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HARASSMENT AND BULLYING PROCEDURE

SWANWICK SCHOOL & SPORTS COLLEGE

Harassment & Bullying Procedure

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1. Purpose

The purpose of this procedure is to develop a working environment where harassment and bullying are known to be unacceptable and where individuals have the confidence to complain in the knowledge that their complaint will be addressed fairly, promptly, and confidentially, and to provide a framework to process any such complaint.

The Governing Board at Swanwick School & Sports College is committed to maintaining a workplace that encourages and supports the right to dignity at work and all employees are expected to respect the rights of individuals to:

- Dignity in their working life
- Be treated fairly
- Be respected for their individuality and diversity

The Governing Board is committed to the well-being of staff and recognises the harmful effects of harassment and bullying which can include anxiety, distress, reduced job satisfaction and productivity, sickness absence, poor working relationships, high staff turnover, and is committed to implementing policies and procedures to:

- prevent bullying and harassment at work
- promote the provisions of this procedure
- actively measure staff satisfaction levels
(An Ofsted questionnaire is appended which Governors are recommended to use)
- handle complaints seriously, fairly and confidentially
- ensure complainants do not suffer further treatment which could be considered to be bullying or harassment as a result of raising concerns regarding their treatment

Any form of intimidating behaviour including harassment and bullying may be treated as a disciplinary matter. This applies not only at the workplace during working hours but at other work related activities – for example training courses, conferences and social functions.

It may also apply to conduct outside of work between two or more employees, for example the use of social media tools in relation to bullying and harassment.

2. Scope

This policy applies to all staff employed within the staffing complement of the school. However the Governing Board expects a consistency in approach for all people who are working on the school site.

3. Definitions

Harassment is unwanted conduct, intentional or not, that violates an individual's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for that individual. It is conduct that may (but not necessarily) be related to sex, race, religion or belief, disability, sexual orientation, age, gender reassignment, marriage or civil partnership, or pregnancy and maternity, or any other personal characteristic.

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

In both cases, it is behaviour that the recipient finds demeaning, offensive or unacceptable. It may be persistent or an isolated incident.

There are many forms of harassment and bullying and some examples are detailed below. This is not an exhaustive list.

- Spreading malicious rumours, or insulting someone
- Unwelcome personal comments or personal insults
- Offensive jokes, language or gossip
- Humiliation, for example criticising a colleague in front of others
- Failure to safeguard confidential, personal information,
- Ridiculing or demeaning someone – picking on them or setting them up to fail
- Aggression or intimidation including inability to control temper
- Exclusion or victimisation
- Unfair treatment
- Overbearing supervision or other misuse of power or position
- Unwelcome sexual advances or physical contact
- Coercion for sexual favours
- Making threats or comments about job security without foundation
- Persistent overloading, criticism or setting impossible deadlines

- Preventing individuals progressing by intentionally blocking promotion or training opportunities
- Cyber bullying – such as posting inappropriate photographs, offensive or threatening comments or sensitive personal information on social media sites.

Bullying and harassment are not necessarily face to face – they may be written, verbal, visual, (displaying posters etc.), physical or electronic.

Employees should be aware that it is the effect of the behaviour that determines whether harassment has occurred; even if the alleged harassment is unintentional, this can still be considered as harassment.

It is recognised that medical conditions, in some cases, may be a contributory factor to behaviour which is considered as harassment.

An employee can submit a claim that behaviour amounts to bullying or harassment even if the behaviour is not directed at the employee who complains, but the behaviour creates an environment that any individual who witnesses the behaviour finds intimidating, hostile, degrading, humiliating or offensive.

4. Key Principles

This procedure has been developed in line with ACAS guidance and the School's Equality and Diversity Statement.

- The Governing Board believes that harassment, discrimination, bullying or unfair treatment of any kind is unacceptable and is committed to promoting dignity and respect at work. Accordingly, any such act may be considered to constitute an act of misconduct in accordance with the School's disciplinary procedure.
- The primary focus should be on attempting to resolve such matters at the earliest opportunity, with the aim of achieving early conciliation between those concerned.
- High performance and productivity are dependent on effective working relationships, and the fair and reasonable handling of complaints is an important element in creating and maintaining those relationships.
- Managers and employees should approach complaints constructively, deal with issues promptly and not delay meetings, decisions or confirmation of those decisions

- Harassment and bullying are to be distinguished from a manager making reasonable requests to a member of staff.
- The employee has a right to be accompanied at meetings, normally by a colleague or trade union representative.
- Mediation should be considered where accessible and appropriate. The Local Authority offers a Mediation Service for situations where it would be helpful or advantageous for it to be undertaken by mediators external to the school. The Trade Union representative may suggest this as a useful way forward via the school management.
- Behaviour can still amount to harassment in the absence of any deliberate intention – the key issue is the effect on the person on the receiving end of the behaviour.
- Neither party is allowed to electronically record meetings held as part of this procedure, unless agreed by all parties. The use of recording equipment by either party without consent may constitute a disciplinary matter.

