



**SOLIHULL METROPOLITAN BOROUGH COUNCIL**

# **ANTI HARASSMENT AND ANTI BULLYING POLICY**

**Schools and Academy Version**

**This policy sets out the terms of agreement reached by those participating in the Council's Consultation and Negotiating Framework.**

This Model Policy was provided by the Solihull School's HR Service

**For School's (e.g. some Academies) not participating in the Council's Consultation and Negotiation Framework**

The school must undertake negotiation and consultation with relevant Trade Union/ Staff Association representatives before this policy is adopted by the School Governing Body. Advice is available from your HR provider on how to undertake this if required.

**SMBC can provide information in a range of different ways, for example via the use of audio tape, summarising large documents, interpretation, translation and British Sign Language interpreting services.**

**If you require this information in an alternative format or need assistance because English is not your first language, please contact your line manager or nominated Human Resources Advisor in the first instance for further support.**

# **ANTI HARASSMENT & ANTI BULLYING POLICY**

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1.0	06.02.2025	New policy to meet requirements of Worker Protection (Amendment of Equality Act 2010) Act 2023

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## **1. Introduction**

The school believes that having a culture that is diverse, equitable and inclusive is core to everything that we strive to achieve. We do a lot to support our inclusive culture, and you can read more about this in our Equality, Diversity and Inclusion (EDI) policy and strategy on the Council's website. We are committed to providing a safe and respectful workplace and promoting a working environment based on dignity and trust, and one that is free from discrimination, harassment, sexual harassment, bullying or victimisation.

This policy supports this aim by setting out the steps we will take to investigate and deal with complaints of bullying or harassment, and how we support those affected.

The school will not tolerate any bullying, harassment or victimisation, whether in person or online and it is unlawful. It may be more difficult to observe bullying behaviours or tendencies in a digital environment or as part of a hybrid working pattern. Remote working may lessen opportunities for situations to be discussed informally, and this may increase any feelings of disconnect as well as the possibility of misinterpreting messages and communications, which in turn can intensify issues and lead to fragmented teamworking. Staff are therefore encouraged to raise any concerns as soon as possible in order to avoid matters worsening or escalating.

We therefore adopt a zero-tolerance approach to instances of bullying or harassment. This includes all forms of sexual harassment. Sexual harassment takes many forms, but whatever form it takes it is unlawful under the Equality Act 2010. The law requires employers to take reasonable steps to prevent sexual harassment of their workers.

The school will take action to prevent sexual harassment from occurring and have clear reporting procedures for our workers to make a complaint about sexual harassment. If you have been sexually harassed, or you have witnessed sexual harassment, we encourage you to tell us so that we can deal with the matter swiftly.

This policy will refer to the expected behaviours that sit within the Personal Development Review Framework and Code of Conduct for employees. The Social Media policy should also be read in conjunction with this policy to understand how using social media can sometimes merge the boundaries of your personal and professional life. Comments on social media platforms can also lead to discrimination and harassment in the workplace. In addition to the policy, appropriate training and information will be made available to all staff, so everyone understands the behaviours and values expected of all employees.

## **2. Scope**

This policy applies to anyone working for us including employees and third parties. The policy also relates to job applicants and students on placements and is relevant to all stages of the employment relationship. The policy also applies to harassment by third parties.

Any instances of harassment or sexual harassment, including those carried out by third parties as well as employees will be dealt with in accordance with this policy.

Any agency workers, volunteers, or students etc placed in our organisation and working for us are also safeguarded from sexual harassment and can report any concerns in the same way as detailed in this policy, but they should also report it to their own employer/school as they

will have their own policy and process to follow and have an obligation to prevent any further risk.

You should be aware that you cannot raise a complaint under this policy if you have raised a complaint about the same issue already under the Resolution procedure. In the case of there being multiple complaints made by an individual, this would need to be managed under one process/policy and with one investigation covering all of the concerns.

### **3. Responsibilities**

#### **3.1 The School / Human Resources**

The school are committed to taking proactive measures to prevent all forms of bullying and harassment, including sexual harassment, of our workers by:

- ensuring all new starters undertake equality, diversity and inclusion training and anti-bullying and anti-harassment training modules, as part of their onboarding programme and employees have regular refresher learning.
- providing additional learning for line managers to ensure that they understand how to implement this policy effectively and their role in preventing and stopping bullying and harassment from occurring in the workplace and by third parties.
- to promote a culture of zero-tolerance towards bullying and all forms of harassment.
- to mentor, coach and advise line managers/Headteachers/Governors/Resolution Contacts Network on the application of the organisation's approach and policy.
- to signpost employees to the support available to help them if they have experienced bullying or harassment.
- to maintain and review this policy at regular intervals in line with any statutory obligations and legal developments.

