



Anti-harassment policy and procedure for Schools and Academies

Effective from October 2013

1. Policy Statement

The School aims to create a safe working environment where individuals are treated with dignity and respect and is opposed to discrimination or harassment of any kind.

The School will take all complaints of harassment seriously and as far as possible, will maintain confidentiality at all stages of the procedure. Every employee must comply with this policy and any employee who feels they have been harassed or who witnesses harassment at work, may use it to try to resolve the issue.

The Governing Body and Head Teacher are responsible for

- implementing this policy
- bringing it to the attention of employees and
- seeking to eliminate any forms of harassment of which they become aware

In certain circumstances it may be appropriate to consider mediation to resolve an issue and this may be considered at any point in the process. For further advice contact an HR Advisor.

2. Scope

The policy applies to all employees within the school. Where the Governing Body wishes to deviate from this proposed policy or adopt any other policy, it is the responsibility of the Governing Body to arrange consultation with recognised trade unions.

3. Definitions

Harassment - is defined as unwanted and uninvited conduct or behaviour relating to a protected characteristic* that has the purpose or effect of violating an employee's dignity or creating an intimidating, hostile, degrading, humiliating or offensive working environment for the recipient(s).

* Definitions of the protected characteristics can be found at Appendix 1.

Harassment can take many forms, such as bullying or offensive, hostile, ridiculing or demeaning behaviour. Any of these may be linked to an

employee, by reference to their age, gender, gender identity; sexuality, disability, race, religion or belief or by their association with people with those 'protected characteristics'. For example, it will cover harassment based on an individual's association with their disabled child.

Bullying - is characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

Hate Incident - is any incident, which may or may not constitute a criminal offence, which is perceived by the victim or any other person, as being motivated by prejudice or hate.

Hate Crime – is any hate incident which constitutes a criminal offence, perceived by the victim or any other person, as being motivated by prejudice or hate.

4. Legal background

Harassment can amount to unlawful discrimination under the Equality Act 2010. Claims of harassment under this legislation may be brought against the alleged harasser and against their employer at an Employment Tribunal. An employer is liable for the discriminatory acts of employees acting in the course of their employment, whether or not the acts are done with the employer's knowledge or approval, unless the employer is able to show that they took all reasonable practical steps to prevent employees carrying out unlawful discrimination.

Employers are expected to have taken steps to prevent harassment.

Additionally, harassment can be a crime (under the Criminal Justice and Public Order Act 1994, the Protection from Harassment Act 1997; and Section 18 of the Public Order Act 1986) and therefore subject to criminal prosecution.

This procedure takes account of the ACAS Code of Practice on Disciplinary and Grievance Procedures.

5. Hate Crimes or Incidents

Northamptonshire County Council has a Hate Incident Reporting Policy which is a separate and distinct policy from the Anti-harassment Policy. However, when a claim of harassment is made it is possible that the Head Teacher may become aware that a Hate Crime or Incident may also have occurred. Employees have a duty to report such incidents in accordance with the Council's Hate Incident Reporting Policy and can be assisted by the Head Teacher in doing so.

6. Informal Action

Informal action is an option available to employees who feel that they have been the subject of any form of harassment, or have witnessed it. In the first instance, it is best to try to resolve matters informally, if this is possible, as it is likely to produce solutions that are speedy, effective and restore positive relations in the workplace.

If the employee feels able to, they should tell the individual that their conduct is unwanted and/or offensive and must stop.

Alternatively, they can raise their concern informally with the Head Teacher to try to achieve an informal solution. Where the issue relates to a parent, volunteer or contractor, the employee should also raise this with their Head Teacher, so that appropriate action can be considered and reasonable practicable steps can be taken to prevent harassment.

The employee should complete a Reporting Harassment Form which can be found on the Secure HR Policy Website.

The Head Teacher will talk to the employee in private to understand what has happened from the employee's perspective. This must be given a high priority by the Head Teacher and conducted with the minimum delay.

The Head Teacher will undertake sufficient enquiries to assess whether the complaint can be dealt with informally, and should make appropriate notes relating to those enquiries.

