



West Winch Primary School

Dignity at Work Policy & Procedures 2017

INTRODUCTION

The aims of this policy are:-

- to establish a climate in school in which the dignity and rights of each individual are recognised and protected;
- to make clear to Governors, managers, and other employees that harassment, whether on sexual, racial or other grounds, is not acceptable;
- to provide procedures which enable harassment issues to be tackled quickly, effectively, sensitively and confidentially.

STATEMENT OF INTENT

The Governing Body recognises that all employees have the right to work in an environment which is free of harassment. The purpose of this policy is to ensure that harassment does not occur.

If, however, it does occur, the Governing Body undertakes that allegations of harassment will be dealt with seriously and confidentially, using the procedures set out in the Annex to this Policy, and that employees will be protected against victimization for making or being involved in a complaint.

Following a formal investigation:-

- conduct or behaviour by an employee amounting to intentional harassment or bullying will normally be treated as misconduct in accordance with the disciplinary procedures adopted by the Governing Body and could lead to dismissal;
- conduct or behaviour by an employee amounting to unintentional harassment will be treated initially as an issue of “capability” and will be dealt with as such, which may include use of the procedures adopted by the Governing Body for that purpose.

DEFINITION OF HARASSMENT

Harassment is: *‘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’.*

Source: Equality Act 2010.

However, it is important to recognise that, in any work context, it is the legitimate role and duty of a manager to direct and instruct employees, and to monitor and provide feedback on their performance of the duties required of them in their job, having regard to their rights and in accordance with *any* agreed procedures.

FORMS OF HARASSMENT

Harassment may be directed at, and can be carried out by, an individual or a group of individuals. Harassment can range from extreme forms such as violence and bullying to less obvious actions like ignoring someone at work. Forms of harassment may include:-

- physical contact ranging from touching to serious assault;
- verbal and written abuse through jokes, offensive language, name-calling, innuendo, gossip and slander, sectarian songs or letters;
- non-verbal abuse such as offensive gestures and body language;
- display of posters, graffiti, or emblems;
- isolation or non co-operation at work and exclusion from social activities;
- coercion ranging from pressure for sexual favours to pressure to participate in political/religious groups;
- intrusion by pestering, spying, excessive or inappropriate physical closeness;
- abuse of management procedures to threaten, humiliate, or coerce;
- threats or promises affecting work performance or linked to employment prospects;
- inappropriate use of social networking sites, chat rooms, texting and other forms of electronic communication.

This list is illustrative but not exhaustive.

People can be subject to harassment on a wide variety of grounds including:-

- sex , sexual orientation, or marital status;
- race, ethnic origin, skin colour or nationality;
- religious convictions or attributed beliefs;
- membership, or non-membership of a trade union;
- disability, sensory impairment, learning difficulty, or physical characteristics;
- age.

Again, this list is illustrative but not exhaustive.

DEFINITION OF BULLYING

Bullying is: *'offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient'*.

Source: Advisory, Conciliation and Arbitration Service (ACAS)

FORMS OF BULLYING

Bullying may take open forms such as shouting at someone, personal insults, name calling, persistent criticism, and humiliation. Alternatively, it may be more covert and conducted through setting objectives which cannot be met within a reasonable timeframe, the removal of responsibility without good reason, constantly changing work guidelines, inappropriate threats about use of disciplinary or capability procedures, or ignoring and excluding the individual from relevant discussions.

EFFECTS OF HARASSMENT & BULLYING

A victim of harassment or bullying may suffer physical and/or emotional symptoms such as disturbed sleep, nausea, lack of confidence or motivation, and depression.

Whatever the form of the harassment, the impact on the employee should not be underestimated. Harassment can lead to illness, increased absence, poor performance, and confusion over status and role leading to an apparent lack of commitment or even resignation. Harassment can also result in tension and conflict within the workplace and puts great strains on personal and family life. These all have a direct impact on the effectiveness of the school.

Failure to deal, or deal properly and promptly, with allegations or incidents of harassment at work may also leave the Governing Body and/or the County Council vulnerable to legal action in which financial remedies awarded have no upper limit, and can be considerable.

RESPONSIBILITIES

Governors, the Headteacher, and other school managers are responsible for the implementation of this policy, for ensuring that all staff have an awareness of the policy, and for taking corrective action to ensure compliance with it. This responsibility can be discharged by:-

- explaining and positively promoting the policy to staff;
- responding to and supporting any employee complaining of harassment;
- providing full and clear advice on the procedure to be followed;
- maintaining confidentiality;
- monitoring the situation to ensure that no repetition or victimisation occurs after the complaint has been resolved.

Any complaint about harassment will be dealt with seriously, expeditiously and confidentially. Employees will be protected against victimisation or retaliation for bringing a complaint of harassment.

It is important that school managers understand that it is not primarily their perception of what conduct is acceptable which defines harassment. Rather it is the view of the recipient which is most important and if the recipient feels that they have been harassed the complaint must be taken seriously and actioned in the appropriate way.

