

Schools HR Policy & Procedure Handbook

Bomere and the XI Towns Federation

Bullying and Harassment Policy

This Policy has been consulted on with the recognised Trade Unions set out below representing teachers, Headteachers and Support Staff:

- National Education Union
- National Association of Schoolmasters Union of Women Teachers
- National Association of Headteachers
- Association of School and College Leaders
- Unison
- GMB

This policy has been adopted by the governing body of
Bomere and the XI Towns Federation

on

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Bullying and Harassment Policy

1. Introduction

Bullying and Harassment are unacceptable forms of behaviour which will not be tolerated in Shropshire schools.

This school is committed to providing a working environment for all its staff that is comfortable and free from all forms of bullying and harassment. All allegations will be treated seriously and with sensitivity for both the victim and the perpetrator. They will be investigated promptly, and a speedy resolution sought.

Bullying and harassment of any kind is in no-one's interest and can be unlawful. The school therefore has a policy of zero tolerance towards any behaviour that is unacceptable from any member of staff (including volunteers). Any member of staff who is found to have bullied or harassed a fellow member of staff will be subject to disciplinary action. This school expects everyone to treat others with dignity and respect, whoever they are and whatever their personal characteristics .

The School will also not tolerate any victimisation of those who have made a complaint, or who have witnessed an incident, or supported the complainant.

This policy follows the guidance of the Advisory, Conciliation and Arbitration Services (ACAS) on Bullying and Harassment at Work.

A harmonious working environment is to the benefit of everyone because conflict has a negative impact upon:

- the morale, health and well-being of staff;
- the effectiveness and job satisfaction of employees in their work;
- the quality of education provided to pupils;

This policy is consistent with other School policies e.g. Whistleblowing (Speaking up about Wrongdoing) Policy; and Equality.

2. Aims and Objectives

The aim of this policy is to prevent behaviour that could be construed as harassment or bullying in the workplace. Where this does occur, the implementation of this policy aims to ensure that appropriate, effective and timely action is taken to prevent any recurrence.

The specific objectives of this policy are to:

- ensure that all staff are aware of the types of behaviour which may constitute bullying or harassment,
- ensure that all staff understand that behaviour which could be considered to be bullying or harassing is unacceptable and that appropriate measures will be taken, this may include disciplinary action;
- promote a climate in which staff feel confident to make complaints of Bullying and Harassment without fear of victimisation. Complaints may also be raised through the Whistleblowing policy if a third party witnesses inappropriate behaviour;
- ensure that all allegations of bullying or harassment are dealt with quickly and positively;
- provide arrangements for complaints to be investigated in way which recognises the sensitivity of the issues being raised and working a need to know basis.

- encourage professional behaviour and to enable staff to challenge and tackle bullying and harassment and to co-operate fully in any complaints procedure.

3. Responsibilities

Headteachers/Line Managers must take the lead in tackling harassment and bullying issues to show employees that such issues are taken seriously. Headteachers/Line Managers should adhere to the following –

- promote this policy by how they speak and behave
- be aware of their responsibilities as outlined in this policy
- adopt an appropriate management style (Appendix D)
- communicate this policy and the standards the school expects from employees and volunteers so that all staff understand their rights and responsibilities under this policy
- be sensitive and receptive to employees who feel they are being harassed or bullied
- take allegations seriously and deal with them speedily, sympathetically and confidentially.
- ensure staff are aware of the support available to them e.g. Occupational Health Services/NOSS counselling
- ensure any inappropriate behaviour in the workplace is challenged
- ensure the workplace is free of visual forms of harassment e.g. offensive posters, calendars
- monitor a case after action has been taken to ensure there is no victimisation of those involved or any ongoing harassment or bullying
- support employees with integration into the workplace following resolution of issues.

All staff and volunteers should adhere to the following –

- promote this policy by how they speak and behave
- be aware of their responsibilities as outlined in this policy, and the behaviour expected of them in the workplace
- treat all people in the workplace with dignity and respect
- be prepared to challenge any sort of inappropriate behaviour
- be prepared to support colleagues who are being harassed or bullied

4. Legislation & Definitions

The definitions of bullying and harassment used in this policy are those specified in the ACAS Guide on Harassment and Bullying at Work.

‘Bullying’ can be characterised as:

“offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.”

