

# The Family of Learning Trust

## Bullying and Harassment Policy



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## **1. Introduction**

- 1.1 All employees have the right to work in an environment where they are shown respect and consideration at work, and in which the dignity of every individual is valued.
- 1.2 Accordingly, the academy is committed to the development and promotion of a positive work culture in an environment that is free from bullying and harassment.
- 1.3 Within the work environment all staff will be treated with dignity and respect and in turn are expected to extend this treatment to others, and the aim of this policy is to ensure that staff model appropriate behaviour which shows due respect for all relevant persons, including our students.

## **2. Purpose and scope**

- 2.1 This policy applies to all persons employed in, or by, the academy (which may include volunteers and agency workers) and additionally extends to third parties such as parents or other visitors to our premises.
- 2.2 It covers incidents of bullying and harassment which may occur either on school premises or out of the workplace, such as on business trips or at work-related events or social functions.
- 2.3 The academy will ensure that any allegation of bullying and/or harassment at work is taken seriously, is properly investigated, and is dealt with effectively, sensitively, and speedily.
- 2.4 Employees are encouraged therefore to raise any issues immediately in accordance with this procedure in the knowledge that their concerns will be treated seriously and in confidence.

## **3. Definitions**

- 3.1 The legal position with respect to bullying is complex as there is no single piece of legislation dedicated to addressing the issue of workplace bullying in isolation – however, it is usually interpreted as representing an abuse of power, and although the word ‘bullying’ is not specifically defined in law the following definition is offered by ACAS:

*“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.”*

- 3.2 Bullying might represent one element of discriminatory behaviour, or could relate to any one of several legal principles, for example:
  - breach of contract (usually breach of the implied term that an employer will provide reasonable support to employees to ensure that they can carry out their job without harassment and disruption by fellow workers)
  - the common law duty to take care of safety of workers
  - the Employment Rights Act 1996 (for example, constructive or unfair dismissal)
  - the Trade Union and Labour Relations (Consolidation) Act 1992 (dealing with special types of intimidation, etc)
  - protection for whistleblowers (under the Public Interest Disclosure Act 1998).

3.3 Harassment (according to the Equality Act 2010) is defined as:

*“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.”*

3.4 Relevant protected characteristics which are covered by the above legislation comprise the following:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation.

3.5 Additionally, the law on harassment is not confined to matters between employees, or between employer and employee. It also covers harassment of an employee by a third party (such as a customer or client, for example, which in the case of a school could be interpreted as a parent) or indeed vice versa.

3.6 An employer may be held liable for incidents that have been repeated, if the employer knows that these have happened and has not taken reasonable steps to stop them recurring.

#### **4. Examples**

4.1 Bullying and harassment involve inappropriate abuse of power and may be directed against one or more individuals. This may involve single or repeated incidents ranging from extreme forms of intimidating behaviour, such as physical violence, to more subtle forms such as ignoring someone. This can often occur without witnesses.

4.2 Examples\* of bullying and harassment may include (but are not limited to) the following:

- making unwelcome remarks (including jokes at personal expense) or using offensive language (or gossip) about a person’s age, dress, appearance, race, marital status, sexuality etc
- unwanted physical contact (including ‘horseplay’)
- unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless) or coercion for sexual favours
- isolation or non-cooperation and exclusion from social activities
- pressure to participate in political/religious groups
- personal intrusion from pestering, spying or stalking (including by electronic means) or by failure to safeguard confidential information
- deliberately undermining a competent worker by overloading, or by setting impossible deadlines, or by constant and unwarranted criticism

- misuse (or manipulation) of power or position, including preventing individuals progressing by intentionally blocking promotion or training opportunities

*\*The above examples are not necessarily limited to personal contact but can also include the use of emails and text messages to third parties, social media content and so on.*

## **5. Employee responsibilities**

- 5.1 Employees have a responsibility to behave in ways which support a non-hostile working environment for themselves and their colleagues.
- 5.2 Employees should be prepared to challenge inappropriate behaviour and to take appropriate action where necessary (by reporting such behaviour to senior management) if they observe (or have other evidence of) harassment, either of themselves or of a third party.
- 5.3 Individuals guilty of harassment can be personally liable to pay compensation and can be prosecuted under criminal as well as civil law.

