measures to ensure that such conduct does not occur. Harassment or bullying by an employee will be treated as misconduct under our Disciplinary Procedure. In some cases it may amount to gross misconduct leading to summary dismissal.
- 1.3. This policy covers harassment or bullying which occurs both in and out of the workplace, such as on academy visits, or at events, or work-related social functions and on social networking sites. It covers bullying and harassment by staff, Board Directors/Members and volunteers and also by third parties such as suppliers or visitors to our academies, which includes parents.
- 1.4 This policy does not form part of any employee's contract of employment and we may amend it at any time or depart from it where we consider appropriate.

2 What is Harassment?

- 2.1 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.
- 2.2 It also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.
- 2.3 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 (including, 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.
- 2.4 Harassment may include, for example:

- 2.4.1 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;
 - 2.4.2 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;
 - 2.4.3 continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;
 - 2.4.4 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);
 - 2.4.5 offensive or intimidating comments or gestures, or insensitive jokes or pranks;
 - 2.4.6 mocking, mimicking or belittling a person's disability;
 - 2.4.7 racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
 - 2.4.8 outing or threatening to out someone as gay or lesbian; or
 - 2.4.9 ignoring or shunning someone, for example, by deliberately excluding them from a conversation or a workplace social activity.
- 2.5 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 or her.

3. What is Bullying?

- 3.1 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 being in a position of authority, but can include both personal strength and the power to coerce through fear or intimidation.
- 3.2 Bullying can take the form of physical, verbal and non-verbal conduct. Bullying may include, by way of example:
 - 3.2.1 shouting at, being sarcastic towards, ridiculing or demeaning others;
 - 3.2.2 physical or psychological threats;
 - 3.2.3 overbearing and intimidating levels of supervision;
 - 3.2.4 inappropriate and/or derogatory remarks about someone's performance;
 - 3.2.5 abuse of authority or power by those in positions of seniority; or
 - 3.2.6 deliberately excluding someone from meetings or communications without good reason.
- 3.3 Legitimate, reasonable and constructive criticism of a worker's performance or behaviour, or reasonable instructions given to employees in the course of their employment, will not amount to bullying on their own.

4. What the Law Says

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

- 4.2 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.
- 4.3 Under the Health and Safety at Work Act 1974 staff are entitled to a safe place and system of work.
- 4.4 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.

5. Informal Process

- 5.1 If you are being bullied or harassed, you must attempt to manage the situation informally if this is at all possible. The objective of an informal approach is to resolve the difficulty with the minimum of conflict. Every member of the trust community has personal rights and this includes being made aware that their attention or behaviour is perceived by another as bullying or harassing. It is possible that the “perpetrator” simply does not realise the effect of their behaviour on the recipient. You should explain clearly to them that their behaviour is not welcome or makes you feel uncomfortable.
- 5.2 If you would find it too difficult or embarrassing to speak directly with the other person, then you should attempt to communicate through a third party, for example, a work colleague, line manager/supervisor, or union representative.
- 5.3 If informal steps have not been successful or are not possible or appropriate due to the seriousness of the allegations, you should follow the formal procedure set out below.

6. Formal Procedure

- 6.1 This process follows the Trust’s Grievance Procedure which cannot be used in addition to, or substitution of it for the same complaint.
- 6.2 Your written complaint should set out full details of the conduct in question, including the name of the harasser or bully, the nature of the harassment or bullying, the date(s) and time(s) at which it occurred, the names of any witnesses and any action that has been taken so far to attempt to stop it from occurring.
- 6.3 As a general principle, the decision whether to progress a complaint is up to you. However, we have a duty to protect all staff and may pursue the matter independently if, in all the circumstances, we consider it appropriate to do so.
- 6.4 When the Grievance Procedure is invoked as a result of a complaint about bullying or harassment, a manager (usually your direct line manager, unless the complaint is against him/her or where he/she has involvement in the complaint) must be designated to investigate the complaint in a timely, sensitive, impartial and confidential manner. At the same time the Trust’s HR Manager should be informed of any such allegation.
- 6.5 The manager, (the Investigation Officer for these purposes), will arrange a meeting with you, usually within 5 working days of receiving your complaint, so that you can give your account of events. You have the right to be accompanied by a colleague or trade union representative of your choice, who must respect the confidentiality of the investigation. There may be further meetings with you as appropriate throughout the investigation.