‘Harassment’ is:

“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”

The following legislation is associated with this policy -

- Employment Rights Act 1996
- Protection from Harassment Act 1997
- Equality Act 2010
- Data Protection Act 2018
- General Data Protection Regulation (GDPR)

The Equality Act 2010 defines direct discrimination as less favourable treatment because of a protected characteristic. The protected characteristics under the Equality Act 2010 are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex and sexual orientation

The Equality Act 2010 makes harassment unlawful across all the protected characteristics, with the exceptions of marriage and civil partnership, and pregnancy and maternity which are covered by direct discrimination provisions in the Equality Act 2010. The Act sets out two specific definitions of sexual harassment which are:

- Conduct of a sexual nature that has the purpose or effect of violating a person's dignity, or creating an intimidation, hostile, degrading, humiliating or offensive environment; and
- Less favourable treatment related to sex or gender reassignment that occurs as result of a rejection of or submission to sexual conduct.

Harassment also includes the following:

- Harassment based on association. It is unlawful to discriminate against or harass any individual for association with another individual who has a protected characteristic.
- Harassment based on a perception. It is unlawful to discriminate against or harass any individual based on a perception that that have a particular protected characteristic when they do not, in fact, have the protected characteristic.

Some types of bullying or harassment may constitute unlawful discrimination and may give rise to the possibility of other civil claims or criminal proceedings.

General "banter" linked to sex, race, religion, sexual orientation or age is the most common form of harassment in employment. Headteachers and line managers should make sure that they properly brief all their staff as to the types of conduct and speech that might cause offense to others and make it clear that such behaviour will be unacceptable.

The basic rule should be that any jokes, remarks or banter that cause offence to another employee on any grounds will not be permitted. Employees should be encouraged to realise that their colleagues

will have differing views and feelings and differing levels of sensitivity about certain matters. No individual can ever know everything about their colleagues.

Further information on examples of unacceptable behaviour, which may result in this procedure being applied, is outlined in appendix 3.

Cyberbullying can be defined as the use of information and communication technologies to support deliberate, repeated and hostile behaviour by an individual or group that is intended to harm others.

Typically cyberbullying involves the use of the internet, email or mobile phones to send or post text or images intended to hurt or embarrass another person. In many cases, the spreading of offensive jokes or shocking or sexual material via phone or email may also constitute cyber harassment.

Anyone found to be using technology to bully or harass a colleague will be subject to the school's disciplinary procedure.

Incidents of harassment and bullying are not necessarily obvious or apparent to others. They can be between two individuals or may involve groups of people. They can occur in any form of communication not just in face to face situations. An employee can make a complaint even if the alleged harassment/bullying has not been directed at them. In addition, the complainant need not possess one of the protected characteristics themselves but may complain on the basis that they are perceived to have a protected characteristic or because they associate with someone with a protected characteristic.

Headteachers and Line Managers are required to manage staff to achieve targets, work to standards, manage change and contribute to school development and improvements. This may on occasions raise issues regarding style of management. Appendix 4 provides guidance on what acceptable management behaviour in the workplace.

Actions taken with the genuine aim of helping employees to improve are to be encouraged. Actions which aim to damage or demean are not acceptable.

5. Procedures for Dealing with Bullying and Harassment

Relationship with other procedures:

Relationship to Grievance Policy

A complaint of bullying and harassment is a grievance. However, it is recognised that the potential impact on the individual subject to such behaviour, requires sensitive handling. The procedure therefore provides additional safeguards and support within the informal stage to attempt to resolve the issue and to stop the unacceptable behaviour of the alleged harasser/bully in the first instance.

Relationship to Disciplinary Policy

Words or acts including any form of unlawful discrimination, victimisation, bullying or harassment are considered to be potentially gross misconduct. Where an employee's behaviour is considered to fall within that category it may be appropriate for the matter to be dealt with under the Disciplinary Policy. Advice must be sought from the school's HR Provider whenever a complaint is raised. Any complaint that is blatantly untrue and has been brought out of spite, or for some other unacceptable motive, the complainant will be subject to the school's Disciplinary Policy, as will any witnesses who have deliberately misled the school during its investigations.

Relationship to Safeguarding Policy

A complaint of bullying and harassment is also a form of abuse. In each case, consideration should be given to whether the alleged harasser or bully is working with vulnerable children or adults.

