

Bullying and Harassment policy



RIVERSIDE BRIDGE SCHOOL
INSPIRE, EMPOWER, ACHIEVE



Partnership Learning

Contents

1. Introduction

- 1.1 Council Policy for school-based staff
- 1.2 Legal Context
- 1.3 Bullying, discrimination, harassment and victimisation– Definitions
- 1.4 Matters out of scope
- 1.5 Advice and Support
- 1.6 Work colleagues not directly employed by the Council to work in School

2. Dealing with Allegations of Bullying and Harassment

- 2.1 General
- 2.2 Expectations on Head Teachers and Governing Bodies
- 2.3 Disclosures of concerns
- 2.2 Working Arrangements during Investigations
- 2.3 Other considerations

3. Procedure

- Appendix 1: Additional Advice and Support
- Appendix 2: Indicators of potential issues
- Appendix 3: Example of gently probing questions and prompt

1. Introduction

We are committed to providing a working environment free from harassment and bullying and ensuring all staff are treated, and treat others, with dignity and respect. We recognise that harassment or bullying can occur both in and outside the workplace, such as on business trips or at work-related events or social functions.

The purpose of this policy is to set out a framework for Schools to deal with any harassment or bullying that occurs by staff (which may include consultants, contractors and agency workers) and also by third parties such as customers, suppliers or visitors and **should be read in conjunction with the Schools Grievance Resolution Policy.**

This policy does not form part of any contract of employment or contract to provide services, and we may amend it at any time subject to agreement with recognised Trade Unions.

Who Does This Policy Apply To?

This policy applies to all employees, officers, consultants, self-employed contractors, casual workers, agency workers, volunteers and interns.

1.1 Council Policy for school-based staff

The Council and Schools will not tolerate bullying, discrimination, harassment and victimisation of or by its employees and will take action to address this. Any unwanted conduct should be dealt with sensitively and promptly, to help prevent this escalating into more serious matters; employees are encouraged to:

- ⌘ raise concerns as to any unwanted conduct, even if it may not be bullying and harassment etc, as soon as possible and to seek advice and support, (see “Support for employees” below); and
- ⌘ to report any incidents of bullying, discrimination, or harassment that they experience or witness so that the Council can investigate and resolve the matter and/or take appropriate action to stop this.

If a staff member believes they have suffered any such treatment they should inform their line manager or Headteacher. If the matter is not remedied, they should raise it formally using this Procedure.

We will take all such concerns seriously and an employee who makes a genuine complaint of bullying, or harassment will be protected and not penalised or victimised in any way. Staff who make complaints or who participate in good faith in any investigation must not suffer any form of retaliation or victimisation as a result. Anyone found to have retaliated against or victimised someone in this way will be subject to disciplinary action under the Disciplinary Procedure.

Any employee found to have bullied, harassed, victimised, or discriminated against a work colleague or customer of the Council or made a false, malicious, or vexatious complaint, will be subject to disciplinary action.

Note: The Headteacher will also instigate an investigation into alleged bullying or harassment if they have grounds to believe that an employee may have been bullying and/or harassing another work colleague or customer, whether or not there has been a formal complaint.

This policy is offered to Governing Bodies and Head Teachers as an example of good practice for adoption across the borough. Uniform use of the policy will ensure fair and equitable treatment for all staff. The policy has been agreed with the Local Representatives of the Teachers and Support Staff Trade Unions.

The Schools HR Advisory Service will automatically update this policy to comply with any changes to legislation and / or ACAS guidance and notify employees of the amendments. Adoption and operation of this policy should ensure that the Governing Body and the Headteacher operate in accordance with the following provisions:

1.2 Legal Context

The Framework for managing Bullying and Harassment cases takes into consideration the provisions of the following:

- ⌘ Employment Protection (Consolidation) Act 1978 and other relevant employment
- ⌘ legislation including the Employment Rights Act 1996 and the Employment Relations
- ⌘ Act 1999.
- ⌘ Conditions of Service for School Teachers in England and Wales (Burgundy Book)
- ⌘ Conditions of Service for Support Staff in England and Wales (Green Book)
- ⌘ Conditions of Service issued to various school staff at the time of their employment and the letters which confirm their contract of employment
- ⌘ The Education Act 2002 (Section 35 (8) and Section 36 (8))
- ⌘ The School Staffing (England) Regulations 2009
- ⌘ ACAS guidance on Bullying and Harassment at Work (effective from 6 April 2009)
- ⌘ The Equality Act (2010)

Adoption of this policy will ensure that the Governing Body will have the full support of the Local Authority in progressing cases. If a Governing Body chooses to adopt an alternative policy, then a copy, together with the reason for their adoption, should be sent to the Commissioning Director Education who will advise the Secretaries of the Trade Unions.

