



Services for schools, owned by schools

G13-Staff Harassment and Bullying Policy Statement for Schools (All Staff)

September 2016

Appendix G13

1. Introduction

This governing body shares the Local Authority's opposition to harassment and workplace bullying and its commitment to their elimination from the workplace. The governing body recognises its responsibility for ensuring that this policy encourages employees who consider that they have been harassed or bullied to make their voice heard.

The governing body aims to:

- develop a working environment in which harassment is not tolerated, where staff understand that harassment is unacceptable and where individuals feel able to raise complaints and are confident that management will act appropriately;
- enable complaints to be investigated and dealt with as discreetly, effectively, and sensitively as possible; and
- provide support, respect, and understanding of a person's rights as an employee and as an individual.

The governing body undertakes to inform its staff of this policy, to review this policy as and when necessary in consultation with school staff and to ensure that harassment and bullying issues are addressed as part of the school's in-service training programme.

2. Harassment and Bullying in the Workplace

The governing body believe that all staff have a right to be treated with dignity and respect at work and are committed to eliminating all forms of harassment or bullying in the workplace and, through this policy and procedure, to taking steps to ensure that schools are free from such behaviour.

The governing body recognises that harassment and bullying may be unlawful (Appendix 1) and can affect working conditions, health and safety and undermine equality at work.

Harassment and bullying also undermine attempts to improve education provision for all children because they:

- present an unacceptable model for children's own behaviour;
- cause increased incidence of stress-related illness amongst staff;
- lead to high levels of staff turnover in individual schools; and
- demoralise staff working in schools where their colleagues are bullied

The governing body will not tolerate harassment or bullying of staff on any grounds and all staff (school leaders, teachers and support staff) are expected to comply with this policy. Breach of this policy is a disciplinary offence and therefore appropriate disciplinary action will be considered if any member of staff fails to adhere to this policy.

Work-related harassment and stalking which takes place outside the workplace also falls within the remit of this policy.

3. Definition of Harassment

Harassment is unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. It can cause a person to feel threatened, humiliated or patronised even if it is not directed at them, and they can complain if they can demonstrate that it creates an offensive environment for them. Harassment may be either intentional or unintentional. A key feature is its effect on the person rather than the motive of the perpetrator.

Harassment can take many forms. These include:

the display or distribution of offensive material, graffiti or badges; non-verbal abuse such as offensive gestures and body language; inappropriate comments about someone's appearance; intrusive questioning about someone's private life; verbal abuse such as suggestive remarks, "jokes" and name calling; physical contact such as unnecessary touching; or threatened or actual physical abuse or attack.

4. Definition of Bullying

Bullying is a form of harassment in which the bully undermines, belittles or assaults (verbally and physically) the recipient. Bullies may seek to exploit others' perceived personal weaknesses, either because they enjoy the exercise of such power or because they are under pressure themselves, or even because they believe such behaviour is the best means of managing relationships.

Common examples of bullying include allocating excessive workload, preventing the carrying out of work responsibilities, changing priorities and objectives unreasonably, imposing impractical deadlines, intimidation through demeanour or voice, excessive and unreasonable supervision or unnecessary invoking of disciplinary, capability or grievance procedures. Bullying may take place in front of colleagues, by e-mail ("Cyber bullying") and/or pupils or on a one to one basis. A common feature of the different forms of behaviour which constitute harassment and bullying are that the behaviour is unwanted by the victim.

5. Harassment and Bullying of Staff by Members of the School Community

The Local Authority and governing body acknowledge that staff can experience harassment or bullying from governors, parents, pupils, Local Authority employees and other visitors to the school. The governing body does not regard it as part of an employee's duties to have to tolerate such behaviour.

The governing body undertakes to ensure that an investigation is carried out of all complaints of harassment or bullying made by staff, whether that complaint is against a member of staff, or other member of the school community. A member of staff has the right to make a complaint to the police when they consider that a criminal offence has occurred and should inform their head teacher of their intention to do so.

6. The process of raising a complaint against harassment or bullying

The grievance procedure should be used by a member of staff to raise a complaint. This contains three stages through which a complaint can be pursued:

- a preliminary informal stage where the complainant or a representative makes the other individual aware that his/her behaviour is regarded as unacceptable by the complainant in order to allow an opportunity to resolve the situation without recourse to the formal procedure.
- a formal stage involving the use of a formal grievance statement and a thorough investigation of the complaint which, if found to be substantiated, could lead to a recommendation that disciplinary proceedings be instituted or that other appropriate steps be taken to resolve the situation without use of the disciplinary procedure.
- an appeal stage if the complainant is not satisfied with the proposed resolution at the formal stage.