If the Head Teacher considers that the matter cannot be dealt with informally, an investigation will commence under the formal procedure.

If the Head Teacher becomes aware of a serious complaint that warrants disciplinary action, and/or possible criminal proceedings, the Governing Body may need to take formal action even though the employee who has been the subject of the harassment may not prefer this approach. Further advice can be obtained from your HR Advisor. Wherever possible, the employee's preference in this respect will be followed and confidentiality maintained.

7. Investigating Harassment under the Formal Procedure

Depending on the nature of the alleged harassment, the Head Teacher may decide to move straight to a formal investigation under Stage 1 of the procedure. This may also happen if mediation or conciliation fails to resolve the issue at the informal stage.

The Head Teacher can ask for the advice and/or participation in the investigation of other employees, or refer the matter to an independent person to carry out an investigation.

The investigation must be:

- Objective and handled with due respect for the rights of both the complainant and the alleged harasser, who will both be entitled to be accompanied by either a work colleague or a trade union representative, at meetings to discuss the allegation with the Head Teacher (and the investigator if this is appropriate)
- Completed within 2 calendar months unless there are exceptional circumstances, in which case the employee should be notified of any new timescales.
- The Head Teacher must ensure that the alleged harasser is given details of the complaint, in writing. They must also receive support at the point where allegations of harassment have been made, as it can be very stressful for those involved or implicated. Allegations, in themselves, do not mean that harassment has occurred.

At the conclusion of the investigation, the Head Teacher will decide:

- If standards for future conduct need to be set, which could involve training
- If use of the disciplinary procedure is required in respect of the alleged perpetrator
- Whether the allegation(s) do or do not amount to harassment under the policy

The Head Teacher will also inform the alleged harasser of any action that may be taken as a result of the investigation.

8. Formal Action

Formal action is an option available for employees who feel that they have been the subject of harassment, or have witnessed it. Employees should not be discouraged from taking formal action where this is their preferred option, or where an informal approach has failed.

To raise a formal harassment claim the employee must register this, in writing, with the Head Teacher, clearly setting out the nature of the harassment and identifying the alleged harasser. This must normally be raised within 3 months of the event and will constitute Stage 1 of the procedure.

The employee should complete a Reporting Harassment Form at SB03a.

This will:

- assist the employee in taking formal action and enable the Head Teacher to identify and monitor cases of harassment.
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In the first instance, a formal harassment claim should be raised with the Head Teacher. However, if the claim concerns the Head Teacher, the employee will raise this with the Chair of Governors.

9. Stage 1

On receipt of a formal Stage 1 harassment claim, the Head Teacher will act immediately to:

- Consider whether to offer independent mediation
- Acknowledge receipt of the claim and arrange a meeting with the employee normally within 7 calendar days; ensuring that the employee is advised of their right to be accompanied by either a work colleague or a trade union representative at the meeting
- Arrange for someone who is not involved in the case to take an accurate note of the meeting and to act as a witness to what has been said
- Inform the HR Advisor of the complaint and seek advice on whether similar issues have been raised before, how they have been resolved, and any follow-up action that has been necessary, to allow for consistency of treatment;
- Consider whether any reasonable adjustments are necessary to enable a person who is disabled to participate in the Stage 1 meeting
- Consider whether to arrange work so that contact between the parties is minimised or eliminated. (This should be done in a way that does not prejudice the investigation into the allegation).

The Head Teacher will, as soon as possible:

- Investigate the allegation and
- following the conclusion of the investigation meeting with the employee, as set out below:

The meeting

The Head Teacher will:

- Make introductions as necessary
- Invite the employee to explain the issue of harassment or incident and how they perceive that this might be resolved
- Sum up the main points
- Adjourn the meeting prior to taking any decisions, in order to reflect and consider all the points raised
- Advise the employee of the action they propose to take and the timescale. This response can be oral and then confirmed in writing, within 7 calendar days. If it is not possible to respond within these periods, the employee must be told why and when to expect a reply. This may include more time to carry out further investigatory work.

