

POLICY AND
PROCEDURE ON
BULLYING &
HARASSMENT AT
WORK POLICY

Hull City Council

Human Resources

Implementation Date: 2nd January 2007

BULLYING AND HARASSMENT AT WORK POLICY

1.0 INTRODUCTION

- 1.1 This Policy is concerned with the prevention of harassment and bullying in the work place and aims to provide a remedy for unreasonable or unjustifiable behaviour. It is not intended to inhibit reasonable and effective management of staff.

2.0 ACAS GUIDELINE

- 2.1 The following good practice has been given by ACAS about what employees and employers should do about bullying and harassment at work (November 1999).
- 2.2 Everyone should be treated with dignity and respect at work. Bullying and harassment of any kind are in no-one's interest and should not be tolerated in the workplace, but if an employee is being bullied or harassed it can be difficult to know what to do about it.
- 2.3 This guidance gives:
- a) employees¹ basic information about bullying and harassment
 - b) summaries the responsibilities of employers outlines some of the options open to employees and, points to sources of further information and advice²

3. What are bullying and harassment?

- 3.1 These terms are used interchangeably by most people, and many definitions include bullying as a form of harassment.

Harassment, in general terms is:-

unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

1 The term employees is used to cover all those who work for someone else rather than on their own account, regardless of whether they are employed strictly under a contract of employment.

2 Legal information is provided for guidance only and should not be regarded as an authoritative statement of the law, which can be given only by the courts. Legal considerations must be looked at in the light of the particular circumstances, and it may be wise to seek legal advice. ACAS Public Enquiry Points can provide information on employment matters but cannot provide legal advice on particular cases. Other sources of information and advice for employees include trade unions representatives, citizens advice bureau's and lawyers.

- 3.2 Harassment can also have a specific meaning under certain laws (for instance if harassment is related to sex, race or disability, it may be unlawful discrimination).
- 3.3 Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.
- 3.4 Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual.
- 3.5 Examples of bullying/harassing behaviour include:
- = spreading malicious rumours, or insulting someone by word or behaviour (particularly on racial, sexual or disability grounds)
 - = copying memos that are critical about someone to others who do not need to know
 - = ridiculing or demeaning someone - picking on them or setting them up to fail
 - = exclusion or victimisation
 - = unfair treatment
 - = overbearing supervision or other misuse of power or position
 - = unwelcome sexual advances - touching, standing too close, the display of offensive materials
 - = making threats or comments about job security without foundation
 - = deliberately undermining a competent worker by overloading and constant criticism
 - = preventing individuals progressing by intentionally blocking promotion or training opportunities.
- 3.6 Bullying and harassment are not necessarily face to face. They may also occur in written communications, electronic (e)mail, phone, and automatic supervision methods such as computer recording of downtime from work or the number of calls handled if these are not applied to all workers.
- 3.7 Bullying and harassment make someone feel anxious and humiliated. Feelings of anger and frustration at being unable to cope may be triggered. Some people may try to retaliate in some way. Others may become frightened and demotivated. Stress, loss of self-confidence and self-esteem caused by harassment or bullying can lead to job insecurity, illness, absence from work, and even resignation. Almost always job performance is affected and relations in the workplace suffer.

4.0 Responsibilities of employers

- 4.1 Employers are responsible for preventing bullying and harassing behaviour. It is in their interests to make it clear to everyone that such behaviour will not be tolerated - the costs to the business may include poor employee relations, low morale, inefficiency and potentially the loss of staff.
- 4.2 Under the Health and Safety at Work Act 1974 your employer has a legal responsibility to ensure that your health, safety and welfare at work are protected. There is a right to mutual trust and confidence between employer and employee; and if bullying or harassing behaviour are allowed to go unchecked, that could mean that such trust and confidence is lost. Employers are usually liable in law for the acts of their workers, and this includes bullying or harassing behaviour.
- 4.3 The Sex Discrimination Act 1975, the Race Relations Act 1976 and the Disability Discrimination Act 1995 make unlawful any bullying or harassment that includes elements of discrimination, for instance sexual harassment or gender related bullying behaviour.
- 4.4 Certain types of harassment, such as stalking, are covered in criminal law by the Protection from Harassment Act 1997, and the Criminal Justice and Public Order Act 1994.
- 4.5 The Employment Rights Act 1996 gives protection to employees with qualifying service by allowing them to claim 'unfair constructive dismissal' if they are forced to leave their job because of the actions of their employer. Such actions might include failure by the employer to deal with any complaint of bullying or harassment, or failure to protect their employees from bullying and harassing behaviour.

