



**SCHOOLS HR CONSULTANCY TEAM  
HARASSMENT & BULLYING GUIDELINES  
FOR SCHOOLS**

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## **INTRODUCTION**

Schools must be committed to creating an environment where staff do not suffer discrimination, harassment or bullying. As an employer a school has an obligation to uphold the law and protect staff from harassment and bullying and to expect all staff to abide by such legislation.

Preventing harassment or bullying and dealing effectively with complaints are important management responsibilities. As soon as managers / head teachers become aware of an incident(s) of harassment or bullying they should intervene promptly. Managers / head teachers must not be seen to be condoning acts of harassment or bullying, e.g. by attempting to persuade a complainant that he/she is being over sensitive or by making excuses for the alleged harasser. Equally Headteachers/managers should ensure that they do not make any quick judgements about those who are alleged to have harassed or bullied, until they have clear evidence to support their view.

These guidelines have been produced to support managers / head teachers and advise them of the different approaches that can be adopted when dealing with harassment and bullying.

The emphasis of this procedure is on resolving matters informally where appropriate. Where the informal stage has failed with regards a member of staff accused of bullying or harassment, it may be necessary to start the formal stage of the schools Disciplinary Procedure.

If the complainant is not satisfied with informal action, s/he can submit a grievance. The information gathered in the informal stage will be considered under the informal stage of the schools Grievance procedure

## **DEFINITIONS**

The definitions for the purpose of these guidelines reflect current anti-discrimination legislation.

### Harassment

Harassment includes any action(s) and practice(s) by an individual or group which are directed at others and which may:

- Comprise of remarks or actions associated with a person's gender, race, disability, sexuality, class, age, HIV/Aids status, personality or other aspect of them;
- emphasise a person's gender, race, disability, sexuality, class, age HIV/Aids status, personality or other aspects over their role as a worker;
- involve unfair and unjust close supervision of a particular employee's work; expecting a higher standard of work or showing greater attention to mistakes than would be the case with other employees.

These actions may be repeated and unwanted and intentional or unintentional. The above list is not exhaustive.

### Sexual Harassment

Sexual Harassment includes any unwelcome physical, verbal or non-verbal conduct of a sexual nature. This includes "office banter" and jokes that a person perceives as being sexist. An individual may have a claim for sexual harassment if s/he can show that someone of the opposite sex would not have been treated in the same way. This would include being bullied, indecent remarks and questions about an individual's sex life and/or demands for sexual favours.

### Racial Harassment

Racial harassment includes any unwelcome physical, verbal or non-verbal conduct of a racist nature. Under the provisions of the Equality Act 2010 it is unlawful for any public body (including LEA's and schools) or its employees to discriminate on racial grounds, directly, indirectly or through victimisation. This includes being bullied or harassed on racist grounds.

All Public Bodies (including LA's and schools) have a duty to report and record racist incidents against staff. Managers / head teachers have been issued guidance on the reporting and recording of racist incidents involving staff and should refer to these when such an incident occurs. There is a requirement to complete a monitoring form which should be returned to the LA.

## Discrimination

To treat one particular group of people less favourably than others because of their race, colour, nationality, age, disability, sexual orientation or ethnic or national origin. The law in Britain recognises two kinds of racial discrimination: direct and indirect.

Direct discrimination occurs when race, colour, nationality, or ethnic or national origin is used as an explicit reason for discriminatory behaviour.

*Indirect discrimination* occurs when there are rules, regulations or procedures operating, which have the effect of unintentionally discriminating against certain groups of people. This may happen in subtle ways. For example, staff at a shop in Blackburn had to wear a uniform skirt, but an Asian woman worker refused for religious reasons. A tribunal found the shop guilty of indirect discrimination, because a large number of Asian women would not be able to comply with the rule.

## Bullying

Both men and women may become victims of bullying. Examples of bullying can include open aggression, ridicule, excessive supervision, constant criticism, the setting of impossible targets, withholding information, refusing requests for training and removing areas of work responsibility.