#### **3.2 Line managers and supervisors**

All managers and supervisors have responsibility for:

- creating an inclusive working environment so that any incidences of bullying, harassment, sexual harassment and/or victimisation are identified and managed at the earliest opportunity.
- treating informal and formal complaints seriously, with sensitivity to the feelings, perceptions and need for confidentiality of the individual raising the report.
- treating employees and workers fairly and taking prompt action where they are aware of unacceptable behaviour.
- being aware of behaviour and language that can cause offence including jokes and banter, and if necessary, reminding their team of the expected standards.
- ensuring that our zero approach to all forms of discrimination, bullying and harassment, is communicated to all employees and workers and any third parties that they may have contact with.
- ensuring that anyone who reports harassment, or support others to do so, are not treated less favourably than others because of this (victimisation).
- undertaking regular risk assessments to determine reasonable measures that can be implemented to minimise the risk of exposure to sexual harassment in the workplace and by third parties that employees/workers may have contact with

*(Corporate and activity-based risk assessments on sexual harassment can be found on the H&S extranet page)*

- dealing swiftly and explicitly with third party perpetrators and ensuring third party organisations we work with are provided with this policy to understand our expectations, where applicable.
- being an exemplar of acceptable behaviour and being aware that they are in positions of power as well as leadership.

### **3.3 Individuals**

Everyone has a clear role to play in creating a work environment in which bullying, harassment and sexual harassment is not acceptable. All individuals should:

- ensure they understand this policy and act in accordance with it, particularly if they are an alleged perpetrator of unacceptable behaviour.
- fully cooperate with any investigation and take seriously requests to cease or amend behaviour.
- not participate in, encourage or condone bullying, harassment, sexual harassment or victimisation of others.
- promote an inclusive culture in which colleagues or peers are not subjected to sexual harassment or victimisation by challenging and/or reporting these forms of behaviour to the appropriate staff member.
- treat each other and those they encounter through work with dignity and respect.
- understand that it's inappropriate to make any jokes or comments online that could amount to harassment or discrimination (i.e. linked to a relevant protected characteristic), even if they think a colleague will find their post/message humorous.
- be aware that inappropriate 'banter' outside the workplace can still amount to workplace harassment if it is deemed to have taken place 'in the course of employment' (e.g. at a staff social event, a team online chat group etc).
- anyone involved with an informal or formal complaint about bullying or harassment, including witnesses, must keep the matter strictly confidential and act with appropriate sensitivity to all parties.
- reporting any instances of bullying or harassment to them by third parties on the online reporting system, Assure (or the line manager can do on their behalf).

If you experience bullying or harassment, we encourage individuals to speak up without delay and to ask for appropriate support (see section 'What to do if you are being bullied or harassed').

## **4. Harassment**

### **a. Who is protected from harassment**

The Equality Act 2010 prohibits discrimination because of certain protected characteristics. These are:

- disability.
- sex.
- gender reassignment.
- marital or civil partnership status.
- race.
- religion or belief.

- sexual orientation; and
- age.

Although pregnancy and maternity and marriage and civil partnership are not specifically protected under the legal provisions on harassment, we consider harassment on any grounds to be unacceptable.

## **4.2 Meaning of harassment**

Harassment is unwanted conduct related to a protected characteristic that has the purpose or effect of:

- violating someone else's dignity; or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for someone else.

Harassment can occur where someone perceives another person to have a protected characteristic, for example a perception that someone is transgender even if they are not.

Harassment can also arise by association, where someone is harassed because they are associated with someone with a protected characteristic, for example having a family member of a particular religion. Examples can be found in Appendix 1.

## **5. Sexual harassment**

Harassment may be sexual in nature. The law defines sexual harassment as:

- conduct of a sexual nature that has the purpose or effect of violating someone's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment; and
- less favourable treatment related to sex or gender reassignment that occurs because of a rejection of, or submission to, sexual conduct.