- Confirm the employee's right of appeal against the outcome of Stage 1, if they consider that their complaint has not been satisfactorily resolved at Stage 1.

10. Stage 2 – Appeal Stage

The employees appeal will be heard by a panel of Governors, not previously involved in the case. The appeal must be lodged with the Head Teacher in writing, within 7 calendar days of receipt of the written outcome of Stage 1.

This will constitute a **final appeal**.

On receipt of a formal Stage 2 appeal, on behalf of the panel Chair, the Head Teacher will:

- Notify the HR Advisor and seek appropriate guidance
- Acknowledge receipt of the appeal and arrange an appeal meeting with the employee normally within 7 calendar days; ensuring that the employee is advised of their right to be accompanied by either a work colleague or a trade union representative at the meeting.
- Confirm that this stage constitutes the final stage of the School's Anti-harassment Procedure
- Discuss the harassment claim and review the Stage 1 paperwork with the HR Advisor
- Arrange for someone who is not involved in the case to take an accurate note of the meeting and to act as a witness to what has been said and
- Consider whether any reasonable adjustments are necessary to enable a person who is disabled to participate in the appeal meeting.
- Make arrangements to ensure that all relevant documents are available to all parties.

The meeting

The Chair of the Panel will:

- Make introductions as necessary
- Invite the employee to explain the reasons for their appeal
- Sum up the main points
- Adjourn the meeting prior to taking any decisions, in order to reflect and consider all the points raised
- Advise the employee of the decision, any action they propose to take and the time-scales for this. This response can be oral and then confirmed in writing, within a further 7 calendar days. If it is not possible to respond within these periods, the employee must be told why and when to expect a reply
- Confirm that the decision is final.

11. Handling claims of Harassment – Practical Points

Complaints about the employees Head Teacher

Sometimes an employee may wish to raise an allegation of harassment about the Head Teacher. Where this occurs, the allegation should be referred directly to the Chair of Governors.

- Timescales
- All claims of harassment should be handled in a timely manner without any unreasonable delays. The timescales within this policy are recommended timescales only. If it is not possible to respond within these timescales, the parties involved must be told why and when a resolution or outcome can be expected.
- Record keeping

A written record must be kept of any harassment issue or case that is dealt with, whether informal or formal. This will include completion of the 'Reporting Harassment towards an employee Form' and any action taken. This should be retained on file.

All records will be kept confidential and on a 'need to know' basis by all parties. They will be retained in accordance with the Data Protection Act.

Copies of meeting records should be given to the employee, including copies of any formal minutes that are taken.

In certain exceptional circumstances (for example to protect a witness) the Head Teacher might withhold some information. Please contact your HR Advisor for further advice on this matter.

Right to be accompanied and role of the companion

The employee can be accompanied at **formal** meetings by either a work colleague or a trade union representative.

If an employee chooses to be accompanied, the companion is allowed to address the meeting in order to put forward the employee's case, sum up the case, respond on the employee's behalf to any view expressed at the meeting, and confer with the employee during the meeting. It is good practice to allow the companion to participate as fully as possible in the meeting, including asking the witnesses questions. However, the companion may not answer questions on behalf of the employee, address the meeting if the employee indicates that s/he does not wish the companion to do so, or conduct themselves in a way that prevents the Head Teacher from explaining their case.

There may also be circumstances where it would be beneficial, to all parties, for the employee to be accompanied at the informal stage, to enable the issues to be addressed and resolved. Requests to be accompanied at this stage of the process need to be considered on a case by case basis.

Support; Conciliation and Mediation

Where an employee finds it difficult to raise the issue directly with the individual who they feel is perpetrating the harassment, they may find it helpful to talk over their experience with someone not connected with the issue. The Head Teacher will be able to advise on who this might be, and can advise on the process so that appropriate action can be considered and taken.

