



Trust Bullying & Harassment Policy

Approved by: Kimberley Ivory **Date:** September 2018

Last reviewed on: September 2018

Next review due by: September 2019

Tudhoe Learning Trust
Bullying and Harassment Policy

1. Policy Outline

1.1 What is the policy about?

This School recognises and accepts its responsibility as an employer to protect its employees from bullying and harassment. We must develop positive values and a working culture that provides an environment where employees can develop as people who are motivated, productive and happy as well as being treated with respect and dignity. This School will not tolerate any form of bullying and harassment from any source, including from the leadership group, colleagues, governors, parents, guardians, carers, stakeholders, officers, councillors and contractors.

This School wants all employees to feel confident about reporting complaints of bullying and harassment. All complaints will be taken seriously, treated fairly and without victimisation.

The aim of the policy is to:

- ensure that every employee understands their right and responsibilities in relation to bullying and harassment.
- provide an understanding of what to do if bullying or harassment takes place.

This School will take a serious view of any complaint made regarding bullying or harassment. Appropriate action will be taken against any individual where it is proven that they have bullied or harassed - this may include disciplinary action.

This school works jointly with the Trade Unions and they are fully supportive of the principles of this statement.

1.2 Who does the policy apply to?

This policy covers all school-based employees. Where an employee feels they are being bullied or harassed by a Governor, the employee should discuss this with the Headteacher who should also seek advice from the corporate Human Resources Division.

1.3 Responsibility

All employees and governors have a duty of care to themselves and others. They must not act in any way likely to cause harm to others.

1.4 Monitoring

Monitoring will include:

- A record of all complaints detailing the incident(s).
- Reviewing individual complaints to monitor outcomes.
- Identifying issues and appropriate action.
- Corporate record keeping in line with equalities monitoring.

Human Resources will monitor the number and type of incidents to identify any way of addressing such issues at corporate level.

1.5 Support

Support can be sought from our Telephone Counselling Service, Headteacher or Chair of Governors (if the issue directly concerns the Headteacher). All employees involved in a complaint must respect confidentiality. Further advice about the policy and procedure is available from the Bullying and Harassment Liaison Officer / Trust HR Manager, Mrs Kimberley Ivory, 07429 452 205 or kim.ivory@tudhoelearningtrust.co.uk.

1.6 Confidentiality

This School recognises that problems of bullying and harassment involve sensitive issues. To eliminate harassment from the workplace this School has adopted a policy of non-tolerance of any form of bullying and/or harassment. However, to eliminate bullying and harassment it is necessary to know when it occurs. This School is responsible for the actions of all its employees and therefore must be informed of any incidents.

This School has a duty of care to investigate all complaints and take action, including disciplinary measures where appropriate. All information in relation to complaints will be handled sensitively and appropriately. Confidentiality cannot however be guaranteed as information disclosed may have to be used in proceedings including disciplinary hearings and criminal cases if appropriate.

Under the Data Protection Act 1998 individuals have the right to see their own personal data held subject to the rights of confidentiality of any third parties involved in that information.

1.7 Dealing with abuses of the policy

Employees who attempt to abuse this policy may face disciplinary action. The school takes false or misleading accusations very seriously which may result in further action being taken through the Disciplinary Procedure. This will not include ill-founded allegations that were made in good faith.

1.8 Publicising/distribution of the policy

A copy of this policy is available from the Headteacher and/or Bullying and Harassment Liaison Officers (where these are in place) and will be made available to employees on request. A copy can also be viewed via the schools extranet.

New employees will be informed of the existence of this policy in recruitment and induction information.

1.9 Reviewing the policy

The operation of this policy will be kept under review and changes to the policy will be made as deemed appropriate following necessary consultation with the trade unions.

1.10 Equality Impact Assessment

An equality impact assessment has been carried out in the preparation of this policy by DCC and the assessment will be reviewed on an ongoing basis.

1.11 Alternative formats

Alternative formats of this policy may be obtained by contacting Trust HR on tel: 01388 811 765 or email office@tudhoelearningtrust.co.uk

1.12 Forms

Forms relating to this policy and procedure are available from Trust HR tel: 01388 811 765 or email office@tudhoelearningtrust.co.uk

1.13 Important Note Regarding Responsibility of Management of this Process

Within this guidance, reference is made to the Headteacher managing the process. Where a claim of bullying or harassment is made against a Headteacher, then the process should be managed by the Chair of the Governing Body. If a Headteacher wishes to make a claim of bullying or harassment against the Chair of the Governing Body, then the Headteacher is requested to contact Trust HR tel: 01388 811 765 or email office@tudhoelearningtrust.co.uk

2. Procedure

This procedure covers all types of bullying and harassment.

