

North Herts



Education Support Centre

## Bullying and Harassment Policy: Staff

|                              |                      |
|------------------------------|----------------------|
| <b>Date:</b>                 | Autumn 2022          |
| <b>Reviewed by:</b>          | Ronel Pieterse       |
| <b>Ratified by:</b>          | Management Committee |
| <b>Signature:</b>            |                      |
| <b>Date:</b>                 |                      |
| <b>Frequency of review:</b>  | Annual Statutory     |
| <b>Date for next review:</b> | Autumn 2023          |

The Professional Associations/Trade Unions have been consulted on this policy, and HfL recommends it for adoption.

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## 1. Introduction and scope

All employees have the right to be treated with dignity and respect. Bullying and harassment are not acceptable forms of behaviour and will not be permitted or condoned. Any employee who, subject to the outcome of investigation, is found to have bullied or harassed a colleague will be dealt with under the disciplinary procedure.

This policy applies to all Centre staff and Management Committee members. Allegations of bullying and harassment made by visitors, consultants, suppliers and agency workers will be separately addressed through the Centre's complaints procedure.

The aim of this policy is to ensure that any complaint of bullying or harassment is effectively and speedily dealt with and that appropriate action is taken to ensure as far as possible that it does not occur again. It is important that the rights of both the complainant and the alleged/harasser are protected throughout the process.

This policy does not form part of any employee's contract of employment and it may be amended at any time.

## 2. What is bullying and harassment?

Bullying and harassment can take the form of physical, verbal and non-verbal conduct.

### 2.1. Bullying

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, –and can include both personal strength and the power to coerce through fear or intimidation.

Bullying may include, by way of example:

- physical or psychological threats
- overbearing and intimidating levels of supervision
- inappropriate derogatory remarks about someone's performance

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.

### 2.2. Harassment

Harassment is any unwanted conduct specifically related to a 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.

The relevant protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

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.

Harassment may include, by way of example:

- unwanted physical conduct or 'horseplay', including touching, pinching, pushing or grabbing
- continued suggestions for social activity after it has been made clear that such suggestions are unwelcome
- sending or displaying material that is pornographic or that some people may find offensive (including emails, text messages, video clips and images sent by mobile phones or posted on the internet)
- unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless)
- racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about particular ethnic or religious groups or gender
- outing or threatening to out someone as gay or lesbian
- offensive emails, text messages or social media content
- 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.

### **3. Victimisation**

Employees 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 or victimised someone in this way may be subject to disciplinary action.

### **4. False or malicious complaints**

All complaints of bullying and harassment will be taken seriously. Evidence of false or malicious complaints however, may result in formal disciplinary action being taken against the employee(s) concerned.

### **5. Mediation**

Depending on the nature of the complaint, it may be appropriate to explore the use of mediation. Mediation focuses on a person-centred, compassionate and values-based response that can help schools deal with complex conflict in a meaningful and sustainable way and build positive, respectful workplace cultures where people can go to work without fear. This will involve the appointment of suitably qualified and impartial mediator. Mediation services are available via Herts for Learning.

## **6. The Procedure**

### **6.1. Stage 1: the informal stage**

Employees who believe they are being bullied or harassed should first consider whether they feel able to raise their concerns informally with the person(s) involved. If necessary, the employee may request the involvement of the appropriate Line manager who can provide confidential advice and assistance in resolving the issue(s) informally. If the complaint is about the line manager, they should speak to a more senior manager.

This allows for concerns to be resolved quickly and for working relationships to move forward positively.

The employee should explain clearly to the other person that their behaviour is not welcome or makes them uncomfortable. If the employee finds this too difficult or embarrassing, they should speak to their line manager or Executive Head who can provide confidential advice and assistance in resolving the issue informally.

## **6.2. Stage 2: the formal stage**

Where an employee is unable to resolve a complaint informally or the nature of the concerning conduct continues, the employee should submit a written statement (see Appendix 1).

The written statement should be made to the employee's line manager or a more senior manager, where the complaint is about the line manager. Where the complaint is about the Executive Head, the complaint should be raised with the Chair of Management Committee.

The written statement should clearly state the nature of the concern and provide as much detail as possible, including the details of any steps taken at the informal stage. Where the informal stage has not happened, the complainant should clearly explain why they did not feel able to go through the informal stage. The statement may also outline any possible outcomes the complainant feels may alleviate their concerns/ allegations. A complainant will not be discouraged from using the formal process where that is their preferred option.