You could experience sexual harassment from anyone you encounter because of your job, including someone you work with, a manager, supervisor, or someone else in a position of authority or influence. You can also experience sexual harassment from a customer, contractor, service user or member of the public for example. The person engaging in unwelcome behaviour does not have to intend to be sexually harassing the other person for the behaviour to be considered sexual harassment. Regardless of what was intended, sexual harassment is defined by the nature and the impact of the behaviour, not the intention behind it. A key element of sexual harassment is that it is unwelcome.

Employers are legally obliged to take reasonable steps to prevent sexual harassment of their workers in the course of their employment and by third parties. Examples of sexual harassment can be found in Appendix 1.

## **6. Bullying**

Bullying at work involves a single or repeated negative actions and practices that are directed at one or more workers. The behaviours are unwelcome to the victim and undertaken in circumstances where the victim has difficulty in defending themselves. The behaviours may be carried out as a deliberate act or unconsciously.

Bullying can result from misuse of any form of individual power such as physical strength, personality or age, or collective power through strength of numbers. Bullying is where someone or a group of people in a position of strength, authority or responsibility abuses their individual power by using intimidating, insulting or malicious behaviour.

Bullying can be colleague to colleague, employee to manager, as well as from manager to more junior members of staff (including temporary, agency workers and contractors).

If the bullying relates to a person's protected characteristic, it may also constitute harassment and, therefore, will be unlawful (see Harassment).

It is important to understand that legitimate, reasonable and constructive criticism of a person's performance or behaviour, or reasonable instructions given to people in the course of their employment, will not of themselves amount to bullying. Examples can be found in Appendix 1.

## **7. Victimisation**

Victimisation is also unlawful under the Equality Act 2010. This is where a person is treated less favourably because they have made, supported or raised a complaint under the Equality Act 2010, reported sexual harassment, or because they are suspected of doing so or they have helped someone else to report a case.

## **8. What to do if you are subject to bullying or harassment**

### **8.1 Informal route**

#### **8.1.1 Bully/harasser is a colleague**

If you feel able to, you may decide to raise the issue with the individual themselves, to make clear that their behaviour is not welcome and to ask them to stop. They may not be aware that their behaviour is offending you.

Alternatively, if you do not feel up to speaking directly to the individual, you may consider asking your line manager, a colleague, or HR Advisor for support. Advice and support can also be sought from any Resolution contact or your Trade Union representative.

You may or may not want them to talk to the individual on your behalf and, where possible, we will respect your wishes. However, if the welfare or safety of you or others is at risk or where your allegations are particularly serious, we may have to approach the individual and instigate a formal investigation. In such a case we will, where possible, discuss this with you first.

Employees are advised to keep notes of all bullying and harassment targeted at them, writing down what has been done or said to them, the time and date of the incident, any witnesses present and how the action(s) made them feel. This will be useful information to assist any future investigations into claims of bullying and harassment.

If you would prefer not to discuss the issue with anyone at work, help and support is also available through our employee assistance programme (EAP). You can use our EAP to speak



to an independent adviser on a confidential basis about any issue that is troubling you. See 'Support for those affected or involved' section for details of how to access our EAP.

Reporting is an important step in preventing the behaviour and is important to the recipient's ongoing health, safety and wellbeing, and will enable them to access appropriate guidance and support.

There may be occasions where mediation may be suitable in some cases of perceived bullying and harassment, although each situation needs to be considered on a case-by-case basis. Mediation can only be considered where all parties agree to partake in the process. More details about mediation can be found in the Resolution policy or from your HR Advisor.

### **8.1.2 Bully/harasser is a third party**

Third party sexual harassment occurs when a member of our workforce is subjected to sexual harassment by someone who is not part of our workforce but who is encountered in connection with work. This includes our customers, parents, carers, suppliers, members of the public, Council members, people using our services, patients, delegates at a conference, audiences, contractors etc.

Bullying and harassment by third parties will not be tolerated. Such circumstances may be anticipated during risk assessments and measures put in place to prevent or limit such harassment.

Where an employee's role puts them at potential risk from members of the public or other third parties, risk assessments should take place. These can take the form of general activity-based risk assessments for staff carrying out these roles but should also incorporate arrangements which reflect each person's unique situation. Find more information on the Health and Safety Risk Assessment extranet page.

The law does not provide a mechanism for individuals to bring a claim of third-party harassment alone. However, failure for an employer to take reasonable steps to prevent third-party sexual harassment may result in legal liability in other types of claims.

If you are experiencing bullying or harassment by a third party, we encourage you to report this without delay using the same process as detailed in this policy, so that we can advise and support you on the best course of action.

