

# *Harassment and Bullying Policy*

## About this Policy

### Purpose

The purpose of this policy is to provide a clear procedure to enable Headteachers/Line Managers to respond appropriately where a member of staff believes that they are subject to harassment or bullying.

Refer to the table of contents, below, for a full list of topics covered.

Advice should be sought from HR if it is unclear whether the issue should be investigated under this procedure or whether in fact it is a grievance and should be dealt with under the Grievance framework. This should also be agreed with the employee and union representative before proceeding.

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## Version control

The table below shows the history of the document and the changes that were made at each version:

Version	Date	Summary of changes
1.0	January 2008	First published version.
2.0	September 2015	Updated from TLT to HLT, amends to definitions and removal of links to Trustnet.

## Distribution

This policy is available on Hackney Learning Trust's Website.

## 1. Policy Statement

The School and the Governing Body will take a zero tolerance approach to Bullying and Harassment. We believe in the right of every employee to be treated with respect and dignity. The School strive to create a working environment that model these values and promote harmonious working relationships and equality of opportunity for all.

The School is committed to providing equal opportunities and fair treatment in all aspects of employment without regard to a persons sex, race, religion or belief, sexual orientation, marital or civil partner status, pregnancy or maternity, nationality, ethnic or national origin, gender reassignment, disability or age, all of which are Protected Characteristics.

The School regards all forms of personal harassment or bullying as discriminatory and unacceptable behaviour.

The School will work towards eliminating all forms of bullying and harassment and recognise the duty of employers, employees and Trade Unions to actively oppose bullying and harassment. Schools are committed to implementing a procedure for handling complaints and taking other steps to eliminate such behaviour, including recourse, where necessary, to the school's disciplinary procedure.

Anyone complaining of harassment or bullying will not be victimised.

The Harassment and Bullying Policy and Procedures should be read and used in conjunction with the School's Disciplinary and Grievance Policies in dealing with all complaints of harassment and bullying.

## 2. Scope

This policy applies to all staff, regardless of grade or position, hours worked per week or whether the contract is permanent, temporary or fixed term.

Staff contracted to carry out work on behalf of the School (including volunteers) will also be required to comply with the principles outlined in this policy.

This policy and procedure also applies to anyone on work experience or secondment.

Harassment of staff by members of the public also falls within the remit of this policy.

Nothing in this policy will prevent individual members of staff taking civil or criminal proceedings in line with their legal rights.

Any disciplinary proceedings resulting from an investigation under the Harassment and Bullying policy should be conducted under the School's existing disciplinary procedure. Where a complaint is upheld and the investigating officer recommends action under the terms of the disciplinary procedure, it is the duty of governors to institute disciplinary action as appropriate.

## 3. Definitions of Harassment and Bullying

### 3.1 Harassment

Harassment is misconduct of a physical, verbal or non-verbal nature, which is unwanted, relates to a protected characteristic and affects an individual's dignity. This behaviour is offensive to the person involved, causing them to feel threatened, humiliated or patronised. Such behaviour can interfere with the person's work performance, undermine job security and create a threatening or intimidating working or learning environment. It can be either intentional or unintentional. This would normally be more than one incident. The key feature is that it is likely to be viewed as harassment if the incident is perceived to be harassment by the victim, whether or not that was the intention of the perpetrator.

Employees can be subjected to harassment on a wide variety of grounds, related to their protected characteristics. For more information on types of harassment, refer to *Appendix 1 – Definition of Harassment and Bullying*, on page 14.

Harassment can take many forms. These include:

- Display or distribution of offensive material, graffiti or badges.
- Non-verbal abuse such as text messages, comments on social media platforms, emails offensive gestures and body language.
- Verbal abuse such as aggressive remarks, 'jokes' or name calling.
- Physical contact such as unnecessary touching.
- Threatened or actual physical abuse or attack.

### 3.2 Bullying

Bullying is any form of harassment directed against an individual(s) that is intimidating, offensive, malicious or insulting, that is intended to undermine, belittle or assault the recipient or adversely affect an individual's confidence and self esteem. It is not necessarily related to a protected characteristic on which harassment may be based. Bullies may seek to exploit others' perceived personal weaknesses, either because they enjoy the exercise of power or because they believe such behaviour is the best means of managing relationships.

Whatever its form, it will be unwanted behaviour which is unwelcome and unacceptable to the individual who feels bullied.

