



# **Discrimination, Bullying and Harassment Policy**

<b>Formally adopted by the Trustees of:-</b>	<b>West Norfolk Academies Trust</b>
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<b>Chair of Trustees:-</b>	<b>Mr Livesey</b>
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We, the Trustees of West Norfolk Academies Trust have adopted this policy and procedure.

## **1. Introduction and Scope**

- 1.1 This policy forms part of our overall commitment to providing a workplace that's free of discrimination, bullying and harassment. It applies to all employees whilst at work, it also applies to employees whilst off-duty if there is a detrimental effect on our, or the employee's reputation.
- 1.2 The purpose of this policy is to ensure that all employees are aware that no employee should have to tolerate discrimination, bullying or harassment from colleagues, pupils, members of the public, or other individuals they may encounter at work. This policy aims to reinforce our commitment to equality and diversity and to promote positive, professional and courteous working relationships. This policy outlines what bullying and harassment is and the responsibilities of school leaders and employees. Any procedural action relating to bullying and harassment should be dealt with under the grievance or disciplinary procedures or where a separate, specific procedure is required this policy will make that clear.
- 1.3 This policy and procedure supports our obligation to work in line with current legislation, ACAS best practice, contractual requirements and national/local terms and conditions relevant to this area of employment practice.
- 1.4 The Trustees of West Norfolk Academies Trust will not tolerate harassment or bullying. Following investigation, any breaches by employees will be treated as disciplinary offences and the disciplinary procedure will be followed.
- 1.5 Employees who feel they are being harassed or subjected to other inappropriate behaviour by work colleagues, have a right to raise concerns via the Grievance procedure and/or make a complaint and to be protected against victimisation for making or being involved in a complaint. Information on ways of dealing with complaints of harassment from members of the public is available at Appendix A.
- 1.6 With the Trustees of WNAT making the commitment outlined in this policy to address employee concerns, it is important to state that there is also a clear expectation that those employees who choose to raise concerns through the Grievance policy and procedure do so with an intention to resolve the issues and bring about a harmonious working environment. All employees are expected to adhere to this policy in line with obligations under equality legislation.
- 1.7 All concerns or complaints will be treated seriously but this may not mean going directly to a formal procedure. Except in extreme cases, informal methods of dealing with unacceptable behavior are often the most successful. To cool emotions and defuse the situation, an immediate apology is invaluable and may avoid the need to take the matter further. See the grievance procedure for informal resolution methods. Where informal action fails to resolve a situation, employees can raise a formal grievance in accordance with the grievance procedure.

## **2. Equalities and Support**

- 2.1 The Headteacher will ensure that all reasonable adjustments or supportive measures are considered to allow equality of access and opportunity regardless of age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; or sexual orientation.

- 2.2 Through the implementation of this policy, the Trust will be mindful of their obligation to seek to maintain and protect the mental health and wellbeing of all employees as far as is reasonably practicable.
- 2.3 According to ACAS it is estimated one in seven people are neurodivergent, meaning that the brain functions, learns and processes information uniquely. Where an employee discloses neurodiversity, the Trust understands the employee may require extra support in relation to the application of this policy. Where reasonable adjustments are necessary and can be accommodated, the Headteacher will support these.

### **3. Application of this Policy**

- 3.1 This policy applies to the conduct of employees in the context of their work, or which otherwise affects the working, learning or social environment of the school. This can include the way in which employees behave towards each other outside school premises on school-related social occasions. It can also cover conduct towards people who are not members of the school (such as contractors and other members of the public).
- 3.2 The Headteacher will bring this policy to the attention of contractors through procurement processes.
- 3.3 If there are concerns about an employee's conduct online, ICT acceptable usage policy will be followed.

### **4. Governing Board Responsibilities**

The Trustees will:

- take reasonable steps to proactively prevent sexual harassment in the workplace.
- be alert to potential problems and act promptly without waiting for a complaint to be made to the extent that this is possible (by challenging unacceptable behaviour which is directly observed and promoting an inclusive culture)
- deal, through the Chair of Trustees, with any complaints raised against the Executive Headteacher under this policy.
- Nominate a member of the Executive Leadership team to deal with any complaints raised against a Head Teacher under this policy.
- take any complaint, being dealt with, seriously with sensitivity to the feelings and perceptions of those involved, being fair, maintaining confidentiality, safeguarding against victimisation and ensuring support is available.
- ensure this policy is reviewed at least every three years.

### **5. Headteacher and Leadership Team Responsibilities**

- 5.1 Ultimate responsibility for this policy rests with the Board of Trustees, however they will require the Headteacher to ensure that the policy is brought to the attention of all employees.
- 5.2 The Headteacher and Leadership team will:
- set an example and promote a working environment where discrimination, bullying and harassment is viewed as unacceptable and employees feel free to challenge unacceptable behaviour.
  - ensure all employees are aware of the standards of behaviour and conduct expected of them at work and that it is covered in discussions during induction, at

appraisal and supervision meetings and provide appropriate awareness and training on key issues.

- treat informal and formal complaints seriously, with sensitivity to the feelings and perceptions of all those involved.
- deal with any issues raised fairly and confidentially.
- take steps to ensure that employees who bring complaints, or support others to do so, are not treated less favourably than others because of this.
- ensure all employees are aware of the support networks available to them.
- make reports to the Trustees as appropriate.
- take immediate action if discrimination, bullying and/or harassment is suspected or identified.
- be familiar with this policy and the grievance and discipline policies and procedures.
- be aware of the possibility of intentionally malicious or frivolous complaints.
- be aware that it is not only their perception of what behaviour is acceptable which defines harassment. The recipient's view of the behaviour is important and if the recipient feels that they have been harassed the complaint must be taken seriously and actioned.

## 6. Employee Responsibilities

### 6.1 All employees must:

- report any incidents of bullying or harassment to the Headteacher or a member of the management team. Where such behaviour is witnessed, this can be raised in accordance with the *Whistleblowing policy*.
- behave in accordance with this policy
- take seriously requests to cease or amend behaviour and respond courteously to them
- not participate in, encourage or condone the discrimination, bullying or harassment of others
- promote an inclusive culture in which colleagues or peers are not subjected to discrimination, bullying or harassment by challenging these forms of behaviour or reporting situations in which they occur to the manager of the person involved.

## 7. Definitions

### 7.1 What is unacceptable behaviour?

Discrimination, bullying and harassment and other behaviours affecting the dignity of an individual at work are unacceptable. The term harassment is used in this document to include all forms of unacceptable behaviour. Some behaviour or actions may be acceptable to one individual but unacceptable to another. It is the deed and the impact on the recipient that is the deciding factor. This includes behaviour that creates an offensive environment in which to work.

### 7.2 Harassment

Harassment is any unwanted conduct affecting the dignity of employees in the workplace. It may be related to one or more protected characteristic(s) of an individual as defined in The Equality Act 2010 such as age, gender, race, disability, religion, belief, nationality or sexuality. There must be a connection between the unwanted conduct and the protected characteristic, and the conduct need not be directed at the complainant. The conduct may be directed at another person or at no one in particular. It may also be related to the membership or non-membership of a trade union. The key is that the unwanted actions or comments have the purpose or effect of violating the recipient's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. For example, an offensive comment regarding a specific racial group may constitute harassment even if the complainant did not belong

to racial group referred to. The important factor would be that the comments created an intimidating, hostile, degrading, humiliating or offensive environment.

### 7.3 **Sexual harassment**

Sexual harassment has the same definition as any other forms of harassment, but the harassment is of a sexual nature. It is important to note that an employee can experience unwanted conduct from someone of the same or a different sex.

Sexual harassment claims may go back over some time for two reasons; either because when it is finally reported it is the last straw (the individual may have been subject to a number of incidents that finally culminate in the individual not being able to stand it anymore) or individuals may also delay their reporting of the incident because they fear they will be bullied, not believed, feel too distressed or have their reputation at work damaged. All reports should be dealt with, with the upmost sensitivity and confidentiality as experiencing sexual harassment is highly distressing for the individual. All employees must feel they can report the incident and it will be taken seriously immediately.

Sexual interaction that is invited, mutual or consensual does not constitute sexual harassment as it is not unwanted. However, it is important to note that sexual conduct that has been consented to in the past can become unwanted. For example, where employees have previously had sexual relations outside of work and one of the employees proceeds to make unwanted sexual contact within the workplace.

The use of the word 'banter' should be avoided as it seeks to legitimise behaviour that may be offending an individual(s) and could be classed as harassment.

Employers must, by law, take reasonable steps to proactively prevent sexual harassment in the workplace.

It is very important that complainants should be taken seriously, regardless of whether or not there are any witnesses. It is the job of the investigator (as part of the process outlined in the Grievance procedure) to present the facts of the case, incorporating information from all involved. Questions will need to be asked of the complainant to establish the facts. These questions should be asked sensitively, in a private place and plenty of time should be allowed. The situation must be as stress-free as possible so that the complainant does not feel like they are being cross-examined. It is not only important to take steps such as investigation and disciplinary action. It is also important to review processes and procedures regularly after each reported incident to highlight that preventative steps are being taken towards managing any future complaints.

### 7.4 **Bullying**

Bullying is offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

### 7.5 **Victimisation**

Victimisation is treating a person less favourably because they were (or may have been) a party to a particular action.

## 7.6 **Discrimination**

Discrimination can be direct or indirect:

- direct discrimination is where a person is treated less favourably because of a 'protected characteristic'.
- indirect discrimination is an apparently neutral provision, criterion or practice which disadvantages a large proportion of the members of a particular group or community.
- associative discrimination is when employees are also able to claim harassment due to 'associative discrimination' - direct discrimination against someone because they associate with another person who possesses a protected characteristic.
- perceptive discrimination is when an employee is discriminated against because someone thinks the employee has a protected characteristic, even though they do not.

## 7.7 **What are the forms of harassment?**

Harassment may be directed at, and can be carried out by, an individual or a group.

Harassment can be unwanted conduct ranging from a series of two or more incidents or ongoing conduct. It can be physical or non-physical, deliberate, or unintentional. Employees can also complain of harassment even if it is not directed at them, if they can demonstrate that the behaviour creates an offensive environment for them in which to work. Harassment can be experienced online as well as in a physical environment. This is known as Cyberbullying. Refer to the Cyberbullying policy for further information.

Harassment may be unlawful as well as being damaging to individuals and to the school. It causes tension, conflict and de-motivation. This is disruptive and costly in terms of time, the physical and emotional wellbeing of staff, money, public reputation and online reputation.

Where the incident is deemed to meet the Violence at Work policy an incident reporting form should be completed on the incident reporting system.

Employees who feel they have been a victim of a hate crime or hate incident in the workplace consider calling the police - 999 in an emergency or 101 in a non-emergency situation. Reports can also be made online to the police.

More examples of what might constitute harassment are listed at Appendix B.

## 7.8 **What harassment is not about**

Headteachers are required to manage employee performance. This includes giving reasonable instructions (e.g. instructions necessary for the performance of the employee's role), undertaking performance reviews, informal reprimands and fairly instigating capability or disciplinary procedures. It is most unlikely that reasonable action taken by Headteachers, in light of the circumstances, will constitute harassment, even if the management action is unwelcome.

All school procedures will be conducted in such a manner as to respect people's dignity.

## **8. Malicious Complaints**

Whilst the Trustees of WNAT are determined in its zero-tolerance approach to harassment and bullying, a responsible attitude is expected of employees.

It should be recognised that allegations of harassment are sometimes falsely made and, in all cases, the rights of alleged perpetrators need to be recognised.

Malicious or unfounded complaints of harassment can also have a devastating effect on the health, confidence, morale, and motivation of those falsely accused. It would not serve the interests of the school for any policy or procedure to be abused and for victims of malicious or unfounded allegations to have no redress. Complaints of harassment by employees, which are found to be intentionally frivolous, spiteful, or unreasonable following investigation, will themselves be treated as misconduct in accordance with the disciplinary procedure. Accused workers should be offered support and sensitivity.

Please note that employees will not be subjected to disciplinary action or to any other detriment simply because their complaint is not upheld. Such action will only be taken if it is found that the allegation is false and made in bad faith.

Appendix A deals with how to treat complaints of harassment by external parties.

## **9. Confidentiality**

Confidentiality will be maintained during and after the grievance procedure. Records must be kept no longer than necessary and in compliance with the Data Protection Act 2018. Refer to the grievance procedure for more information.

## **10. How to Report and Deal with Incidents**

Employees are encouraged to report all incidents of discrimination, bullying and harassment. Claims of discrimination, bullying and harassment should be reported and dealt with using the grievance procedure. If the grievance is against another employee and is upheld, it may be appropriate for a disciplinary investigation to be undertaken. In these cases, the disciplinary procedure should be followed.

## **11. Data Protection**

Personal data collected and processed for the purpose of this policy will be handled in accordance with the data protection policy and applicable statutory obligations. Any personal data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of employee management or to comply with statutory reporting obligations. Inappropriate access to, or disclosure of, employee data constitutes a data breach and should be reported without delay, in accordance with the data protection policy. It may also constitute a disciplinary offence in which case it would be dealt with under the disciplinary policy and procedure.



## **Appendix A - Complaints of Harassment by External Parties**

Employees may occasionally be subject to harassment from members of the public. A member of the public is defined as anyone not acting in the capacity of an employee of the school

The steps that may need to be taken are:

- If the employee feels able to tell the member of the public that their behaviour is unacceptable and unwelcome, without inflaming the situation they could do so. This is only advisable where the employee is sure this is the right response. In situations where they are not sure, the best course of action is to try to bring the incident to a close by politely ending the discussion and referring the matter to the Headteacher.
- It would be natural for employees to try to defend themselves aggressively in such situations, but this course of action is often likely to make the situation worse, rather than better. Employees should try to remain calm and clear-headed whilst they remain with the member of the public.
- The employee should make a record of the details of the incident, and any others of which they are aware involving the same aggressor.
- After the incident, employees must report the matter to the Headteacher. No action can be taken until the matter is reported, and if incidents go un-reported they are more likely to be repeated.
- The Headteacher and the employee should agree on the course of action to be taken. This will usually mean informing the member of the public that their behaviour, in harassing a school employee, was unacceptable and try to re-build the relationship.
- Reaching a solution in meetings with the member of the public may be very difficult. In some situations, it may be advisable to use a trained mediator.

In the situation where a parent or carer has harassed a teacher, further action would normally take the form of a letter from the Headteacher to the aggressor. The letter would underline the fact that it is not acceptable behaviour to harass a school employee, and if the parent or carer wishes to discuss the matter further arrangements for this can be made. The subsequent meeting should take place in the presence of the Headteacher and a School Governor.

Where there are repeated cases of harassment by the same aggressor the Headteacher should undertake a risk assessment.