**(Academies will need to amend this next paragraph as appropriate or remove it) In Maintained schools employees should report any bullying and harassment incidents by a third party using the online reporting system (Assure) within 24 hours of the event, wherever possible.** Managers, or an employee who saw the incident, can also log it on Assure on the employee's behalf.

The School will seek to enforce appropriate action against any third party instituting any abuse or harassment.

## **8.2 Formal route**

If you are not happy with the outcome of an informal process, or if you feel it is not appropriate to approach the issue informally, you may decide to raise it formally.

The employee should clearly set out their complaint in writing to their immediate line manager and should include as much detail as possible, for example the alleged bully/harasser's name, the nature of the bullying/harassment, the dates of the alleged acts of bullying/harassment, names of any witnesses, and details of any action taken to address the matter so far.

If your complaint is about your line manager, you should raise this with their line manager or another senior manager or Chair of Governors. If for any reason you are unable to approach your line manager or a more senior manager, you can speak to an HR Advisor.

The appropriate manager will write to the employee acknowledging the complaint and will also arrange a meeting as soon as reasonably practicable and, where possible, within 10 working days from receipt of the written complaint. The meeting should occur without delay if a mutual agreement is reached to address the matter within a shorter timeframe. A HR Advisor will also be invited to attend.

The employee has the right to be accompanied by a trade union representative or by a work colleague of their choice at all stages of the formal procedure; however, it is their responsibility to arrange this representation. Exceptions to this requirement may be acceptable in particular circumstances to accommodate a reasonable adjustment, for example an advocate or carer to support an employee with a disability, where appropriate. Guidance should be sought on this issue from Human Resources beforehand.

Where the alleged bully/harasser is a third party, we may need to adjust the procedure under this policy, and we would discuss this with the employee.

### **8.3 Formal investigation**

It may be necessary to investigate the formal complaint, and we will do this in an objective and confidential way, while also ensuring that we respect your rights as well as the rights of the alleged bully/harasser. We will use every effort to complete an investigation as quickly as possible. The investigation will be conducted by a neutral manager/Investigating Officer who has no prior knowledge of the situation. Advice should be sought from Human Resources in this regard.

The employee making a complaint, and where an employee is the subject of a complaint, will be informed as soon as possible of the facts of an investigation and when it has been concluded. This can be done face-to-face or remotely, and the investigation findings will also be confirmed in writing. In exceptional circumstances, the evidence given by individuals may have to remain confidential. Where confidentiality is necessary, this will be explained to you and an appropriate summary of the evidence gathered will be given.

Investigating Officers will avoid undue delays and seek to complete investigations within a reasonable timeframe but will be led by the nature and complexity of the relevant matters. Once the scope of an investigation has been determined, all relevant parties will be advised of the anticipated completion date by the Investigating Officer, who will also provide updates around the progress of the investigation during the interim.

If an investigation does not conclude by the anticipated completion date, relevant parties will be notified accordingly of the reasons at agreed intervals by the Investigating Officer, and the manager who commissioned the investigation will be contacted by a HR Advisor with an update around when the process is due to finalise.

Investigating Officers will ensure that other protocols are followed, when necessary, for example the Audit protocol or when there is a safeguarding matter or police investigation. In such cases, HR should be contacted for advice on who else may need to be notified.

The employee/third party who is the subject of the complaint may be invited to attend an investigatory interview. They will be made aware of the full allegation/complaint. It is the individual's responsibility to ensure they inform their work colleague or trade union official if they wish for representation at the interview. Witnesses are not entitled to be accompanied to investigation interviews; however, the provision may be offered if requested and will not be unreasonably withheld.

Communication with the individuals concerned must be maintained throughout the course of the investigation, ensuring that they are signposted to means of support if appropriate. Regular progress updates must be given to all parties, including the individual who the complaint has been made against.

If appropriate and wherever possible, the school will try to ensure that the individual subjected to the harassment or bullying and the alleged harasser/bully are not required to work together while the complaint is under investigation. This could involve giving the employee complaining of harassment or bullying the option of working from another location temporarily in order to reduce contact with the individual being investigated.

In the case of serious allegations, the school may suspend any employee who is under investigation for harassment or bullying for a temporary period while investigations are being carried out and proceedings are underway. A risk assessment will be undertaken in such circumstances. Suspension will be for as short a time as possible and will be on full pay. HR must be involved if suspension is being considered.

