Anti-Bullying and Harassment Policy and Procedure

Based on EPM model policy

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Anti-Bullying and Harassment Policy and Procedure

1. Terms of Reference

1.1. For all employees, governors and volunteers employed or appointed by the Governing Body of Walmley Junior School.

1.2. Definitions:

"Headteacher" also refers to any other title used to identify the Headteacher, where appropriate, or other senior manager delegated to deal with the matter by the Headteacher.

"Companion" refers to a person chosen by the employee to accompany them, who shall be a trade union representative or a workplace colleague.

2. Introduction

2.1. The Governing Body seeks to ensure that all employees are treated and treat others with dignity and respect, free from harassment and bullying. Employees should always consider whether their words or conduct could be offensive. Even unintentional harassment or bullying is unacceptable.

2.2. The Governing Body will take allegations of harassment or bullying seriously and address them promptly and confidentially, where possible. All employees, governors and volunteers must comply with this policy and take appropriate measures to ensure that such inappropriate conduct does not occur. Harassment, sexual harassment, bullying and victimisation and retaliation against an employee will not be tolerated. Harassment (including sexual harassment), bullying or victimisation by an employee may be treated as misconduct under our disciplinary procedure. In some cases, it may amount to gross misconduct leading to summary dismissal. Aggravating factors such as abuse of power over a more junior colleague will be taken into account in deciding what disciplinary action to take.

2.3. This policy covers harassment or bullying which occurs both in and out of the workplace, such as on school visits, at events, work-related social functions or on social networking sites. It covers bullying and harassment against employees, governors, and volunteers and also by third parties such as suppliers or visitors to our School, which includes parents.

2.4. Where the complaint relates primarily to a matter covered by another policy, for example, grievance, pay, probation, or whistleblowing, then the matter will be dealt with in accordance with the relevant policy, if more appropriate. Matters will not be dealt with under both this policy and the grievance policy.

2.5. The Governing Body will consider appropriate outcomes when a complaint has been investigated for example, warning a parent about their behaviour, supporting the employee with reporting any criminal acts to the police, a disciplinary hearing, training, formal apologies.

2.6. This policy does not form part of any employee's contract of employment and it may be amended at any time following consultation. Elements of this procedure, including any time limits, may be varied as appropriate in any case.

2.7. Employees will not be subjected to disciplinary action or to any other detriment simply because their complaint is not upheld and they will only face disciplinary action if it is found both that the allegation is false and made in bad faith (that is, without an honest truth in its belief).

2.8. At any stage of the procedure, after discussion with the Headteacher, the line manager may deem it more appropriate for matters to be investigated under the disciplinary procedure.

3. What is Harassment?

3.1. Harassment is any unwanted physical, verbal, or non-verbal conduct related to a protected characteristic which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. Unwanted behaviour can be a serious single incident, or repeated behaviour. Serious harassment could also be a hate crime.

3.2. It also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.

3.3. Harassment may be related to age, disability, gender reassignment, race (including, colour, nationality, ethnic or national origin), religion or belief, sex or sexual orientation. Harassment is unacceptable even if it does not fall within any of these categories.

3.4. Sexual harassment is unlawful and is unwanted conduct which is of a sexual nature.

3.5. Harassment may include, for example:

3.5.1. Unwanted physical conduct or "horseplay", including touching, pinching, pushing, grabbing, brushing past someone, invading their personal space, and more serious forms of physical or sexual assault.

3.5.2. Unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless), and suggestions that sexual favours may further a career or that a refusal may hinder it.

3.5.3. Continued suggestions for social activity, whether in person or online, after it has been made clear that such suggestions are unwelcome.

3.5.4. Conduct of a sexual nature such as sending or displaying material that is pornographic or that some people may find offensive (including e-mails, text messages, video clips and images sent by mobile phone or posted on the internet).

3.5.5. Offensive or intimidating comments or gestures, or insensitive jokes or pranks.

3.5.6. Mocking, mimicking, or belittling a person's disability.

3.5.7. Racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender.

3.5.8. Outing or threatening to out someone’s sexual orientation.

3.5.9. Consistently using the wrong names and pronouns following the transition of a person’s gender identity.

3.5.10. Ignoring or shunning someone, for example, by deliberately excluding them from a conversation or a workplace social activity.

3.6. The person being harassed might feel disrespected, frightened, humiliated, insulted, intimidated, or threatened.

3.7. An employee may be harassed even if they were not the intended "target". For example, an employee may be harassed by racist jokes about a different ethnic group if they create an offensive environment, or the harasser may wrongly believe the employee to have a particular protected characteristic or the employee may be associated with someone who has a protected characteristic. When deciding whether conduct has the effect of harassment, the perception of the other person, the circumstances of the case for example is the harasser a person of seniority, and whether it is reasonable for the conduct to have that effect, must all be taken into account.

