

# Mundella Primary School



## Fairness at Work Policy and procedure

Date of issue	Next review	Version	To be read in conjunction with in house documents	Updated information
Feb 2018	Feb 2020			
Signed: Chair of Governors				
Signed: Headteacher				

# Grievance Procedure

## 1. Aims

- a) This procedure is designed to provide employees who feel dissatisfied or aggrieved by management, or the School Governing Body, with a channel to have their concern(s) dealt with fairly and promptly.
- b) The Code of Industrial Relations Practice recommends the establishment of agreed procedures for the settling of individual and collective disputes. The employee's Contract of Employment has built into it a right to know about the grievance procedure.
- c) Effective and proper use of this procedure will encourage good working relationships.

## 2. Definitions

**Grievance:** a concern, problem or complaint that employees raise with their employers (harassment and bullying, whilst considered to be issues that may cause a grievance, are covered separately in part 2 of this document). Anybody working in an organisation may, at some time, have problems or concerns about their work, working conditions or relationships with colleagues that they wish to talk about with management.

The purpose of this procedure is to achieve resolution at a workplace level without recourse to legal proceedings. It is not about apportioning blame, or discipline.

## 3. Scope

The grievance procedure shall apply to all employees of the school who wish to seek resolution of issues arising in the course of their work. This procedure does not apply to disciplinary issues, matters for which there is an alternative specific procedure e.g. the harassment or complaints procedures, or matters that are outside the school's control. e.g. grievances cannot be considered on matters and policies which have already been the subject of collective bargaining.

This procedure should be followed by:

- a) An individual employee who wishes to seek redress of a grievance relating to his/her employment
- b) A group of employees, who may submit a grievance relating to their employment where the circumstances are the same (in this instance a union representative may raise a collective grievance on their behalf)

## 4. General Principles

- a) All employees have a right to present grievances about any matter relating to their employment. This procedure is applicable to all employees and they should have access to the procedure on request.
- b)
  - i. All employees (including headteachers) are expected, in the first instance, to try and informally resolve any issues or concerns themselves e.g. where the concern is about a fellow employee.

- ii. If this is not possible, then staff are expected to raise any issues or concerns with their headteacher (or Chair of Governors where appropriate) informally first to try and seek a resolution before resorting to the formal stages of the procedure and Headteachers are expected to raise any issues or concerns with the Chair of Governors (or Vice Chair where appropriate) informally first to try and seek a resolution before resorting to the formal stages of the procedure.
- c) Each grievance is important to the individual concerned and every stage should be dealt with fairly and promptly and be resolved as near to the point of the source as possible. Time limits specified may be extended by mutual agreement.
- d) All grievances should be treated in the same way regardless of whether the employee is a trade union/teacher association member.
- e) Employees have a right to be represented by a trade union representative or workplace colleague at the formal stage of these procedures. In some cases, it might be advantageous to involve trade union representatives or workplace colleagues at an earlier stage.
- f) The trade union representative or workplace colleague has an important role to play in supporting, advising and representing an employee with a grievance. The aim should be to resolve the grievance through co-operation.
- g) Where appropriate the headteacher/Chair of Governors and aggrieved employee may wish to use the services of a mediator to resolve the grievance.  
  
This can be arranged confidentially by Schools Personnel Service; although the school may need to pay the costs.
- h) Regular work routines are an important part of an employee's job, and prior consultation on any changes in custom and practice can ease through many difficult decisions without a grievance being raised.
- i) Grievances should be raised within three months of the employee being aggrieved. The arrangements which existed prior to the grievance being raised should normally continue until resolution or until this procedure has been exhausted unless mutually agreed otherwise.
- j) Fairness and civility towards employees are important factors in management efforts to avoid disputes. Resentment through lack of these considerations can be the underlying cause of many grievances.
- k) All grievances should be dealt with in confidence, subject to the need to undertake thorough investigations as necessary.

## 5. Procedural Stages

### Stage One - Informal

Every effort should be made to informally reach an agreement or understanding before resorting to the formal stages of the procedure

#### a) Grievances by staff

**Grievance relating to employment:** the employee or group of employees should ask for an informal discussion with the headteacher and clearly outline their concerns.

**Grievance about colleagues/managers:** In the first instance, the employee or group of employees should have an informal discussion with that person about the issue.

If the employee feels uncomfortable with raising the issue directly with them, they should talk to the headteacher who can help them to solve the issue informally.

**Grievance against headteachers:** In the first instance, the employee or group of employees should have an informal discussion with the headteacher about the issue.

If the employee feels uncomfortable with raising the issue directly with them, they should talk to the Chair of Governors who can help them to solve the issue informally.