Governors must ensure that the adopted policy is readily available to and understood by all staff members.

The Policy is not intended to punish employees, but to try and resolve any complaints as quickly and as fairly as possible, at the lowest appropriate level and to avoid minor issues developing into more serious matters. It is not to be used to pursue malicious or vexatious complaints and to do so will be considered a disciplinary matter that may lead to dismissal.

1.3 Bullying and harassment – Definitions

Bullying is behaviour from a person or group that's unwanted and makes people feel uncomfortable, including feeling:

- frightened
- less respected or put down
- made fun of
- upset

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.

Bullying may include overbearing and intimidating levels of supervision or inappropriate derogatory remarks about someone's performance. However, legitimate, reasonable and constructive criticism of a worker's performance or behaviour, or reasonable instructions given to workers in the course of their employment, will not amount to bullying on their own.

The bullying might:

- ⌘ be a regular pattern of behaviour or a one-off incident
- ⌘ happen face-to-face, on social media, in emails or phone calls
- ⌘ happen at work or at work social events
- ⌘ not always be obvious or noticed by others
- ⌘ be "upwards" from an employee to a manager e.g. - showing continued disrespect - refusing to complete tasks - spreading rumours - doing things to make them seem unskilled or unable to their job properly

Examples include picking on people, making jokes of or undermining them, someone at the same or more junior level as you undermine your authority or setting new employees up to fail.

Harassment is any unwanted physical, verbal or non-verbal conduct that 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. It also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.

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, 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. Harassment may include, for example:

- a) unwanted physical conduct or “horseplay”, including touching, pinching, pushing and grabbing;
- b) continued suggestions for social activity after it has been made clear that such suggestions
- c) are unwelcome;
- d) sending or displaying material that is pornographic or that some people may find offensive
- e) (including emails, text messages, video clips and images sent by mobile phone or posted on the internet);
- f) unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless);
- g) racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
- h) outing or threatening to out someone as gay or lesbian;
- i) offensive emails, text messages or social media content; or
- j) mocking, mimicking or belittling a person’s disability.

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 the jokes create an offensive environment or if people keep making offensive comments about a colleague’s age making them feel humiliated and anxious about coming to work.

Further examples of unacceptable behaviours may include:

- ⌘ excluding people (directly or indirectly)
- ⌘ inappropriate behaviour or language at meeting or work events
- ⌘ microaggressions, including misuse of pro-nouns
- ⌘ preferential or unjustified treatment
- ⌘ spreading malicious rumours or circulating mail etc that is critical of people undermining people or putting them down; including posts on social media
- ⌘ unwelcome advances or touching

1.4 What is / is not covered by the Policy?

The Policy applies to all employees directly employed by the School, which have delegated authority for staffing matters. It is not:

- ⌘ available to agency workers; external employees (who should follow their own employers’ procedures); consultants and self-employed workers; volunteers and work experience placements etc.
- ⌘ to be used for investigating complaints against school employees by members of the public or external organisations etc, and which will normally be dealt with under the Schools Disciplinary Procedure

These are also some situations which cannot be dealt with under this Policy or where other arrangements may apply; these include:

Complaints about agency workers, consultants and any other employers' staff

Employees should raise any concerns with their line-manager, who must seek advice from Human Resources provider. Complaints against:

- ⌘ an agency worker or another employer's staff etc, will normally be referred to the agency or employer to investigate under their own procedures.
- ⌘ against a School employee from an agency worker or another employer's staff etc will normally be dealt with under the Disciplinary Procedure.

Complaints about customers or members of the public

Employees should notify their line-manager immediately of any concerns and where appropriate, complete the Accident/Incident Report Form. Depending on the circumstances, managers may need to take advice from their Human Resources provider.

Complaints about Councillors (Elected Members)

In these cases, employees should notify their line-manager and/or raise any issues through the Councillors' Complaints Procedure, which is available on the Council website at: <https://www.lbbd.gov.uk/complaints-about-councillors>.

Complaints about Trade Union representatives

In these cases, managers must seek advice from your Human Resources provider. The Branch or Regional Official must be contacted before starting a formal investigation under the Procedure.

1.5 Advice and Support

In order to avoid unfair treatment or discrimination, Governing Bodies and Headteachers should seek the advice and assistance from the Schools HR Advisory Service at all stages of the policy. Staff should seek the advice and assistance of their Trade Unions at all stages. Every effort should be made by all parties to resolve issues informally before using the formal stage of the procedure.