## Victimisation

Victimisation is often linked with harassment. It occurs where an employee is selected for ill treatment because they have made an allegation or complaint or have supported someone who has made such a complaint or allegation. Victimisation will also include an employee receiving less favourable treatment than others as a result of their complaint.

## **EXAMPLES OF HARASSMENT AND BULLYING BEHAVIOUR**

Behaviour which an individual knows, or ought reasonably to know, would cause or be likely to cause offence, fear or anxiety to another:

- Offensive or suggestive jokes or language via any medium
- Isolation of an individual or group of individuals, non co-operation at work or exclusion from work-related activities.

Harassment or bullying by managers is particularly serious as it can create a negative working environment and feelings of powerlessness. However a distinction needs to be drawn between the legitimate right of a manager to address issues of misconduct or poor performance among staff, proper management action does not constitute bullying.

It is for the school to decide, for example, how much supervision is

necessary, what standards of work should be attained, how to ensure that employees achieve such standards, etc. Appropriate action intended to achieve the Schools standards of work, conduct and attendance does not constitute bullying or harassment.

It is not uncommon for a member of staff to raise a counter grievance through the Schools Grievance Procedure as a means of deflecting proper management action to address poor performance or conduct. Counter grievances need to be investigated but do not in themselves halt appropriate management action. Further guidance on counter grievances is contained in the schools grievance procedure.

## **PREVENTING BULLYING AND HARASSMENT**

All staff have a responsibility to ensure they do not behave in a way that could be offensive to others, or is in anyway unjust to others. We can all contribute by developing an awareness and sensitivity towards the issues and by ensuring that proper standards of conduct are maintained.

### The School will:

- ensure the health, safety and welfare of all its employees while they are at work;
- ensure all employees are aware of the Bullying & Harassment Policy and Guidance and the standards of behaviour expected in the workplace (Schools Code of Conduct) through employee induction;
- monitor and regularly review the Policy and Guidance to ensure it reflects best practice and learning;
- provide guidance, support and training to enable managers to deal with incidents of harassment and bullying;
- ensure support and guidance is available to both complainant and the alleged perpetrator.
- Provide Equality training / have an Equality statement in the staff room

### Managers will:

- ensure they are familiar with and understand the Bullying & Harassment Policy and Guidance and that those they manage are aware through local employee induction; They should also be familiar with the school's code of conduct, equal opportunities policy and whistleblowing policy
- set a good example by treating all their employees with dignity and respect;

- consistently reinforce appropriate standards of behaviour;
- take complaints seriously and not underestimate the effect on an individual's feelings;
- investigate and act on complaints brought to their attention quickly and impartially;
- investigate behaviour which they consider may constitute harassment or bullying and take appropriate action whether or not a complaint has been made;
- monitor a situation to ensure that any inappropriate behaviour stops.

Managers may notice behaviour that is later called harassment or bullying. They may witness this behaviour towards individuals, or generalised comments or actions not directed at any one in particular which cause them concern. This behaviour may be tackled effectively by taking prompt action, which may be formal or informal as required.

Employees experiencing harassment and bullying often cite examples from their informal relations with other employees. The kind of behaviour which may indicate a problem includes:

- A jokes culture within a team and where concerns exist about some of the comments .
- Where there is pressure for new employee(s) to conform to a particular culture, sometimes perpetuated by long-serving employees, and where the individual does not wish to do so.
- When an employee is consistently left out of or exclude themselves from social invitations, for example, lunch.
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- Where an employee appears to be ostracised by others.
- Where employee(s) are particularly critical of individual(s) or reluctant to work co- operatively with them.
- When an employee has a high level of sickness absence, whether medically certified or not, with stress related illnesses.
- Where an employee loses motivation and confidence in their work, and appears to be anxious or makes a lot of mistakes.

Employees will:

- treat colleagues with respect and dignity;

- challenge harassment and bullying behaviour when it occurs. This may include dealing with the incident personally, providing support to colleagues or informing an appropriate manager;
- co-operate in giving evidence when harassment or bullying has occurred.