If this is the case, it will be the role of the Headteacher to identify whether a child or adult protection referral needs to be made. This should be done initially through a discussion with the appropriate Safeguarding team.

6. Informal Procedure

6.1 Raising a Complaint

Members of staff are encouraged to use the informal procedure to resolve complaints of harassment and bullying, wherever possible. The informal route creates an opportunity to resolve problems swiftly and confidentially without the formality of an official procedure and investigation. It allows the parties concerned the space to work out any potential misunderstandings about behaviour and reduces the risk of problems escalating.

Headteachers, trade union representatives and the Occupational Health Service should encourage employees to take the informal route to resolve problems.

It should only be in exceptional circumstances that employees immediately raise a complaint under the formal procedure. The member of staff is advised to contact their trade union/professional association representative who may be present at all stages of the procedure. A friend or work colleague may attend should the member of staff not be in a Union.

The first point of access for a member of staff who is considering making a complaint under the policy will be to contact their Headteacher or (where this is inappropriate because the complaint is against the Headteacher, the Chair of Governors;

It should be noted that where the member of staff seeks such advice, the matter remains at the informal stage. The discussion should be confidential, and no further action taken without the consent of the member of staff concerned.

Where the complaint has been raised against the Headteacher, the Chair of Governors will deal with the complaint and take the role of Headteacher as outlined below.

Where such advice is requested a meeting will be granted as soon as possible and normally within five working days of the request being made. This timescale can be varied by agreement between the parties. In the meeting the Headteacher should:

- listen to what the member of staff has to say;
- seek to clarify with the member of staff exactly what has happened and the grounds on which they feel they have been harassed or bullied;
- assist the member of staff, where necessary, in completing a Written Record of Bullying and/or Harassment (See Appendix 1), which will help to clarify what happened and when. (This form will be kept by the complainant for use should formal action be required);
- outline the options under this policy;
- offer support in taking action at this stage.

The Headteacher should seek advice from the school's HR provider at an appropriate point and inform the member of staff about the options they can, take which are:

1. to proceed with the informal stage of this procedure
2. to follow the informal procedures in the Grievance Policy if the member of staff wishes to use it or if this is perceived to be a more effective way of dealing with the issue i.e. the complaint does not transpire to be an allegation of bullying or harassment.

3. in exceptional circumstances, to proceed immediately to the formal stage of the procedure, e.g. where other informal methods have already been tried, or the matter is so serious it requires investigation.

Once such an approach has been made, the Headteacher will seek to resolve the problem. With the consent of both parties involved there may be subsequent consultation with other persons whom it is considered may be able to assist in resolving the difficulty informally.

If it is appropriate to continue with the Informal Stage of this policy, the Headteacher will advise the complainant of the options available.

Option A - to speak directly to the alleged harasser/bully (either on their own or in the company of the Headteacher or Trade Union representative, or work colleague).

Option B - ask the Headteacher (or Chair of Governors if it is the Headteacher who is the alleged harasser/bully) to speak to the alleged harasser/bully advising them of the allegations.

Option C - ask their Headteacher and Trade Union representative or work colleague to speak to the alleged harasser/bully.

Option D - take no action but keep a written record of events for future use. The copy should be placed on the personal record of the employee raising the complaint in a sealed envelope.

Where possible, the school will try to ensure that the member of staff raising the bullying or harassment claim and the alleged harasser are not required to work together while the claim is under investigation. This could involve giving the member of staff who has raised the bullying or harassment claim the option to work from home, where possible or remaining at home on special leave, if agreed. In the case of serious allegations, the school may suspend a member of staff who is under investigation for bullying and harassment for a temporary period while investigations are being carried out and disciplinary proceedings are underway. Any suspension will be for as short a time as possible and will be on full pay. The school must contact their HR provider for advice before suspending any member of staff.

6.2 Informally Raising the Issue with the Alleged Harasser/Bully

The discussion with the alleged harasser/bully should include, as appropriate:

- a description of the behaviour that causes the concern
- a description of how the behaviour makes the complainant feel
- that the complainant wants the behaviour to stop
- how the complainant wishes to be treated in future
- that the complainant has the right to take the matter to the formal stage of the policy if the behaviour does not stop
- an indication of the grounds on which the person feels discriminated against (if applicable)
- their response and any explanation

The outcome of options A, B and C of the Informal Stage are that a verbal agreement is reached between the complainant and the alleged harasser/bully on the standards of behaviour to be upheld in future, and any actions to be taken.