#### **No resolution**

If there is no informal resolution of the grievance, or agreement on action to be taken, the employee or group of employees should put the grievance in writing to the headteacher (or Chair of Governors – if the grievance is against the headteacher) and ask for a formal meeting using the attached notification form Annex 1.

#### **b) Grievances by Headteacher**

Where the headteacher has a grievance the matter should be dealt with informally by the Chair of Governors (or Vice Chair if appropriate).

#### **No resolution**

If there is no informal resolution of the grievance, or agreement on action to be taken, the headteacher should put the grievance in writing to the Chair of Governors (or Vice Chair if appropriate) and ask for a formal meeting using the attached notification form Annex 1.

### **Stage 2 - Formal**

#### **a) Grievances by Staff**

##### **Step 1: Written notification of grievance**

The employee or group of employees should write a letter to the headteacher or Chair of Governors (if the grievance is against the headteacher), setting out the basis for the grievance and where possible also state what redress is being sought.

No meeting can be held until a detailed nature of the grievance has been received.

##### **Step 2: Meeting**

On receipt of the formal grievance notification form the headteacher/Chair of Governors should invite the employee or group of employees to a meeting to discuss the grievance.

The employee or spokesperson for a group of employees should be given a proper opportunity to express their views and the headteacher/Chair of Governors or anyone delegated to hear these views, should take care to be objective and sensitive in listening to them. An effort should be made to distinguish between the facts of the case and the claims made as to what was alleged to have happened.

The employee or group of employees has a right to be accompanied at the meeting by either a TU representative or workplace colleague.

The employee or group of employees must be given a response in writing. The headteacher/Chair of Governors should ensure that this official response is given directly to the employee or group of employees as well as copied to the trade union representative.

**Note:** The hearing can be postponed for upto 5 working days (or longer by agreement) if the TU representative or workplace colleague is unable to attend.

**Note:** If the headteacher or Chair of Governors feels that further information would assist in the resolution of the grievance, they may request an investigation report (either before the meeting or during an adjournment of the meeting). The investigation report would then feed into the meeting.

**Note:** If witness evidence would assist in the resolution of the grievance, then witnesses may be involved in the meeting if appropriate.

**Note:** If the grievance is about another individual, separate meetings will be held unless all parties agree to a joint meeting.

## **b) Grievances by Headteachers**

In the case of a headteacher formally raising a grievance, the process is the same as for staff i.e. step 1 - written notification of grievance and step 2 – meeting.

However, the written notification of the grievance should be sent to the Chair of Governors (or Vice Chair where appropriate) and the Chair of Governors (or Vice Chair where appropriate) should hold a meeting with the headteacher as outlined above.

## **Stage 3 - Appeal**

### **a) Appeals by Staff**

If the grievance remains unresolved at Stage 2, the employee or group of employees should forward the grievance and response to the Chair of Governors, with a copy to the headteacher within 10 days of receiving the written response.

Normally a panel of three Governors (with no prior involvement) including the Chair of Governors, will be established to hear the appeal. However, delegation to two or even one governor may be necessary in some cases, although it should be noted that the former could result in a split decision. The panel should hold a formal meeting with the employee or group of employees and their TU representative or workplace colleague within 10 working days of receiving the appeal. At this stage it is useful for a Personnel Adviser to be present. The decision of the panel will be notified to the employee or group of employees and their representative within five working days of the hearing.

For appeals about grievances against headteachers, the grievance and response should be forwarded to the Vice Chair of Governors. In this instance a copy would not need to be sent to the headteacher. The panel of three Governors will also exclude the Chair of Governors.

This is the final stage in this procedure and the decision of the appeal panel is final.

### **b) Appeals by Headteachers**

For appeals by Headteachers, the grievance and response should be forwarded to the Vice Chair of Governors . The panel of three Governors will also exclude the Chair of Governors.

## **6. Timescales**

**Stage One Informal**      Within **10** working days a response.

**Stage Two Formal**      Within **10** working days a meeting followed by a written response within 5 further working days.

**Stage Three Appeal** Within 10 working days of receiving the appeal hold a hearing followed by a final response in writing within 5 working days.

A fair and speedy response at each stage may help to bring about a readier acceptance by the employee of an unpalatable answer. However an immediate decision can sometimes be shown to be a poor response to a grievance of a complex nature.

In some cases it may not be possible to meet these timescales. If a longer period of time is required to make a decision, the recipient of the grievance letter or appeal letter should write to the employee outlining how long the decision might take and the reason for the delay.