2.1 Standards of behaviour

This procedure identifies unacceptable forms of behaviour. The supporting procedure informs employees of the available options open to them should they be subject to bullying or harassment. All employees and governors are required to comply with this policy. Every individual has a responsibility to treat others with dignity and respect.

2.2 Legislation

It is important to remember that in law, once a member of staff is aware of the facts of a case, however informally, the organisation is deemed to know.

It is not possible to make a direct complaint to an employment tribunal about bullying. However, employees might be able to bring complaints under laws covering discrimination and harassment or unfair dismissal. For example:

- **Sex:** Sex Discrimination Act (1975), Employment Equality (Sex Discrimination) Regulations (2005), give protection against discrimination, harassment and victimisation on the grounds of sex, marriage, pregnancy, maternity leave or because someone intends to undergo, is undergoing or has undergone gender reassignment. They also give protection against unwanted verbal, non verbal, visual or physical conduct of a sexual nature which is offensive, humiliating or degrading. This covers one off episodes as well as repeated behaviour.
- **Race:** Race Relations Act (1976) gives protection against discrimination and victimisation on the grounds of colour and nationality. The regulations that amended the Act (Race Relations 2000) also give a stand alone right to protect from harassment on grounds of race and ethnic, or national, origin.
- **Disability:** the Disability Discrimination Act (1995 and 2005) gives protection against discrimination, harassment and victimisation.
- **Sexual Orientation:** the Employment Equality (Sexual Orientation) Regulations (2003) give protection against discrimination, harassment and victimisation on the grounds of sexual orientation.
- **Religion or Belief:** the Employment Equality (Religion or Belief) Regulations (2003) give protection against discrimination, harassment and victimisation on the grounds of religion or belief.
- **Age:** the Employment Equality (Age) Regulations (2006) give protection against discrimination, harassment and victimisation on the grounds of age.

In addition to this there are a range of codes of practices, which inform this policy and procedure.

2.2.1 Constructive dismissal

Employers have a 'duty of care' for all their employees. If the mutual trust and confidence between the employer and employee is broken, e.g. through bullying and harassment at work, then an employee may be able to resign and claim 'constructive dismissal' on the grounds of breach of contract. However, before such a claim can be made by the employee at any tribunal, they need to raise a formal grievance within the organisation. Within schools, this procedure would have to be utilised if the problem was related to bullying or harassment. Employers are usually responsible in law for the acts of their workers. This is known as vicarious liability.

2.2.2 Health and safety

Breach of contract may also include the failure to protect an employee's health and safety at work, e.g. Bullying and Harassment can include physical attack or mental distress. Under the Health and Safety at Work Act 1974 employers are responsible for the health, safety and welfare at work of all employees.

2.3 Responsibilities

2.3.1 The responsibilities of the Governing Body are to:

- Promote the School's values and the importance of a positive working culture.
- Comply with their responsibilities under the Code of Conduct.
- Be aware of their own behaviour and the effect it may have on other people thus ensuring that their behaviour does not contribute to bullying or harassment.

2.3.2 The responsibilities of Headteachers and employees who manage other staff are to:

- Take all reasonable steps to prevent bullying or harassment by considering their own management style and behaviour and ensuring that they support the values of the school. Also, to provide a work environment where it is clear to all staff that behaviour which may potentially cause offence is not acceptable.
- Challenge all inappropriate behaviour.
- Take all reasonable steps to satisfy their proactive duty to acknowledge and act upon any potential bullying or harassment behaviour.
- Take appropriate action if bullying and harassment occurs and ensure that complaints are treated effectively, sensitively and seriously in accordance with the procedure.
- Ensure records are kept of all incidents.
- Ensure that all documented procedures are adhered to.

2.3.3 The responsibilities of employees are to:

- Be aware of their own behaviour and the effect it may have on other people, treat everyone with respect and dignity thus ensuring their behaviour does not contribute to incidents of bullying and harassment.
- Be aware of the problems which bullying and harassment can cause.
- Bring to the attention of colleagues that certain behaviour or conduct can cause offence.
- Take appropriate action if they observe any bullying or harassment.

