

WORKPLACE AND WORK-RELATED BULLYING AND HARASSMENT

Flakefleet Primary School (REVISED MAY 2015)

1. PURPOSE

- 1.1 This document sets out the procedures to be followed in dealing with complaints of sexual, racial and other forms of harassment and bullying. This procedure is intended to:
- give clear guidance to all concerned in such situations;
 - enable complaints to be resolved as efficiently and quickly as possible;
 - minimise the prospect of damage to relationships at the school.
- 1.2 This procedure has been agreed between the Authority and the recognised Trade Unions and Teacher Associations.
- 1.3 This procedure has been adopted and is published as part of the staffing policies of the Governing Body of Flakefleet Primary School

2. APPLICATION

- 2.1 This procedure applies to all staff employed in Flakefleet Primary School
- 2.2 If the complaint is raised by a teacher in a Centrally Managed Service, the relevant senior manager should be substituted for any reference to the Headteacher. The Head of Service should be substituted for any reference to the Chair of Governors.
- 2.3 Where possible, the complaint should be resolved informally (see informal stage, section 6). Where the informal stage fails or is considered by the member of staff to be inappropriate, the formal stage should be invoked (see formal stage, section 7).
- 2.4 This procedure should be used for dealing with individual complaints of bullying and harassment. Where more than one employee submits a complaint of a similar nature, this should be dealt with in accordance with Annex 4 '*Collective Bullying & Harassment complaints*'.

3. CONFIDENTIALITY

- 3.1 All parties involved in a complaint of bullying and harassment will be expected to observe the principle of confidentiality in relation to the content of the complaint and its surrounding issues. Failure to observe this principle could have an adverse impact on the outcome of a complaint.
- 3.2 Any documentation or the content of any discussions during meetings held under this procedure may be shared with all parties involved in the complaint and any members of governing body committees who are involved in hearing cases relating to the complaint. This includes the submissions of any witnesses.

4. GENERAL PRINCIPLES

- 4.1 Any member of staff who makes or is the subject of a complaint under this procedure will receive a copy of the procedure, as will any person involved in the process (e.g. witnesses, investigating officers etc).
- 4.2 A member of staff has the right to attend and be represented by a work colleague or representative of a trade union at any meeting convened under this procedure. The representative can not be a person that is involved in the investigation (i.e. witness, complainant, respondent etc). This right also extends to witnesses.
- 4.3 At any meeting convened under this procedure, access to an adjournment should not be unreasonably refused.
- 4.4 With the exception of a complaint against the headteacher, governors are not involved prior to the formal stage.
- 4.5 The Clerk to the Governors, in setting a date for a meeting to consider the formal stage of a complaint, will inform the Governors that a full report is to be submitted to them. Any attempt by any Governor to elicit further details, at that stage, would be inappropriate. The Chair of Governors will be kept informed of general progress, but not given access to detailed information in view of the fact that this might disqualify him/her on grounds of bias from chairing a meeting to consider the matter.
- 4.6 The formal stage of the procedure against another member of staff will include a right of appeal.
- 4.7 The Headteacher/Chair of Governors can obtain advice about dealing with bullying and harassment investigations from the Schools HR Team.

5. INITIAL STAGES

- 5.1 It is expected that the majority of bullying and harassment complaints will be resolved without recourse to the informal or formal stages of this procedure.
- 5.2 At any stage of this procedure, it is open to both parties to seek mediation to resolve the dispute. Mediation is defined as 'a structured process in which a neutral third party, called a mediator, helps disputing parties to work through and resolve problems and create a way forward.' It should be noted that mediation will not be possible without the full agreement of both the parties entering into the process in good faith. This would be facilitated by a suitably/trained and /or

experienced mediator. Further information about the mediation process is contained within Annex 3.

6. INFORMAL STAGE

- 6.1 Complainants are strongly encouraged to have their complaint considered at this informal stage as this can often result in a quicker and more constructive outcome than an immediate progression to the formal stage. Use of the informal stage will not affect the right of the complainant to subsequently take formal action. Any complaint documentation/notes made at this stage may be referred to in any later stages of the procedure.
- 6.2 The aim of the informal stage is to allow staff who feel that they are the subject of workplace/work-related harassment or bullying to inform the other person(s) involved that their conduct is regarded as unwelcome and must stop.
- 6.3 The member of staff should make it clear to the other person(s), if appropriate and they feel able to do so, that the behaviour is unwelcome, offensive and/or interfering with work.
- 6.4 When the member of staff feels uncomfortable in approaching the other person(s) directly, assistance may be sought from a colleague, trade union representative or member of the School's Senior Management Team.
- 6.5 Where such an approach does not succeed or is inappropriate, the member of staff should submit a note of complaint to the Headteacher who will send a copy to the other person(s) (but see paragraph 6.7). The Headteacher or, if appropriate and agreeable to both parties, another senior member of staff, will facilitate and chair a meeting between the member of staff and the other person.
- 6.6 This meeting should take place within five working days of the initial note of complaint being received by the Headteacher.
- 6.7 If the other person is the Headteacher, the member of staff should submit a note to the Clerk to the Governors, who will send a copy to the Headteacher.
- 6.8 The Clerk to the Governors will contact the Head of Schools HR, who will arrange for an independent party to facilitate and chair a meeting between the member of staff and the Headteacher. Where appropriate, the Diocesan/Church Officer may also be involved.
- 6.9 This meeting should take place within 10 working days of the initial note of complaint being received by the Clerk to the Governors.
- 6.10 Should the behaviour continue or the member of staff considers the informal stage to be inappropriate, due to the nature of the complaint, the formal stage should be invoked.