Bullying is largely identified not so much by what has actually been done but rather by the effect that it has on its target. Common examples of bullying include:

- Verbal or physical threats and intimidation.
- Persistent negative comments.

- Abusing, humiliating or unduly criticising someone in front of others.
- Overbearing, excessive and unreasonable supervision or other misuse of power.
- Making false allegations.
- Ostracism, exclusion.
- Unjustifiable removal of areas of responsibility.
- Setting unreasonable and unrealistic targets.
- Academic bullying i.e. asserting a position of intellectual superiority in an aggressive, abusive or offensive manner.

**Note:** These lists are not exhaustive (since harassment/bullying is often specific to the person and relates to their own feelings of respect and dignity). Harassment and Bullying can also be cyber/online as well as in the workplace.

Legitimate, constructive and fair criticism of a staff member's performance or behaviour at work will not be considered to be bullying or harassment. An assertive management style is considered as acceptable provided that staff are treated with respect and dignity. Bullying under the guise of 'strong management' is not acceptable.

### 3.3 Common Features of Harassment and Bullying

The common feature of the different forms of behaviour which constitute harassment and bullying is that it is behaviour unwanted by the victim. The behaviour may lead to stress, which can involve depression or illness. That can have direct effect on a person's mental and physical wellbeing and can have a detrimental effect on their ability to fulfill potential.

In practice, forms of bullying and harassment may overlap.

## 4. Procedure - General Principles

- Harassment or bullying will be considered as misconduct and will be treated as such. Complaints will be investigated and, if the investigation concludes that there is a case to answer, there will be a disciplinary hearing against any member of staff (regardless of their position). The most serious instances may be determined as gross misconduct leading to summary dismissal.
- The status quo will be maintained until all stages of the procedure have been exhausted, however, if deemed necessary, either or both parties to the alleged incident of harassment or bullying may be suspended on full pay whilst the investigation takes place.
- Acts of harassment or bullying may be unlawful under the Public Order Act 1986 and the Protection from Harassment Act 1997 and the perpetrator may be personally liable.

- This policy will be applied objectively to all stakeholders and is designed to ensure that all members of staff are treated fairly and consistently. Appropriate support will be provided to disabled staff to ensure full participation in all stages of the procedure.
- Everyone involved in the operation of this procedure is reminded of the importance of the need for confidentiality and to ensure that all information, whether verbal or written, is kept strictly confidential and not passed on to any persons who are not involved in the procedure. Any breaches of confidentiality may result in disciplinary action
- At any stage in the procedure the employee has the right to be accompanied by a work colleague or a Trade Union representative.
- In certain circumstances the panel hearing the allegation of harassment or bullying may be advised or wish to use an independent investigator agreeable to both parties. Notification of any such request will be through the Head of Human Resources at Hackney Learning Trust. Where a panel is unsure whether or not to use an independent investigator, advice is available from HR.
- Time limits in the procedure are provided to ensure prompt decisions and are in the interests of both parties. Where it is necessary to obtain further information in order to resolve a matter, hearings may be postponed or adjourned for a period of time, as appropriate.
- There may be circumstances where a complaint about harassment or bullying is raised in direct response to the serving of notice of a disciplinary issue. In these circumstances, it is advised that the disciplinary investigation be expanded to include the issue of bullying and harassment. If the findings from the disciplinary investigation are that the bullying and harassment procedure should be adhered to, then both the disciplinary policy and bullying and harassment policy should be followed. Otherwise the disciplinary process takes priority.
- All staff are expected to attend any training provided to ensure the successful implementation of this policy.
- Monitoring of this policy will be carried out by the Head of HR at Hackney Learning Trust. Outcomes will be used to identify and remove organisational causes of harassment and bullying.

## 5. Responsibilities

All staff have a responsibility to behave appropriately in the workplace. Their behaviour should not harass or bully others. In addition there are the following specific responsibilities:

### 5.1 Management

Managers are expected to:

- Ensure the Harassment and Bullying Policy and Procedure is brought to the attention of staff under their responsibility, as well as through induction to new employees, ensuring that it is implemented and fully understood.
- Investigate allegations of bullying and harassment carefully and quickly.
- Deal with allegations of bullying and harassment in a consistent and even-handed way.
- Ensure that necessary actions are implemented in response to complaints of harassment and bullying.
- Provide for an appeal where the grievance is not resolved satisfactorily.
- Inform HR at Hackney Learning Trust in all cases where allegations of harassment or bullying involve issues of racism.