In these instances, all parties must try to secure as expeditious a resolution as is practicable in all the circumstances.sps

## 7. Post Employment Grievances

Staff who have left the school for whatever reason are still entitled to make a grievance provided it is made within 3 months of their last day of employment. The procedure to be followed is the same as the formal procedure for current employees.

After receipt of a written grievance the employee should be invited to a hearing to discuss the issues raised and offered a further appeal hearing if they do not accept the outcome of the first hearing

In some circumstances and with the written agreement of both parties, it is possible to use the following modified procedure:

**Step 1:** Employee sets out the full details and basis of the grievance in writing

**Step 2:** Appropriate person (Headteacher or Chair of Governors) makes a written response to the points raised.

## 8. Conclusion

It is hoped and anticipated that most grievances can be resolved at an early stage. The effective handling of grievances is rarely an in-born skill. Headteachers, the school management team and Governors should ensure they are fully conversant with the relevant procedures and avail themselves of training offered by the LEA.

## 9. Monitoring

This procedure is subject to Equalities Monitoring. Any data gathered will be confidential, will not identify individual employees and will not form part of this procedure.

**Note:** Schools are advised to keep a summary of all grievances raised in equality terms (gender, ethnicity and disability) and provide this information to the LEA on request.

## 10. Supporting Papers

Any documents or relevant information or witnesses that would assist in the resolution of the grievance should be shared by either side at the earliest opportunity and at a minimum 48 hours before the grievance is heard.

**Annex 1**

# Grievance Notification Form

**School Name**.....

**Employee(s) Name**.....

**Representative Name**.....

**Details of Grievance** (any supporting documents to be attached)

What action/desired outcome are you seeking to resolve the grievance?

**Headteacher's/Chair of Governor's answer/proposed action to resolve grievance**  
(NB: Please attach any relevant documents)

**Grievance has/has not been resolved.\***

**Date**.....

**Signed Headteacher/Chair of Governors**  
.....

**Signed Employee**.....

*\*If at Stage 2 of the procedure there is no resolution the employee may proceed to Stage 3 - Appeal. In this event the employee should state the reasons overleaf and send this to the Chair of Governors or Vice Chair as appropriate.*

# Procedure and Guidance for Dealing with Complaints of Harassment and Workplace Bullying

## What is Harassment?

Harassment takes many forms, occurs on a variety of grounds and may be directed at one person or many people. In general terms it can be described as behaviour which someone finds unwelcome, intimidating, upsetting, embarrassing, humiliating or offensive. It is essential to remember that it is not the intention of the alleged perpetrator that is key in deciding whether harassment has occurred but whether the behaviour is unacceptable by normal standards and disadvantages the recipient. Most people have heard about sexual and racial harassment, but it may also occur on the basis of differences such as disability, sexual orientation, appearance, age, religion or beliefs.

## What is Workplace Bullying?

Anyone can be subject to workplace bullying. This is the abuse of power or position to coerce others by fear and causes chronic stress, anxiety, loss of confidence, lower productivity, absenteeism and even resignation.

*Harassment/Workplace bullying is not managers making unpopular demands and asking for improvements in performance.*

## Common Forms of Harassment

Harassment and bullying can range from extremes such as violence to less obvious forms like ignoring someone. Whatever the form, it will be behaviour, which is unpleasant. Forms include:

- Physical contact, obscene gestures and public humiliation;
- Offensive jokes, offensive language, gossip, slander and verbal abuse;
- Displays of offensive materials, posters, pin-ups, graffiti, and badges;
- Isolation, non-co-operation, withholding information and exclusion;
- Spying, stalking and intrusion by pestering;
- Intimidating behaviour and systematic undermining of confidence.

## Procedural Relationships

### Incapability procedure

During the operation of the school procedure for issues of capability, including ill health, and misconduct, whether informal or formal, allegations of harassment/workplace bullying may be made against senior staff. Once the school's procedure has started any complaints of harassment/workplace bullying received during that time will need to be treated sensitively and the advice of your Personnel Provider should be sought.

However in normal circumstances the incapability procedure will continue its process. The harassment procedure is not a way to stop unwelcome procedures.

Nevertheless, although the procedure has started there still needs to be understanding of the feelings and perceptions of the complainant and an appropriate decision and action, as befits the nature of the allegation, taken.

It is for the headteacher or Chair or Governors to decide whether or not to deal with the harassment/workplace bullying complaint separately (normally after the incapability procedure has



been finalised) or combine the 2 procedures. In the latter circumstances, both issues can be addressed at one meeting provided notice is given to the employee concerned to that effect.

### **Grievance Procedure**

The grievance procedure may be appropriate for dealing with an employee's discontent if they believe management have seriously mishandled allegations made under the school's harassment/workplace bullying procedures. Such a grievance would automatically be heard at Stage 2 of the procedure.