Note

Staff may find it helpful to keep records of incidents of behaviour which they consider to be harassment or bullying, noting the date and time of the incident and details of any witnesses. Such records can be helpful in describing the problem and may also be used if any formal action is subsequently taken. It is expected, however, that such records should not be kept for extended periods without the complainant's concerns being raised through the process described

in this document. Only in exceptional circumstances could concerns be raised about incidents that occurred more than 12 months prior to the complaint.

7. FORMAL STAGE

- 7.1 It is expected that complainants will try and resolve their complaints through the initial or informal stages. However, where the complaint has not been resolved informally, or given the nature of the complaint, the informal stage is considered by the member of staff to be inappropriate, the member of staff should submit a formal written complaint using the Complaint Form at Annex 2. The Complaint Form is split into Section A (personal details) and Section B (details of complaint). The complainant must complete a Section B for each respondent. Only Section B must be shared with the respondent.
- 7.2 The completed complaint form must be forwarded to the Headteacher. If the person against whom the allegations have been made is the Headteacher, the member of staff should submit the completed complaint form to the Clerk to Governors, who will forward a copy to the Chair of Governors and the Head of Schools HR within 5 working days.
- 7.3 The complainant should receive a written acknowledgement of receipt of the complaint and provided with the name of the investigating officer within 5 working days.
- 7.4 The respondent should be advised in writing of the allegation (using Section B of the Complaints Form) and provided with the name of the investigating officer within 5 working days of the complaint being formally acknowledged. The Headteacher/Chair of Governors should share this information with the alleged harasser in as sensitive a way as possible. He/she should also be informed that the complaint will be investigated in accordance with the investigation guidance given at Annex 1 and that he/she will be interviewed as part of this investigation, in due course.
- 7.5 The Headteacher/Chair of Governors should consider any immediate action such as alternative working arrangements. In cases of very serious allegations that may constitute gross misconduct or require criminal investigation, suspension of the respondent pending the outcome of the investigation or referral to an external agency e.g. Police, Children's Social Care should be considered. Advice should be sought from a member of the Schools HR Team in such cases. The decision to suspend may be taken at any stage in the investigation process, dependent upon the findings of the investigation.
- 7.6 Within the interests of all parties and without undue delay, the Headteacher/Chair of Governors will organise a full investigation of the complaint. The investigation process should commence within 10 working days of the submission of the Complaint Form. Guidance on the conduct of the investigation is given at Annex 1. The investigation may be undertaken by an employee of the school/college, a member of the governing body, or an independent party. The investigation process must be open and honest, without bias to either party.
- 7.7 The investigating officer must inform the complainant and the respondent of any delays during the investigation. Complete records should be kept of all meetings and investigations must be kept strictly confidential. (Both parties should be provided with an update on the progress of the investigation after 20 working

days. The investigation process should last no longer than 30 working days, unless exceptional circumstances apply.

- 7.8 Following the conclusion of the investigation as set out in 7.6 a confidential written report of the findings will be produced. If the investigation was conducted by an independent investigator, a copy of the report will be provided to the Headteacher/Chair of Governors.
- 7.9 The Headteacher/Chair of Governors will consider, in the light of the findings of the report, the possible outcomes and come to a decision. In considering the findings of the investigation the Headteacher/Chair should bear in mind the principle that the Investigating Officer's conclusions will have been reached on the BALANCE OF PROBABILITY as to whether harassment took place in relation to the appropriate definition of harassment. The Headteacher/Chair of Governors may wish to seek the advice from a representative of the Schools HR Team (not the Investigating Officer) in determining an appropriate outcome.

Possible outcomes arising out of such an investigation are as follows. These outcomes are not mutually exclusive:

1. The complaint was unfounded and therefore no formal action will be taken against the respondent
2. Seek redress through an apology and/or informal advice to amend behaviour to be given to the respondent
3. Arrangements for mediation to take place between the parties, providing both parties agree to volunteer for this process;
4. The respondent/bully and/or member of staff and other parties involved to attend a de-brief meeting to discuss the issues under investigation,
5. The matter should be dealt with in accordance with the School's Disciplinary Procedure, which may involve a meeting of the Disciplinary and Dismissal Committee.
6. In the case of a complaint that appears to be malicious, the matter should be dealt with in accordance with the School's Disciplinary Procedure which may involve a meeting of the Disciplinary and Dismissal Committee.