2.4 What is harassment?

Harassment is unwanted conduct affecting a person's dignity. It may be related to age, sex, race, disability, religion, sexual orientation, nationality or any personal characteristics of the individual. Harassment may be persistent or an isolated incident.

It is not what may have been intended by the perpetrator that is key in deciding whether harassment has occurred; it is whether the actions and comments are viewed as demeaning and unacceptable to the person being harassed.

Examples of unacceptable conduct:

- Unwanted physical contact ranging from touching to serious assault or threats.
- Suggestive comments or body language.
- Verbal and written harassment through jokes, offensive language, gossip and slander, sectarian songs, letters etc.
- Visual display of posters, graffiti, obscene gestures, etc.
- Coercion ranging from pressure for sexual favours to pressure to participate in political/religious groups.
- Intrusion by pestering, spying, following etc.
- Unwanted attention of a sexual nature.
- Isolation or exclusion from work.

2.5 What is bullying?

Bullying is offensive, intimidating, malicious or insulting behaviour as well as misuse of power through means intended to undermine, humiliate, degrade, criticise unfairly or injure someone.

Although this list of bullying behaviours is not exhaustive, some common examples include:

- Spreading malicious rumours or insulting/humiliating someone.
- Copying memos that are critical about someone to others who do not need to know.
- Ridiculing or demeaning someone - shouting at the individual in front of others.
- Exclusion or victimisation/being ignored.
- Unfair treatment and criticism.
- Excessive supervision or other misuse of power or position.
- Deliberately undermining a competent worker by overloading them with work and subjecting them to constant criticism.
- Preventing individuals progressing by intentionally blocking promotion or training opportunities.
- Setting up a person to fail - giving impossible deadlines or tasks or withholding information necessary for them to carry out the task.
- Unreasonable assignments of duties, which are obviously unfavourable to one individual.
- One off events.

Bullying and harassment instances are not always face-to-face; they can include written communications, electronic mail and telephone conversations.

2.6 What is victimisation?

Victimisation may arise when one or more people receive less favourable or unequal treatment compared to others. This could be because they are suspected or known to have complained, or may have given evidence about behaviour, which has resulted in an allegation of bullying and harassment. Victimisation arising from a case of bullying or harassment is a conduct issue and will be dealt with under the DCC Disciplinary Procedure.

2.7 Effects of bullying and harassment

Bullying and harassment can have a detrimental effect on the individual's home and worklife; for example, depression, anxiety, stress, loss of confidence. In the workplace this can result in poor working relationships, increased absenteeism and reduced efficiency.

In the event of an employee becoming absent due to bullying or harassment - and consequently suffering from stress, anxiety or depression - it is essential that reasonable adjustments are made to their workplace in order to ease their way back into work. For further guidance please refer to the school's policy on sickness absence management or the extranet.

2.8 What do you do if you think you are the subject of bullying and harassment?

Any employee who feels that they are being bullied or harassed in the workplace may wish to resolve the situation informally in the first instance. If the situation cannot be dealt with informally then the formal procedure will need to be applied. For an overview of the procedure see the flow chart on page 15.

In the case of an employee being bullied or harassed by a Governor the employee should report this to the Headteacher who will then seek advice from Human Resources.

In the case of an employee being bullied or harassed by a Headteacher, the employee should report this to the Chair of the Governing Body, who will then seek advice from Human Resources.

In relation to members of the public, employees should make the Headteacher aware of any incidents. Depending on the circumstances of each case, a range of actions will be considered in the case of a member of the public who bullies or harasses any school employee while carrying out their duties. In extreme case this may lead to:

- Taking action to exclude the individual from school premises;
- Taking legal action against the person bullying or harassing the employee.

In the case of an employee being harassed or bullied by a contractor, a person working for or representing a voluntary organisation, the Headteacher should speak to the person involved. However, Headteachers should seek further advice from Human Resources before approaching the representatives of external agencies.

Anyone who witnesses harassment or bullying can also raise concerns with their Headteacher (or Chair of Governors, in the case of witnessed harassment or bullying by a Headteacher).

If, during the course of the investigation, it is established that a malicious complaint has been made then appropriate action will be taken - this may include disciplinary action (please refer to the Disciplinary Procedure for further guidance). This will not include unproven allegations, which were made in good faith.

2.9 Who can provide help? - Informal procedure

The informal procedure is designed to address bullying or harassment when it takes place and to help all employees to work together in a professional and dignified manner in order to eradicate it from the workplace. Employees may not be aware that their actions cause offence to others and once it is highlighted this may resolve the situation.