They should aim to ensure that the School reflects an appropriate working environment, free from physical or verbal abuse, bullying and harassment and where staff with different backgrounds can feel welcome, comfortable and valued.

They should ensure that members of staff are treated with respect and dignity and on an equal basis.

Managers should ensure that their own conduct is beyond reproach in relation to staff and others.

## 5.2 Workers

All workers are responsible for:

- Knowing and understanding the standards of behaviour expected.
- Contributing to a culture that values diversity.
- Complying with the Harassment and Bullying Policy and Procedures.
- Treating all colleagues fairly and with dignity and respect.
- Discouraging all forms of harassment by challenging behaviour and comments which might be perceived as harassment, bullying or discriminatory.
- Supporting colleagues who may be victims of such treatment.

## 5.3 Human Resources

The HR team at Hackney Learning Trust will be conversant with the Harassment and Bullying Policy and Procedures and will be able to provide advice and guidance where necessary.

Should employees wish to discuss their experiences in strict confidence, they may contact the Human Resources Team at Hackney Learning Trust. This support is independent of line management systems. HR will refer to Occupational Health Service if appropriate, who can offer support and advice in situations where a member of staff's health and/or wellbeing may be affected by harassment or bullying situations.

Guidance/counselling can be offered to those people whose behaviour is unacceptable as well as those who feel harassed. This may help them to understand how their behaviour affects their colleagues and help to change their behaviour and therefore any future incidents.

Employees who require this service should contact HR Team at Hackney Learning Trust who will help put them in touch with the Occupational Health Service.

## 5.4 Trade Unions

The Trade Unions will also be conversant with the Harassment and Bullying Policy and Procedures and will be able to guide staff, where requested, through the procedures. They will also be available to provide support to staff, where requested, whether they are recipients of harassment or bullying or alleged perpetrators.

In addition, Trade Unions are responsible for making sure their representatives do not discriminate on any grounds or behave in a way which could be construed to be harassment or bullying.

## 6. Making a Complaint

The School's Harassment and Bullying Policy has informal and formal stages of procedure.

At any stage during the procedure, the complainant may be accompanied by a Trade Union representative or colleague. The alleged perpetrator may also choose to be accompanied by a Trade Union representative or colleague.

### 6.1 Stage 1 (Informal Resolution of Harassment or Bullying)

Managers, in consultation with staff, have discretion to resolve allegations of harassment or bullying in the way that they feel is the most appropriate and effective.

The aim of the informal stage is to provide an opportunity to stop harassment without recourse to the formal stages of the procedure. It can be a useful way of resolving complaints quickly and with confidentiality maintained.

The informal stage would normally involve the person who feels harassed/bullied (the complainant) meeting with the alleged perpetrator to describe the unwanted behaviour and to ask them to stop.

The first point of contact for the complainant will be the line manager. However if the line manager is the source of the complaint, or the complainant feels unable to raise the complaint with the line manager, the first point of contact will be to a higher level of management. Alternatively, the complainant may seek advice from their Trade Union representative or Hackney Learning Trust HR.

A resolution to an allegation of harassment or bullying may be pursued through conciliation with the aim of:

- Identifying the cause and extent of the differences between the parties.
- Developing and agreeing a mutually acceptable resolution. Such a resolution may include:
  - An acknowledgement that an individual's behaviour constituted harassment or bullying and was not acceptable.
  - An apology from the perpetrator to the complainant.
  - The setting up of appropriate training and/or guidance.
  - Appropriate changes in working arrangements, which are not to the disadvantage of the complainant.

At any informal meeting arranged to try and resolve a grievance, the following principles must be observed:

- Discussions are confidential.
- Contributions to discussions cannot be used as evidence in any subsequent formal hearing without the agreement of the contributors.
- Anyone present will be disqualified from hearing the case, should it subsequently be dealt with under the formal stages of the procedures.
- All present at the meeting are entitled to be accompanied by a colleague or Trade Union representative.

Informal action may include the Line Manager confirming in writing, to the perpetrator, the standards of behaviour required and the possible consequences of failure to achieve those standards. Should this be the recommendation then please contact Hackney Learning Trust HR Team for help.