4. What is Bullying?

4.1. Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined, or threatened. Power does not always mean being in a position of authority but can include both personal strength and the power to coerce through fear or intimidation.

4.2. Bullying can take the form of physical, verbal, and non-verbal conduct, it may be carried out face to face, online or by phone and may occur at work or outside of work. Bullying may include, by way of example:

4.2.1. Shouting at, being sarcastic towards, ridiculing or demeaning others

4.2.2. Physical or psychological threats

4.2.3. Overbearing and intimidating levels of supervision

4.2.4. Inappropriate and/or derogatory remarks about someone's performance

4.2.5. Abuse of authority or power by those in positions of seniority

4.2.6. Deliberately excluding someone from meetings or communications without good reason

4.2.7. Microaggressions (statements, actions, or incidents that are regarded as indirect, subtle, or unintentional discrimination)

4.3. Legitimate, reasonable, and constructive criticism of a worker's performance or behaviour, or reasonable instructions given to employees in the course of their employment, will not amount to bullying on their own.

5. What the Law Says

5.1. The Equality Act 2010 prohibits harassment related to age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race (which includes colour, nationality, ethnic or national origin), religion or belief, sex or sexual orientation. Employers are meant to take reasonable steps to prevent it. Third party harassment was removed from the Act. However, it is still possible for an employer to be liable for direct and indirect discrimination involving third party harassment where they treat someone less favourably

because of a protected characteristic e.g. failing to take preventative action because of an employee's gender. In addition, an employee could rely on the implied clause of trust and confidence in their employment contract when they are considering their employer's action to a response.

5.2. **The Worker Protection (Amendment of Equality Act 2010) Act 2023** sets out duties for employers to take 'reasonable steps' to prevent sexual harassment of employees.

5.3. **The Protection from Harassment Act 1997** also makes it unlawful to pursue a course of conduct which you know or ought to know would be harassment, which includes causing someone alarm or distress.

5.4. Under the **Health and Safety at Work Act 1974** employees are entitled to a safe place and system of work.

5.5. Schools within the public sector must comply with the Public Sector Equality Duty (PSED). This means that when carrying out their functions, they must pay due regard to the need to:

- Eliminate discrimination, harassment, and victimisation
- Advance equality of opportunity between people who have a protected characteristic and people who do not, and
- Foster good relations between people who share a protected characteristic and people who do not.
- To comply with the PSED, employers must give due regard to how taking steps to prevent third party harassment may help to eliminate discrimination, harassment and victimisation, advance equality of opportunity and foster good relations.

5.6. Individual employees may in some cases be legally liable for harassment of colleagues or third parties and may be ordered to pay compensation by a court or employment tribunal.

6. Education

6.1. Every current employee must attend regular equality, diversity, and inclusion training on at least an annual basis.

6.2. Line managers and senior leaders will be provided with additional training in managing complaints and supporting colleagues.

6.3. We expect all employees to participate in other ad hoc workshops and events organised by the employer or employee resource/support groups to educate themselves on equality, diversity and inclusion matters and how to help alleviate any challenges faced by others in the workplace.

6.4. Signposting employees to relevant policies and procedures to ensure all employees are aware of expected behaviours and our zero-tolerance approach to bullying and harassment.

6.5. Outlining the tools employees can utilise when they may be subject to or witness bullying or harassment.

7. Risk assessment

7.1. A risk assessment is in place identifying risk factors and control measures, this is reviewed on an annual basis or when a complaint may arise which indicates further intervention is needed.

8. Third parties

8.1. Contractors and visitors will be made aware of our zero-tolerance approach to bullying and harassment.

8.2. Contractors will be vetted and the contractor's approach to equality, diversity and inclusion matters will be included as part of any procurement process.

9. Informal Process

9.1. If you are being bullied or harassed by another employee you may decide, if you feel able, to raise the issue with them directly explaining clearly that their behaviour is not welcome or makes you feel uncomfortable and ask them to stop. It is possible that they do not realise the effect of their behaviour.

9.2. If you don’t feel able to speak directly with the other person, then you can discuss with a third party, for example, a work colleague, line manager/supervisor, or union representative. They could support you in a number of ways for example by providing you with advice on how to approach the issue directly with the individual or support you in raising the issue with them by accompanying you in any discussion or helping you to set out your thoughts in writing, or raise the matter informally with the harasser on your behalf. Support could extend to helping you to obtain advice on or assistance in dealing with issues relating to particular protected characteristics or helping you to obtain counselling.

9.3. If the behaviour continues, then you should raise the matter with your line manager or another appropriate senior colleague without delay.