NOTE Mediation is a highly effective way to resolve matters such as these and should be considered at all points in this process. This includes help with reintegrating the parties after a decision about a formal grievance has been made. (Please refer to the Mediation Policy or contact Schools HR for details) Many complaints can be resolved at the informal stage but it is recognised this will not be appropriate in all cases.

Where evidence of harassment or bullying comes directly to the attention of school management, the head teacher should consider use of the disciplinary procedures.

On occasion, counter allegations may be made by persons against whom complaints are made when they are informed that complaints have been lodged against them. For example, they may claim to have been harassed or bullied by the first complainant or that their behaviour has been provoked by the complainant. Both parties' complaints will be dealt with separately, using the mediation, grievance or disciplinary procedures as appropriate.

False or malicious accusations and accusations not made in good faith will be dealt with in accordance with the disciplinary procedure.

7. Help and Support

The following sources of help and advice are available to employees who experience harassment or bullying.

- Trade unions: Members of trade unions will be able to seek advice and assistance from a union representative.
- The Teacherline support service: Tel: 08000 562561.
- Newham's Employee Assistance Programme operated by Medigold Health Tel: 0800 328 1437
or
<http://www.medicold-health.com/Home/Services>

Advice from the above may also be sought by persons against whom complaints are made, who may wish to deny the allegation or who may not have been aware that their behaviour was causing offence until a complaint was made and may wish to talk through their position.

Advice may also be sought by employees who are concerned about the apparent harassment of others but who may not have been subjected to harassment themselves.

Harassment, Bullying and the Law

The governing body take their legal obligations seriously and aim to provide a safe working environment, free from harassment and bullying for all employees.

There is no single legal definition of unlawful harassment, but there are a number of statutory and common law principles which place legal duties on employers to minimise the risk of harassment and bullying and to deal appropriately with any complaints.

The Health and Safety at Work Act 1974 obliges employers to provide a working environment which protects the health, safety and welfare of its employees. It also places duties on all governing bodies to ensure the health and safety of those persons on premises under their control. These duties are enforced by the Health and Safety Executive.

Each employee is also protected by their contract of employment. Every contract contains a written or unwritten term which obliges the employer to protect the employee's health and safety. An employer who fails to protect a member of staff from harassment or bullying, or who does not deal adequately with complaints, may be in breach of the employment contract. An employee who resigns as a result of harassment or workplace bullying may be able to pursue a claim for constructive unfair dismissal against their employer.

Harassment or bullying can also breach discrimination law. The Equality Act 2010 can be used to tackle harassment and bullying at work. Under the Act, the Authority and governing bodies may be asked to answer for their own conduct and the conduct of their staff, so that a claim can lie against both the harasser and his or her employer. For example a woman teacher who was harassed on grounds of her gender might bring a claim against the employee, the governing body and the Local Authority. Other examples of harassment and bullying may be based on the following:

- Age
- Disability.
- Gender Reassignment
- Marriage and Civil Partnership
- Pregnancy and Maternity
- Race
- Religion and Belief
- Sex
- Sexual Orientation

Harassment or bullying can also be a criminal offence. The Public Order Act 1986 includes an offence of intentional harassment, which consists of intentionally causing another person to be harassed, alarmed or distressed by the use of threatening, abusive or insulting words or behaviour. The Protection from Harassment Act 1997 also creates a criminal offence for more extreme forms of harassment. A course of conduct of harassment, involving at least two occasions of harassment, could result in a penalty of up to six months' imprisonment and/or a fine of up to £5,000. In addition, the Protection of Freedoms Act 2012 (s.2A) supplements these provisions by introducing a form of harassment that amounts to the criminal offence of stalking.

The Authority and the governing body have a duty to take complaints of harassment or bullying seriously. Again, they may have to answer in an employment tribunal for a failure to deal with complaints appropriately. Victimisation, in the form of retaliation when complaints have been made, can also amount to unlawful discrimination.

Employees have the legal right to be represented through their recognised trade union when pursuing workplace complaints.