In most cases of inappropriate behaviour the employee should attempt to resolve the issue informally by approaching the alleged perpetrator directly. It should be explained to the alleged perpetrator what behaviour is being complained of, how that behaviour is causing offence and that it needs to stop. If they feel unable to do this they can seek support from either our Counselling Service (telephone number 0800 068 5155, scheme number 33679), Occupational Health, Human Resources, Headteacher or Chair of Governors, (in the case of inappropriate behaviour of a Headteacher). However in certain situations, particularly serious incidents, the formal procedure must be followed.

2.9.1 Headteacher

Employees can report behaviour to the Headteacher and ask them to speak to the alleged perpetrator on their behalf. It is important that Headteachers keep a written record of all queries or informal complaints, the nature of what was discussed and the action agreed to be taken, using the Headteacher's log sheet. A copy of the log sheet must be sent to the individual who raised the query, a copy kept by the Headteacher and the Head of DCC Human Resources (for monitoring purposes only). It should be noted that the Headteacher cannot guarantee confidentiality (for further advice please refer to section 1.6 on page 4 of this document).

2.9.2 Trade Unions

Trade Union members who are raising a complaint or have a complaint made against them can talk confidentially to a representative of their trade union for advice and support.

2.9.3 Counselling/Occupational Health Service

The counsellor's role is to offer support and assistance, discuss the options open to the employee, and help the employee determine if and how, they want to progress matters.

Therefore:

- Advice and guidance will be offered in confidence.
- Information will be given to the individual about the options available to assist the individual in making their own decisions.

It may be appropriate for a person who has complained of bullying or harassment to have the opportunity to have face-to-face access to a counsellor. In this case, counselling can be accessed via the Occupational Health Service. It plays a vital role in assisting employees, by providing a confidential avenue for impartial advice. This informal approach could lead to the opportunity to resolve the complaint without the need for any further formal action.

All employees and their immediate family have access to the Telephone Counselling Service. Informal, confidential assistance can be accessed via:

- The Counselling Service on free phone 0800 068 5155 quoting scheme number 33679. Further information is available from HR.
- The Occupational Health Unit for advice.

2.9.4 Bullying and Harassment Liaison Officer

The Trust has designated a Bullying and Harassment Liaison Officer who has volunteered and been trained to undertake this role. The role is to advise on how the procedure operates and explain the options available. Their role will be to act as a signpost, as well as listen and provide advice based upon the Trust's policy and procedure. They are an additional point of contact if a victim of bullying and harassment wishes to discuss their problem with someone other than their Headteacher (or Chair of Governors, if appropriate) or trade union representative. If a Bullying and Harassment Liaison Officer has a conflict of interest with a particular case then it should be referred to another Bullying and Harassment Liaison Officer. The Trusts designated bullying and harassment officer is Mrs Kimberley Ivory, Trust HR Manager, 07429 452 205 or 01388 811 765 or email at kim.ivory@tudhoelearningtrust.co.uk. In the event of a conflict of interest the designated officer is Mr Jim Smith, Executive Head Teacher, 01388 814 399.

The role of the Bullying and Harassment Liaison Officer for is to:

- Be available when approached to listen to the concerns raised by a colleague from within the School.
- Ensure that staff know how to raise problems, and are aware of the policy and procedures which are in place.
- Keep records and pass on information as appropriate.

The Bullying and Harassment Liaison Officer is not there to:

- Approach the alleged perpetrator in an attempt to mediate or resolve the matter for an employee.
- Act as a representative or advocate.
- Provide support in any formal stage of the process, e.g. assisting with complaint.
- Provide a confidential counselling service.

Cases of bullying and harassment can lead to the disciplinary procedure being invoked and very rarely, can result in legal proceedings. Therefore, any information divulged to the Bullying and Harassment Liaison Officer or any other employee cannot be guaranteed to be kept confidential, as the information may have to be disclosed in the course of such proceedings.

It is important for Bullying and Harassment Liaison Officers to log all informal complaints brought to their attention. Ideally, record keeping should commence when the adviser receives an initial request for assistance. Bullying and Harassment Liaison Officers should complete the log sheet, which will contain details of the complaint, form of bullying or harassment, witnesses to the bullying or harassment and details of any action taken to stop the behaviour. Records of events may be of importance if the complaint in question progresses to an investigative meeting or a formal disciplinary hearing. A copy of the log sheet must be sent to the individual who raised the query, kept by the Headteacher (or Chair of Governors, in specific circumstances) and the Head of Human Resources for monitoring purposes only.