## **6. Employer responsibilities**

- 6.1 Employer responsibilities may extend to any environment where work-related activities take place. These can include social gatherings organised by the employer such as work parties or outings. An employer could be held liable for events which take place on these occasions unless they can show they took reasonable steps to prevent bullying and/or harassment.
- 6.2 Senior managers should be especially aware of 'cyberbullying'. Detrimental texts sent via mobiles or images of work colleagues posted on external websites following work events could amount to bullying. As this would be seen to have its origins in the workplace, the employer could be held liable.
- 6.3 Employers and individuals can be ordered to pay unlimited compensation where harassment involving discrimination has occurred, including the payment of compensation for injury to feelings.

## **7. Dealing with allegations of bullying and/or harassment**

- 7.1 All allegations of bullying and/or harassment should be dealt with promptly.
- 7.2 Some instances may be dealt with internally and informally. In minor cases it may be sufficient for the recipient of harassment to raise the problem with the perpetrator, pointing out the unacceptable behaviour, but should the employee find this too challenging they must instigate formal procedures. Mediation may be used during any stage of these procedures.
- 7.3 If the allegation is directed against the headteacher, the employee should write to the chair of governors detailing their concerns (and may also wish to contact their trade union). The chair of governors should ensure that the concerns are investigated to determine whether further action should be taken.
- 7.4 At any stage of these procedures, both the person making the allegation and the alleged bully or harasser may be accompanied by their trade union representative or a work colleague.

## **8. Informal procedure**

- 8.1 An employee who feels that they are being subjected to bullying and/or harassment should, if possible, keep a record of the incident (or incidents), including date, time, nature of incident(s), and the names of any witnesses.
- 8.2 It is important that employees who feel subjected to bullying and/or harassment raise the issue with an appropriate person at the time the incident (or incidents) occur, in order that matters can be dealt with swiftly and that further potential bullying and/or harassment is prevented.
- 8.3 If the employee feels able, they should raise the problem with the alleged bully or harasser, either verbally or in writing, making it clear that the behaviour is offensive and unwelcome, and asking for it to stop. Alternatively, the issue may be brought to the attention of a line manager who can initially raise the allegations informally on behalf of the person making the allegation.
- 8.4 Where resolution is reached through the informal stage of the process, with the acceptance of both parties, a copy of the outcome should be provided to both and a further copy placed in their personal files.
- 8.5 Where resolution cannot be achieved through the informal stage, an employee can pursue an allegation through the formal stage of the process.

## **9. Mediation**

- 9.1 In the event of both parties being agreeable this is another informal option, whereby a meeting may be held in the presence of a mediator who will give both parties an opportunity to express their viewpoints in the hope of brokering a mutually acceptable solution.
- 9.2 Any discussions which take place during mediation remain confidential and 'without prejudice' and may not be used by either party in any subsequent internal or external process unless this is with the explicit consent of all parties.

## **10. Formal procedure**

- 10.1 If an employee wishes to make a formal allegation of bullying and/or harassment, they should submit this in writing to either their line manager or the headteacher. In circumstances where the alleged perpetrator is the individual's line manager the allegation should be submitted to the next senior manager (or to the headteacher).
- 10.2 If the allegation relates to the headteacher then it should be submitted in writing to the chair of governors (and in such circumstances the chair of governors will normally, throughout the formal procedure as described in the following clauses, perform the role more usually undertaken by the headteacher).
- 10.3 The line manager or headteacher will acknowledge receipt of the formal allegation in writing within 5 working days. This letter should outline: the next steps to be taken; information on any sources of support that may be available; and should also (where applicable) identify by name any investigating officer appointed to look into the matter.
- 10.4 The line manager or headteacher (or investigating officer if applicable) will then undertake an investigation, which must be carried out with due regard to the need for a swift conclusion

and which should normally take no more than three to four weeks from the date of initial submission of the allegation.

- 10.5 The line manager or headteacher (or investigating officer if applicable) will keep both parties informed of the progress of the investigation, including any necessary alteration to the above timescale. Should a counter-allegation be received from the alleged bully or harasser, this will be dealt with as part of the same investigation.
- 10.6 At any stage of the formal procedure the individual who has submitted the allegation may decide that they wish to attempt to resolve the situation through an informal approach instead. They will be supported in this decision wherever possible.
- 10.7 However (the preceding clause notwithstanding), the line manager or headteacher has a duty of care to manage allegations appropriately. If they deem informal resolution inappropriate due to the seriousness of the allegation, or they perceive that an employee may be at serious risk, they should continue with formal action.