The principles in this policy also apply to collective complaints, though one employee will be identified as a nominated representative eligible to attend a collective meeting, where appropriate. The nominated representative will be informed of the outcome and any resulting actions which may follow.

#### **8.4 Recording of witness statements & investigation meetings (Academies should amend this section as appropriate.)**

A record will be made of all interviews undertaken and a copy will be shared with the employee. Where the investigation is undertaken by Audit, this may be conducted via an audio recording made by the Investigating Officer. After the meeting, the Investigating Officer will arrange for the recording to be transcribed and a copy will be provided to the employee, wherever possible.

All parties interviewed including witnesses will have prior notification that audio recording will take place. All data recorded will be handled, stored and destroyed in accordance with the school's data protection guidelines.

Audio or visual recordings of proceedings by the employee /third party or their representative are not acceptable at any stage of this process. The employee, or any person acting on their behalf, is not permitted to covertly, record any informal or formal meeting held by the school. Any breach of this provision may lead to disciplinary action against the employee, up to and including dismissal. This is on the basis that we expect employees to be open and honest and to treat colleagues with dignity and respect and making secret recordings undermines trust between individuals. Anyone making such recordings in contravention of this would also be

personally responsible for any breach of Data Protection legislation. There is a potential that the use of non-covert audio recording devices may be allowed as a reasonable adjustment to accommodate a health condition or disability where previously deemed appropriate by Occupational Health or an employee's GP/Medical Practitioner; this will be with the express consent of everyone present. Please also refer to the school's Video Conferencing guidance and Electronic Communications and Guidance on the extranet.

## **8.5 Formal investigation outcome**

Following investigation, the manager together with a HR representative, will determine whether any further action should be taken based on the evidence gathered by the Investigating Officer.

The outcomes, reasons for the decision and any recommendations will be communicated by the manager to the employee. The manager will arrange to meet with the employee as soon as reasonably practical and, where possible, within 10 working days of the completion of the investigation. The employee has the right to be accompanied by a trade union representative or by a work colleague of their choice; however, it is their responsibility to arrange this representation. Exceptions to this requirement may be acceptable in particular circumstances in order to accommodate a reasonable adjustment, for example an advocate or carer to support an employee with a disability, where appropriate. Guidance should be sought on this issue from Human Resources beforehand.

If it is not possible for the employee's chosen representative to attend, the meeting will be rescheduled once to take place within 5 working days of the original arrangements. The employee will be required to find an alternative companion or attend alone if their chosen representative remains unavailable.

The manager may be supported at the meeting by a member of HR, where appropriate. It may also be appropriate, in some cases, for the Investigating Officer to be present at the meeting. The manager hearing the complaint will determine if this is required. Advice from HR should be sought in this regard.

For reasons of confidentiality and the need to avoid or minimise any potential impact on colleagues who may have been party to the investigation, it may not be appropriate for the Investigating Officer's report to be released, but the main findings in the report will be shared with the employee and documented as part of the outcome letter. The manager will follow up the outcome of the meeting with a letter, including the right of appeal available to the employee.

In some situations, it may also be appropriate to consider mediation at the end of a formal process to support parties in understanding their issues and to move forward constructively together; this will be a consideration of the manager hearing the complaint.

Where an employee is the subject of the complaint, the outcome of the investigation will be shared with them. It is the employee's responsibility to ensure they inform their work colleague or trade union official if they wish for representation at the meeting.

The outcome of the complaint would not be discussed with witnesses or others interviewed as part of the investigation.

Following the meeting, the manager will send a written response to the employee of the outcome within 5 working days of the meeting.

The employee must be advised of the right to progress to the Appeal stage of the formal procedure in the outcome letter, and any such request must be lodged by the employee in writing within 5 working days of receipt of the outcome letter.

## **9. Whistleblowing reporting process** **(Academies will need to amend this section as appropriate.)**

In Maintained schools if you feel you are unable to raise the matter with your line manager, their manager or HR for whatever reason but do wish to report an incident, you can raise the matter with the Head of Audit Services or another member of the Audit team on 0121 704 6067, via our hotline on 0800 028 8535 or email [whistleblowing@solihull.gov.uk](mailto:whistleblowing@solihull.gov.uk). Alternatively, you can write to the Head of Audit Services, Solihull Council, Council House, Manor Square, Solihull, West Midlands, B91 3QB

If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, please contact the independent charity Protect on 020 3117 2520 or by email at [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk). Their advisers can talk you through your options and help you on how to raise a concern at work.