- 6.6 Where your complaint is about an employee, we may consider suspending them on full pay or making other temporary changes to working arrangements pending the outcome of the investigation, if circumstances require. The Investigating Officer will also meet with the alleged harasser or bully who may also be accompanied by a work colleague or trade union representative of their choice to hear their account of events. They have a right to be told the full details of the allegations against them, so that they can respond. This action will only be done in extreme circumstances and advice will be sought from the academy's external HR providers.
- 6.7 Where your complaint is about someone other than an employee, such as a contractor or visitor, we will consider what action may be appropriate to protect you and anyone involved pending the outcome of the investigation, bearing in mind the reasonable needs of the Trust and the rights of that person. Where appropriate, we will attempt to discuss the matter with the third party.
- 6.8 We will also consider any request that you make for changes to your own working arrangements during the investigation.
- 6.9 It is likely to be necessary to interview witnesses to any of the incidents mentioned in your complaint. If so, the importance of confidentiality will be emphasised to them.
- 6.10 Any staff member who deliberately provides false information or otherwise acts in bad faith as part of an investigation may be subject to action under the Disciplinary Procedure.
- 6.11 The main purpose of the investigation is to establish whether the act(s) under investigation amounted to harassment and/or bullying. The investigation report should include;
- the terms of reference of the report
 - the complainant's account of the incident(s) and the effects
 - a response from the person identified by the complainant
 - evidence from staff in the same work area or any other relevant areas where incidents of harassment or bullying may have occurred.
 - a conclusion as to whether or not there is a case to answer in respect of the allegations made and whether the matter should be referred to a disciplinary hearing. The report should identify whether it appears that the complainant has suffered any detriment e.g. deterioration of work performance or health, lack of career development, denial of opportunities etc.
- 6.12 At the end of the investigation, the Investigating Officer will submit a report to a senior manager, in most instances this will be the Headteacher or a member of the academy's senior Leadership Team, nominated to consider the complaint. The senior manager will arrange a meeting with you in order to discuss the outcome and what action, if any, should be taken. You have the right to bring a colleague or a trade union representative to the meeting.
- 6.13 The appointed senior manager will consider the investigation report and decide whether:
- They consider that harassment or bullying has occurred, in which case the matter will be dealt with as a case of possible misconduct or gross misconduct under our Disciplinary Procedure.
 - less formal action but some form of mediation or counselling is required for one or both parties

- any short-term or long-term relocation or change in duties or reporting structure is required

6.14 If you remain dissatisfied with the outcome, then the remaining stages of the Grievance Procedure may be invoked.

7. Protection and support for those involved

- 7.1 Employees who make complaints or who participate in good faith in any investigation conducted under this policy must not suffer any form of retaliation or victimisation as a result.
- 7.2 If you believe you have suffered any such treatment you should inform your line manager or other senior manager. If the matter is not remedied you should raise it formally using this procedure.
- 7.3 Anyone found to have retaliated against or victimised someone for making a complaint or assisting in good faith with an investigation under this procedure will be subject to disciplinary action under our Disciplinary Procedure.

8. Confidentiality and data protection

- 8.1 Confidentiality is an important part of the procedures provided under this policy. Everyone 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. Details of the investigation and the names of the person making the complaint and the person accused must only be disclosed on a "need to know" basis.
- 8.2 Information about a complaint by or about an employee may be placed on the employee's personnel file, along with a record of the outcome and of any notes or other documents compiled during the process.
- 8.3 Breach of confidentiality may give rise to disciplinary action under our Disciplinary Procedure.

9. Who is responsible for this policy?

- 9.1 The Trust Board has overall responsibility for the effective operation of this policy but has delegated day-to-day responsibility for overseeing its implementation to the academy's Headteachers.
- 9.2 All managers have a specific responsibility to operate within the boundaries of this policy, ensure that all staff understand the standards of behaviour expected of them and to take action when behaviour falls below its requirements.
- 9.3 Staff should disclose any instances of harassment or bullying of which they become aware to a member of the academies Senior Leadership Team.
- 9.4 Questions about this policy and requests for training or information on dealing with bullying or harassment should be directed to the Trust's HR Manager.

10. Monitoring and review of the policy

- 10.1 Following a formal investigation under this policy, the Headteacher and Investigating Officer involved should consider whether this policy has been effective in addressing the issues and report any problems or suggestions for improvement to the Trust's HR Manager.
- 10.2 The Trust has responsibility for ensuring that any person who may be involved with investigations or administrative tasks carried out under this policy receive regular and appropriate training to assist them with these duties.