

NORTHAMPTONSHIRE COUNTY COUNCIL

MODEL SCHOOL *ANTI-HARASSMENT, DISCRIMINATION AND BULLYING AT WORK POLICY AND PROCEDURE

1. WHAT IS THE LAW

Harassment can amount to unlawful discrimination under the Sex Discrimination Act 1975, the Race Relations Act 1976 and the Disability Discrimination Act 1995. Claims of harassment under this legislation can be brought against the alleged harasser and against their employer. An employer is liable for the discriminatory acts of employees acting in the course of their employment, whether or not they are done with the employer's knowledge or approval unless they are able to show that they took all reasonable practical steps to prevent employees carrying out unlawful discrimination.

2. STATEMENT OF INTENT

As part of its overall equal opportunities policy this school recognises that harassment, discrimination and bullying adversely affect the working lives of individuals and is therefore fully committed to the creation of a *safe and healthy working environment where all employees have a right to be treated with dignity and respect. Harassment, discrimination and bullying on any grounds is not acceptable and is a disciplinary offence up to and including dismissal, in accordance with the school's disciplinary procedures.

3. PURPOSE OF THE PROCEDURE

This procedure intends to provide a way for employees who feel they are subject to bullying, harassment, discrimination and/or victimisation as defined in law, to raise their complaints and have them dealt with fairly and quickly.

4. SCOPE OF THE PROCEDURE

The procedure applies to all employees of the school.

5. PRINCIPLES

- It is the responsibility of the school management and not of a complainant to take action to deal with bullying, harassment and/or discrimination.

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- Great care must be taken during an investigation of allegations of bullying, harassment or discrimination, to protect the interest of both the complainant and the employee complained against and to ascertain the true nature of the problem. Both parties must be treated fairly.
- At all stages both parties have the right to be advised and accompanied by a union representative, employee representative or work colleague.

6. DEFINITIONS

The definitions which apply for the purpose of this procedure are given in Appendix 1.

7. WHAT IS THE ANTI-HARASSMENT PROCESS?

INFORMAL ACTION

It is preferable for all concerned to try to resolve matters informally if possible. This is likely to produce solutions which are speedy, effective and restore positive relations in the workforce. It will also help to minimise embarrassment and the risk of breaching confidentiality.

Where possible, the employee should tell the person who is causing the problem that the conduct in question is unwanted and /or offensive and must stop. This may be all that the victim of harassment wants.

Informal action is an option available for the person who feels that they have been the subject of harassment, or have witnessed it. Alternatively, the complaint can be raised informally with a more senior member of management so that an informal solution can be achieved. Such approaches may be particularly helpful where the complaint is about the employee's immediate manager. *The employee may also wish to contact their trade union / professional association for informal assistance.

The benefits of an informal solution should not discourage employees from taking formal action where they prefer that option, or where an informal approach has failed. Additionally, if the School becomes aware of a serious complaint that warrants disciplinary action, and possible criminal proceedings, senior management may need to take formal action even though the employee who has been the subject of the harassment may not prefer this approach. Wherever possible, however, the complainant's preference in this respect will be followed, and confidentiality maintained.

Managers may offer the services of an independent facilitator if considered appropriate.

8. THE FORMAL PROCEDURE

If the informal procedure has not resolved the issue or if any person or persons feel that they have been subject to bullying, harassment or discrimination and feel it is not possible to resolve the matter informally, they should invoke the formal procedure by writing to the Headteacher.

There are two stages under the formal procedure:-

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| Stage 1 | Raising a complaint |
| Stage 2 | Management of the Investigation |

Stage 1 – Raising a Complaint

- 1.1 The complaint must be raised within three months of the incident occurring except for claims of continuing harassment, when it should be made within three months of the most recent incident occurring.
- 1.2 *A complaint against the Headteacher should be made to the Chair of Governors.

Stage 2 – *Management of the Investigation

- 1.3 The Headteacher will appoint a senior member of staff as the Investigating Officer, to investigate the matter or seek assistance from Schools Personnel. The Investigating Officer will be conversant with and be briefed on the procedure.
 - *In the case of a complaint against a member of the schools management team the Headteacher shall act as the Investigating Officer.
 - *In the case of a complaint against the Headteacher, the Chair of Governors shall act in that capacity.
- 1.4 The Investigating Officer will provide a copy of the complaint to the person against whom the complaint is made, as soon as possible.
- 1.5 The Headteacher (or the Investigating Officer) may decide, immediately, that the complaint is sufficiently serious to invoke the disciplinary procedure, which may involve suspending the employee as a precautionary measure. It may also be necessary to suspend where there has been a breakdown in relationships and temporary redeployment is not possible.