### Team Meetings

Team meetings can be used to inform and consult staff. Staff can also be encouraged to raise areas of concern in a general way and look to resolve them as a team. These meetings should be minuted and staff not in attendance given a copy on their return to work. Staff should be reminded of the bullying and harassment policy, Code of Conduct, whistleblowing policy and support services (Union, HR, Headteacher, Governors, Carefirst).

If an employee wants to complain about a school Governor, they should initially report it to the Headteacher.

### **EMPLOYEE SUPPORT**

Employees are encouraged to seek advice and support about any examples of unwanted conduct even if they are unsure the incident constitutes harassment or bullying or whether they wish to pursue the complaint.

Talking about a situation will help to clarify matters, and allow the options to be explored. If the School has an Employee Assistance Programme, they can contact them for support / counselling.

Employees can also speak with their trade union representative or work colleague. Employees should be encouraged to use these services.

### **RECEIVING A COMPLAINT**

A complaint of harassment and bullying can be made to a manager / head teacher:

- Orally or in writing from the complainant
- Orally or in writing from another source e.g. union representative, other employee
- Anonymously
- As a formal grievance

If the complaint is raised as a formal grievance then the time limits and stages of the Schools Grievance Procedure must be observed.



## **ANONYMOUS COMPLAINTS**

Should a manager receive an anonymous complaint, the following issues need to be considered before deciding what action is necessary:

- Can the complainant be identified, approached and questioned?
- Is the allegation of a serious nature and what other evidence exists to support it?
  
- Can the complainant (if identified) be persuaded or supported to solve the problem him/herself or to complain formally?
  
- Are there any obstacles to the individual (if identified) complaining openly which the manager could resolve?
  
- Are there any indirect ways of dealing with the complaint, e.g. team meetings, Training?

Any attempt to identify the anonymous complainant needs to be undertaken discretely, and if they are not willing to confirm or disclose their identity then their desire for anonymity must be respected.

The allegation will be investigated if it contains sufficient specific detail. However, the anonymous nature of the complaint may affect the Schools ability to investigate the matter. Where there are sufficient grounds, the investigation may proceed without an identifiable complainant and formal action may be taken against any perpetrators identified.

Anonymous complaints are not encouraged but should always be investigated. The Schools policy is intended to protect employees who make allegations in good faith. It is very difficult for the School to deal with an allegation of bullying or harassment if the School is not given details of which employee(s) believe that they have been bullied or harassed.

## **THE HEADTEACHERS / MANAGERS ROLE**

When dealing with a complaint the manager / head teacher must in the first instance:

- Ensure that both the complainant and alleged perpetrator are fully aware of the process / procedures to be followed including how long an investigation may take.
  
- Support the employee complaining of harassment / bullying. Relevant contacts include, Trade Union Representatives, Schools HR, Counselling service (currently provided by Carefirst).

- Assess whether any immediate action is necessary. Consider granting special leave when the complainant and in some cases the alleged perpetrator is sufficiently distressed that they are unable to work. In cases of serious/gross misconduct consider suspending the alleged perpetrator (Schools HR should be consulted and the schools disciplinary procedure should be applied).
- Consider contacting external agencies eg the Police or social services.
- Consider the views of the complainant when deciding how to resolve the complaint.
- Ensure that the complainant is not put at a disadvantage for having made the complaint, as this can be construed as and may constitute victimisation.

### Informal or Formal Action

Unless a formal complaint is made under the Schools Grievance procedure (in which case the provisions of that procedure should be applied), the manager /head teacher should decide on whether the complaint could be dealt with informally. Schools HR can provide advice on this.

### **Informal action should be considered where:**

- The complaint relates to a relatively minor or single incident of harassment / bullying e.g. a mild inappropriate joke
- The complainant wants the matter to be dealt with informally
- The alleged perpetrator is new or has never behaved in such a way before
- The harassment / bullying was minor and unintentional and drawing it to the alleged perpetrators attention is sufficient to stop the behaviour.
- In the managers / head teachers view it is the most appropriate approach in the circumstances.