The Schools HR Advisory Service will support and advise Headteachers and Governors considering Bullying and Harassment matters raised through this policy. They will also monitor all Bullying and Harassment allegations raised to ensure they are dealt with in accordance with this policy, employment and equalities legislation, and best practice.

Further details of the additional advice and support available to employees are attached at *Appendix 1*

1.6 Work colleagues not directly employed by the Council to work in School

Headteachers and Governors are strongly advised to seek advice from the Schools HR Advisory Service on dealing with any bullying and harassment matter raised by

agency workers or work colleagues not directly employed by the Council to work in schools.

2. Dealing with Allegations of Bullying and Harassment

2.1 General

Bullying and harassment are potentially serious disciplinary offences and the Headteacher will use the Disciplinary Policy to address issues where, in their view, that is the appropriate course of action. The alleged victim(s) will be consulted but will not have a veto over any course of action decided upon.

Bullying must be distinguished from the right of, and obligation placed on Headteachers, to exercise proper direction and supervision of employees in the course of their duties. The Governors will not tolerate the abuse of this procedure to challenge and undermine Headteachers and managers exercising legitimate authority. Such instances will be dealt with as disciplinary offences.

Confidentiality and Record-Keeping

Confidentiality is an important part of the procedures provided under this policy. 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. Breach of confidentiality may give rise to disciplinary action under our Disciplinary Procedure.

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. *[These will be processed in accordance with our Data Protection Policy].*

2.2 Expectations on Head Teachers and Governing Bodies

The Council expects Head Teachers and Governing Bodies to create a safe work environment where employees are able to raise any concerns and know that these will be taken seriously and treated confidentially. This is essential if employees are to feel comfortable disclosing any experiences of unwanted conduct etc. Where an employee reports any concerns, these must be treated sympathetically and in confidence; managers must not prejudge matters or come to any conclusions without investigating the facts. Managers should also be looking out for signs of any potential problems, including any changes in an employee’s behaviour or performance at work, (or their colleagues’ attitude to the individual e.g. criticisms or micro aggressions etc).

Indicators of potential issues It is not always easy to recognise when an employee or colleague is experiencing unwanted behaviour and they themselves may not be aware if this may be bullying etc. The indicators listed in **(Appendix 2)** may point towards a problem with bullying etc, but they could also be the result of a different issue such as ill health or domestic abuse. If it is suspected that an employee is experiencing bullying or other problems, they should arrange a discussion with them at a time when they will not be disturbed. It will be important to plan for the discussion and to:

- ⌘ Keep an open mind and avoid making any assumptions
- ⌘ Think of gently probing questions (Appendix 3)
- ⌘ Be prepared for any disclosures, which could be stressful for the employee and challenging for the manager or supervisor
- ⌘ Be aware of the support that may be available for the employee (see “Support for employees” below)
- ⌘ Be patient and do not put the employee under any pressure to talk, but let them know you are available for them
- ⌘ Be aware that the employee may not feel comfortable talking to you and could ask to speak to someone else
- ⌘ Do not prejudge the situation based on your own experiences

2.3 Disclosures of concerns

Headteachers should be prepared for any disclosures, which may be challenging and stressful for the employee. Any disclosure should be dealt with as follows:

- ⌘ acknowledge how difficult it must be to talk
- ⌘ be prepared for them to be upset and tearful
- ⌘ allow them plenty of time and space to speak
- ⌘ do not be judgmental and ask questions like “why haven’t you told anyone before?”
- ⌘ confirm the confidentiality of the disclosure. As a guide, any information should only be disclosed to anyone else if it is absolutely necessary e.g., to get advice or support and if there is a potential risk to others and where possible, with the prior agreement of the person making the disclosure
- ⌘ discuss how the concern(s) are to be taken forward and how the employee would like this resolved
- ⌘ where appropriate and agreed with the employee, take advice from Human Resources

2.2 Working Arrangements during Investigations

Allegations of bullying and/or harassment can place particular stresses on both the alleged victim and alleged perpetrator. As such, they must be dealt with promptly and, wherever possible, in ways that seek to minimise the stress on the parties involved.

Whilst individual circumstances and service needs must always be taken into account, the presumption is that working arrangements will be adjusted where possible whilst complaints under this procedure are being investigated so that the alleged victim and alleged perpetrator are separated. Reporting arrangements may be changed and either or both parties required to work at a different location.