6.3 Recording the Outcome

The Headteacher will ensure the Informal Stage Monitoring Form (Appendix 2) is completed and will be put in the personal file of the employee raising the complaint and will be retained following GDPR principles. This information will be used for monitoring and reviewing complaints of Bullying and Harassment and how they have been resolved and may be referred to in future investigations, if appropriate to do so.

Where the complainant or someone on their behalf has approached the alleged harasser/bully and the unacceptable behaviour stops then there is no need to take further action. However, the complainant should keep any notes they have made about incidents in case the behaviour recurs.

Where the complainant or someone on their behalf has approached the alleged harasser/bully and the unacceptable behaviour continues then the employee should raise this with their Headteacher to consider further action. Options will include:

- To take action under the formal stage of this policy
- To seek further resolution under the informal stage

7. Formal Procedure

Formal action is used when attempts to resolve the conflict informally have not been successful or when the seriousness of the incident is such that only formal action is deemed appropriate e.g. there is a risk to the health of an employee.

In these cases, the formal procedure detailed within the Grievance Policy will be followed.

8. Support for Employees

It is recognised that raising issues of harassment and bullying can be difficult and stressful both for the complainant and the alleged harasser/bully. Other members of school staff may also be adversely affected.

Members of staff who make allegations of harassment/bullying or have had allegations made against them, can seek information regarding support from the school's HR provider.

Support mechanisms are available for those experiencing difficulties, including the Occupational Health Service on 01743 252833 and the external counselling service provided by NOSS on 01978 780479.

Training is also available to:

- help Headteachers/Line Managers deal with allegations of harassment and bullying raised by a member or members of their team;
- help employees change their behaviour where a need for change has been identified.

It may become necessary for professional mediation to be sought to resolve a workplace situation. The school's HR provider should be contacted to further discuss this.

9. Data Protection & GDPR

The General Data Protection Regulation (GDPR) requires employers to comply with principles for processing personal data, including protecting against unauthorised access of personal data. Personal data that is inappropriately accessed or disclosed may constitute a data breach. The GDPR requires the school to keep a record of all data breaches and, where the breach is likely to result in a risk to the rights and freedoms of individuals, the school must notify the Information Commissioner within 72 hours of becoming aware of the breach. If the data breach results in a high risk to the rights and freedoms of individuals, those individuals must be notified without undue delay.

The school processes personal data collected during any stage of an investigation action in accordance with the school's Data Protection Policy. Data collected as part of the investigation is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the investigation. Inappropriate access or disclosure of members of staff data constitutes a data breach and should be reported in accordance with the school's Data Protection Policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the school's Disciplinary Policy.

10. Monitoring and Review

The Governing Body will monitor the outcomes and impact of this policy on an annual/bi-annual basis in conjunction with school representatives.

This procedure will be reviewed no later than two years by Human Resources in consultation with Trade Unions.

Appendices

Appendix A: Confidential Written Record of Events

Appendix B: Stage 1 Monitoring Form

Appendix C: Guidance on Unacceptable Behavior

Appendix D: Issues Regarding Style of Management

CONFIDENTIAL WRITTEN RECORD OF EVENTS

This form is to be used as part of the Informal Procedure. It is not mandatory but can be completed by the employee experiencing harassment and/or bullying, in liaison with their Headteacher or trade union representative, to help clarify the nature of the complaint and to keep a record for potential future action.

(If appropriate, use a separate form to record each incident of harassment/bullying)

1. Name of person causing offence: _____

2. Date of incident: _____ 3. Time of incident: _____

4. Place: _____

5. An outline of what took place: _____

6. Names of other staff who witnessed the offending behaviour: _____
(DO NOT GIVE THESE NAMES TO THE PERSON ALLEGED TO BE CAUSING THE OFFENCE)

7. If you choose not to discuss this incident with the person causing offence, please record below your reasons for not doing so. (This will be helpful if the bullying/harassment continues and further action is needed).