## 6.2 Failure to Resolve the Issue at the Informal Stage

If an informal meeting does not resolve the issue the complaint should be put in writing and addressed to the Headteacher.

If the complaint is against the Headteacher, the issue should be raised with the Chair of Governors.

The appropriate manager should reply orally or if necessary in writing indicating the move into formal procedure.

## 6.3 Stage 2 (Formal Hearing)

This procedure is used if the complainant wishes to make a formal written complaint either straight away or because the informal procedure has failed to resolve the problem.

The procedure allows the complainant to bypass their Line Manager and to complain directly to the Headteacher, but should only be used where there is no opportunity for informal resolution

### 6.3.1 Investigation

To ensure there is fairness and impartiality in the operation of the policy, it is of paramount importance that there is a separation of roles throughout the process and if the Headteacher is required to act as the investigator for a management case, then the members required for any subsequent panel hearings at stage 2 or appeal can only be drawn from the Governing Body.

If an allegation has been made against the Headteacher it will be the responsibility of the Chair of Governors to identify three independent managers to serve as a panel and to be aware that if the matter reaches stage 3 (Appeals), a further three independent managers would be required. The panel should include a member(s) who has recognised experience in equal opportunities issues if possible.

The manager should send a letter to the complainant and the alleged perpetrator outlining the complaint and stating the time and place for the investigation to be held. This letter should also advise parties that they may be accompanied by a Trade Union representative or colleague. The formal hearing should, where possible, be scheduled within ten working days after the complaint has been received. The alleged perpetrator should be given at least 7 working days to respond to the allegation.

A member of Hackney Learning Trust HR Team will attend the hearing to provide advice on the merits of the case and on the procedure.

The meeting will be held in accordance with the Conduct of Hearings into allegations of harassment and bullying, on page 12.

A formal record will be kept of the meeting. A copy will be placed on the employee's personal files and copies issued to the parties involved. A time limit for this matter remaining 'live' will be agreed.

### 6.3.2 Notification

As soon as possible after the meeting or within five working days the decision will be notified, in writing, to both parties and if the allegations are found to be justified, details of any proposed action to be taken. Where the allegation is not upheld an explanation will be given.

The complainant will be informed of their right to appeal and of the procedures for making an appeal.

**Appeals will only be accepted if procedures have been incorrectly applied, or if new evidence becomes available.**

## 6.4 Stage 3 (Appeals)

Written notice of appeal detailing where procedures have been incorrectly applied or where new evidence is available, must be submitted to the Headteacher within five working days of receipt of the decision. The Headteacher will send a copy to Hackney Learning Trust's Head of HR who will arrange for a representative of the HR Team to attend and advise the appeal panel.

The clerk to the panel will make all the arrangements for an appeal panel to hear the appeal. The appeal applicant is responsible for providing documents to any person they wish to accompany them to the hearing.

The appeal will normally take place within fifteen working days of the written notice being received by the Headteacher and parties will be given at least five working days notice of the time and place of the hearing.

The panel shall consider the grounds for appeal and decide whether procedures were incorrectly applied. No new issues will be considered. New evidence that gives clarification or weight to previously raised issues can be considered.

The decision of the appeal panel is final and binding on all parties.

## 7. Allegations of Harassment or Bullying - Meetings

The panel members will have copies of all documentation a minimum of three days before the meeting and arrangements made for the appropriate clerking of the meeting.

The recommended order of business is as follows:

- Chairperson will detail the status of the hearing and the procedure to be followed.
- The complainant will put forward the case and call witnesses to the fact.
- The alleged perpetrator will have the opportunity to question the statement made and to question witnesses as to the facts of the case.
- The chairperson and members of the panel will ask questions of the complainant and any witnesses.
- The alleged perpetrator will put their case and call witnesses as to the facts of the case.
- The complainant will have the opportunity to question the statements made and to question witnesses as to the facts of the case.
- The chairperson and members of the panel will ask questions.
- Both sides to have the opportunity to sum up the case.

- Both parties and witnesses shall withdraw, but may be recalled if any points require clarification.
- The panel members will consider the case having established the facts to the best of their ability and decide whether the grievance is justified and, if so, propose action to redress it.
- Both parties will be recalled, and if possible, the decision given together with the justification and the course of action to be taken. There may be times when the panel needs further discussion and the decision will not be given immediately. The panel will give the timescale within which the decision will be given.
- The decision will be confirmed in writing within five working days of being advised.
- The Chairperson is responsible for ensuring that the Dealing with Harassment and Bullying Monitoring Form is completed and forwarded to Hackney Learning Trust HR for monitoring purposes.