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- 1.6 The Investigating Officer who may be assisted by a Personnel and/or Legal Adviser and note taker, will aim to complete the necessary enquiries into the complaint within 20 working days.
- 1.7 The investigation will include interviewing all those concerned, separately. The parties involved in the case may be accompanied at this stage by *a trade union representative / professional association or a friend and full notes will be kept by the Investigating Officer and Adviser(s). Witnesses may be called by either party through the Investigating Officer. The parties should note that there must be no undue pressure placed on witnesses, as this may be seen as intimidation.
- 1.8 Immediately following the investigation, the Investigating Officer will decide upon a course of action, notifying the parties involved and confirming this in writing within a further five working days. A summary of the interviews at 5.8 above, will also be made available to both parties at this stage, together with full reasons for the decisions reached.
- 1.9 If the above timescales are difficult to achieve, then a reasonable extension may be agreed by the parties concerned.

9. COURSES OF ACTION (FORMAL)

- Not to uphold the complaint, with full reasons for that decision.
- Monitoring the situation e.g. through a review process
- Take non-disciplinary action e.g. *to offer counselling
- Call a formal disciplinary hearing in accordance with the School's formal disciplinary procedure
- Identify to the Headteacher changes to school policies and practices as suggested by the case
- There may be occasions where no harassment etc., is identified, but other issues have emerged which should be dealt with *through the course of other schools procedures
- With the exception of when a disciplinary hearing is convened the complainant may appeal against any of the above decisions to a panel of Governors within 10 days of the decision being made. The complainant should fully state the specific grounds for appeal.

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10. DISCIPLINARY HEARING

- 10.1 Where it is decided to call a disciplinary hearing, the Investigating Officer may present the case. If the Investigating Officer is the Headteacher then the hearing should be before a panel of governors.
- 10.2 *Where it is decided to call a disciplinary hearing against a headteacher then the case will be put to a panel of Governors for consideration.
- 10.3 The outcome of the disciplinary hearing will be communicated, in writing to the parties involved within five working days of a decision being taken.
- 10.4 The decision may be subject to appeal in accordance with the disciplinary procedure, but will not affect the rights of individuals under the criminal law or other statutory legislation. Complainants should know that Employment Tribunals require claims to be registered within three months of the alleged discrimination taking place.

- 11. This procedure shall be subject to periodic review and may be changed from time to time.

This procedure was agreed by: On:
.....

*amendment made as per Gordon Smith comments

APPENDIX 1

DEFINITIONS

1. HARASSMENT

Harassment includes any unwanted verbal or physical abuse and/or advances and/or behaviour, which an employee finds offensive and which causes them to feel threatened, humiliated, patronised, distressed or harassed. Such action may also be considered harassment if it impairs an individual's job performance, undermines their job security or creates a threatening or intimidating environment. Harassment may be deliberate or unconscious, an isolated incident or repeated action. It will not necessarily be a defence that such incidents or action consist of words or behaviour, which might be claimed to be 'commonplace'.

2. DISCRIMINATION

Discrimination, for the purposes of this procedure, is where any employee is treated less favourably than any other employee on grounds of racial origin, sex, age, disability, marital status, religious beliefs or sexual orientation.

3. INDIRECT DISCRIMINATION

Indirect discrimination occurs where a requirement or condition applies equally to persons not of the same racial group/sex but

- The proportion of one racial group/sex etc., who can comply with it is considerably smaller than the proportion of persons not of that race/sex etc.
- Which cannot be justified
- Which is to the detriment of that person(s), because they cannot comply with the condition.

4. VICTIMISATION

Victimisation, which is a further form of harassment, occurs when a person is treated less favourably than another person, because they have referred to or have asserted their rights under the Sex Discrimination Act, Race Relations Act, Disability Discrimination Act or the Council's Equal Opportunities Policy. This would cover both those bringing cases under this legislation/policy or those witnesses in any investigation of a complaint.

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5. A RACIST INCIDENT

Any incident which is perceived to be racist by the victim or any other person.

6. BULLYING

The Public Order Act identifies a range of activities (intentionally causing another individual to be harassed, alarmed or distressed by the use of threatening, abusive or insulting words or behaviour) which can be regarded as criminal offences.

For the purposes of this procedure bullying is defined as the persistent and deliberate misuse of power or position to intimidate, humiliate or undermine.

Bullying can arise through intentional misuse of power or position to criticise unreasonably or unjustifiably and condemn; to humiliate and undermine an individual's skills and ability such that they become fearful, lose confidence and belief in themselves.

Bullying can take many forms e.g.,

- Physical (at worst assault),
- Verbal (shouting, swearing, public reprimands, personal insults and name calling, spreading rumours, making threats, persistent criticism),
- Non-verbal (ostracising, setting impossible objectives, persistent intrusion, withholding information, unreasonable allocation of duties, removing responsibility, allocating menial tasks, constantly changing working guidelines or even inappropriate eye-contact).

A person who is subject to bullying may suffer from physical and/or emotional symptoms, e.g., disturbed sleep, feeling sick, sweating, shaking and/or loss of confidence, lack of motivation and depression. Additionally they may suffer in other ways, e.g., loss of training and development opportunities, missed promotion.