2.10 Who can provide help? - Formal procedure

In most cases, informal resolution should be attempted before the formal procedure is invoked. If the informal approach has not resolved the issue, or an incident has occurred which is so offensive to the recipient that an informal approach is not considered appropriate, then the recipient can use the formal procedure.

Allegations of bullying or harassment through the formal procedure, will be treated as potential breaches of discipline and such behaviour may, in certain circumstances, even be unlawful (e.g. under the Sex Discrimination Act 1975, the Race Relations Act 1976 (Amended 2000), the Disability Discrimination Act 1995 and 2005, and the Sexual Orientation and Religion regulations 2003). Some acts of bullying or harassment are so serious that they can be judged to constitute a criminal offence and in such cases, the school may be obliged to report the offence to the Police.

Any adverse reaction or inappropriate behaviour towards the complainant or alleged perpetrator which arises as a result of the complaint is likely to constitute victimisation. Any such incident will be taken extremely seriously and might lead to disciplinary action.

2.10.1 Complete a bullying and harassment report form

In order to make a formal complaint of bullying or harassment the employee should complete the bullying and harassment report form with details of the alleged perpetrator, a description of what happened and details of any witnesses. The form is available from the Bullying and Harassment Liaison Officer, the Headteacher. The completed form should be forwarded to the head teacher, with a copy to the Head of Human Resources and a copy retained by the employee. The Headteacher (or Chair of Governors in specific circumstances) will acknowledge in writing within 10 working days the receipt of this form and outline the next stages in the process.

2.10.2 Investigation

The Headteacher will instigate an investigation into the incident. This may mean that the Headteacher chooses to appoint an investigating officer or may wish to assume the role of investigating officer him/herself. If a separate investigating officer is appointed, the investigating officer should not be party to the complaint itself. Human Resources should also be made aware of the situation so that they can offer support to the Headteacher and advise on appropriate action. The investigation should normally be carried out within 10 working days of receiving the complaint. This includes meeting the complainant, taking statements from the complainant, any witnesses and the alleged perpetrator. Investigating officers should deal sensitively with all those involved, including any witnesses. If, in exceptional circumstances, the investigation is unlikely to be completed within 10 working days an alternative timescale should be discussed with the complainant.

The investigating officer will interview the complainant, who may be accompanied by a work colleague or trade union representative. Interviews will also take place with the alleged perpetrator, who may also wish to be accompanied by a work colleague or trade union representative and named witnesses. It is important that any accompanying person must not be party to the complaint. Any other supporting evidence will also be obtained. The objective of this investigation is to clarify and discuss all relevant issues in as short a time scale as is possible.

The investigating officer will then compile a report based on all relevant information, statements, records of interviews and corroborating evidence. This report will consequently clarify whether the complaint is upheld and whether formal consideration by the Headteacher is warranted. A copy of the report should be retained in the school and a copy also sent to the Head of Human Resources. The Headteacher will notify both the complainant and alleged perpetrator in writing within 10 working days of receiving the report, along with any other line manager involved in the investigation.

2.10.3 Disciplinary Procedure

Where it is clear that a conduct issue exists and there is a case to answer a disciplinary hearing may then be arranged. However, there may, in some instances, be the need for further investigations within the school's Disciplinary Procedure. These investigations may then lead to a formal disciplinary hearing. For further information, please refer to the school's Disciplinary Procedure.

Where the investigation reveals that a complaint may have been malicious or mischievous the Headteacher (or their representative) will decide whether appropriate disciplinary action will be taken against the complainant.

If action is taken short of dismissal after any disciplinary hearing, the perpetrator will be told about the standards of behaviour expected in future. It will also be explained that if the recipient is victimised for bringing this complaint, or if the behaviour continues, there will be further disciplinary action, which could ultimately result in dismissal.

2.10.4 Appeal

If disciplinary action is taken against the alleged perpetrator they may appeal in accordance with the school's Disciplinary Procedure.

If the complainant is not satisfied with the outcome of the bullying or harassment investigation they may appeal, in writing, to the Headteacher within 10 working days of receiving the decision, to request a hearing by the Appeals Committee of the School Governing Body. The complainant will be invited to attend a meeting of the Appeals Committee, normally within 28 days of receipt of the request. A trade union representative or a work colleague may accompany the complainant. Notification of the outcome of the meeting will be issued in writing within 10 days.

The Appeals Committee is the final forum for such consideration in School.