All employees have a responsibility for ensuring that the working environment in school is free from harassment. All employees are required to comply with this policy and to treat their colleagues with dignity and respect. Employees can do much to discourage harassment by:-

- making it clear that they find such behaviour unacceptable;
- supporting colleagues who suffer such treatment and are considering making a complaint;
- being sensitive to the potential impact of their own behaviour on colleagues.

DEALING WITH HARASSMENT & BULLYING

The Governing Body has adopted the procedure set out in the Annex to this Policy for dealing with complaints of harassment and bullying. The procedure is intended to enable complaints to be dealt with sensitively and quickly, and provides for employees to raise problems with an officer other than the Headteacher or their line manager where this is necessary. The procedure also allows for problems to be resolved informally where this is possible and appropriate. If the problem persists, or informal resolution is inappropriate, the formal complaints procedure will be followed.

Where a complaint has been upheld, management within the school will ensure that:-

- harassment has ceased;
- no victimisation occurs as a result;
- any changes to policies, practices, and procedures are made.

Where a complaint has not been upheld, the Headteacher and governors will ensure that no victimisation of the complainant takes place.

MALICIOUS COMPLAINTS.

It should be recognised that allegations of harassment are sometimes falsely made and, in all cases, the rights of alleged perpetrators need to be recognised. Malicious or unfounded complaints of harassment can also have a devastating effect on the health, confidence, morale, and motivation of those falsely accused. It would not serve the interests of the school for any policy or procedure to be abused and for victims of malicious or unfounded allegations to have no redress. Complaints of harassment which are found to be intentionally frivolous, vexatious, or unreasonable will themselves be treated as misconduct in accordance with the disciplinary procedure.



West Winch Primary School

Complaints Procedure

INTRODUCTION

The Governing Body recognises that all the employees at its school have the right to be treated with dignity and therefore harassment at work will not be condoned. Members of staff who are harassed have the right to complain about such behaviour and this procedure is intended to ensure that complaints are dealt with sensitively, effectively and confidentially.

Most recipients of harassment simply want the harassment to stop. Both informal and formal methods of achieving this are available under this procedure.

By its very nature, harassment may make the normal channels for resolving problems difficult to use because of embarrassment, fear of not being taken seriously, fear of damage to reputation, fear of reprisal, or the prospect of jeopardising working relationships. In recognition of this, the procedure allows for the involvement of a variety of parties in a support role to the complainant.

This procedure is set out in a flowchart at Appendix I.

INFORMAL PROCEDURES

In the first instance informal ways of resolving problems should be tried, dependent on the nature and seriousness of the allegation. In some cases it may be possible and sufficient for the member of staff to explain clearly to the person engaging in the unwanted conduct that the behaviour in question is not welcome, that it offends them or makes them uncomfortable, and that it interferes with their work.

In circumstances where it is too difficult, embarrassing, or inappropriate (because of the nature and seriousness of the allegation) for an individual to do this on their own behalf they should seek support from a friend on the staff group, or the representative of the relevant trade union or professional association who will make the initial approach if required. Where the individual feels that a face-to-face meeting may not be appropriate for the above reasons, they may prefer to communicate in writing.

Alternatively, the employee may make a complaint to the Headteacher and ask for it to be dealt with through the informal procedure, in which case the Head will attempt to resolve the matter either informally or through the conciliation procedure.

Where the employee approaches a friend on the staff, it is important to respect the fact that this person may not wish to become involved. In such circumstances, the employee may consider contacting either Education Personnel Services or the LA's Counselling Helpline service to seek advice and informal assistance.

The role of the friend or representative at this stage is not to impose a solution but to offer support, explore possible options open to the employee, and assist the employee to choose a suitable and satisfactory course of action. The friend or representative may feel it is appropriate to assist in resolving the problem by acting as mediator. In carrying out this function, s/he will be protected from victimisation and will not be forced to disclose any confidences arising from their assistance with the informal stages of this procedure.

Even where an informal approach is enough to resolve the immediate problem, the employee should keep a record of any incidents, including a note of any witnesses. Similarly, where the Head or other management representative is involved in resolving the problem informally or formally, proper notes must be kept to document the action taken.

CONCILIATION PROCEDURE

As an alternative to other informal approaches, or as an agreed way of attempting to resolve a formal complaint, there may be occasions on which the Headteacher or investigating officer can help to broker a solution by means of a conciliation meeting between the complainant and the alleged perpetrator. This should only be done with the agreement of both parties, who may each bring a friend or a representative to the meeting.

There should be a commitment to change any offending behaviour and the attention of both parties should be drawn to the County Council's counselling service.

The Headteacher or investigating officer convening the meeting should make a record of the alleged incident and the outcome of the meeting. To indicate agreement with the outcome, all parties should sign the record which will remain confidential to the signatories.