Individuals are able to report an incident anonymously, however, it is preferable for individuals making a disclosure to identify themselves, as this makes it more likely that concerns can be fully and fairly investigated and/or resolved. It also means the individual reporting the matter can be kept informed, where appropriate, as to the progress of their complaint and supported. However, it is recognised this is not always possible. If a concern is raised anonymously, the steps in this policy will be followed as closely as possible based on the information provided in the disclosure.

## **10. Appeals**

An employee who remains dissatisfied with the outcome of the complaint can appeal to a senior manager. Where a senior manager has been involved at an earlier stage, and where practicable and appropriate, a more senior manager will be appointed. In schools, this will be determined by the governance arrangements for hearing appeals.

The employee should present their appeal using the form in Appendix 2. A copy of the form should be sent to the hearing manager and must also be sent to the appropriate HR Business Manager, to be received within 5 working days of receipt of the outcome letter.

### **10.1 Purpose of the appeal**

The appeal hearing will not normally rehear all of the evidence presented at the formal meeting or investigation outcome meeting unless otherwise decided by the chair. Its purpose is to examine the grounds of appeal that the employee has raised to consider the grounds and to remedy any decisions considered to be inappropriate. The appeal must be in writing and the employee must be clear, specific and thorough about the written submission for their grounds of appeal.

New evidence will not be considered, unless the employee can demonstrate that it may significantly affect the previous decision process, and it has come to light since the formal outcome meeting or was impossible for the employee to produce at the first meeting.

Witnesses do not normally attend an appeal hearing unless they are presenting:

- new evidence, or
- their evidence at the first meeting was not taken into account.

It is up to the Chair of the appeal hearing to agree that the attendance of witnesses is relevant to the case. If a Chair refuses the attendance of a witness, they must explain their reasons for doing so to all parties concerned.

## **10.2 Grounds of the appeal**

There are a number of potential grounds for appeal and the most frequently cited are listed below, however the list is not exhaustive:

- The decision taken at the formal outcome meeting was inappropriate.
- The Chair taking the decision was biased.
- The proper procedure was not followed; or
- New evidence has come to light.

## **10.3 The appeal hearing**

The appeal will be heard by a manager or Governor and member of Human Resources who have had no previous involvement in the case. A meeting will be arranged as soon as reasonably practicable; and, where possible, within 10 working days of receipt of the written appeal. The employee may be accompanied by a work colleague or Trade Union representative. If an alternative companion is requested to support an employee with a disability or if an employee's nominated representative is unable to attend the appeal hearing, appropriate consideration will be given.

If the employee fails to attend the hearing, it may continue in their absence, unless a reasonable explanation for non-attendance has been provided to the panel and approved by the Chair. In such cases, arrangements will be made to reconvene the hearing within 5 working days. A second occurrence of non-attendance will result in the hearing being held in the employee's absence unless sufficient justification for not doing so has been authorised by the Chair.

Following the meeting, the employee will receive a written response detailing the outcome within 5 working days of the meeting. The decision from the manager/Governor hearing the case will be the final response from the school.

The subject of a complaint will be notified of the outcome of an appeal where a decision has been overturned following an initial hearing into a case and a new outcome has been confirmed. No further internal right of appeal will be made available.

## **11. Post employment complaints**

Wherever possible a complaint should be dealt with before the employee leaves employment.

Where an employee raises a complaint after they have left employment (for example through the exit interview process) a modified procedure may be used to explore the concerns raised. Advice should be sought from your HR Advisor in these instances.



## 12. Support for those affected or involved

It is acknowledged that anyone affected by, or involved with, a complaint of bullying or harassment may feel anxious or upset and we will do what we can to support you.

If you feel you cannot continue to work in close contact with the alleged bully/harasser, we will consider seriously any requested changes to your working arrangements during our investigation into the matter, wherever possible.

For emotional support, you can access free, confidential counselling from our EAP. Please see details of our EAP below or on the Intranet Wellbeing pages. **(Academies will need to amend here)**

Anyone who complains or takes part in good faith in a bullying or harassment investigation must not suffer any form of detrimental treatment or victimisation. If you feel you have suffered such victimisation, please inform your line manager or the HR Advisor as soon as possible.

Following the outcome of your complaint, we will consider carefully how to best approach any ongoing working relationship between you and the individual concerned, including any third party.

