

MARLBOROUGH PRIMARY SCHOOL



FOR
EVERY
CHILD'S
BRIGHT
FUTURE

HARASSMENT AND BULLYING POLICY

**This policy was reviewed and agreed in September 2016.
It will be reviewed again in September 2017**

Introduction

Schools must be committed to creating an environment where staff do not suffer discrimination, harassment or bullying. A school as an employer has an obligation to uphold the law and protect staff from harassment and bullying and expects all staff to abide by such legislation.

Preventing harassment or bullying and dealing effectively with complaints of such are important management tasks. As soon as managers / headteachers become aware of an incident(s) of harassment or bullying they should intervene promptly. Managers / head teachers must not be seen as condoning acts of harassment, e.g. by attempting to persuade a complainant that he/she is being over sensitive or by making excuses for the alleged harasser.

These guidelines have been produced to support managers / headteachers and advise them of the different approaches when dealing with harassment and bullying. The guide ranges from making suggestions for preventing harassment and bullying to the use of formal grievance and disciplinary procedures. It also identifies the important issues at each stage of the process and outlines good management practice.

Definitions

The terms harassment and bullying refer to a wide range of actions. Harassment and bullying can cause considerable stress and damage to health and confidence in those experiencing it as well as having a negative impact on work performance.

When investigating harassment and /or bullying, the impact of the behaviour on the complainant is more important than the intention of the alleged perpetrator. The "intention" is only relevant when deciding what action should be taken where the case is proved.

The definitions for the purpose of these guidelines reflect current anti-discrimination legislation, associated Codes of Practice and the Council's Equality & Diversity Policy and related procedures.

Harassment

Harassment includes any action(s) and practice(s) by an individual or group which are directed at others and which may:

- comprise remarks or actions associated with a person's gender, race, disability, sexuality, class, age, HIV/Aids status, personality or other aspect of them;
- emphasise a person's gender, race, disability, sexuality, class, age HIV/Aids status, personality or other aspects over their role as a worker;
- involve unfair and unjust close supervision of a particular employee's work; expecting a higher standard of work or showing greater attention to mistakes than would be the case with other employees.

The above is not exhaustive.

These actions may be repeated and unwanted and intentional or unintentional.

Sexual Harassment

Sexual Harassment includes any unwelcome physical, verbal or non-verbal conduct of a sexual nature. This includes “office banter” and jokes that a person perceives as being sexist. An individual will have a claim for sexual harassment if s/he can show that someone of the opposite sex would not have been treated in the same way. This would include being bullied, indecent remarks and questions about an individual’s sex life and/or demands for sexual favours.

Racial Harassment

Racial harassment includes any unwelcome physical, verbal or non-verbal conduct of a racist nature. Under the provisions of the race relations (Amendment) Act 2000 it is unlawful for any public body (including LEA’s and schools) or its employees to discriminate on racial grounds, directly, indirectly or through victimisation. This includes being bullied or harassed on racist grounds.

Disability Discrimination

Disability discrimination includes any unwelcome physical, verbal or non-verbal conduct of a nature that exploits or emphasises a person’s disability.

Bullying

Both men and women may become victims of bullying. Examples of bullying can include open aggression, ridicule, excessive supervision, constant criticism, the setting of impossible targets, withholding information, refusing requests for training and removing areas of work responsibility.

Victimisation

Victimisation is often linked with harassment. It occurs where an employee is selected for ill treatment because they have made an allegation or complaint or has supported someone who has made such a complaint or allegation. Victimisation will also include an employee receiving less favourable treatment than others as a result of their complaint.

Preventing Harassment and Bullying

Induction of new staff

All newly appointed employees have a contractual right to a formal induction. All managers / headteachers should plan a phased induction for new employees.

This induction should ensure new staff:

- are clear about their job requirements and performance expectations.
- are informed of current procedures, policies and practices including the Equality & Diversity policy, Code of Conduct, and all relevant Health and Safety issues.
- understand the implications of these procedures, policies and practices in the workplace.
- are informed of their rights and responsibilities.
- are aware of and receive appropriate support , information and supervision.

Workplace Procedures and Practices

Clear procedures and practices will contribute to preventing harassment and bullying. It is therefore advisable to regularly review workplace procedures and practices.

Questions you need to consider include:

- Does everyone have access to information about training?
- Do they know on what basis people will be selected for training?
- Is there a diary or logbook in use so that timekeeping and the whereabouts of all staff can be checked without individuals being singled out?
- Do all staff understand the procedures for reporting sickness absence or for seeking permission for other absence?
- How are new tasks introduced and what support is given to staff to carry them out?
- Are there any practices that “everybody knows about” or “everybody agrees to” but which are not written down? Do you need to check that everyone is still clear or in agreement? Would it be helpful to write them down?

Supervision

Managers / head teachers are often the target of complaints of harassment and bullying. There are fewer complaints where managers / headteachers have established good procedures and practices. Good procedures and practices are those which can be seen to be fair and reasonable.

Demonstrating consistency and fairness through ensuring fair methods of work allocation, clear communication with employees, and managing performance through supervision, is essential and will minimise unjustified allegations of harassment and bullying.