9.4. The line manager/senior colleague will then arrange to meet with both parties, either individually or together (only where both parties are comfortable with this) and seek to address the concerns by considering options with those involved. These options may include mediation or moving to the formal stage of the procedure and those referred to in 2.4.

9.5. If informal steps have not been successful or are not possible or appropriate due to the seriousness of the allegations, you should follow the formal procedure set out below.

9.6. Witnesses to harassment or victimisation can also take steps to address it. This may include:

- the witness intervening where the witness feels able to do so,
- the witness asking the employee subjected to the harassment if they would like the witness to report it or support them in reporting it,
- the witness reporting the incident to their line manager or other senior manager, and
- requiring witnesses to cooperate in an investigation.

10. Formal Procedure

10.1. Your written complaint should set out full details of the conduct in question, including the name of the harasser or bully, the nature of the harassment or bullying, the date/s and time/s at which it occurred, the names of any witnesses and where appropriate, any action that has been taken so far to attempt to stop it from occurring. [You can use the Notification of Grievance Form (Appendix A of the grievance procedure) to state the grounds of your complaint and the remedy that is being sought, if helpful.]

10.2. As a general principle, the decision about whether to progress a complaint is up to you. However, the Governing Body has a duty to protect all employees, governors, and volunteers and may pursue the matter independently if, in all the circumstances, they consider it appropriate to do so.

10.3. Where the anti-bullying and harassment procedure is invoked as a result of a complaint about bullying or harassment, a manager (usually your direct line manager, unless the complaint is against them or where they have involvement in the complaint) must be designated to investigate the complaint in a timely, sensitive, impartial, and confidential manner.

10.4. The manager, (the investigation officer for these purposes), will arrange a meeting with you, usually within a week of receiving your complaint, so that you can give your account of events. You have the right to be accompanied by a colleague or trade union representative of your choice, who must respect the confidentiality of the investigation. There may be further meetings with you as appropriate throughout the investigation. You should be informed of likely timescales for an outcome at the meeting.

10.5. Where your complaint is about an employee, the Governing Body may consider suspending the employee on full pay or making other temporary changes to working arrangements pending the outcome of the investigation, if circumstances require. A suspension risk assessment should be completed in all cases. The investigating officer will also meet with the alleged harasser or bully who may also be accompanied by a companion to hear their account of events. They have a right to be told the full details of the allegations against them so that they can respond.

10.6. Where your complaint is about someone other than an employee, such as a contractor or visitor, the Governing Body will consider what action may be appropriate to protect you and anyone involved pending the outcome of the investigation, bearing in mind the reasonable needs of the School and the rights of that person. Where appropriate, the Governing Body will attempt to discuss the matter with the third party.

10.7. The Governing Body will also seriously consider any request that you make for changes to your own working arrangements during the investigation.

10.8. It is likely to be necessary to interview witnesses to any of the incidents mentioned in your complaint. If so, the importance of confidentiality will be emphasised to them.

10.9. Any employee who deliberately provides false information or otherwise acts in bad faith as part of an investigation may be subject to action under the School’s disciplinary procedure.

The main purpose of the investigation is to establish whether the act/s under investigation amounted to harassment and/or bullying. The investigation report should include:

- The terms of reference of the report,
- The complainant's account of the incident/s and the effects,
- A response from the person identified by the complainant,
- Evidence from employees in the same work area or any other relevant areas where incidents of harassment or bullying may have occurred.
- A conclusion and recommendations including whether it appears that the complainant has suffered any detriment e.g. deterioration of work performance or health, lack of career development, denial of opportunities, etc. The investigating officer may also choose to make recommendations as to how the matter may be resolved.

10.10. At the end of the investigation, the investigating officer will submit a report to a senior manager nominated to consider the complaint. Within 10 working days, the senior manager will write to you to invite you to a formal meeting to discuss the complaint. The senior manager may be accompanied by another employee or an HR Adviser.

10.11. An employee may bring a companion to the meeting (a colleague or a trade union representative). The employee must advise the senior manager who their chosen companion is, in good time before the meeting.

10.12. At the meeting, the companion may make representations and ask questions but should not answer questions on the employee's behalf.

10.13. If an employee's chosen companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards, the employee will normally be required to find an alternative companion.

10.14. The investigating officer will attend to present the findings of their investigation, and you will be provided with a copy of the report at least five working days before the meeting.

10.15. At the meeting, you will be given a reasonable opportunity to raise points about any information collected in the investigation.

10.16. Following the meeting, the appointed senior manager will consider the investigation report and all information presented in the meeting and decide whether:

- They consider that harassment or bullying has occurred, in which case the matter may be dealt with as a case of possible misconduct or gross misconduct under our disciplinary procedure.
- They consider that harassment or bullying has occurred, but the evidence shows that it was inadvertent or unintentional, in which case it may be appropriate depending on the seriousness, for the "perpetrator" to be offered support and training to allow them the opportunity to modify their behaviour.
- Less formal action is appropriate, but some form of mediation or counselling is required for one or both parties.
- Any short-term or long-term relocation, change in duties or reporting structure are required. Any changes should not be at the detriment to any parties concerned.