### Detail of events

Although an employee may not have decided to take formal action, records should be kept as this will provide essential evidence of the nature of the bullying or harassment and when it occurred.

Many of the incidents may appear trivial in isolation but it may reveal a pattern over a period of time.

Detailed notes should include:

- specific times and dates of when and where the incident occurred;
- the name of alleged perpetrator;
- what actually happened;
- how the employee felt at the time
- the name(s) of any witnesses;
- action taken and response from the alleged perpetrator;
- any correspondence relating to the incident(s) and subsequent complaint(s).
- whether the employee believes that the alleged treatment is as a result of any specific characteristic (for example, the employee's age, disability, ethnic/racial origin, religion or belief, sex /gender and sexual orientation)

## **INFORMAL ACTION**

### Responding to an informal complaint

If the employee decides to speak to their manager to lodge the complaint, or the perpetrator's manager, either manager should actively consider the complaint and decide what action should be taken. It may be that formal action is immediately appropriate as the complaint is of a serious nature

Where it is decided that immediate formal action is **not** appropriate the manager should:

- ensure the details of events taken from the complainant are recorded
- consider seeing the alleged perpetrator(s) and explain the complaint without drawing conclusions. Do not assume the alleged perpetrator is guilty. Complaints are sometimes made maliciously. They may also wish to seek advice and support.
- consider asking the alleged perpetrator(s) if they are aware of the impact of the alleged complaint and give them the opportunity to respond to the allegation;
- if appropriate, specify what the required standards of behaviour are. Remind the alleged perpetrator of the Schools Code of Conduct. Interviewing the alleged perpetrator, where you are sure that the allegation is true, tell them why the behaviour is unacceptable and set standards of expected behaviour. An informal oral warning of possible formal action for any repeated similar behaviour may be given at this meeting. This may be confirmed in writing.

It may be appropriate to

- consider reinforcing general standards of behaviour in future team meetings/training, performance management reviews or supervision meetings;
- consider talking to any witnesses (subject to the complainants wishes)
- consider calling a meeting of both parties to attempt to resolve the situation. In deciding this course of action consideration needs to be given to the level of animosity that may exist between the parties concerned;
- ensure that the complainant is not put at a disadvantage for having made the complaint, as this could be construed as and may constitute victimisation

### Timescales

Trying to address issues informally and as close to their date of occurrence can be the quickest and most effective way to resolve an issue with the minimum of conflict.

A manager considering a complaint informally should seek resolution within 10 working days. If an incident is reported near the end of term, it may be necessary to interview employees during the holiday period in order to get the facts while fresh in their minds or as soon as possible after the holiday as is practical.

### Informal action could include:

- Seeking external advice e.g. Schools HR
- Consider temporary changes to work arrangements to minimise contact between the complainant and the alleged perpetrator

If at any stage there is evidence of serious harassment / bullying then the informal investigation should change status to a formal disciplinary investigation and the disciplinary procedure followed.

It is important to review the impact of any informal action taken e.g seeking the views of all parties involved on how they perceive the current situation.

### Reviewing any informal action taken

It is important to review the impact of any informal action taken. The manager should consider the following:

- what have they observed since the action was taken?
- how do all parties currently view the situation?

- have agreements or targets been met?
- did any further problems arise?
- has the problem been resolved?
- is further action needed and/or should the complaint be taken to the next stage?
- is a further review necessary?

It may not always be possible to resolve the situation to the complainants satisfaction. If in the managers view the complaint has been dealt with thoroughly and objectively, they should inform the complainant of other options open to them. It should, however, be noted that the Grievance Procedure normally requires that matters be dealt with informally in the initial stage.

### Group complaints

Where more than one employee has made the same complaint the manager will discuss with the group how they wish to proceed. In many cases it will be appropriate for the group to nominate one or more individuals to represent the group.

Individuals within the group have the right to pursue their complaint whether or not other members of the group withdraw at any particular stage of the process.

### Counter claims

Should a counter-claim be submitted by the alleged perpetrator, the two complaints will, as far as possible, be dealt with concurrently.