## 13. Employee Assistance Programme (EAP) **(Academies will need to amend here.)**

The school offers all employees access to the EAP for emotional assistance. This is an employee benefit designed to help you deal with personal and professional problems which could be affecting your home or work life, health or general wellbeing. The programme is run by an organisation called Health Assured.

The service gives employees a place to turn for support any time of day or night, 365 days a year. Details of how to contact the service and our employer code can be found on the Wellbeing pages of the extranet. There can be times when additional support is needed for employees and managers alike. Experienced, professional counsellors are available and can determine appropriate resources and help with the next steps. Where there is deemed to be a clinical need, up to 6 face-to-face or telephone counselling sessions can be offered to employees

The EAP helpline is also available to line managers to offer support when dealing with challenging managerial situations. Their advisors do not advise on HR policies and procedures but can provide a facilitative and supportive space to help assist them with complicated or difficult issues. Some managers may want to rehearse a conversation, talk through how their own issues are impinging on a work problem or voice concern about their ability or confidence to manage a workplace conflict or difficulty. To use the service, managers can contact the freephone number **0800 028 0199**.

## 14. Other sources of information and support

Details can be found on the HR section of the extranet.

- [ACAS](#) offers advice and information on a wide range of workplace issues to try and help employees and employers solve their problems at work. This includes providing

information on rights at work, changes in employment law and the best way to develop positive and productive working relations.

- [EHRC \(Equality and Human Rights Commission\)](#). This is an independent government service that provides information, advice and support on equality and rights at work.
- **Trade Unions**. If you are a Trade Union member, you can seek help and guidance from your trade union representative.
- [Victim Support](#)
- National Stalking Helpline on **0808 802 0300**

## 15. Consequences of breaching this policy

If, following a formal investigation, we find that an individual has committed, authorised or condoned an act of bullying, harassment, sexual harassment or victimisation, we will deal with the issue as a possible case of misconduct or gross misconduct. We may take disciplinary action against the employee, up to and including dismissal (or other appropriate action for non-employees). Any aggravating factors, such as abuse of power over a more junior colleague, will be taken into account in deciding what disciplinary action to take. Employees should refer to the Disciplinary procedure for further information.

You should also be aware that you can be personally liable for harassment.

## 16. Record-keeping

The school processes personal data collected in relation to bullying or harassment complaints in accordance with our Data protection policy. In particular, data collected in relation to the investigation of bullying or harassment complaints is held securely and accessed by, and disclosed to, individuals only for the purposes of responding to the complaints and conducting an investigation. You should immediately report any inappropriate access or disclosure of employee data in accordance with our Data protection policy as this constitutes a data protection breach. It may also constitute a disciplinary offence, which we will deal with under our disciplinary procedure.

## 17. Monitoring and review

This policy is reviewed regularly and, if necessary, amended to ensure that it remains effective. We analyse data around allegations of bullying or harassment (in compliance with our data protection obligations) on an ongoing basis to assess the impact of this policy and our wider equality, diversity, and inclusion strategy.



## **APPENDIX 1 - Examples of Bullying and Harassment**

Below are some examples of the different types of bullying and harassment that can occur, although these lists are not exhaustive.

Employees should be aware that even when jokes and 'banter' have 'good' or 'fun' intentions it is how the person on the receiving end of it perceives it that is important, and consideration should also be given to other people who are present even if the joke/banter isn't directed at them.

### ***Examples of bullying***

Bullying is offensive, intimidating, malicious or insulting behaviour, and/or an abuse or misuse of power that is meant to humiliate, injure or control the person subjected to it. Bullying can be physical, verbal or non-verbal. It is not necessarily face to face and can be done through many ways, for example by email, during phone calls, online (cyber-bullying) or on social media. Bullying may occur at work or outside work, for example during social events outside normal working hours, and even in non-related working situations if consequently an adverse effect on a working environment is apparent.