The Schools HR Advisory Service will advise on the options and the Headteacher will take account of the wishes of the parties involved and needs of the School in reaching their decision; decisions will make no inferences regarding relative guilt and no such inferences may be drawn.

2.3 Other considerations

In very exceptional circumstances, where the alleged victim can demonstrate plausible grounds for feeling particularly intimidated or threatened by the alleged perpetrator, and on the advice of the Schools HR Advisory Service, it may be necessary to offer a degree of anonymity and/or make arrangements to ensure that the parties do not have to meet directly at meetings or hearings called under this or any other Schools procedure.

Procedure

The procedural arrangements for dealing with allegations of bullying and/or harassment are the same as detailed for grievances (**Appendix 4**).

Informal Steps

If a member of staff feels they are being harassed or bullied, they should consider whether they feel able to raise the problem informally with the person responsible. They should explain clearly to them that their behaviour is not welcome or makes them uncomfortable. If this is too difficult, they should speak to their line manager / Head Teacher, who can provide confidential advice and assistance in resolving the issue formally or informally.

If the member of staff feels unable to speak to their line manager because the complaint concerns them, then the member of staff should speak informally to the Headteacher. If this does not resolve the issue, the member of staff should follow the formal procedure within the Bullying and Harassment policy.

If a member of staff, or the school are not certain whether an incident or series of incidents amounts to bullying or harassment, they should initially contact their line manager or Trade Union informally for confidential advice.

If informal steps are not appropriate, or have been unsuccessful, the formal procedure should be followed as set out in the Bullying and Harassment Procedure.

Raising a Formal Complaint

If a member of staff wishes to make a formal complaint about bullying or harassment, they should submit it in writing to their line manager, Headteacher or Chair of Governors, normally within 10 working days (excluding schools closure periods) of the conclusion of the informal process.

The recipient will acknowledge the complaint within 5 working days (excluding school closure periods).

If the matter concerns their line manager, they should submit it to the Headteacher.

The 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.

As a general principle, the decision whether to progress a complaint is up to the staff member.

However, the School has a duty to protect all staff and may pursue the matter independently if, in all the circumstances, we consider it appropriate to do so.

Formal Investigations

The school will investigate complaints in a timely, respectful and confidential manner. Individuals not involved in the complaint, or the investigation should not be told about it.

The school will arrange a meeting with the staff member, usually within one week of receiving the complaint, so that the member of staff can give their account of events. The staff member has the right to be accompanied by a colleague or a trade union representative of their choice, who must also respect the confidentiality of the investigation.

Where the complaint is about an employee, the school 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 investigator will also meet with the alleged harasser or bully (who may also be accompanied by a colleague or trade union representative of their choice) to hear their account of events. They have a right to be told the details of the allegations against them, so that they can respond.

Where the complaint is about someone other than an employee, such as a customer, supplier or visitor, the school will consider what action may be appropriate to protect the staff member and anyone involved pending the outcome of the investigation, bearing in mind the reasonable needs of the School and the rights of that person. Where appropriate, the School will attempt to discuss the matter with the third party.

The school will also seriously consider any request that a staff member may make for changes to their own working arrangements during the investigation. For example, they may ask for changes to their duties or working hours to avoid or minimise contact with the alleged harasser or bully.

It may be necessary to interview witnesses to any of the incidents mentioned in the complaint. If so, the importance of confidentiality will be emphasised to them.

At the end of the investigation, the investigator will submit a report to the Headteacher. The Headteacher will arrange a meeting with the staff member, usually within a week of receiving the report, in order to discuss the outcome and what action, if any, should be taken. The staff member has the right to bring a colleague or a trade union representative to the meeting. A copy of the report and any findings by the Headteacher will be given to the staff member and to the alleged harasser

ACTION FOLLOWING THE INVESTIGATION

If the Headteacher considers that harassment or bullying has occurred, prompt action

will be taken to address it.

Where the harasser or bully is an employee, the matter will be dealt with as a case of possible misconduct or gross misconduct under the Schools Disciplinary Procedure. If the harasser or bully is a third party such as a customer or other visitor, the school will consider what action would be appropriate to deal with the problem. Whether or not the complaint is upheld, the school will consider how best to manage any ongoing working relationship between the staff member and the person concerned.

Whether or not the complaint is upheld, the school will consider how best to manage the ongoing working relationship between the staff member and the person concerned. It may be appropriate to arrange some form of mediation and/or counselling, or to change the duties, working location or reporting lines of one or both parties.

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 Schools Disciplinary Procedure.

