



DONCASTER
Doncaster Metropolitan Borough Council

Harassment and Bullying Policy and Code of Practice For School Based Staff

*Directorate of Education and Culture
Human Resources*

September 2004

1.0 POLICY

- 1.1 School is committed to creating an environment where all employees and groups of employees treat each other with dignity and respect.
- 1.2 School will not tolerate harassment or any unacceptable conduct towards an individual or group which is related to race, gender, ethnic origin, sexuality, age, religion or disability whether a single incident or persistent acts.
- 1.3 School will not tolerate bullying behaviours in the workplace.

2.0 SCOPE

- 2.1 This policy is applicable to all teaching and non-teaching school employees. The policy applies to the management of all complaints of harassment and bullying made by such employees, or by agency staff employed in the school, against other such employees.
- 2.2 Complaints of harassment and bullying made by school employees against agency staff will be investigated and referred to the agency as appropriate. The Headteacher and/or governors will determine the appropriateness of retaining the services of an agency employee in such circumstances.
- 2.3 Complaints of harassment and bullying made against staff by Doncaster Metropolitan Borough Council employees who are not employed by the governing body will be addressed via the Council's Corporate Harassment and Bullying Procedure. Any subsequent disciplinary matter will be addressed via the school's staff disciplinary procedures.
- 2.4 Complaints of harassment and bullying against staff made by pupils and/or parents or otherwise by persons not employed by Doncaster Metropolitan Council will be addressed via the school's staff Disciplinary Procedures.
- 2.5 Complaints of harassment and bullying made by staff against pupils will be addressed via the school's disciplinary procedures pertaining to pupil behaviour.
- 2.6 Complaints of harassment and bullying made by staff against a governor(s) should be addressed via the school's grievance procedure or other applicable procedure as appropriate. Advice in such circumstances may be sought from a Human Resources Officer.

3.0 PRINCIPLES

- 3.1 Every person employed in the school has an equal responsibility to treat each other and members of the community we serve with dignity and respect and to uphold this Policy and abide within this Code of Practice.
- 3.2 Every person employed in the school who has a managerial and/or supervisory responsibility has a duty to implement and enforce this Policy and Code of Practice in a fair and equitable way and to ensure that all employees for whom they are responsible understand and follow it.

- 3.3 The Headteacher is responsible for ensuring that all persons employed in the school are aware that breach of this Policy could render them liable to formal disciplinary warnings or dismissal under the School's Disciplinary Procedure, depending upon the circumstances. Harassment and bullying will not be tolerated and should be considered as an addendum to the Code of Conduct adopted by the school.
- 3.4 Complaints of harassment and bullying will be taken seriously and so far as is possible, managed speedily and confidentially.
- 3.5 Every effort will be made to resolve complaints of harassment and bullying informally but where informal resolution is not acceptable or possible formal investigation will commence.
- 3.6 Both the complainant(s) and the subject(s) of any complaints made under this Policy and Code of Practice are entitled to representation. This will normally be a trade union representative or work colleague.
- 3.7 Complainants and those accused of harassment and bullying will be provided with support and advice which are appropriate to the circumstances. Trade Union representatives advise their members to seek Trade Union advice prior to making a complaint.
- 3.8 Where there is a reasonable belief that a complainant has acted maliciously, vexatiously or untruthfully, the Headteacher (or other designated manager) or the chair of governors in the case of complaints by or against the Headteacher, or nominated governor representative as appropriate may take disciplinary action against the complainant.
- 3.9 Governors and staff note that for those who are harassed, victimised or bullied, one consequence may be stress which can involve depression and illness. It can also affect work performance and absenteeism and it can have a detrimental effect on one's ability to fulfil their potential and contribute fully to the needs of the school.

4.0 DEFINITIONS OF HARASSMENT AND BULLYING

Harassment - any conduct that is unwanted, unreasonable and offensive to the recipient.

Bullying - is the misuse of power to intimidate somebody in a way which leaves them feeling hurt, vulnerable, angry or powerless.

Harassment may take, but is not confined to, the following forms of behaviour:

- **Verbal** - for example, jokes, offensive language, personal remarks, gossip, whistling, singing offensive songs.
- **Non-Verbal** - for example, posters, graffiti, obscene gestures, leering, exposure to offensive literature, photos, pin ups.
- **Physical** - for example, unwelcome bodily contact or touching.

- **Other** - for example, isolation or non co-operation and exclusion from social or workplace activities, unwelcome gifts, practical jokes.