THE PROCEDURE FOR DEALING WITH BULLYING AND HARASSMENT AT WORK

5.0 It is hoped that complaints can be dealt with successfully at the informal stage.

6.0 Relationship with Other Procedure

6.1 This procedure sets out the relationship between the harassment/bullying procedure and other existing procedures as follows:

6.2 The harassment procedure will replace the use of the existing grievance procedure in dealing with all complaints of harassment and bullying;

6.3 Any disciplinary proceedings resulting from an investigation under the harassment procedure will be conducted under the existing disciplinary procedure. The Disciplinary Policy sets standards of behaviour expected and **enables** all individuals to be fully aware of their responsibilities to others.

NB:- a) A definition of bullying and harassment can be found in the attached ACAS guidance notes.

b) Where the harassment is related to race, sex or disability there is no service requirement for an employee to submit a claim to an Employment Tribunal.

7.0 Stages of the Procedure

7.1 The procedure contains two distinct stages through which complaints can be pursued:

- i) a preliminary informal stage; and
- ii) a formal stage of investigation, which may lead to a recommendation that disciplinary action, should commence.

8.0 Advice and support

8.1 Complainants may seek advice and guidance from within the LEA's personnel department as well as trade unions and other representatives who can provide independent support.

8.2 Persons against whom complaints are made, who may wish to deny such allegations, or who may not have been aware that their behaviour was causing offence until complaints were made, may seek advice and guidance similarly.

9.0 Informal Stage

9.1 It is hoped that complaints can be dealt with successfully at this stage.

9.2 Complaints of bullying and harassment should be pursued in the first instance in the following way:-

9.2.1 Complainants are encouraged to make clear to the person who is harassing or bullying them that the behaviour is unwelcome and causing distress and must be stopped. The alleged offender should be given the opportunity to modify their conduct.

9.2.2 Complainants may find it helpful to keep records of incidents of behaviour, which they consider to be harassment or bullying, noting the date and time of the incident and details of any witnesses. Such records can be helpful in describing the problem and may also be used if any formal action is subsequently taken.

9.2.3 Should the behaviour continue, complainants should approach their headteacher, if appropriate. In the case of a headteacher causing the concern the employee may wish to contact the Chair of Governors or the LEA Personnel for advice.

9.3 If both of these informal approaches fail, employees should seek advice from their trade union or professional association if they haven't already done so.

9.4 Where a complainant has raised a concern with a headteacher or Chair of Governor s/he will be expected, in the first instance, to discuss the complaint informally with the offender. This must take place without delay after the complaint has been made. The employee must be informed when this occurred and the outcome of the discussion.

10. Formal Stage

10.1 The formal stage will apply where complaints are not resolved at the informal stage or where the informal stage is inappropriate due, for example, to the seriousness of the complaint.

10.2 The formal stage will ensure a thorough investigation of the complaint, which may lead to the possibility of disciplinary action or other action to resolve the situation.

10.3 In order to be consistent with LEA and governing body responsibilities for disciplinary procedures, the formal stage will operate as set out below.

10.3.1 Where any complaint involves an allegation against the headteacher, the role of the headteacher as set out below should be undertaken by a governor nominated for this purpose by the governing body.