Confidentiality

Managers / headteachers have access to confidential information about staff eg details of personal circumstances, sickness record etc. A breach of confidentiality can lead to employees feeling harassed (as well as potentially breaching the Data Protection and Human Rights Acts). Breaches in confidentiality can lead to disciplinary action being taken against the person responsible for the breach.

Encouraging Reporting/Complaints

Where reporting and complaints are discouraged or not taken seriously, harassment and bullying will continue. If problems are dealt with fairly and promptly, employees will have increased confidence in their manager / head teacher. To encourage reporting of harassment and bullying, employees should:

- Be made aware of the manager’s / headteacher’s role in resolving workplace problems
- Be informed of relevant procedures
- Be given a time frame in which a complaint will be dealt with
- Be made aware of the role of advisors e.g. Personnel Consultants, Employee Relations Officers, Equalities Officers, Trade Unions.

Reporting and Recording Racist Incidents Involving School Staff

All Public Bodies (including LEA’s and schools) have a duty to report and record racist incidents. Managers / headteachers have been issued guidance on the reporting and recording of racist incidents involving staff and must refer to these when such an incident occurs. There is a requirement to complete a monitoring form which has to be returned to Education Personnel.

Team Meetings

Team meetings can be used to inform and consult staff. Staff can also be encouraged to air general grievances and to resolve them as a team. These meetings should be minuted and staff not in attendance given a copy on their return to work.

Behaviour / Incidents that Indicate Harassment / Bullying

Employees experiencing harassment/bullying often cite examples from their informal relations with other employees. The kind of behaviour which may indicate a problem include:

- When one or more staff are consistently left out of social invitations or if they always choose not to attend (although this may be by personal choice)
- Where a particular ethos or culture has emerged, perhaps with some long serving employees and new staff are expected to conform to this culture. Examples of workplace cultures are where staff are expected to become friends, where they are expected to talk about their private lives, where there is joking or banter. While some of these workplace cultures may be acceptable to some staff, it is important to be aware that problems may emerge if an individual feels obliged to fit in with them.
- Where an individual appears to be ostracised by others
- Where employee(s) are particularly critical of individual(s) or reluctant to work co-operatively with them.
- When an employee has a high level of sickness absence, whether medically certified or not, with stress related illnesses
- Where an employee loses motivation and confidence in their work and appears to be anxious or makes a lot of mistakes.

Receiving a Complaint

A complaint of harassment and bullying can be made to a manager / headteacher:

- Orally or in writing from the complainant
- Orally or in writing from another source eg Personnel, other employee
- Anonymously
- As a formal grievance

If the complaint is raised as a formal grievance then the time limits and stages of the Schools Grievance Procedure must be observed.

Anonymous Complaints

When receiving an anonymous complaint, the headteacher / manager will need to consider the following issues before deciding whether action is appropriate:

- Can the complainant or third party be identified, approached and questioned
- Is the allegation of a serious nature and what other evidence exists to support it
- Can the complainant be persuaded or supported to solve the problem him/herself or to complain formally
- Are there any obstacles to the individual complaining openly which you could resolve
- Are there any indirect ways of dealing with the complaint, e.g. team meetings, training

Where the allegation is serious, an investigation of the facts should be undertaken. If there is no substantiating evidence found no further action is needed. Should evidence be found action should be taken. This may include formal disciplinary action.

The Managers / Head Teachers Role

When dealing with a complaint the manager / headteacher must in the first instance:

- Ensure that both the complainant and alleged perpetrator are fully aware of the process / procedures to be followed (these will be detailed later) including how long an investigation may take.
- Support the employee complaining of harassment / bullying. Relevant contacts include, Trade Union Representatives, Education Personnel, Counselling service (provided by Focus EAP Ltd), Equalities Officers and colleagues.
- Assess whether any immediate action is necessary. Consider granting special leave when the complainant and in some cases the alleged perpetrator is sufficiently distressed that they are unable to work. In cases of serious/gross misconduct consider suspending the alleged perpetrator (Education Personnel should be consulted and the provisions of the schools disciplinary procedure should be applied). Consider contacting external agencies eg the Police, Equal Opportunities Commission. Consider the views of the complainant when deciding how to resolve the complaint.
- Do not assume that the alleged perpetrator is guilty. The alleged perpetrator may also wish to seek advice and support.
- Ensure that the complainant is not put at a disadvantage for having made the complaint, as this can be construed as and may constitute victimisation.
- Informal or Formal Action

Unless a formal complaint is made under the Schools Grievance procedure (in which case the provisions of that procedure should be applied), the manager /head teacher should decide on whether the complaint could be dealt with informally. Education Personnel can provide advice on this.

Informal action should be considered where:

- The complaint relates to a relatively minor or single incident of harassment / bullying eg a mild inappropriate joke
- The complainant wants the matter to be dealt with informally
- The alleged perpetrator is new or has never behaved in such a way before
- The harassment / bullying was minor and unintentional and drawing it to the alleged perpetrators attention is sufficient to stop the behaviour.
- In the managers / headteachers view it is the most appropriate approach in the circumstances.

Formal action must be considered where:

- The complainant raises a formal grievance
- There is a serious allegation of harassment / bullying.
- The harassment / bullying has been frequent and /or intentional
- The harassment / bullying has had a serious impact on the complainant eg long term stress induced sick leave
- An informal approach has failed
- Where the issues are complex
- In the managers / head teachers view it is the most appropriate approach in the circumstances.

Important - formal investigations / actions can only be taken using the Schools Grievance, Disciplinary or Complaints Procedures.

Informal Action

Informal action could include:

- Talking to the complainant and other employees about the incident to assess the extent of the problem and their feelings about it.
- Using team meetings to discuss required standards of behaviour and responsibilities in the workplace
- Interviewing the alleged perpetrator, where you are sure that the allegation is true, tell them why the behaviour is unacceptable and set standards of expected behaviour. **An informal oral warning of possible formal action for any repeated similar behaviour may be given at this meeting.**
- Seeking external advice eg Education Personnel / Equalities
- Reviewing work practices, information, supervision, and training needs if necessary.
- Setting ground rules for behaviour and work relationships
- Consider temporary changes to work arrangements to minimise contact between the complainant and the alleged perpetrator

The complainant should be informed of their right to use the Schools Grievance Procedure if they are not satisfied with the proposed method of dealing with the issue or the outcome of the complaint. It should, however, be noted that the Grievance Procedure normally requires that matters be dealt with informally in the initial stage.

If at any stage there is evidence of serious harassment / bullying then the informal investigation should change status to a formal disciplinary investigation and the disciplinary procedure followed.

It is important to review the impact of any informal action taken e.g. seeking the views of all parties involved on how they perceive the current situation.

Formal Action

In all cases formal investigation and/or action must only be taken under the school's grievance, disciplinary or complaints procedures. **It should be used in more serious cases or as a last resort.**

Investigating Officer

In accordance with the school's disciplinary procedure, an investigating officer must be appointed. This would normally be a Deputy Headteacher or other member of the school's senior management team.

Meeting with the Complainant

It is better, but not crucial, if the complaint is made in writing for a formal investigation to proceed. The investigating officer should meet the complainant to establish:

- Clear, specific allegations against named people
- Dates, times and witnesses where these are known
- Factual descriptions of events including direct quotes rather than opinions or assumptions
- A brief description of the context of each incident
- The impact of each incident on the complainant eg how s/he felt
- An explanation of why the complainant considers the behaviour to be harassment / bullying if this is unclear.
- Any documentary evidence

The complainant must be advised that they have a right to be accompanied by a Trade Union Representative or colleague at the meeting.

Suspension

Suspending an employee from work should only be considered in serious cases. It must also be taken in accordance with the schools disciplinary procedure and the advice of Education Personnel should be taken. Suspension must be considered:

- If the allegation could amount to gross/serious misconduct and could therefore result in summary dismissal if it were proven.

And/or where:

- Normal working arrangements would be impossible to maintain until the issue is resolved
- To rearrange the working arrangements would disadvantage the complainant
- The alternative would be to send the complainant home
- The presence of the alleged perpetrator would inhibit the investigation or would allow any tampering of evidence

HR should be consulted before taking action to suspend

Interviewing the Alleged Perpetrator

The alleged perpetrator has a right to know what they are accused of and by whom. In accordance with the school's disciplinary / grievance / complaints procedures they should be given full details of the complaint before the meeting.

They must be advised that they have a right to be accompanied by a Trade Union Representative or colleague at the meeting.

The alleged perpetrator must be treated fairly and their guilt must not be presumed.

Occasionally, the accused person will claim that the complaint is a form of harassment / bullying against them. Under these circumstances they should be advised of the possible courses of action open to them. Counter grievances can arise at this stage.

Interviewing Witnesses

Witnesses are not being investigated and therefore do not have the right to see the complainants or alleged perpetrators statements. Witnesses must be instructed that the matter is confidential.

It may be necessary to recall witnesses to clarify or validate information that emerges in the course of the investigation.

Taking evidence

The investigating officer will need to take detailed notes of each interview or receive a written statement form the interviewee. These are confidential and the employee is entitled to see a copy of their own interview notes. If notes are taken the interviewee should be asked to sign them as a true record.

Concluding the investigation

Grievance Investigation

Conclusions and any resolutions / recommendations should be communicated to the aggrieved employee in accordance with the procedure. They must be informed of their right to take the complaint to the next stage of the procedure if they are not satisfied with the outcome.

Disciplinary Investigation

A report must be produced which is a clear and concise account of the investigation. The headteacher needs to decide what action to take on the basis of the findings detailed in the report of the investigation. It may be that formal disciplinary action is appropriate. If this is the case a formal hearing must be arranged in accordance with the school's disciplinary procedure. The report will then be used to form the basis of the managers / headteachers case statement. Advice can be obtained on the school's disciplinary procedure from HR.

If the decision is to take no further formal action the manager / headteacher should meet separately with both the complainant and the alleged perpetrator to inform them of this fact and outline any conclusions and what steps, if any, they intend to take. This should be confirmed in writing.