## **11. Investigation**

- 11.1 In appropriate circumstances the line manager or headteacher may take precautionary action which could involve either temporary redeployment or suspension of the alleged bully or harasser (as a non-judgemental and neutral act) to allow the matter to be investigated fully.
- 11.2 The alleged perpetrator will be informed of the allegations made against them. The line manager or headteacher (or investigating officer if applicable) will then interview, and obtain signed statements from, both the person making the allegation and the alleged perpetrator. Interviews may also be held with any witnesses to the alleged incident(s) of bullying and/or harassment.
- 11.3 The questions asked in the course of the investigation will be crucial to establishing the facts. Prior to conducting interviews, the line manager or headteacher (or investigating officer if applicable) should prepare a list of proposed questions (which may be either open or closed). Consideration should also be given to those areas where it could be anticipated that supplementary questions may be required.
- 11.4 The scope of the investigation should include attempts to establish the facts by addressing (amongst others) the following questions:
  - what allegation(s) or incident(s) are being investigated and what academy policy has potentially been breached?
  - when did the alleged incident(s) take place?
  - where did the alleged incident(s) happen?
  - who was involved in (or witnessed) the incident(s)?
  - why has the incident or behaviour created a problem?
  - was the incident or behaviour reported to anyone at the time of occurrence?
- 11.5 During the interview, the line manager or headteacher (or investigating officer if applicable) should take time to consider the responses provided, and where these appear unclear or inconsistent should seek clarification.
- 11.6 All sensitive information will be treated confidentially in accordance with the requirements of data protection legislation.

- 11.7 The investigating officer (where applicable) will, on completion of their investigation, prepare an impartial written report for presentation to the line manager or headteacher who commissioned the investigation.
- 11.8 The findings of the investigation report will form the basis of the decision of the line manager or headteacher as to whether further action should be taken. Should the line manager or headteacher conclude that there is still insufficient detail on which to base their decision the investigating officer may be asked to seek further information and/or clarification.
- 11.9 Following completion of the investigation there are three possible outcomes (as detailed below).

## **12. Outcomes**

12.1 The three possible outcomes are as follows:

i. Allegation not upheld

If it is decided that there is no case to answer, support will be provided for both parties, with additional consideration being given to managing their ongoing working relationship. In certain circumstances (but only where practical, normally in larger organisations) this might include the voluntary transfer of either of the employees concerned.

ii. Evidence of unacceptable behaviour that may be dealt with informally

In some cases, where bullying/harassment is substantiated but does not warrant disciplinary action, it may still be possible to agree an acceptable resolution. For example, the manager may address the situation through supervisory processes (counselling, advice, instruction, training and/or support) and make it clear that ongoing monitoring will be undertaken. The manager must make it clear to the employee that their behaviour is unacceptable and that further similar instances may lead to disciplinary action.

iii. Disciplinary action

Where an investigation concludes that there is sufficient evidence of unacceptable conduct, it will be necessary to commence disciplinary proceedings in accordance with the academy's disciplinary policy.

12.2 Once the investigation is completed, the outcome should be set out in a written communication to be provided to both the individual who has made the allegation **and** the subject of that allegation.

## **13. Malicious allegation**

13.1 If it transpires, following appropriate investigation, that the allegation of harassment/bullying was malicious then the individual who has made the allegation may be dealt with under the academy's disciplinary policy.



#### **14. Appeal process**

- 14.1 Should the person making the allegation be dissatisfied with the outcome of the process they have a right of appeal against the decision.
- 14.2 They should submit their grounds for appeal in writing to the line manager or headteacher (or to the chair of governors if the headteacher was the alleged perpetrator) within five working days of receiving formal notification of the decision.
- 14.3 Appeals will be heard no later than ten working days from the date of the appeal letter being submitted. Appeals will be undertaken by a governor review panel with no less than two governors, who must have had no previous involvement in the matter.
- 14.4 The decision of the appeal committee is final, and this represents the conclusion of the process.

#### **15. Other policies and procedures**

- 15.1 This policy will be supported by the following policy and procedures:
  - Disciplinary Policy