### **Advice and Counselling**

Wherever possible, an employee who is considering making a complaint of harassment should have access to someone who can give them sympathetic, informed advice and counselling during any part of the procedure; senior colleague, teacher association or trades union representative, school counsellor or Support Line on 01622 605539. This is to offer support, discuss the options open to the employee, and help the employee determine if and how they want to progress matters. This should take place in total confidence and without pressure as to the course of action to be taken.

A distinguishing characteristic of harassment is that employees subjected to it are very vulnerable and are often reluctant to complain. They may be too embarrassed or unsure as to how to make a complaint, or concerned that it will be trivialised. They may fear reprisals. People suffering from harassment may not want attention focused on the situation; they just want the unwanted behaviour to stop

Similarly, the respondent may be completely unaware that their behaviour can be seen as harassment, and suffer anxieties and guilt about the distress caused. Or they may be unjustly accused. Counselling can also, therefore, be valuable for the individual(s) whose behaviour has been found or perceived to be unacceptable. They may be unaware or insensitive to the impact of their actions and counselling can help them change their behaviour and prevent the occurrence of further incidents.

### **Harassment/Workplace Bullying Procedure**

In order to ensure harassment/workplace bullying complaints are resolved speedily and in a fair and equitable manner, the following procedure will be adopted in all cases of alleged harassment/workplace bullying (whether intentional or not):

#### **Stage 1: Informal Action**

##### **a) Personal Action**

As the first step in dealing with a harassment matter, personal action may be all that is needed to resolve the issue. The employee should make it clear where possible to the person concerned that their behaviour is unwelcome and offensive and should be stopped. The employee may want to ask a workplace colleague or TU representative to be with them when they do this.

This action may be enough to stop the harassment and prevent it happening again.

Employees should keep a written record of the incident(s) including the time, date(s) and place of the incident(s), a full description of what occurred and the name(s) of any witness (s).

##### **b) Action by a person other than the complainant**

Harassment can often be stopped by informal, early and local intervention.

In circumstances where it is too difficult or embarrassing for the employee to do this on their own behalf, the initial approach to the respondent may be made by a workplace colleague or TU

representative and wherever possible, someone of the same sex as the complainant should be available to assist in this capacity. If a member of a trade union, this may be the trade union representative.

Where the complaint is about the headteacher the issue may be raised with the Chair of Governors.

Where a headteacher has a complaint the issue may be raised with the Chair of Governors or if it is about the Chair of Governors then initial contact should be with the Vice Chair of Governors.

Other initial action by the headteacher, Chair of Governors, Vice Chair of Governors or LEA officer as appropriate might be:

- i) Approach the person whose behaviour is causing offence.
- ii) Describe the behaviour, not the person and give the person accused of harassment the opportunity to respond.
- iii) Describe the possible impact of the behaviour - do not discuss or dispute the person's intentions.
- iv) Explain to the offending person that the behaviour is unwelcome and may be against school's policy.
- v) Ask for a change in behaviour.
- vi) Seek commitment to change.
- vii) Let the complainant know what action has been taken, to encourage them to come back should there be a recurrence.

However, if despite informal action the harassment continues or other consequences result, e.g., victimisation, discrimination, a formal complaint may be made by the employee alleging harassment.

An informal approach would be inappropriate in a case, which potentially amounts to serious misconduct and affects the safety and well being of the person or other people at work.

## **Stage 2: Mediation**

Where informal action has been tried and failed both the complainant and respondent may agree the services of a mediator should be introduced to resolve the situation. This will be from a KCC, or an external, trained mediator and will be arranged confidentially by Schools Personnel Service if requested, although the school may need to pay the cost.

Professional trade union associations may also provide mediation services.

## **Stage 3: Formal Action**

### **1. Making a complaint**

In the case of formal action an employee who believes that he/she has been the subject of harassment/workplace bullying should report the alleged act to his or her senior member of management or the headteacher. An employee may choose to bring a complaint in the first instance to someone of his or her own sex or TU representative.

Where the complaint is about the headteacher the matter should be raised with the Chair of Governors, or Vice-Chair of Governors.

Where the headteacher has a complaint the matter should be raised with the Chair of Governors or where the complaint is about the Chair of Governors the matter should be raised with the Vice Chair of Governors.

Any complaint should be made within 3 months of the last incident occurring.

In all cases the employee reporting the alleged act must be prepared to provide a written statement setting out the allegations, requesting the incident(s) be formally investigated.