## 8. Outcomes of Investigation

If evidence of harassment or bullying is found, it must be made clear to the perpetrator:

(this may be the result of a disciplinary process)

- That their behaviour is contrary to the School's policy.
- That their behaviour must comply with the School's required standards.
- What the impact of their behaviour is on others.
- That they must stop their harassing/bullying behaviour.
- What the consequences will be if the harassing/bullying does not stop.
- That the situation will be monitored.
- That the discussion is confidential.

Cases of harassment or bullying may be dealt with under the Disciplinary Policy and, in serious cases, will be treated as gross misconduct and may lead to dismissal if proved.

In proven cases, it may not be considered appropriate for the perpetrator and complainant to continue working in the same area. Wherever possible, the School will redeploy the perpetrator rather than the complainant.

Unless a complaint of harassment can be shown to be based on knowingly false information or was made with malicious intent, the complainant will suffer no loss or detriment as a result.

The School recognises the possibility that complaints may be brought with mischievous or malicious intent and this may provide grounds for disciplinary action against individuals for so doing.

## Appendix 1 – Definition of Harassment and Bullying

### Types of Harassment

#### Sexual harassment

Sexual harassment is unwanted conduct of a sexual nature, or other conduct based on sex, affecting the dignity of women and men at work. The essential characteristic of sexual harassment is that it is unwanted by the recipient and it is this that distinguishes sexual harassment from friendly behaviour that is welcome and mutual.

Some examples of sexual harassment are:

- Indecent assault,
- Deliberate physical contact to which the individual has not consented or had the opportunity to object to,
- Offensive or derogatory language alluding to a person's private life or sexual behaviour or orientation by innuendo, jokes or remarks,
- Provocative suggestions,
- Pressing an individual to accept unwanted invitations,
- Display of pornographic material, and/or
- Unwelcome repeated telephone calls, letters or emails with a sexual context.

**In serious cases there is the potential for police to be involved.**

#### Racial harassment

Racial harassment is any behaviour, deliberate or otherwise, relating to colour, race, ethnicity or national origin directed at an individual or groups, which is found to be offensive or objectionable to the victim, or to any witnesses and which creates an intimidating, hostile or offensive environment. Some examples are:

- physical attacks,
- verbal abuse; threats; derogatory name calling; racist insults and jokes,
- ridicule of an individual on racial or cultural grounds,
- exclusion from normal workplace interactions or social events,
- unfair allocation of work and/or responsibilities,
- racist graffiti/insignia or display of racist material, and/or
- inciting others to commit any of the above.

## Harassment on grounds of disability

Harassment which is directed at disabled staff or people with health needs.

## Harassment on grounds of sexual orientation

Homophobic harassment directed at homosexual persons or groups on the grounds of their sexual orientation (actual or perceived), resulting in intimidation, humiliation, ridicule or exploitation. This can also be directed at heterosexuals.

## Age harassment

Age harassment is ridiculing or demeaning behaviour or stereotypical perceptions and prejudices about a person's age and experience.

## Harassment on grounds of religion or belief

This is socially unacceptable behaviour which fails to tolerate or acknowledge the rights or needs of individuals with different religious beliefs and practices.

## Bullying

Bullying is any persistent behaviour, directed against an individual(s), that is intimidating, offensive, malicious or insulting, which is intended to undermine, humiliate, and adversely affect an individual's confidence and self-esteem. Bullying is largely identified not so much by what has actually been done but rather by the effect that it has on its target.

Bullying is generally psychological, though sometimes physical and may also be exacerbated by the bully's own susceptibility and reaction to stress. Such behaviour may be deliberate as in a planned campaign, or may arise out of the bully's own immaturity, lack of inter-personal skills and poor self-confidence. Bullying can occur when a superior uses the opportunity of their position to intimidate a subordinate or peer. Alternatively bullying may occur from staff to manager, or from peer to peer.

## Cyber/Online

Bullying and Harassment can be conducted online as well as in the workplace. Employees should not use text messages, emails or social media as platforms for behaviour or non-verbal conduct which could be deemed as harassment or bullying.