### Mediation

In the event that the situation is not resolved the manager may suggest mediation with a neutral third party. Mediation is voluntary, confidential and can only take place where all parties agree to it. Resolution can usually be achieved within one day. The decision to use mediation, including the cost, is made by the Headteacher. Failure to reach agreement may result in moving to a formal procedure

Mediation is a service offered by Carefirst.

### Confidentiality

All complaints relating to bullying and harassment will be taken seriously. At all times the need to maintain confidentiality will be observed as far as possible. It may not, however, be possible to guarantee confidentiality in all cases, e.g. disclosure of criminal activities or information that will put the health and safety of children, employees and/or the public at risk. The provisions of the school whistleblowing policy should be applied.

However, the School will do its best to protect the complainants identity when s/he raises a concern and does not want her/his name to be disclosed. A statement by the complainant, attendance at a grievance/disciplinary meeting or employment tribunal, interview by the Police etc. may be requested as part of an investigation of, or action taken in relation to, the complaint.

At all times the need to maintain confidentiality will be observed. Circulation of information will be that which is necessary to ensure a fair process and on a strictly need to know basis.. Unnecessary disclosure of confidential information at any stage may lead to disciplinary action.

## **FORMAL ACTION**

Formal action must be considered where:

- The complainant raises a formal grievance.
- There is a serious allegation of harassment or bullying.
- The harassment or bullying behaviour has been frequent and/or intentional.
- The harassment or bullying has had a serious impact on the complainant, for example stress-induced sick leave.
- An informal approach to resolving the situation has failed.
- Where the issues are complex, extend over a long period and a thorough investigation could identify the cause of the problems and indicate effective strategies.
- In the supervisor/managers view, it is the most appropriate approach in the circumstances. (NOTE this course of action will have to be justified objectively in every circumstance).

In all cases formal investigation and/or action must only be taken under the schools grievance, disciplinary or complaints procedures. **It should be used in more serious cases or as a last resort.**

Schools HR are available to advise on the use of these procedures.

### Investigating Officer

In accordance with the schools disciplinary procedure, an investigating officer must be appointed. This would normally be a deputy head teacher or other member of the schools senior management team. Guidance on conducting investigations is contained in the schools disciplinary procedure.

When investigating harassment and /or bullying, the impact of the behaviour on the complainant is more important than the intention of the alleged perpetrator. The "intention" is only relevant in mitigation when deciding what action should be taken where the case is proven.

### Meeting with the Complainant

It is better, but not crucial, if the complaint is made in writing for a formal investigation to proceed. The investigating officer should meet the complainant to establish:

- Clear, specific allegations against named people
- Dates, times and witnesses where these are known
- Factual descriptions of events including direct quotes rather than opinions or assumptions
- A brief description of the context of each incident
- The impact of each incident on the complainant eg how s/he felt
- An explanation of why the complainant considers the behaviour to be harassment / bullying if this is unclear.
- Any documentary evidence

The complainant must be advised that they have a right to be accompanied by a Trade Union Representative or work based colleague at the meeting. The Investigating Officer must establish the facts, produce a report with recommendations as to whether it should go to the formal stage or not. The Headteacher will decide on whether it does. The following should be considered when making a decision:

Is there sufficient evidence to support the allegation?  
Is there a need for further investigation or clarification?

Have the following been taken into account? :

- the effect of the harassment or bullying on the complainant;
- the training and support that the alleged perpetrator has received;
- the standard of behaviour that it would be reasonable to expect of the alleged perpetrator and the extent to which they have deviated from this standard.
- Whether in light of the evidence and the above considerations, formal disciplinary action is appropriate and in keeping with the complaint or would other measures be more effective and appropriate?

If the decision is to take no further formal action the designated manager should meet separately with both the complainant and alleged perpetrator to inform them of this fact and outline the conclusions and what steps, if any, the manager intends to take. This should be confirmed in writing.

If a disciplinary hearing is to be arranged, the process outlined in the Schools disciplinary procedure must be followed. Normally the investigation report will be used to produce a management case statement to be submitted as supporting documentation at the disciplinary hearing.