Details of the alleged incident, including dates and times, should be recorded by the person alleging harassment on the complaints form at Annex 1, and this will be retained by the headteacher, Chair of Governors or Vice Chair of Governors.

The individual accused of harassment has the right to know what the allegation is and who is making the complaint; see Annex 2.

If the complainant does not wish to be identified it is impossible to take disciplinary action.

However the headteacher or Chair of Governors must still take such action as is practicable to reinforce its policy on harassment. This can include general reminders about standards of behaviour through staff meetings, etc. Your Personnel provider should be able to provide professional specialist advice and must be involved in the case of potential gross misconduct, which could lead to dismissal.

## 2. Investigation

Where there is any doubt about whether a formal investigation should take place, you should seek advice from your Personnel Provider.

Where a formal complaint is made it is important to conduct a prompt, thorough and impartial investigation with due regard to the rights of both the complainant and the respondent in accordance with the school Disciplinary Procedure. Anyone connected with the allegation should not conduct the investigation.

The investigation should concentrate on establishing the facts, together with the impact of the alleged harassment. Confidentiality must be maintained by the complainant and the alleged harasser. However, the complainant must understand that there cannot be full confidentiality, since the investigation may involve other potential victims. There may also be a requirement to give evidence at a later stage.

Both parties should be interviewed by an independent investigating team consisting normally of two people nominated by the headteacher or governing body as occasion demands, so that an objective view can be formed of events leading up to the complaint. Wherever possible, the composition of the investigative team should include representation that reflects the nature of the case.

## 3. The right to be accompanied

In any investigation, both the complainant and the respondent will be entitled to be accompanied by a workplace colleague or TU representative.

## 4. Records

A record of the outcome should be shared with both parties.

A record of the complaint(s) and investigation should be kept for at least 18 months, including names of parties, dates, nature and frequency of incidents, action taken, follow-up and monitoring. The

school should reserve the right to use this information if there is any recurrence of the allegations made. These should be held in a secure file. The records should not be included with the personal files of the individuals concerned.

## 5. Timescales

Where the headteacher, Chair of Governors or Vice Chair of Governors decides an investigation is appropriate, the investigating officer(s) must be nominated within a week of the complaint, and the investigation completed within two weeks from the date of nomination, if at all possible. In the event of any delay, eg, one or more of the involved parties being unavailable, new timescales must be agreed and confirmed to allay any further distress to those involved.

## 6. Suspension during Investigation

A decision must be taken about the seriousness of the allegation and whether it is appropriate for the complainant and the respondent to continue working together during the investigation. It may be advisable to suspend the person being complained about in accordance with the disciplinary procedure pending a full investigation and decisions as to possible formal disciplinary action.

Occasionally it may be appropriate for the complainant to be given some additional paid leave, with their agreement.

## 7. After the Investigation

### **Complainant**

#### **1: Meeting**

The complainant should be invited to a meeting to discuss their harassment and/or bullying complaint. The investigation report will feed into this meeting. The complainant may be accompanied/represented by either an employee of their choice or a TU representative.

**Note:** witnesses may be involved in the meeting if appropriate.

Following the meeting the complainant must be written to with the outcome of the investigation and the decision of the headteacher, Chair of Governors or Vice Chair of Governors as to whether or not the complaint is upheld. The complainant should also be notified of their right to appeal.

#### **2: Appeal**

If the complainant wishes to appeal they should set out the grounds of the appeal in writing and forward to the Chair of Governors or Vice Chair as appropriate, within 10 working days of receiving the written decision.

Normally a panel of three Governors including the Chair of Governors (unless they were the person making the initial decision in which case they will be excluded from the panel), will be established to hear the appeal. However, delegation to two or even one governor may be necessary in some cases (although it should be noted that the former may result in a split decision). The panel should hold a formal meeting with the complainant their TU representative or workplace colleague within 10 working days of receiving the appeal. At this stage it is useful for a Personnel Adviser to be present. The decision of the panel will be notified to the employee and their representative within five working days of the hearing.

This is the final stage in this procedure and the decision of the appeal panel is final.

## **Respondent**

A record of the outcome of the investigation should be shared with the respondent along with the decision as to whether or not the complaint is upheld. This may be in writing rather than at a meeting.

### **8. Disciplinary Procedure**

Decisions about disciplinary action can only be made following a thorough investigation of the allegations and after consideration of all the evidence available.

If the investigation reveals that there is a case to answer, prompt action designed to stop the harassment immediately and prevent its recurrence will be taken through implementation of the school Disciplinary Procedure.

In accordance with the Disciplinary Procedure, it may be that the investigating officer is best placed to present the case. In any disciplinary hearing the complainant will be required to attend and those hearing the case may wish to question both parties, and witnesses.