FORMAL PROCEDURE

If the conduct continues, or it is not appropriate to resolve the problem informally, either because the complainant regards attempts at informal resolution as inappropriate because of the serious nature of the complaint or where informal attempts at resolution have failed, the issue should be raised through the formal stage of the school's Grievance Procedure. At the conclusion of a formal hearing under the Grievance Procedure, the Grievance Committee will determine:-

- whether harassment has occurred;
- whether it was intentional or unintentional;
- what action is required.

If a clear case of harassment is established, this is likely to be in accordance with the main policy procedures. However, the situation may be such that, with the agreement of both parties, action other than this may be appropriate. If formal action is felt to be required, the normal proceedings will take place as determined by the relevant Procedure (disciplinary, lack of capability). Hearings will be convened with the minimum of delay. Where a complaint is upheld the appropriate penalty should be applied. This may range from appropriate management action or a formal warning through to dismissal depending on the circumstances and severity of the incident. Additionally it may be determined that it is necessary to relocate or transfer one party in addition to, or instead of, some other disciplinary penalty. If this is the case and it is practicable, the emphasis should be on relocating the harasser, who would have no choice in the matter.

If the complainant wishes to be relocated, sympathetic consideration should be given to such a request. No element of penalty should be seen to attach to the complainant whose complaint is upheld and managers

must carry out monitoring to ensure that the harassment has stopped and that no victimization or retaliation against the complainant takes place.

Where the perpetrator is transferred, any disadvantage which they suffer would not be in breach of their contract of employment if the transfer is offered as an alternative to dismissal.

Where the complaint is not upheld but because of the investigatory process it would be difficult for the parties to work together, consideration should be given, where practicable, to a voluntary transfer of one or both of the employees concerned or rescheduling of their work rather than requiring them to continue to work together against the wishes of either party.

If an investigation brings to light circumstances that would warrant a referral to the criminal authorities, the complainant should be advised that they have right to do so. However, this should normally be done through the Headteacher or, where the alleged perpetrator is the Headteacher, through the Chair of Governors.

RIGHT OF APPEAL

If either party is of the view that they have not been dealt with properly in relation to a formal complaint under this policy, they may ask the Governing Body to convene a meeting of its Appeals Committee to review the case.

LEGAL REMEDIES

Notwithstanding the terms of this procedure, employees may have the right under the Sex Discrimination Act, the Race Relations Act, or the Disability Discrimination Act to bring a complaint of unlawful discrimination before an Employment Tribunal or to the Courts. Normally, complaints must be brought within three months of the incident occurring. There is no service qualification required to allow such a complaint to be lodged.

Additionally, if someone has been dismissed because they objected to conduct towards them which they found unacceptable, or if they resigned because of a fundamental breach of contract by or on behalf of their employer, they may be able to bring a complaint of unfair dismissal (constructive dismissal) to an Employment Tribunal. The complaint must be brought within three months of the termination of the employment. However, to be entitled to use this remedy, a person must have completed one year's continuous employment with their employer.

Acts of harassment which lead to breakdowns in an employee's health could form the basis for legal action under Section 2 of the Health and Safety at Work Act 1974. This places all employers under a duty to ensure the health, safety, and welfare of all employees and to create safe and healthy working systems. The Management of Health and Safety at Work Regulations 1992 expand on this by requiring employers to assess work-related risks to the health and safety of their employees in a way which takes account of the individual employee's capabilities.

Some acts of harassment are so serious that they may give grounds for criminal claims for assault, civil claims for negligence or breach of contract, or criminal claims under the following statutes:-

- The Criminal Justice and Public Order Act 1994
- The Protection from Harassment Act 1997

The Criminal Justice and Public Order Act 1994 defines harassment as a person causing another person harassment, alarm, or distress by:-

- using threatening, abusive, insulting words or behaviour, or disorderly behaviour;

or

- displaying any writing, sign, or other visual representation which is threatening, abusive, or insulting.

Under the Act, harassment of an employee by the employer, colleagues, or members of the public constitutes a criminal offence.

The Protection from Harassment Act came into force in June 1997 (updated September 1998). It was designed as an anti-stalking measure but is a widely-drawn piece of legislation with potential application to a variety of situations including the employment context.

The Human Rights Act 1998 incorporates the European Convention of Human Rights into English law and enables victims to pursue remedies for breach of their rights in the English Courts. In operating this Policy and Procedure, the Governing Body will ensure that the rights of both complainants and alleged harassers are not infringed.

The relevant rights are:

- respect for private and family life;
- freedom of thought, conscience, and religion;
- and prohibition of discrimination in the enjoyment of these rights.

Adopted: Summer 2017
Review: Summer 2018



Heather Habbin - Chair of Governing Body

APPENDIX I

FLOWCHART OF PROCEDURE FOR HANDLING COMPLAINTS OF HARASSMENT OR BULLYING OF SCHOOL STAFF