SIGNED: _____ **DATE:** _____

Please note that every effort will be made to maintain confidentiality, however, if a Data Protection Act request is made this may not be possible

MONITORING FORM – STAGE 1

(To be completed by the Headteacher)

Nature of alleged incident(s) of harassment:

Type Verbal / Non Verbal Physical

Reason:

Sexual

Racial

Disability

Sexuality

Age

Bullying

Other (please specify)

When did the meeting with the complainant take place: _____

If it was appropriate to proceed with Stage 1 of the policy, which option was chosen?

Option A

Option B

Option C

Option D

Has the matter been subsequently referred to Stage 2 of the Policy?

YES/NO

SIGNED: _____

DATE: _____

Guidance on Unacceptable Behaviour

Harassment and bullying can be very damaging to both the individual and to the school itself, and everyone has a responsibility to try to create a good working environment.

These examples serve to illustrate the type of behaviour which is unacceptable and are provided so that members of staff can reflect on the kinds of behaviour which may lead to allegations under this policy, in order that they can adopt appropriate behaviour.

- Spreading malicious rumours, or insulting someone by word or behaviour (particularly on the grounds of age, race, sex, disability, sexual orientation and religion or belief); including 'office banter' which is deemed offensive by a work colleague.
- A management style that is destructive rather than constructive; criticising the person rather than their mistakes and the consequences of their mistakes; publicly humiliating them rather than correcting their mistakes privately;
- Copying memos/emails that are critical about someone to others who do not need to know;
- Ridiculing or demeaning someone, picking on them or setting them up to fail;
- Exclusion or victimisation;
- Overbearing supervision or other misuse of power or position;
- Unwelcome sexual advances; staring/leering, touching, standing too close, the display of offensive materials, the use of suggestive explicit language, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected;
- Behaviour which fails to acknowledge and respect the rights or needs of people with different beliefs or practices;
- Behaviour which condemns or ridicules people because of their sexual orientation or perceived sexual orientation;
- Behaviour which condemns or ridicules people because they propose to undergo, have started or completed a process to change their gender;
- Making threats or comments about job security without foundation;
- Deliberately undermining a competent worker by overloading and constant criticism;
- Preventing individuals progressing by intentionally blocking promotion or training opportunities;
- 'Cyber bullying' which can be defined as "when one person or a group of people try to threaten, tease or embarrass someone else by using a mobile phone or the internet" (from www.direct.gov.uk).

- Treating a person less favourably because he/she has complained about the behaviour of someone who is harassing or bullying, has given evidence or information, or has supported someone who has made such a complaint.

Issues Regarding Style of Management

Headteachers and Line Managers are required to manage staff to achieve targets, work to standards, manage change, service development and improvements. This may on occasions raise issues regarding style of management. The table below provides guidance on what differentiates management.

It is important to distinguish between the effective management of performance and bullying/harassment. Managers are entitled to manage fairly and effectively. Examples of legitimate management action are:

| Good Management | Harassment/Bullying |
|---|--|
| <ul style="list-style-type: none"> • Making an employee aware of poor performance and providing support in making the necessary improvement. • Using supervision and appraisals to provide appropriate direction. • Providing the appropriate balance of positive and negative feedback to ensure a high standard of work whilst maintaining employee morale and well-being. • Fair use of the disciplinary and absence management procedures. • Supporting, encouraging and challenging to achieve outcomes. • Setting realistic deadlines related to the capabilities required by the person specification or the post. • Progress chasing/monitoring of work • Setting out standards and acceptable behaviour and work performance. • Using a clear, firm and measured communication style. | <ul style="list-style-type: none"> • Constantly point out an employee's mistakes without giving support to put them right. • Blocking an employee's development by ignoring or refusing training requests for no justifiable reason. • Inappropriate comments made in public about an individual's performance. • Persistent haranguing of an employee in public or private. • Scapegoating one person when there is a common problem. • Making unreasonable threats about redundancy/continued employment. • Deliberately withholding information or removing areas of responsibility without justification. • Undermining an employee's self-respect by condescending or threatening treatment that humiliates, intimidates or demeans |

It is recognised that an occasional raised voice or argument in itself may not constitute bullying

Actions taken with the genuine aim of helping employees to improve are to be encouraged. Actions which aim to damage or demean are not acceptable.