Bullying may take, but is not confined to, the following forms of behaviour:

- Instantaneous rages, often over trivial matters
- Including in public but ignoring in private
- Personal insults and name-calling
- Persistent criticism
- Refusal to delegate
- Public humiliation, put-downs or ridiculing
- Blocking promotion
- Changing priorities and objectives unreasonably
- Excessive and unreasonable supervision
- Removing areas of responsibility without appropriate consultation and agreement.
- Inflicting menial tasks
- Hoarding information
- Talking only to a third party to isolate another
- Turning down annual leave or leave of absence requests for no discernible reason
- Imposition of unreasonable/unachievable deadlines

Certain types of harassment, discrimination, victimisation and bullying are unlawful:

- Sexual harassment of women is unlawful under the **Sex Discrimination Acts, 1975 and 1986**.
- Racial harassment is unlawful under the **Race Relations Act, 1976**.
- The **Disability Discrimination Act, 1995** protects disabled people from less favourable treatment.
- The **Criminal Justice and Public Order Act, 1994** provides criminal remedy where someone intentionally causes another person harassment, alarm or distress.
- **The Protection from Harassment Act, 1997** provides both civil and criminal remedies in law for men and women who are subjected to unwelcome and protracted attention.
- **The Human Rights Act 1998** incorporates European Convention on Human Rights provisions into UK law.
- Harassment on the grounds of Religion or Belief will become illegal from 2nd December 2003 when the **Employment Equality (Religion or Belief) Regulations, 2003** come into effect.
- From 2nd December Harassment due to a persons sexual orientation will also become illegal under the **Employment Equality (Sexual Orientation) Regulations, 2003**.
- In 2004 there will be further legislation protecting individuals from less favourable treatment due to age.

5.0 MANAGEMENT ACTION ON RECEIPT OF A COMPLAINT OF HARASSMENT AND BULLYING

5.1 RESPONSIBILITIES AND PROCESSES

- 5.1.1 Where a complaint is against a Headteacher, the chair of governors (or other designated governor, not staff or teacher governor) will manage the process.
- 5.1.2 In the case of complaints against other senior members of staff the Headteacher and/or a designated governor, not staff or teacher governor, as appropriate, will manage the process.
- 5.1.3 In cases of complaints against any other member of staff the process will be managed by the Headteacher and/or other member of staff nominated by the Headteacher (e.g. a Deputy Headteacher, Head of Dept. as appropriate) and/or a nominated governor.
- 5.1.4 In all cases the manager investigating the complaint will be at a more senior level to the person against whom the complaint has been made
- 5.1.5 Upon receiving either an informal or formal complaint of Harassment or Bullying, the manager/governor will first seek advice from a Human Resources Officer to check that there is an equalities and/or bullying issue which should be managed within this procedure. If this is not the case the complainant and the subject of the complaint will be advised of the process to be followed and the reasons why.
- 5.1.6 Where there is an equalities and/or bullying issue which should be managed within this procedure the manager will take steps to verify the complaint as contained in section 5.2.
- 5.1.7 Wherever possible every effort should be made to resolve complaints informally. However, some complaints may be so serious that it is necessary, following verification, to act within formal proceedings as contained in section 6.
- 5.1.8 There is a route for informal resolution of individual or group complaints contained in this Code (5.3) but this does not preclude mutually agreed solutions which are designed to suit individual circumstances. However, where alternative methods of informal resolution are pursued, the manager/governor must seek the advice of a Human Resources Officer and ensure the agreement of both the complainant and the person against whom the complaint is being made before use.
- 5.1.9 Every effort should be made to manage complaints of harassment and bullying within the indicative timescales contained in this procedure. However, it is acknowledged that there may be circumstances where this is not practicable.

5.2 VERIFICATION

- 5.2.1 Within three working days of receiving either an informal oral complaint or a formal written complaint the manager/governor will, with the assistance of an Education Human Resources Officer, verify the detail with the complainant in the company of their chosen representative.

- 5.2.2 At this meeting the manager/governor will, if it is considered appropriate, discuss options for informal resolution with the complainant and wherever possible commence informal arrangements as contained in sections 4.2 and 4.3 of this procedure.
- 5.2.3 If informal routes are inappropriate or if action has already been taken informally which, in the complainant's view, has failed to resolve the complaint the manager/governor will move to section 6.
- 5.2.4 A definitive written statement of complaint will be produced, where one has not already been submitted.