(Consideration will need to be given as to whether or not the case may be regarded as gross misconduct and therefore require the suspension of the employee(s) against whom the complaint has been made or who appears to have made a malicious complaint.)

- 7.10 Once the Headteacher/Chair of Governors has taken a decision, it will be confirmed in writing to the complainant and the person against whom the allegation has been made within 5 working days of the decision being taken. At the same time, the Headteacher/Chair of Governors should also provide the complainant and respondent with a copy of the report, preferably on the same date and by the same method (i.e. posted to home address or hand delivered in school). Both parties should be reminded of the need to maintain confidentiality in terms of the content of the report and outcome letter. The outcome letter for each party will be retained on their personal file.

- 7.11 The report may subsequently be provided to members of the relevant Committees of the Governing Body who may be convened to hear the appeal against the findings of the report, or the case for action following on from this procedure (i.e. Disciplinary and Dismissal Committee).
- 7.12 If the decision is to recommend subsequent action under an alternative procedure (e.g. disciplinary procedure), at the end of this process, the complainant should be informed whether disciplinary action was taken or not, but should not be provided with details of what action was taken.
- 7.13 The report will not be retained on the personal file of either employee, unless it forms part of an adverse report written as part of the disciplinary procedure.

8. SUBSEQUENT ACTION

- 8.1 In the case of an outcome short of dismissal the headteacher (or, where appropriate, the Chair of Governors) will consider sensitively how best a continuing working relationship between the parties can be arranged. Advice and support should be sought from the Schools HR Team /Diocesan/Church Officer/School Adviser, as appropriate. Consideration will be given, where practicable, to a voluntary reassignment of duties or responsibilities, or, if it is possible, a transfer of one of the parties to another area of the establishment so that they are not required to continue to work together in a situation which is found to be unacceptably difficult.
- 8.2 Where the complainant has been absent from work during the proceedings, every effort will be made to ensure that he/she returns to a working environment where he/she feels comfortable and becomes fully integrated into the school as soon as possible.
- 8.3 If it is decided that it is likely that, on the balance of probabilities, bullying or harassment has taken place, a Disciplinary Hearing will be convened in accordance with the Disciplinary Procedure to consider the matter. All further action taken will be under the Disciplinary Procedure, and action under this procedure will cease. In these circumstances it is likely that the complainant will be called as a witness for the Disciplinary hearing. Where the allegation(s) of bullying and harassment is/are proven following the Bullying and Harassment Investigation, the complainant (s) will not have a right of Appeal under the Bullying and Harassment Procedure.

9. APPEALS PROCESS

- 9.1 If the complainant is not satisfied with the decision of the Headteacher (Chair of Governors/representative) and/or the action taken following the investigation, he/she has the right of appeal to the Grievance Appeals Committee of the Governing Body. The complainant must lodge their appeal in writing, clearly stating why they are not satisfied with the outcome of the report, within 10 working days of receipt of the letter confirming the outcome of the investigation. The meeting will be conducted in accordance with the procedure outlined in the Schools Grievance Procedure.

9.2 It is not the role of the Committee to decide whether or not Bullying and Harassment has taken place. At the end of the Appeals Hearing the Committee are only able to either:-

- confirm the action taken by the Headteacher/Chair of Governors; or
- refer the matter back for further consideration by the Headteacher/Chair of Governors within the grounds given for referral (e.g. the emergence of new/additional information).

9.3 The decision of the Appeals Committee is final.

9.4 There is no right of appeal for the respondent.

9.5 There is no right of Appeal for the complainant where the outcome of the Investigation is that the allegations of bullying and harassment are proven and disciplinary action is appropriate. The right of appeal for the complainant only applies in cases where the complaint is either not upheld or only partially upheld.

10. BULLYING AND HARASSMENT COMPLAINTS RAISED WHERE DIFFERENT PROCEDURES HAVE ALREADY COMMENCED

10.1 Where a Bullying and Harassment complaint is raised during the formal stages of a different procedure and the complaint relates to matters already under consideration as part of that procedure, this would normally be dealt with as part of that procedure.

10.2 Where the Bullying and Harassment complaint is deemed not to be related to the matters being considered under a different procedure, the provisions of this procedure will apply.

11. SICK PAY

If, after enquiries, (which may include medical enquiries) a period of absence is attributed to proven harassment or bullying, the absence will be regarded as an industrial injury for the purposes of entitlement to sick pay.

12. REVIEW

This procedure will be reviewed after one year of operation and thereafter, as required.