



# Anti-Harassment and Bullying Policy

## March 2017

The Local Governing Body of Glenbrook Primary School adopted this policy on 10<sup>th</sup> July 2017. It will be reviewed annually by the Trust Personnel Committee, the next such review to be no later than 31 March 2018

*G. Eynne* 10/07/17

*G. Eynne*  
10/7/17

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# **Anti-Harassment and Bullying Policy**

## **Introduction**

This policy applies to all Academies within The Spencer Academies Trust. The Directors may approve a transitional policy for recently converted academies in exceptional circumstances. The Scheme of Delegation for each Academy within the Trust outlines the delegated responsibility for employee matters and the pay and conditions of all employees.

This policy has been developed taking into account the requirements of both education and employment legislation and recognises the guidance set out in the ACAS Code of Practice in force at the date of adoption of this policy.

The Principal or their appointed representative, supported by the Trust HR Manager will be responsible for managing the procedures. Reference to the Principal includes the Chief Executive Officer (CEO) and the senior leader responsible for the Academy, as applicable, taking into account the management structure of the Academy or appropriate Trust employed operational support lead.

The purpose of this policy is to ensure that all employees are treated and treat others with dignity and respect, free from harassment and bullying. All employees should take the time to ensure they understand what types of behaviour are unacceptable under this policy.

This policy covers harassment or bullying which occurs both in and out of the workplace, such as on trips or at events or work-related social functions. It covers bullying and harassment by employees and also by third parties such as customers, suppliers or visitors to our premises.

Employees must treat colleagues and others with dignity and respect and should always consider whether their words or conduct could be offensive. Even unintentional harassment or bullying is unacceptable.

The Academy will take allegations of harassment or bullying seriously and address them promptly and confidentially where possible. Harassment or bullying by an employee will be treated as misconduct under the Academy's Disciplinary Policy. In some cases it may amount to gross misconduct leading to summary dismissal.

In the case of the harassment or bullying concerning the Principal, Executive Principal or the CEO the procedures will be managed in the case of the Principal or Executive Principal by the CEO or in the case of the CEO by the Chair of Directors of the Trust Board.

Guidance on managing harassment and bullying is available from the Trust HR Manager who must be consulted before commencing these procedures.

## **What the law says**

The Equality Act 2010 prohibits harassment related to age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex or sexual orientation. For more information see the Academy's Equal Opportunities Policy.

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.

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

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.

### **What is harassment?**

Harassment is any unwanted physical, verbal or non-verbal conduct which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. A single incident can amount to harassment.

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

Unlawful harassment may involve conduct of a sexual nature (sexual harassment), or it may be related to age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, 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.

Harassment may include, for example:

- 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;
- 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;
- continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;
- 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);
- offensive or intimidating comments or gestures, or insensitive jokes or pranks;
- mocking, mimicking or belittling a person's disability;
- racist, sexist, homophobic or ageist jokes or derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
- outing or threatening to out someone as gay or lesbian; or
- ignoring or shunning someone, for example, by deliberately excluding them from a conversation or a workplace social activity.

A person may be harassed even if they were not the intended "target". For example, a person may be harassed by racist jokes about a different ethnic group if they create an offensive environment for him or her.

### **What is bullying?**

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.

Bullying can take the form of physical, verbal and non-verbal conduct. Bullying may include, by way of example:

- shouting at, being sarcastic towards, ridiculing or demeaning others;
- physical or psychological threats;
- overbearing and intimidating levels of supervision;
- inappropriate and/or derogatory remarks about someone's performance;
- abuse of authority or power by those in positions of seniority; or
- deliberately excluding someone from meetings or communications without good reason.

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

Employees should disclose any instances of harassment or bullying of which they become aware to the Principal.

### **Informal steps**

If an employee believes they are being bullied or harassed, they should initially consider raising the problem informally with the person responsible, if they feel able. They should explain clearly that their behaviour is not welcome or makes them feel uncomfortable. If this is too difficult or embarrassing to do on their own, they should speak to their line manager or other appropriate manager, who can provide confidential advice and assistance in resolving the issue formally or informally.

Where there is uncertainty about whether an incident or series of incidents amount to bullying or harassment, employees should initially contact their line manager, informally for confidential advice. The line manager will seek advice from the Academy's HR contact.

If informal steps have not been successful or are not possible or appropriate, the formal procedure set out below will be followed.

### **Raising a formal complaint**

Formal complaints about bullying or harassment should be submitted in writing to the Principal, whose role is to achieve a solution wherever possible and to respect the confidentiality of all concerned. In the case of the matter concerning the Principal, Executive Principal or the CEO matter should be raised in the case of the Principal or Executive Principal with the CEO or in the case of the CEO with the Chair of Directors of the Trust.

The 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 any action that has been taken so far to attempt to stop it from occurring.

As a general principle, the decision whether to progress a complaint is up to the employee. However, the Academy has a duty to protect all employees and may pursue the matter independently if, in all the circumstances, it is considered by the Academy appropriate to do so.

## **Formal investigations**

Complaints will be investigated in a timely and confidential manner. Individuals not involved in the complaint or the investigation should not be told about it. The investigator will be appointed by the Principal (or the case of the Principal or Executive Principal by the CEO or in the case of the CEO by the Chair of Directors of the Trust). The investigation will be conducted by someone with appropriate experience and no prior involvement in the complaint. The investigation should be thorough, impartial and objective, and carried out with sensitivity and due respect for the rights of all parties concerned.