There are four possible outcomes for allegations of bullying and/or harassment made:

1. The investigation of the allegation(s) demonstrates sufficient preliminary evidence to justify referring the matter directly to be dealt with under the Disciplinary Procedure. Under these circumstances, a disciplinary investigation will be set up and all further action will be taken under that procedure. No further action will be taken under the Bullying and Harassment Procedure.
2. In exceptional cases there may be a recommendation of transfer, (unless provided for in the employee's terms and conditions if they suffer a detriment by it, for example additional expense or a less responsible role).
3. There is substance to the allegation(s) and informal means, such as mediation, conciliation, coaching, counselling, training, should be used to address the issue.
4. The allegation(s) was unfounded.

Appeal

If a staff member is not satisfied with the outcome, they may appeal in writing to chair of governors stating their full grounds of appeal, within 10 working days (excluding schools closure periods) of the date on which the decision was sent or given.

- ⌘ The recipient will acknowledge receipt the appeal within 5 working days (excluding school closure periods).
- ⌘ The school will hold an appeal meeting, within 15 working days (excluding school closure periods) of receiving the written appeal. Where practicable, the appeal hearing will be conducted by a panel of Governors who has not been previously involved in the case.
- ⌘ They may ask anyone previously involved to be present. The staff member has the right to bring a colleague or trade union representative to the meeting.
- ⌘ The school will confirm the final decision in writing, usually within 5 working days (excluding school closure periods) of the appeal hearing. This is the end of the procedure and there is no further appeal.

Appendix 1

Additional Advice and Support

Occupational Health – Any employee that is involved in a claim of bullying and/or harassment may find it helpful to talk to the Occupational Health Adviser and therefore will be given the option of a referral.

Counselling – The Council provides a confidential external service for staff through our Occupational Health Service.

EAP – Employee Assistance Programme - is a welfare initiative available by telephone to give counselling, information, signposting and support. Your School will be able to advise accordingly.

Trade Unions – The Council recognises the important role that trade unions have in resolving and supporting such issues and encourages employees to approach their TU Representatives for support in addressing unacceptable and inappropriate behaviours. The recognised trade unions are as follows:

Non-Teaching:

- APEX
- GMB
- Unison
- Unite

Teaching:

- NEU
- NAHT
- NASUWT
- ASCL

Teacher Support Network – is a group of independent charities and a social enterprise that provide practical and emotional support to staff in the Education Sector and their families – They can be contacted on 08000 562 561.

Staff Support Networks - The Council has well established support networks that provide valuable support, including confidential advice, on both work related and personal matters. The staff support networks are as follows:

- Employee Ability Support and Enablement (EASE) Network
- Graduate Trainee Network
- LGBT+ (Lesbian, Gay, Bisexual and Transgender) staff network
- STARE (Standing Against Racism and Exclusion) staff network
- Women's Network (including the Maternity Group).
- Menopause support group

Appendix 2:

Indicators of potential issues

Behaviours that may indicate a problem		
Work productivity • when the quality of the employee's work is affected e.g., making uncharacteristic mistakes or misses deadlines • when an employee has a high level of sickness absence, whether medically certified or not, with stress related illnesses	Work culture • a jokes culture within a team where concerns exist about some of the comments • when staff are critical of individuals and/or reluctant to work with them • when an employee continues to mis-use pro-nouns / refuses to use a person's preferred pro-noun • when an employee is excluded from meetings	Changes in behaviours • conduct out of character with previous behaviour e.g., if the employee • starts to become withdrawn and/or excludes themselves from social invitations • loses confidence in their work and appears to be anxious • becomes overly compliant and agrees to any suggestions put forward • tries to avoid contact with certain staff, managers, or service users

Appendix 3:

Example of gently probing questions and prompts

- How are you at the moment?
- How is work going?
- You seem a bit distracted / quiet – is everything OK?
- You do not seem engaged / interested – are you OK?
- Your wellbeing is important to me and I have noticed you seem distracted /upset at the moment – are you ok?
- If there is anything you want to talk to me about at any time, I am here to support you.
- Is everything all right at home / work?
- You don't have to tell me anything, but please know that I would like to support you if and when you are ready.
- If you do not want to talk to me, is there anyone else you would like to speak to?
- What support do you think might help? What would you like to happen? How can I help that to happen?

Note: The dedicated manager helpline (Manager Assist: 0800 298 2021) provided by the Employee Assistance programme can support managers and supervisors to develop soft skills to help them with having conversations such as this.

Appendix 4:

Grievance Procedure – Flowchart