If other measures have been recommended, the Head will need to plan how and by whom, these will be implemented, timescales for implementation and a review date.

If the complainant is dissatisfied with the decision not to pursue disciplinary action against the alleged perpetrator they may consider submitting a formal grievance in accordance with the Schools grievance procedure.

## **SUSPENSION**

Suspension must only be undertaken in accordance with the Schools Disciplinary Procedure.

Suspension must be considered:

- if the allegation could amount to gross/serious misconduct and therefore result in summary dismissal if it were proven
- normal working arrangements would be impossible to maintain until the issue is resolved
- To rearrange the working arrangements would disadvantage the complainant (and could possibly be construed as and may constitute victimisation)
- The alternative would be to send the complainant home.
- The presence of the alleged perpetrator would inhibit the investigation or would allow any tampering with evidence
- If suspension is not appropriate, but the alleged perpetrator and complainant are unable to work together, the manager should consider rearranging the work or relocating the alleged perpetrator to avoid contact with the complainant.

The Schools HR team should always be consulted before taking action to suspend. Any decision about work arrangements or suspension should be for the minimum possible period and will need to be reviewed in line with the Schools Disciplinary Procedure. A model suspension letter is contained in the Schools Disciplinary Procedure.

### Interviewing the alleged perpetrator

The alleged perpetrator has a right to know what they are accused of and by whom, except where anonymity has been asked for by the complainant. In accordance with the school's disciplinary / grievance / complaints procedures they should be given full details of the complaint before the meeting.

They must be advised that they have a right to be accompanied by a Trade Union Representative or work based colleague at the meeting.

The alleged perpetrator must be treated fairly and their guilt must not be presumed.



Occasionally, the accused person will claim that the complaint is a form of harassment / bullying against them. Under these circumstances they should be advised of the possible courses of action open to them. Counter grievances can arise at this stage.

The alleged perpetrator may take their own notes, but is not permitted to record the meeting.

### Interviewing witnesses

Witnesses are not being investigated and therefore do not have the right to see the complainants or alleged perpetrators statements. Witnesses must be instructed that the matter is confidential. There is not a need for the witness to have a union rep present.

It may be necessary to recall witnesses to clarify or validate information that emerges in the course of the investigation.

Witnesses should be encouraged to co-operate or face disciplinary action.

### Taking evidence

The investigating officer will need to take detailed notes of each interview or receive a written statement form the interviewee. These are confidential and the employee is entitled to see a copy of their own interview notes. If notes are taken the interviewee should be asked to sign them as a true record.

## **CONCLUDING THE INVESTIGATION**

### Grievance investigation

Conclusions and any resolutions / recommendations should be communicated to the aggrieved employee in accordance with the procedure. They must be informed of their right to take the complaint to the next stage of the procedure if they are not satisfied with the outcome.

### Disciplinary investigation

A report must be produced which is a clear and concise account of the investigation. Guidance on completing investigations is contained in the schools disciplinary procedure. The head teacher needs to decide what action to take on the basis of the findings detailed in the report of the investigation. It may be that formal disciplinary action is appropriate. If this is the case a formal hearing must be arranged in accordance with the schools disciplinary procedure. The report will then be used to form the basis of the managers / head teachers case statement. Advice can be obtained on the schools disciplinary procedure from Schools HR.

If the decision is to take no further formal action the manager / head teacher should meet separately with both the complainant and the alleged perpetrator

to inform them of this fact and outline any conclusions and what steps, if any, they intend to take. This should be confirmed in writing.

## **FURTHER ADVICE**

London Borough of Ealing – Schools HR Consultancy Team:

Mark Nelson	Head of Schools HR Consultancy.
Andy Merryweather	HR Consultant
Tasha Oliver	HR Advisor
Neil Robson	HR Advisor
Chris Prowse	HR Consultant

If you currently do not buy HR Schools Advisory services from the London Borough of Ealing and would like further information, please contact one of the above on Tel: 0208 825 9516.