### **9. After the procedure**

#### **Where a complaint is upheld**

The Governing Body may consider an apology is necessary where allegations are substantiated. It may be necessary to ensure the complainant and respondent do not continue to work together. In a small school this may not be an option. If appropriate, and wherever practicable, the complainant should be given the choice of whether he/she wishes to be relocated or be managed by another colleague. Always endeavour to avoid any disadvantage for the complainant.

Support should be offered to the respondent to help address any issues relating to his/her actions or attitude. This may take the form of counselling, training and awareness raising.

#### **If the complaint is not upheld**

It is important for the complainant to understand they have been believed and that the complaint has been taken seriously. It may not be viable in a school but consideration may be given, where practicable, to moving one of the employees concerned, rather than requiring them to continue to work together against the wishes of either party. However, neither the complainant nor the respondent should be victimised or suffer any detriment.

If any employee considers that there has been a significant procedural error they retain the right to raise a grievance under the grievance procedure. Such a grievance would be heard at Stage 2 of the procedure and, if upheld the original complaint would be reheard under the harassment procedure.

### **10. Malicious Allegations**

Where a complaint is unsubstantiated and found to be vexatious or of malicious intent, then the disciplinary procedures may be invoked against the original complainant. This is to protect those with genuine complaints.

### **11. Post Employment Harassment Complaints**

Sometimes allegations of harassment may be made by former employees against an individual employed by the school. Complaints of harassment will normally only be investigated where the former employee was employed by the school within 3 months of the complaint.

In the first instance the complaint should normally be made to the headteacher but if it is felt the complaint needs to be pursued further or if the complaint is about the headteacher then the Chair of Governors should be contacted.

## 12. Monitoring

It is important for management, headteacher, Chair of Governors or Vice Chair of Governors to check that the harassment has stopped and that there has been no victimisation. Victimisation itself can take a wide range of forms, such as continuing unpleasantness or adverse impact on promotion. Careful monitoring is, therefore, essential to ensure victimisation does not occur.

This procedure is subject to Equalities Monitoring. Any data gathered will be confidential, will not identify individual employees and will not form part of this procedure.

**Note:** Schools are advised to keep a summary of all harassment incidents raised in equality terms (gender, ethnicity and disability) and provide this information to the LEA on request – see Annex 3.

## 13. The Law

If the Governing Body does not deal seriously with complaints of harassment and workplace bullying the complainant may seek redress through the law.

**The Protection from Harassment Act:** makes harassment both a civil and criminal offence. The Act provides a remedy for racial, sexual, disability or sexual orientation harassment. Remedies include damages, injunction, unlimited fine and up to 5 years imprisonment.

**Criminal Justice and Public Order Act:** Makes any form of harassment, in a public or private place (but not a residential home) a criminal offence.

**Health and Safety at Work Act:** Legal obligation to take all reasonable steps to look after the health, safety and welfare of staff. Implied duty of care to ensure the environment is harassment free.

**Sex Discrimination Act, Race Relations Act, The Disability Discrimination Act, the Employment Equality Regulations (Religion or Belief) and (Sexual Orientation) 2003 :** all provide the right for individuals to pursue claims of harassment through the Employment Tribunals. In recent years the courts and employment tribunals have greatly expanded and extended the definition and scope of unlawful harassment and work place bullying. There is now a wealth of case law to show harassment can be a detriment under these Acts and an inadequate response to complaints may put the school at risk of costly litigation.

As well as the legal requirement to remove the threat of harassment there is an Authoritative European Code of Practice on the Protection of Women and Men at Work which this policy and procedure complies with.

**Annex 1**

# Complaint Form for Harassment and Workplace Bullying

**Name**.....

**School**.....

**Tel number (work)**.....

Details of complaint (State clearly the nature of the complaint eg racial/sexual harassment or work place bullying etc). Additional information may be attached on a separate sheet.

**Date incident (or the last incident) took place** .....

**Name of witnesses**.....

The completed form should be given to the Headteacher, Chair of Governors or Vice Chair of Governors as appropriate.

## Annex 2

### STRICTLY CONFIDENTIAL

Dear

I have informed you that a formal complaint of harassment has been raised against you by \*. I am writing to let you know the nature of the complaint(s) and to explain the process which I now need to follow.

Statement(s) have been provided detailing incidents and conversations which have allegedly taken place over the last ..... The nature of the complaint is:

(a)

(b)

(c)

I enclose a copy of the School's Harassment Procedure. As you will see, the process will now be for these complaints against you to be fully clarified and investigated under this Procedure. I will shortly be appointing \* and \*, from the \* as the independent officers to carry out this investigation and report back to me.