The Investigator will arrange a meeting, usually within one week of receiving the complaint, so that a full account of events can be given. Employees have the right to be accompanied at the meeting by a companion who may be a colleague or trade union representative, who must respect the confidentiality of the investigation. A provisional timetable for the investigation will be established and communicated with the employee. The investigator will arrange further meetings as appropriate throughout the investigation.

Where the complaint is about an employee, if circumstances require, the Academy may consider suspending them on full pay or making other temporary changes to working arrangements pending the outcome of the investigation. The investigator will also meet with the alleged harasser or bully who may also be accompanied by a companion who may be a colleague or trade union representative to hear their account of events. They have a right to be told the details of the allegations against them, so that they can respond.

Where the complaint is about someone other than an employee, such as pupil, parent, supplier, or visitor, the Academy will consider what action may be appropriate to protect their employee(s) and anyone involved pending the outcome of the investigation, bearing in mind the reasonable needs of the Academy and the rights of that person. Where appropriate, the Academy will attempt to discuss the matter with the third party.

Any request that the employee makes for changes to their own working arrangements during the investigation will be considered by the Academy. For example changes to duties or working hours may be considered so as to avoid or minimise contact with the alleged harasser or bully.

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

At the end of the investigation, the investigator will submit a report to the Principal, (CEO or Directors of the Trust as appropriate or their representative nominated to consider the complaint. The person receiving the report will arrange a meeting with the employee, usually within a week of receiving the report, in order to discuss the outcome and what action, if any, should be taken. The employee has the right to bring a companion who may be a colleague or a trade union representative to the meeting. A copy of the report and the findings will be given to the employee and to the alleged harasser.

Notes of any meetings will be taken and a copy sent to the employee.

## **Action following the investigation**

If the person receiving the report considers that harassment or bullying has occurred, prompt action will be taken to address it.

Where the harasser or bully is an employee the matter will be dealt with as a case of possible misconduct or gross misconduct under the Academy's Disciplinary Policy.

Where the harasser or bully is a third party, appropriate action might include putting up signs setting out acceptable and unacceptable behaviour; speaking or writing to the person and/or their superior about their behaviour; or, in very serious cases, banning them from the premises or terminating a contract with them.

Whether or not the complaint is upheld, the Academy will consider how best to manage the ongoing working relationship between the employee and the alleged harasser or bully. It may be appropriate to arrange some form of mediation and/or counselling, or to change the duties, working location or reporting lines of one or both parties.

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 Academy's Disciplinary Policy.

## **Appeals**

If an employee is not satisfied with the outcome they may make an appeal in writing within five working days of the date of the written confirmation of the outcome, stating fully the grounds of their appeal.

The protocol outlined below will be followed to hear any appeals where the appeal is on the grounds that the meeting was procedurally flawed. In other cases, the Chief Executive Officer or appeal governor(s) may review the original decision based on the paperwork and the contents of the appeal.

Appeal hearings will be arranged without unreasonable delay and, where possible, at an agreed time and place. The same arrangements for notification and right to be accompanied by a companion apply. Notes will be taken and a copy sent to the employee.

The appeal will be dealt with impartially and, wherever possible, by individuals who have not previously been involved in the case.

The employee will be given the opportunity to send any written submission or evidence to the individuals hearing the appeal, which must be received by them at least three days before the hearing for consideration prior to the hearing. If no submission is received, the employee will not be able to introduce one at the hearing.

The employee will be informed in writing of the results of the appeal as soon as possible. There is no further right of appeal under this or other Academy procedures.

## **Protection and support for those involved**

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.

If they believe they have suffered any such treatment they should inform their line manager, The Academy's HR contact or the Principal.

Anyone found to have retaliated against or victimised someone for making a complaint or assisting in good faith with an investigation under this policy will be subject to disciplinary action under the Academy's Disciplinary Policy.

The Academy will consider access to confidential counselling, on request for anyone affected by, or accused of, bullying or harassment.

## **General Principles Underlying This Policy**

### **Confidentiality and data protection**

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.

Information about a complaint by or about an employee will 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 and marked as confidential. These will be processed in accordance with the Academy's Data Protection Policy. Breach of confidentiality may give rise to disciplinary action under the Academy's Disciplinary Policy.

### **Consistency of Treatment and Fairness**

The Spencer Academies Trust and Local Governing Body are committed to ensuring consistency of treatment and fairness and will abide by all relevant equality legislation.

### **Delegation**

The Scheme of Delegation sets out the rules in respect of the delegation of functions by Trust Directors, CEO, Local Governing Bodies, Principals or other senior leader responsible for the Academy.

### **Grievances**

Where a grievance is raised during the procedure set out in this policy, and that grievance has relevance to the procedure, the process may be temporarily suspended, if appropriate, until the grievance has been resolved or answered. In the situation where there is more than one grievance from the same person these will be heard together. If a grievance restates a complaint they have already raised and had heard or dealt with in the past, they will be asked to explain how the new grievance differs, what new incident has occurred and/or what new evidence has come to light. Where it is clear to the investigator that there is nothing new being raised the grievance can be rejected by the investigator without a formal grievance meeting.

### **Sickness**

If long term sickness absence appears to have been triggered by the commencement of the procedure, the case may be dealt with in accordance with the Academy's Attendance Management Policy and may be referred, if appropriate, to the occupational health service to assess the employee's health and fitness for continued employment and the appropriateness or otherwise of continuing with formal procedures.

### **Monitoring and Evaluation**

The CEO, Local Governing Body and Principal will monitor the operation and effectiveness of the Academy's Anti-Harassment and Bullying policy.

### **Equality Impact Assessment (EIA)**

An Equality Impact Assessment (EIA) has been completed in relation to this policy.