5.3 INFORMAL RESOLUTION

Round Table Meeting – Management-led

- 5.3.1 The complainant may consider requesting the manager/governor receiving the complaint to arrange a Round Table Meeting with a view to resolving the complaint informally.
- 5.3.2 Where there are multiple complainants and/or subjects of complaint, a Round Table Meeting may not be a practical way of proceeding. Therefore, the manager will seek advice from a Human Resources Officer before agreeing to the use of this process.
- 5.3.3 This process will only be used with the agreement of the complainant and where their manager/governor has already put the complaint to the subject of the complaint in writing and both parties subsequently agree to attend a Round Table Meeting.
- 5.3.4 The meeting will be chaired by a nominated governor with an Education Human Resources Officer present.
- 5.3.5 The meeting will ideally take place in a neutral place, in a private area, where there will be no interruptions.
- 5.3.6 Both parties may take either one support person or one chosen representative into the meeting with them. This will normally be a trade union representative or work colleague. If, in particular circumstances, these arrangements are not appropriate, requests for alternative representatives will be considered. However, the meeting will not be unreasonably delayed to accommodate representatives for either party.

It would normally be expected that the meeting would take place within 5 working days of both parties agreeing to this way forward.

- 5.3.7 As this is an informal process no witnesses will be called.
- 5.3.8 The Chair will explain the purpose of the meeting, the roles of each person there, the 'ground rules' (for example, no interrupting, and speaking only through the Chair), and the order of speaking.

- 5.3.9 The Chair will explain this policy and its relevant definitions to both parties.
- 5.3.10 The Chair will put to the subject of the complaint an outline of the behaviour/ incident causing offence to the complainant(s).
- 5.3.11 The subject of the complaint will be invited to respond.
- 5.3.12 Appropriate action will be taken depending on this response.
- 5.3.13 Where it has not been possible to resolve the matter informally, a decision for referral to formal routes, as contained in sections 5, 6 and 7 of this procedure, may be recommended by the Chair of the meeting to the complainant.

6.0 FORMAL RESOLUTION

- 6.1 Serious harassment, discrimination, victimisation and bullying and situations where it has not been possible to resolve a complaint informally may require formal actions to be taken under these procedures. However, no formal action will be taken prior to verification as contained in section 5.2 of this procedure taking place and in all cases consideration of the potential for informal resolution must be given by the manager/governor receiving the complaint.
- 6.2 Formal complaints must always be in writing, signed by the complainant and addressed to the Headteacher. Where a complaint is against a Headteacher the chair of governors or other nominated governor (not staff governors) will manage the process.
- 6.3 *Any governor involved in managing this process shall not be the governor who has previously been involved in chairing a Round Table Meeting relating to the complaint.*
- 6.4 Both the complainant and the subject of the complaint have a right to either one support person or one chosen representative throughout this process. This will normally be a trade union representative or work colleague. If, in particular circumstances, these arrangements are not appropriate, a request for an alternative representative will be considered. However, the process will not be unreasonably delayed to accommodate representatives.
- 6.5 Every effort should be made to manage complaints of harassment and bullying within the indicative timescales contained in this procedure. However, it is acknowledged that there may be circumstances where this is not practicable.
- 6.6 The manager/governor will advise the complainant that a copy of their definitive statement of complaint will be provided to the subject of the complaint. The manager will explain that if the complaint is investigated sufficient information will be given in confidence to any witnesses in order to enable a proper investigation to be carried out.
- 6.7 Within 5 working days of receiving a formal complaint the manager/governor will provide the subject of the complaint with a copy of the definitive statement of complaint and, with the assistance of a Human Resources Officer, interview them in the company of their chosen representative to get their initial response.

- 6.8 The manager/governor will, with advice from a Human Resources Officer, then decide whether to investigate the matter further, having taken into account the subject of the complaint's response, the overall circumstances of the case and any live and relevant disciplinary warnings recorded on the subject of the complaint's personnel record file.
- 6.9 Where the manager has decided not to formally investigate a complaint, a written explanation will be given to the complainant who, within 10 working days of being told of this decision, may raise any objection about the decision not to formally investigate the complaint, through the school's Grievance Procedure. Where a grievance is raised for this reason, the Grievance Procedure will not be used as a mechanism for investigating the complaint. Where the Grievance Procedure is invoked, this will be dealt with at the final stage of the procedure i.e. a governors' hearing.

7.0 SUSPENSION OR TRANSFER OF THE SUBJECT OF THE COMPLAINT

Harassment or bullying have the potential to constitute gross misconduct. Therefore, advice from a Human Resources Officer will always be sought, and consideration given to the seriousness of the nature of the complaint, before making a decision whether or not to suspend the subject of the complaint.