They will be asking for a statement from you and I would like to advise you that at any interview in respect of this matter you have the right to be represented by a recognised TU representative, or by a workplace colleague of your choice.

\*\* will also take statements from \* and any other people whom it will be necessary to interview in relation to these complaints. I will let you know if the precise nature of the complaints is revealed by the investigation to differ from my summary given above.

When the investigations are complete, I will review the findings to determine whether there is a disciplinary case for you to answer and will notify you and your representative accordingly. However, you will understand that the investigation report will remain confidential and will not be copied to you.

I wish to reassure you that I will deal with this matter as sensitively, fairly and confidentially as possible. I would ask you to maintain confidentiality and in particular you should not discuss this matter with the complainant and any potential witnesses while these matters are being dealt with. If you have any queries relating to the process outlined above please ask me or contact \*. I enclose a copy of this letter for you to give to your representative.

Yours sincerely

Headteacher/Chair of Governors



### Annex 3

#### IN CONFIDENCE

#### Monitoring form – Harassment/workplace bullying complaints

After reading the policy notes for guidance, please complete this form and retain it.

**Complaint dealt with under:**

Harassment Procedure

Grievance Procedure

School.....

Date of alleged incident(s).....

Nature of allegation(s). Please describe briefly.

Date investigation began.....  
concluded.....

Date investigation

Action taken (please describe briefly)

Ethnicity\* .....  
(yes/no)

Gender .....

Disabled

Complainant.....

Respondent.....

*\*White British; White Irish; Any other White background; Indian; Pakistani; Bangladeshi; Any other Asian Background; White and Black Caribbean; White and Black African; White and Asian; Any other Mixed background; Caribbean; African; Any other Black background; Chinese; Any other Ethnic group.*

# Confidential Disclosure Policy for Schools

## 1. General Principles

- 1.1. Public Disclosure Act 1998 places a legal responsibility on everyone, including schools, to ensure matters of serious public concern can be addressed.
- 1.2. Employees are often the first to realise that there may be something seriously wrong within the school. However, they may not express their concern because they feel that speaking up would be disloyal to their colleagues or to the school. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.3. The School and Governing Body are committed to the highest possible standards of openness, probity and accountability. In line with that commitment employees and others with serious concerns about any aspect of the school's work should be able to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis.
- 1.4. This policy document makes it clear that staff can do so without fear of reprisals. This Confidential Disclosure Policy is intended to encourage and enable staff to raise serious concerns within the school rather than over-looking a problem or raising the matter outside.
- 1.5. The policy applies to all employees however the Public Disclosure Act also covers those contractors working for the school on school premises, for example, voluntary helpers, agency staff, builders, etc.. It also covers suppliers and those providing services under a contract with the school in their own premises.
- 1.6. This procedure is in addition to the school's complaints procedures and other statutory reporting procedures. The school is responsible for making staff aware of the existence of this procedure.

## 2. Aims and Scope of this Policy

2.1. This policy aims to:

- Encourage employees to feel confident in raising serious concerns and to question and act upon concerns about practice
- Provide avenues for employees to raise concerns and receive feedback on any action taken.
- Help the school to act within the law and in particular within the Public Interest Disclosure Act 1998.
- Ensure that employees receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied.
- Reassure employees that they will be protected from reprisals or victimisation.

2.2. There are existing procedures in place to enable employees to lodge a grievance, relating to their own employment or a harassment complaint. This Confidential Disclosure policy is intended to cover serious concerns that may fall outside the scope of other procedures. These include:

- Conduct which is an offence or breach of law
- Disclosures related to miscarriages of justice

- Health and safety risks, including risks to children and the public as well as other employees where they have not already been raised under other procedures
- Damage to the environment
- The unauthorised use of public funds
- Possible fraud and corruption
- Other unethical conduct
- Waste/frivolous expenditure

2.3. Thus, any concerns that employees have about any aspect of the education service provision or the conduct of staff or members of the Governing Body or others acting on behalf of the school can be reported under the Confidential Disclosure policy. This may be about something that:

- Makes the employee feel uncomfortable in terms of known standards, their experience or the standards they believe the school subscribes to: or
- Is against the school's policies; or
- Falls below established standards of practice; or
- Amounts to improper conduct

2.4. This policy does **not** replace the school's complaints procedure (which is primarily so that people other than employees or Governors can raise concerns about their treatment by the school) but should help where any employee needs to raise serious matters of general concern.

### **3. Safeguards - Harassment or Victimisation**

3.1. The Governing Body is committed to good practice and high standards and wants to be supportive of employees.

3.2. The Governing Body recognises that the employees' decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice.

3.3. The school will not tolerate harassment or victimisation (including informal pressures) and will take action to protect staff when they raise a concern in good faith.

3.4. Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect staff.

### **4. Confidentiality**

4.1. The Governing Body will do its best to protect the employees' identity when they raise a concern and do not want their name to be disclosed initially. It must be appreciated that any formal investigation process will reveal the source of the information, and a statement by the employee will be required as part of the evidence.

### **5. Anonymous Allegations**

5.1. This policy encourages staff to put their name to any allegation whenever possible.

5.2. Concerns expressed anonymously are much less powerful, but they will be considered.

5.3. In exercising the discretion, the factors to be taken into account would include:

- The seriousness of the issues raised
- The credibility of the concern; and
- The likelihood of confirming the allegation from attributable sources

## 6. Untrue Allegations

6.1. If an employee has made an allegation in good faith, but it is not confirmed by the investigation, then no action will be taken against that employee. If, however, they make malicious or vexatious allegations, disciplinary action may be taken against them.

## 7. How to Raise a Concern

- 7.1. The earlier staff express their concern, the easier it is to take action.
- 7.2. As a first step, the employee should normally raise concerns with their line manager or the headteacher. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. For example, if it is believed that the headteacher or others in management are involved, staff should approach the Chair of Governors - see paragraph 10.1.
- 7.3. Concerns are better raised in writing. The employee should be invited to set out the background and history of the concern, giving names, dates and places where possible, and the reason why they are particularly concerned about the situation. If they do not feel able to put their concern in writing, they can telephone or meet the appropriate manager, headteacher or Chair of Governors - also see paragraph 10.1
- 7.4. Although the employee is not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for the concern.
- 7.5. The employee may invite their trade union or professional association, to advise and/or raise a matter, on their behalf.
- 7.6. In order that issues can be addressed at the most appropriate point within the Governing Body, the education officers may be consulted, alternatively staff may wish to talk to their trade union.
- 7.7. The employee may wish to discuss their concern with an independent party first. *Public Concern at Work* has over 5 years experience in providing independent confidential advice to individuals needing to raise matters of concern within and sometimes outside of their organisation in which they are employed. They can give you advice on how to raise serious concerns constructively. Their Helpline number is: 0207 404 6609.

## 8. How The School Will Respond

- 8.1. The action taken by the school will depend on the nature of the concern. The matters raised may:
  - Be investigated internally
  - Be raised with the authority
  - Be referred to the Police
  - Be referred to the External Auditor
  - Form the subject of an independent inquiry
- 8.2. In order to protect individuals initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of other specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.
- 8.3. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is constructed eg where there is a health and safety issue.

- 8.4. Where the matter has been raised with the, the school will acknowledge receipt within two working days, and then within ten working days of receipt the Governing Body or Headteacher will write to the employee indicating how it proposes to deal with the matter:
- Giving an estimate of how long it will take to provide a final response
  - Telling the employee whether any initial enquiries have been made; and
  - Telling the employee whether further investigations will take place and, if not, why not
- 8.5. The amount of contact between the, headteacher or Chair of Governors considering the issues and the member of staff will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the employee.
- 8.6. When any meeting is arranged staff have the right if they so wish, to be accompanied by a TU representative - or a workplace colleague who is not involved in the area of work to which the concern relates.
- 8.7. Steps will be taken to minimise any difficulties which staff may experience as a result of raising a concern. For instance, if staff are required to give evidence in any proceedings, advice will be available to the employee from the authority.
- 8.8. The school accepts that staff need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, staff will receive information about the outcomes of any investigations.

## **9. The Responsible Officer**

- 9.1. The Governing Body has overall responsibility for the maintenance and operation of this policy. They must maintain a record of concerns raised and the outcomes (but in a form which does not endanger staff confidentiality) and will report as necessary to the school.

## **10. How The Matter Can Be Taken Further**

- 10.1. This policy is intended to provide staff with an avenue to raise concerns within the school. If staff are not satisfied, and if they feel it is right to take the matter outside the school, the following are possible contact points:
- Director of Education and or his representative
  - Diocesan Board (for Voluntary Aided Schools)
  - A Kent County Council member
  - The DfES
  - Relevant professional bodies or regulatory organisations
  - A solicitor
  - The Police
- 10.2. If staff do take the matter outside the school, they need to ensure that they do not knowingly disclose confidential information or that disclosure would be 'privileged' (and staff may need to seek legal advice on this first)
- 10.3. Such matters raised outside of school may still ultimately have to be addressed by the Governing Body within its normal procedures.