Allegations concerning issues that are more than three months old will not usually be considered unless related to a current issue or there are exceptional circumstances.

### **6.2.1. Separation and suspension of employees**

On receipt of a written complaint consideration will be given to suspending the alleged bully/harasser or making other temporary changes to working arrangements pending the outcome of the investigation if circumstances require.

The Centre will consider reasonable alternatives to suspension where they exist however, there may be instances where suspension with pay is necessary whilst investigations are carried out.

### **6.2.2. Formal meeting**

The manager or the person dealing with the complaint will arrange a meeting, without unreasonable delay, to discuss the complaint with the employee.

The purpose of the meeting is for the employee to explain the nature of the concerning conduct and how it may be resolved. Consideration should be given to adjourning the meeting for any investigation that may be necessary. A decision will be reached as soon as reasonably practicable and the employee will be informed of the outcome in writing.

### **6.2.3. Right to be accompanied**

Both parties have the right to be accompanied at any meetings within the formal stage of the procedure, by a work colleague or an accredited professional association/trade union representative.

It is important that all parties have advance access to any written statement or evidence to be referred to at the meeting. This should be in sufficient time to enable full consideration of the material.

#### **6.2.4. Investigation**

The manager or person dealing with the complaint will make necessary steps to investigate appropriately. The timing and nature of any investigation will differ dependent on the content of the complaint. It is at the discretion of the manager to decide what is appropriate in each case. Where the investigation takes longer than specified at the formal meeting, the manager will keep the employee informed.

The investigation will be to establish the facts and whether, on the balance of probabilities, the allegations have foundation.

#### **6.2.5. Outcome**

The manager or the person dealing with the complaint will inform the alleged bully/harasser and the complainant of the outcome of the investigation, without unreasonable delay. The manager or the person dealing with the complaint will decide whether or not it is appropriate to instigate disciplinary action and should refer to the Centre's disciplinary policy.

### **6.3. Stage 3: the appeal stage**

Employees have the right of appeal against the outcome of their complaint. At the discretion of the Centre the appeal may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light.

New evidence will only be considered if relevant and there is a good reason why this had not been included as part of the original formal meeting.

Any employee who wishes to appeal the outcome of their complaint should do so in writing within seven calendar days of receipt of the outcome letter to the person named in the letter, stating clearly the grounds for appeal.

Wherever possible the appeal will be heard by an appropriate individual, or panel of individuals, who have had no prior involvement in the process.

The appeal hearing will take place without unreasonable delay.

The decision of the appeal hearing will be final. It will be confirmed to the employee in writing with seven calendar days or as soon as reasonably practical.

## Appendix 1 – Employee’s notice of Bullying and Harassment complaint

This form should be used to submit a bullying or harassment complaint in accordance with the formal bullying and harassment policy.

You are encouraged to clearly state the nature of the complaint and provide as much detail as possible, including the outcomes you are seeking and additional information to substantiate your complaint.

### Section 1 – Personal Details

|       |  |       |  |
|-------|--|-------|--|
| Name: |  | Role: |  |
|-------|--|-------|--|

### Section 2 – Details of the alleged incident and person(s) alleged of bullying/harassment

|                |  |           |  |
|----------------|--|-----------|--|
| Name(s):       |  | Role(s):  |  |
| Date and time: |  | Location: |  |

|                                                            |          |            |
|------------------------------------------------------------|----------|------------|
| Please circle how you perceive this behaviour or incident. | Bullying | Harassment |
|------------------------------------------------------------|----------|------------|

What happened?

*Please give full details and specific examples of behaviour. Continue on a separate sheet if required.*

What impact has this conduct had on you?

Please include details of any person(s) who witnessed the incident here:

|       |  |       |  |
|-------|--|-------|--|
| Name: |  | Role: |  |
|-------|--|-------|--|

|       |  |       |  |
|-------|--|-------|--|
| Name: |  | Role: |  |
|-------|--|-------|--|

|       |  |       |  |
|-------|--|-------|--|
| Name: |  | Role: |  |
|-------|--|-------|--|

What actions have you taken so far, and any outcomes of this? e.g. informal

What potential outcomes are you seeking?

Have you considered mediation?

Yes

No

***By signing this form, I confirm that I wish to submit a formal complaint in lined with the Centre's Bullying and Harassment policy.***

Signature:

Date:

**Please send a completed copy of this form to the appropriate Manager, or Chair of Management Committee (where the complaint relates to the Executive Head)**