Examples can include:

- physical, verbal or psychological threats
- excessive levels of supervision
- inappropriate and derogatory remarks about a person's performance
- physical violence, shouting and swearing at someone
- public humiliation or more subtly, impossible deadlines, belittling comments, menial tasks or withholding information
- being excluded from groups, meetings or someone deliberately ignoring you

### ***Examples of harassment***

Harassment can occur in many forms, and can take place either at work, outside work, in person, or online. Examples include:

- "banter", jokes, taunts or insults that are sexist, racist, ageist, transphobic, homophobic or derogatory against any other protected characteristic.
- unwanted physical behaviour, for example, pushing or grabbing.
- excluding someone from a conversation or a social event or marginalising them from the group.
- Stalking, having an obsession with the person they're targeting, and their repeated, unwanted behaviour can make the victim feel distressed or scared. May include following someone or going uninvited to their home.
- derogatory comments about pregnancy, maternity leave or IVF treatment.
- mimicking or making fun of someone's disability.
- derogatory or offensive comments about religion.
- unwelcome comments about someone's appearance or the way they dress that is related to a protected characteristic.
- "outing" (i.e. revealing their sexual orientation against their wishes), or threatening to, "out", someone.

- consistently using the wrong names and pronouns following the transition of a person's gender identity;
- displaying images that are racially offensive; and
- excluding or making derogatory comments about someone because of a perceived protected characteristic, or because they are associated with someone with a protected characteristic.

### ***Examples of sexual harassment***

Sexual harassment can occur in many forms, and can take place either at work, outside work, in person, or online. Examples include:

- Physical conduct of a sexual nature, unwelcome physical contact or intimidation.
- Persistent suggestions to meet up socially after a person has made clear that they do not welcome such suggestions.
- Showing or sending offensive or pornographic material by any means (e.g. by text, video clip, email or by posting on the internet or social media);
- Unwelcome sexual advances, propositions, suggestive remarks, or gender-related insults.
- Offensive comments about appearance or dress, innuendo or lewd comments.
- Leering, whistling or making sexually suggestive gestures; and
- Gossip and speculation about someone's sexual orientation or transgender status, including spreading malicious rumours.
- Unnecessary touching, patting, pinching, hugging, kissing, massaging someone
- Brushing against another employee's body
- Making sexual or lewd comments or jokes/banter
- Displaying sexually graphic pictures, posters or photos
- Suggestive looks, staring or leering
- Propositions, innuendos and sexual advances
- Making promises in return for sexual favours
- Sexual gestures
- Intrusive questions about a person's private or sex life, or a person discussing their own sex life
- Sexual posts or contact on social media including circulating lewd jokes or pictures by text message, chat groups or email
- Spreading sexual rumours about a person
- Making repeated suggestions for unwanted social activities/meetings inside or outside the workplace, including mobile telephone calls, Teams calls and chat
- Making insulting, offensive or suggestive comments about someone's appearance
- Sending sexually explicit emails, text messages or instant messaging

## APPENDIX 2 – APPEAL FORM

### APPEAL AGAINST FORMAL ANTI HARRASSMENT & BULLYING MEETING OUTCOME

#### DATA PROTECTION FAIR PROCESSING NOTICE

All information supplied on this form may be held and used as follows:

The form is completed by the employee and sent to a Senior Manager, copying in the hearing manager, who will both retain a copy of the form until the appeal process has been exhausted. A copy of the form will also be shared with the relevant Human Resources Business Manager, to ensure the appeal process is correctly followed, and with members of the independent appeal panel (school governors) as part of a confidential 'bundle' of evidence heard at an appeal meeting, or to an Employment Tribunal and legal representatives should a case progress that far. For further information about how we use your information please refer to the school's Data Protection Policy on the School's extranet and Privacy Statement on [www.solihull.gov.uk](http://www.solihull.gov.uk). For Maintained schools (**Academies will need to amend this paragraph appropriately.**)

**I wish to submit an appeal against the outcome of my formal meeting under the Anti-Harassment & Anti-Bullying policy**

#### PERSONAL DETAILS

<b>Your Name:</b>	
<b>Your Job Title:</b>	
<b>Your Contact Telephone No.</b>	
<b>Union/Representative (if known)</b>	
<b>Name of Line Manager/ Headteacher/Chair taking decision</b>	
<b>Date of receipt of written decision</b>	

**GROUNDS OF APPEAL.** Please provide further detail regarding your grounds of appeal (continue on a separate sheet if necessary).

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<b>Your Signature:</b>	
<b>Print Name:</b>	
<b>Date:</b>	

Please send this completed document to a senior manager/Chair of Governors and copy in the Manager/Headteacher who heard your complaint at the formal meeting. You should also send a copy to the relevant HR Advisor who will arrange the appeal hearing. You will be advised shortly afterwards of the following arrangements. Please ensure you have supplied sufficient information to support your case.