Additional support is also available from:

- Employee Assist, Mon-Fri 9.00am to 5.00pm telephone: 01604 626787 employeeassist@relatenorthants.org.uk
- Teacher Support Network on 08000 562 561 or on line at <http://teachersupport.info/about/contact-forms/index.php>
- a trade union representative.

Depending upon nature of the issue and where the circumstances allow, the Head Teacher may decide to discuss the complaint with both parties and to conciliate and mediate to attempt to resolve the issue.

In some cases an independent mediator can help to try to resolve the issue. This is a voluntary process, agreed by both parties where an independent mediator helps two or more people in dispute to attempt to reach an agreement. The agreement comes from those in dispute, not from the mediator. Mediation can be used at any stage of the anti-harassment process. This will mean that any formal procedures are halted whilst the mediation route is pursued.

If conciliation or mediation is unsuccessful, the process will revert to the stage reached prior to the conciliation or mediation.

Anti-Harassment Meetings

Anti-Harassment meetings should be planned to ensure that timings and locations are reasonable to both parties. All meetings should be held without unreasonable delay whilst allowing the employee reasonable time to prepare their case.

In the event that the employee falls ill or other circumstances beyond the employee's control prevent them from attending the meeting, then an alternative date should be arranged, preferably within 5 working days of the postponed meeting.

Sickness absence during the process

If the employee is signed off by their GP at the start of, or at any stage during the Anti-harassment Procedure, an Occupational Health referral should be made immediately. This will include seeking an opinion on the employee's fitness to attend meetings and whether any reasonable adjustments should be made to facilitate this. If the medical opinion is that the employee is fit to attend meetings, the process will go ahead as planned.

Where the medical opinion is that the employee is not fit to attend a meeting a subsequent meeting will proceed in the absence of the employee, or with a trade union representative attending on the employee's behalf.

Further advice can be obtained from an HR Advisor.

Overlapping Anti-Harassment and Disciplinary cases

Dependant upon the circumstances, where an employee raises a claim of harassment during a disciplinary process, the harassment claim may be considered as part of the disciplinary process or both the discipline and anti-harassment processes may run concurrently or, in exceptional circumstances the disciplinary process may be temporarily suspended to allow the harassment claim to be dealt with separately.

Abuse of the Anti-harassment procedure

Employees who abuse the Anti-harassment procedure by making unfounded complaints or operating the procedure vexatiously may be subject to disciplinary action.

Claims of Harassment resulting in disciplinary action

If the employee's harassment claim results in disciplinary proceedings against another employee, this will be handled in accordance with the Disciplinary Procedure. The employee raising the harassment claim has no right to influence or be informed of the outcome of disciplinary proceedings. However, the employee raising the harassment claim may be called as a witness to any disciplinary hearing which may subsequently occur, or may be asked to provide evidence in another way if this is more appropriate to the circumstances.

Trade Union officials

Where allegations of harassment are made against an employee who is an official representative of a recognised trade union the normal Anti-harassment Policy should be followed. However, the matter should be discussed at an early stage with an official employed by the trade union, **after** gaining the employee's agreement.

Claims of harassment in other formats

Some complaints or claims of harassment may not always be submitted on the standard Reporting Harassment Form and may be submitted in a different format, for example, an email or a letter. These complaints still need to be

dealt with and the Head Teacher should speak to an HR Advisor if further guidance is required.

12. Harassment Claims from employees who leave the School part way through the process

If a harassment claim is being progressed and the employee leaves before it can be resolved, the School's Anti-harassment Procedure should still be followed where practicably possible, in order to try and resolve the issue. Further advice can be obtained from an HR Advisor.

Protected Characteristics

Age

Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).

Disability

A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

Gender reassignment

The process of transitioning from one gender to another.

Marriage and civil partnership

Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters.

Pregnancy and maternity

Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

Race

Refers to the protected characteristic of Race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

Religion and belief

Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

Sex

Male or female.

Sexual orientation

Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

A more in-depth definition of these protected characteristics can be found on the [Office of Public Sector Information website](http://www.legislation.gov.uk/ukpga/2010/15/contents) at:

<http://www.legislation.gov.uk/ukpga/2010/15/contents>