- 10.3.2 The complainant must notify the headteacher (or Chair of Governors if the complaint is against the headteacher) in writing using the attached form, of the details of the complaint and the name of the person against whom the complaint is made. The headteacher will inform the alleged offender in person (and then followed up in writing) the nature of the complaint, any immediate action taken, together with the name of the investigating officer.
 - 10.3.3 The headteacher should copy the complaint to the LEA.
 - 10.3.4 The headteacher (having taken advice from the LEA) should consider any immediate action such as suspension pending investigation or alteration to working arrangements affecting the parties during the investigation.
 - 10.3.5 The headteacher must appoint an appropriate investigating officer.
 - 10.3.6 Where the complaint involves an allegation against the headteacher the Chair of Governors is strongly recommended to take advice from the LEA before making a nomination.
 - 10.3.7 In any event, the investigating officer should be at an appropriate level of seniority, impartial and not previously involved with the case, and with sufficient experience and/or training to allow a thorough understanding of relevant issues.
 - 10.3.8 The complainant should receive an acknowledgement of receipt of the complaint together with the name of the investigating officer.
 - 10.3.9 Investigation should be carried out without undue delay and normally no longer than 10 working days.
 - 10.3.10 Counter allegations will normally be dealt with as part of this investigation.
 - 10.3.11 Complainants and persons against whom complaints are made should be interviewed separately with strict confidentiality maintained by all parties, including witnesses, and detailed records kept.
 - 10.3.12 All parties should have the right to be accompanied by a trade union representative, work colleague or friend at all stages.
- 11.0 The investigating officer with the guidance from the LEA Personnel (if requested) will decide whether the complaint requires any formal action under the disciplinary procedure. S/he should prepare a report summarising the findings and any conclusions/recommendations. This report must be submitted as evidence in any disciplinary meetings.

12. The outcomes of the recommendation

12.1 Are as follows:

1. Where the complaint is not found to be justified, no further action is taken;
2. Where the complaint is found to be justified, disciplinary action is instituted under the terms of the disciplinary procedure or
3. Some other action short of disciplinary action is taken where the complaint is found to be justified might include one or more of the following:
 - 3.1 formal advice as to any future conduct a requirement to receive appropriate counseling/guidance and/or training;
 - 3.2 appropriate changes in working arrangements, which must not be to the disadvantage of the complainant, if reasonable.

12.2 Where the recommendation from the Investigating Officer is that formal disciplinary action should be instituted under the terms of the disciplinary procedure, **such Disciplinary action should be instituted** without delay. At this stage it will not normally be necessary to investigate the matter further but for the findings to be presented by the Investigating Officer to either the headteacher or governors of the Staff Dismissal Committee.

12.3 The investigating officer will inform the complainant of the outcome of the investigation. If the complainant disagrees with the recommended action following the investigation s/he will have the right to request a reconsideration of the decision in the light of the report and recommendations. The Chair of Governors or nominated Governor not involved with the case or involved in any subsequent action will normally conduct this. Any reconsideration of the decision should be made within 24 hours following receipt of all the paperwork. This decision will be final.

12.4 Where the investigating officer concludes that a complaint is untrue and malicious, disciplinary action should be considered against the complainant.

12.5 Where an allegation is upheld and disciplinary action is instituted, the harasser should have the right of appeal against any disciplinary penalty as laid down in the disciplinary procedure.

13. Person responsible within the school

13.1 This is the Local Authorities Policy which was adopted in Spring 2010. This policy was last monitored in April 2017 by Mr P. Browning, and no changes had been made by the LA.

To be reviewed in Summer 2018

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BULLYING AND HARASSMENT COMPLAINT FORM

Appendix 1

Please keep a copy of this form for your own records.

Send the original to your Headteacher or Chair of Governors if the headteacher is causing the concern.

Surname:	Other Name(s):	Tele No:
School:	Department:	
Post Title:	Grade of Post:	

Please provide a full postal address (work or home) where you would prefer to receive any correspondence on this matter:-

Name of person you feel has been harassing you:-

Describe the nature of your complaint

What action has already been taken on this matter?

Who has considered it?

What was the result?

Please state the action you feel is required in order for your Bullying and Harassment complaint may be satisfactorily resolved?

Signed:

Date: