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Harassment and Bullying policy and procedure

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1 Scope

This policy applies to all staff employed at The Charter Schools Educational Trust (the 'Trust') i.e. teachers, support staff, Central Services staff, including those on fixed-term, part-time, permanent or temporary contracts.

2 Rationale

It is the ethos of the Trust to treat all colleagues with respect, trust, and dignity to foster good working relationships for the benefit of each other and ultimately the children in our schools.

To this end, the Trust will not tolerate any forms of harassment and bullying in the workplace and will take swift and decisive action against those who are found to be acting in this way, including disciplinary action which may lead to dismissal in serious cases.

3 Aim

This harassment and complaint policy sets out the procedure that should be followed to ensure that complaints of harassment and bullying are handled in a fair, transparent, confidential (where possible) and prompt manner. The Trust will ensure that any member of staff raising a concern under this policy is not victimised as a result or suffer any reprisal.

Any other complaint relating to colleagues or line managers should be dealt with under the Trust grievance policy and procedure.

Under the Health and Safety at Work Act 1974, the Trust has a legal responsibility to ensure the health, safety, and welfare of all employees at work are all protected.

Staff are reminded of our own Trust Equality, Diversity and Inclusion Policy and our professional standards of conduct.

4 Support

Raising a complaint of harassment and bullying can be stressful, sometimes to both parties, and therefore individuals are encouraged to seek the support and advice of their union representative or official when raising such complaints. The Trust 24-hour employee assistance service, which can provide advice and counselling, is available for all staff.

At any stage of the procedure, both parties may agree to external mediation (or by a trained and neutral internal person). This can be helpful in resolving the complaint without a formal hearing or as a result of the outcome of a formal hearing, although by its very nature this will not always be possible or appropriate.

Headteachers and line managers handling a complaint of harassment and bullying will receive support, advice and guidance from HR and are encouraged to read the managers guidelines and the ACAS guidelines in this respect.

5 What is Harassment and Bullying

Harassment is unlawful and is defined in the Equality Act 2010 as unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. It may be related to age, belief, marital status (including civil partnerships), sex, sexual orientation, race, ethnic origin, disability, religion, nationality, gender reassignment, health, pregnancy, trade union membership, or any personal characteristic of the individual, and may be persistent or an isolated incident.

The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

The following are examples of forms of harassment:

- a) Verbal or written harassment through jokes, offensive or sexually explicit language, malicious rumour, sectarian songs, racist jokes, offensive terminology relating to people with a disability, abusive and nuisance letters, phone calls or e-mails, abusive use of social networking sites
- b) Unwanted, intrusive questioning of a person about their marital status, sexual interests or orientation, race or ethnic origin, disability, religious belief, or political opinions
- c) Visual display or pornographic, sexually explicit, or suggestive pictures, objects, or written material (including the use of e-mail to send such material), political posters, graffiti, obscene gestures, flags, bunting and emblems which may cause offence
- d) Unwanted physical contact ranging from unnecessary touching to coercing threatening or inflicting violence

- e) Personal interaction involving threat, intimidation, physical attack, insult, or other behaviour which is unwanted and results in the person being hurt, intimidated or offended by another.

Bullying is a form of harassment and can be defined as offensive, abusive, intimidating, malicious or insulting behaviour which makes the recipient feel upset, threatened, humiliated or vulnerable.

It does not necessarily need to be repeated and may be a one off incident. It does not necessarily need to have been intentional, what is important is the impact it has had on the individual.

Examples of bullying include:

- a) Ignoring or excluding an individual
- a) Insulting or aggressive behaviour
- b) Unwarranted or invalid criticism
- c) Being singled out or treated differently
- d) Removing areas of responsibility without explanation
- e) Withholding work related information and documents
- f) Spreading malicious rumours, or insulting someone by word or behaviour
- g) Copying emails that are critical about someone to others who do not need to know
- h) Ridiculing or demeaning someone – picking on them or setting them up to fail
- i) Exclusion or victimisation
- j) Overbearing supervision or other misuse of power or position
- k) Unwelcome sexual advances – touching, standing too close, display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected (which is also harassment)
- l) Making threats or comments about job security without foundation
- m) Deliberately undermining a competent worker by overloading and constant criticism preventing individuals progressing by intentionally blocking promotion or training opportunities.

The list above is long, but not exhaustive and needs to be viewed in terms of the perception of the recipient rather than what might have been the intention.

Both harassment and bullying can undermine an individual's self-confidence, ability to do their job, self-esteem and may lead to serious mental health issues and is therefore a very serious offence. It can also be a criminal offence. If found through investigation that bullying and/or harassment has taken place it may lead to disciplinary action.

Equally, making a vexatious complaint of bullying and harassment is also very serious and may lead to disciplinary action of the complainant.

6 What to do if you are being harassed or bullied

If you feel you are being subjected to harassment or bullying, you should aim to deal with this informally if possible and as quickly as possible unless you consider the issue to be of a serious nature or previous attempts to deal with it informally have not resolved the matter.

It is important you keep a record of the incident/s including dates, times, witnesses and how the incident made you feel both at the time and now. If you are in a group subject to harassment and bullying, you should advise your colleagues to do the same. Your notes will be really important if the matter is dealt with at the formal stage of this procedure.

7 Informal Resolution

Wherever possible you should try to resolve any complaint of bullying and harassment informally in the first instance by speaking to the person/s concerned and let them know what the issue is and the impact it is having on you. This is clearly not an easy conversation to have, and you may ask a colleague or trade union representative to accompany you, but you need to make it clear that you are not raising a formal complaint at this stage.

By inviting a colleague/trade union representative to the meeting you may find that the person concerned may also ask for somebody to be present. This can change the dynamics of the meeting so needs some consideration, and possibly some further advice.

If you are unable to resolve your complaint informally or feel you cannot do this yourself due to the serious nature or for any other reasons, you should raise it directly with your line manager, or if the complaint relates to your line manager, then with their immediate line manager.

Your line manager (or their line manager) will consider your complaint and will seek to resolve it informally between you and the person/s concerned if this is appropriate. They may ask a HR specialist to support them in facilitating this. They may also need to carry out further investigations or appoint an Investigating Officer at this informal stage. This may be somebody from the school, another school, or an external person e.g. an HR professional.

Your line manager (or their line manager) should aim to resolve the informal stage where appropriate within ten working days or as soon as is practically possible (it may be longer if an investigation is being carried out) and communicate with you in writing what steps will be taken to resolve the complaint, by whom and in what timescales.

If you are not satisfied with the outcome or have decided that the informal stage is not appropriate, you should follow the procedure below.

The Headteacher/Executive leader may also decide that with the evidence to hand, the complaint is so serious that the informal stage is not appropriate and will seek to instigate the formal procedure immediately. In very serious cases which are deemed to be a criminal act, it may be a requirement for the Headteacher/Executive leader to report the incident to the police, following consultation with the CEO/Trust Director of People.

8 Formal procedure

If it has not been possible to resolve the complaint informally or you decided it was not appropriate to attempt to do so, you should set out in writing to the Headteacher/Executive leader the details and nature of your complaint, giving as much information as you can about the allegations, include dates and times of incidents, witnesses, and any relevant documentation.

Depending on the nature of the complaint, and if they have not already done so, the Headteacher/Executive leader may appoint an Investigating Officer to investigate the complaint at this stage. This will involve speaking to both parties and in some cases other witnesses. This should be carried out within five working days or as soon as reasonably practical.

Depending upon the seriousness of the allegations, the Headteacher/Executive leader may decide to separate the two parties in the workplace whilst the investigation and formal procedure is ongoing. This may involve a temporary transfer of the person who is the subject of the complaint to another department or school, or suspension with pay

until the complaint has been resolved. A decision of this nature will only be taken with HR support and advice.

All parties have the right to be accompanied by a Trade Union Representative (if applicable) or a Trust work colleague to investigation meetings in connection with the complaint. A written record of any interviews will be taken and signed by the interviewees.

On completion of the investigation, the Investigator will present a report of the findings, setting out the facts to the Headteacher/Executive leader.

The Headteacher/Executive leader will decide on the next course of action, in consultation with HR. They can decide to either conclude that no further action should be taken or proceed with disciplinary action against the perpetrator. In very rare cases of vexatious claims they made decide to take disciplinary action against the complainant. The case will then proceed under the Trust disciplinary procedure.

This decision, and the reasons for reaching the decision, will be communicated in writing to both parties, with the complainant given their rights to appeal.

9 Complaints against the Headteacher/Trust Executive/CEO

Any complaint of bullying and harassment made against the Headteacher or any other member of Trust Executive staff reporting directly to the CEO will be heard by the CEO and the appeal will be to the Chair of Trustees. If the complaint is against the CEO, then it will be heard by the Chair of Trustees and the appeal will be to a panel of at least three Trustees, none of whom have had any involvement in the case prior to the appeal.

For all other intent and purpose, the complaint will follow the procedure in this policy.

10 Bullying and Harassment complaints raised during a disciplinary procedure

Where an employee raises a complaint of bullying and harassment during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the complaint. Where the complaint and disciplinary cases are related it may be appropriate to deal with both issues concurrently. This decision will be taken by the chair of the disciplinary hearing in consultation with HR when required.

11 Appeal Process

If you are dissatisfied with the outcome, you can request an appeal hearing by sending written notice to the Trust Director of People (HRAppeals@tcset.org.uk), detailing your

grounds of appeal, within ten days of receiving the written reply from the Headteacher/Executive leader.

The appeal hearing will be heard by a person who has not previously been involved with the complaint. This person may be a senior manager or any member of the Trust Board. An HR advisor may be present to advise on matters of employment law and policy.

You will receive notice of the appeal hearing in writing not less than seven working days' before the hearing. You have the right to be accompanied to the appeal hearing by a Trust work colleague or your trade union representative/official.

The decision of the complaint appeal hearing will be communicated to you in writing within seven working days of the hearing and will be final.

12 Monitoring and evaluation

All bullying and harassment complaints and outcomes should be recorded and retained on personnel records for a period of 12 months (for the person raising the complaint). If there was a subsequent disciplinary hearing against the person subject to the complaint, then this hearing should be placed on the personnel record of that person in line with the disciplinary policy.

It is good practice for the Trust Central Services team to record all formal complaint hearings and the outcomes for Equal Opportunities monitoring.

13 Related documents

This policy should be read in conjunction with the following Trust policies:

- Equality, Diversity, and Inclusion
- Health and Safety
- Grievance
- Disciplinary
- Whistleblowing

This policy should be read in conjunction with the following external regulations and guidance:

- Equality Act 2010
- ACAS guide : Bullying and Harassment at work