## **Appendix B - Examples of Harassment**

Information in this appendix relates to harassment given verbally or physically, written or online e.g. social media. Please note that this list is not exhaustive:

- Unwanted physical contact
- Physical attacks or threats
- Any unwanted conduct of a sexual nature
- Intrusive remarks about a person's appearance
- Deliberately promoting negative attitudes about others
- Telling offensive jokes, using offensive language, malicious gossip
- Verbal abuse or using offensive names
- Displaying offensive posters, graffiti, emblems
- Isolation, non-cooperation, exclusion from social activities
- Constantly undermining an individual's efforts without explaining how to improve
- Communicating in an intimidating and unreasonable manner (whether verbally, in writing, via email or another way)
- Causing embarrassment in front of others
- Constant criticism relating to historical events
- Persecution and intimidation through threats or inspiration of fear
- Not listening to another's point of view on a regular basis
- Victimisation or retaliation
- Removal of responsibilities, allocating menial tasks
- Deliberately impeding performance of work
- Constantly and unreasonably changing targets or deadlines (moving the goalposts)
- Over-monitoring of an employee with or without his or her knowledge
- Unreasonable refusal of applications for leave, training or promotion
- Making threats about job security without foundation
- Obvious close down or whispering when a colleague comes in

### **Examples of harassment on the grounds of disability:**

Derogatory remarks, mimicking, invasive personal questions, staring, ostracising or patronising which is directed at any disabled individual, or group of disabled people, which results in the individual(s) feeling threatened or compromised. Stereotyping or making assumptions about individual's ability because of their disability. Holding events at non-accessible venues

### **Examples of harassment on the basis of age:**

Ridiculing or demanding behaviour focused towards people because of their age, regarding them as "too old" or "too young"; or making assumptions about lifestyle based on perceived age.

### **Examples of harassment on the basis of sexuality:**

- Behaviour that condemns or ridicules people because of their perceived or actual sexuality.
- Derogatory remarks, jokes, graffiti that results in the individual feeling uncomfortable, excluded or threatened.
- Outing an individual as lesbian, gay or bisexual without their permission.
- Spreading rumours or gossip about an individual's sexual orientation.
- Asking a lesbian, gay or bisexual colleague intrusive questions about their sexual orientation.

### **Examples of harassment on the basis of working patterns:**

Behaviour, which fails to acknowledge that some people do not work five days a week or "9.00 to 5.00" every day, and that organisations operate effectively using a variety of working patterns. Making comments about not "pulling their weight" or hours of work.

**Examples of harassment on the grounds of ethnicity:**

This can be derogatory remarks, racist statements, graffiti, jokes, or any other action of a racist nature that is directed at any individual or group from a particular ethnic background that results in the individual(s) feeling threatened or compromised.

**Examples of behaviour that may be sexual harassment:**

Unwelcome sexual advances, requests for sexual favours, up skirting or other conduct of sexual nature, which result in the individual feeling threatened or compromised. This is not restricted to attempts to initiate sexual relations. Sexual harassment is any harassing conduct based on the gender, gender identity or sexuality of the recipient, which has the purpose or effect of violating the dignity of the worker, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. Most sexual harassment is experienced by women, but men also experience harassment. Sexual harassment can also happen between women or between men. Transgender people may also experience sexual harassment based on perceptions or assumptions about them in relation to their appearance or sexuality. Actions can still be considered as sexual harassment even if the alleged harasser didn't mean for it to be or they didn't intentionally direct it at a specific person.

**Harassment on the basis of religion or belief:**

This is where a person is subjected to derogatory remarks, stereotypes, making assumptions or other inappropriate behaviour on the grounds of religion or belief. This can include statements or assumptions about religion or belief or excluding people on the basis of their religion or belief. Arranging meetings that may exclude people on religious observance grounds.

Political harassment or harassment on the grounds of membership or non-membership of a trade union. This can include:

- Offensive jokes
- Ridicule
- Display of offensive material

**Singling out**

Singling out people because of their sex, race, disability, gender identity, religion or belief, age, sexuality, and responsibilities for dependants or marital status can also constitute harassment even without any specific references to gender, race etc. Specific non-verbal examples can be seen above under "bullying". This can also apply to people who are perceived to not "fit in". (Expecting people to "fit in" is potentially discriminatory.)