10.17. You will receive a letter confirming the senior manager's decision in writing within 10 working days of the meeting. The alleged harasser will also receive a letter confirming the decision, including an explanation of any further action where appropriate.

10.18. Following a formal bullying or harassment complaint, either party may be concerned about working with the other again. Due regard to such views should be taken into account when offering counselling or mediation. A transfer of one or both parties to another section or department may be appropriate in some cases and where feasible.

10.19. If the employee raising the complaint is not satisfied with the outcome, then the employee may appeal in accordance with the paragraph below.

11. Appealing a Formal Decision

11.1. If your complaint has not been resolved to your satisfaction you may appeal in writing, to the Governance Professional, setting out the grounds of your appeal, within 5 working days of receiving the written confirmation of the original decision. [You must detail how you consider the procedure has not been correctly applied, and/or how the outcome was not reasonable or proportionate.]

11.2. The appeal will be heard as soon as possible after receipt of the appeal letter, normally within 10 days, by an Appeal Committee of one or more governors/trustees, convened by the Governance Professional. They will hear the reasons for the appeal and consider whether further investigation is required.

11.3. The Appeal Committee may have an HR Adviser attend the meeting with the employee. The HR Adviser, who should not have had any previous involvement in dealing with the complaint, shall not have a vote in the decision of the Appeal Committee.

11.4. The Appeal Committee will confirm its final decision in writing, as soon as reasonably possible after the appeal meeting. This is the end of the procedure and there is no further right of appeal.

12. Reporting a Concern

12.1. All employees, governors and volunteers must comply with this policy and take appropriate measures to ensure that such inappropriate conduct does not occur. If a person is witness to bullying or harassment, in addition to or instead of the steps outlined in section 9, they should raise the concern as soon as possible with their line manager or another appropriate senior colleague orally or in writing.

12.2. The School will support the witness in raising genuine concerns, informally or formally.

13. Protection for those Involved

13.1. Employees who make complaints or who participate in good faith in any investigation conducted under this policy must not suffer any form of retaliation or victimisation as a result.

13.2. If you believe you have suffered any such treatment you should inform your line manager or another senior manager. If the matter is not remedied, you should raise it formally using this procedure.

13.3. Anyone found to have retaliated against or victimised someone for making a complaint or assisting in good faith with an investigation under this procedure, will be subject to disciplinary action under our disciplinary procedure.

14. Confidentiality and Data Protection

14.1. Confidentiality is an important part of the procedures provided under this policy. Everyone involved in the operation of the policy, whether making a complaint or involved in any investigation, is responsible for observing the high level of confidentiality that is required. Details of the investigation and the names of the person making the complaint, and the person accused must only be disclosed on a "need to know" basis.

14.2. Information about a complaint by or about an employee may be placed on the employee's personnel file, along with a record of the outcome and of any notes or other documents compiled during the process. [These will be processed in accordance with our Data Protection Policy.]

14.3. Breach of confidentiality may give rise to disciplinary action under our disciplinary procedure.

15. Who is Responsible for this Policy?

15.1. The Governing Body has overall responsibility for the effective operation of this policy but has delegated day-to-day responsibility for overseeing its implementation to the Head teacher.

15.2. All managers have a specific responsibility to operate within the boundaries of this policy, ensure that all employees understand the standards of behaviour expected of them and to take action when behaviour falls below its requirements.

15.3. Regardless of your role, every employee has a responsibility to observe, uphold, promote, and apply this policy.

15.4. Questions about this policy and requests for training or information on dealing with bullying or harassment should be directed to the Head teacher.

16. Monitoring and Review of the Policy

16.1. This policy is reviewed every 3 years.

16.2. Following a formal investigation under this policy, the senior manager and investigator involved should consider whether this policy has been effective in addressing the issues and report any problems or suggestions for improvement to the Head teacher.

16.3. The Head teacher has responsibility for ensuring that any person who may be involved with investigations or administrative tasks carried out under this policy receive regular and appropriate training to assist them with these duties.

17. Sources of help and support

- Our employee assistance programme which is advertised in the staff room.
- Recognised trade unions, and
- External sources of support and advice both locally and nationally such as:
- The Equality Advisory and Support Service (www.equalityadvisoryservice.com)
- Protect (the whistleblowing charity) Protect - Speak up stop harm - Whistleblowing Homepage
- Helplines which have been set up to deal with specific forms of harassment Stalking and harassment (helpline)
- ACAS - www.acas.org.uk