- 7.1 Where the manager/governor seeks to suspend the subject of the complaint they will do so in accordance with the School's Disciplinary Procedure.
- 7.2 Where there is the potential for prima facie gross misconduct to have occurred temporary transfer of the subject of the complaint must not be used as an alternative to suspension.
- 7.3 The manager/governor should not normally transfer the subject of the complaint and/or the complainant to a different worksite within the school unless either party specifically requests transfer for themselves. Any transfer must be able to be easily facilitated by the school and be supported by Education Human Resources' advice.
- 7.4 In the event that a transfer is agreed, the transferring employee must be informed in writing that the transfer arrangement will normally continue for the duration of the investigation and any formal proceedings which may follow it; including any individual grievance and/or appeals against any disciplinary action as contained in section 8 of this document.
- 7.5 The subject of a complaint may initially be transferred in accordance with 7.3/7.4 above, but may also be transferred during the investigation if it becomes clear from the evidence being obtained that suspension from duty would be appropriate. Reasons for actioning suspension during investigation rather than at the outset will be given to the subject of the complaint both verbally and in writing.

On conclusion of the process, including any grievance and/or appeal hearing, the transferee will be expected to return to their substantive work position unless a longer-term transfer is agreed by managers/governors as appropriate and by the transferee.

8.0 INVESTIGATION OF A FORMAL COMPLAINT OF HARASSMENT AND BULLYING

When a manager has decided that a complaint requires further investigation he/she will first seek advice from a Human Resources Officer to check that there is an equalities or bullying issue which requires investigation under this procedure. If this is not the case the complainant and the subject of the complaint will be advised by the manager that the allegation(s) will be investigated under the Guidelines for Investigation as contained in the School's Disciplinary Procedure.

- 8.1 Where there is to be a formal investigation under this procedure the manager/governor will ensure that the complainant and the subject of the complaint are fully aware of the policy and process to be followed.
- 8.2 The manager/governor must seek advice from a Human Resources Officer on the composition of the Investigation Team to ensure that the team is representative of the nature of the complaint and the circumstances of the case. This will normally be governor(s) and/or manager(s) advised by LEA officers as appropriate. In cases of complaints against the Headteacher, the Governing Body may request the Executive Director of Education (or nominated representative) to effect the investigation.
- 8.3 The Investigation Team will have access to an Education Human Resources Officer who will provide professional advice on procedural and equalities issues. Aided Schools may have access to relevant Diocesan Authority support.
- 8.4 Within 10 working days of receiving a formal complaint the manager will write to both parties confirming the specific complaint which is subject to investigation and the parameters of the investigation. For example, the incident(s) or behaviour(s) complained of, the make up of the investigation team and the anticipated timescale for concluding the investigation.
- 8.5 The Investigation Team will interview only those witnesses relevant to the complaint under investigation. Witnesses may request a trade union representative or colleague to attend the interview with them.
- 8.6 Witnesses must be told that if any disciplinary action arises from this process their evidence may be included in the management statement of case and, therefore, shared with both parties and their representatives. Witnesses must also be informed that in the exceptional circumstance that the case is later presented for consideration to an Employment Tribunal or other Court of Law their statements may be shared and they may be called as witnesses to attend a public hearing in person.
- 8.7 When the investigation is completed the Investigation Team will, within a further five working days, provide both parties at the same time, with a short, confidential written report on the investigation which includes:
- the nature of the complaint
 - the process followed
 - summary of findings

- summary of recommendations
- 8.8 Where a decision to take disciplinary action is made the complainant will be advised and a full management statement of case for the hearing will be produced and shared with the subject of the complaint at least 10 working days before the disciplinary hearing. As the investigation will have been confined to gathering only relevant information, the management statement of case will contain appendices to include witness statements/evidence used to support the disciplinary case.
- 8.9 Where a decision is taken to invoke formal disciplinary action, the investigating 'team' will determine the level at which to invoke such action and will be responsible for presenting the management statement of case to governor(s) in accordance with the provisions of the school's disciplinary procedure should it be determined that the seriousness of the issue warrants a formal governors disciplinary hearing.
- 9.0 RIGHT OF GRIEVANCE/APPEAL**
- 9.1 Where a disciplinary hearing is held as a result of investigation into a complaint made under this procedure, any grievance on the part of the complainant, and/or the subject of disciplinary action, regarding the process of investigation, should be raised for consideration at the disciplinary hearing and/or any subsequent appeal hearings. **There will not be separate consideration of the matter under the School's Grievance Procedure.****
- 9.2 Where a disciplinary hearing is not held, either party may raise a grievance on **process** through a governors' hearing under the School's Grievance Procedure.
- 9.3 The lodging of a grievance will not normally interfere with recommendations for management action being carried out.