5. Exclusions

The harassment procedure may not be appropriate:

- Where there are separate, specific School procedures to address an issue e.g. Grievance Procedure, Confidential Reporting Code, Recruitment and Selection Procedure.
- Where the complaint is found to be frivolous, malicious or vexatious, this should be treated as misconduct and lead to disciplinary action.
- For personal differences between employees related to personal matters outside of school.

Employees are strongly encouraged to raise concerns in a timely way preferably within 3 months of the incident occurring, to ensure colleagues/managers are aware of the issues and early consideration can be given. However flexibility should be exercised when circumstances (eg absence or accumulation of concerns, or if the employee has needed time to build up the confidence to disclose their concerns) mean that relevant evidence refers to incidents which occurred prior to 3 months before the submission of the harassment or bullying claim.

Further advice on whether or not a complaint is covered by or outside the scope of this procedure can be sought from the School's HR Provider.

6. Roles and Responsibilities

Employees have a responsibility to:

- Protect the dignity of colleagues
- Avoid behaviour that may cause an individual to feel the subject of harassment or bullying
- Challenge where feasible and not condone inappropriate behaviour from other employees
- Familiarise themselves with the harassment and bullying procedure
- Attend an investigation meeting when required to do so by an investigating officer

Managers have a responsibility to:

- Familiarise themselves with the harassment and bullying procedure and ensure it is complied with
- Protect their employees from harassment and bullying
- Take prompt action to stop any harassment or bullying they become aware of, whether a complaint has been raised or not
- Ensure their staff are aware of the School's policy on harassment and bullying
- Ensure the workplace is free of offensive posters, documents or use of language which may constitute harassment or bullying
- Attempt to resolve such complaints fairly, promptly, and confidentially
- Promote a working environment in which harassment and bullying cannot flourish.

Manager guidance supplements this procedure.

7. Addressing a Complaint of Harassment or Bullying

Informal Stage

Employees and their managers should aim to settle any complaint informally before implementing the formal procedure as an informal approach can often resolve matters quickly and effectively. Where this is not possible, the formal process should be followed. The employee may wish to seek the advice and support of their trade union.

If possible, the complainant should make it clear to the person against whom the complaint is being made that their behaviour is inappropriate and ask the harasser to stop. If the employee feels unable to do this, they may ask their

manager, colleague or trade union representative to act on their behalf, or to accompany them. Alternatively, they may prefer to contact the Council's employee counselling service on 01629 536964 which is free to Derbyshire County Council employees.

If the complaint is about the employee's manager, another manager should be involved. If the Headteacher is the alleged harasser, the employee should approach the Chair of Governors or the Strategic Director of Children's Services or representative (or equivalent role for a non-Local Authority School).

Initial steps should be taken to resolve the matter through face to face discussion and mediation, if necessary, to determine the most appropriate course of action.

Where complainants wish to attempt to resolve the issue informally, they should be supported in this wherever possible and may approach their Trade Union representative for advice. However, if the investigation shows that an informal approach is inappropriate, due to the seriousness of the allegations, or fear that the complainant may be at risk, formal action should be considered.

Mediation

The purpose of mediation is to find a solution acceptable to each party. Mediation is a voluntary process and both parties must agree to it. Either party may choose to withdraw at any point. The mediator is impartial and cannot impose a decision – the resolution must be reached by voluntary agreement between the two parties so parties to mediation cannot be accompanied.

Mediation is most successful when both parties:

- understand what is involved,
- enter into the process voluntarily,
- are prepared to attempt to repair the working relationship

It can be particularly helpful in cases where the person against whom the allegation has been made is unaware of the impact of their actions and also in situations where, whether the allegation is proven or not, there is a need to restore the employment relationship.

Formal Stage 1 – Meeting Employee

If the employee considers that they wish to make a formal complaint about an incident either because:

- their complaint has not been resolved to their satisfaction informally; or
- their complaint is so serious that an informal approach is not appropriate;

They should submit their complaint in writing to the Headteacher* preferably within three months of the alleged incident, where possible. The longer the time between the incident and it being raised the more difficult it is to investigate and resolve the matter satisfactorily. Details of the complaint should include:

- Name/s of the individuals concerned.
- Details of the allegation/s including relevant dates, locations and nature of the incident
- Details of any witnesses or supporting evidence.
- Details of what efforts the employee and others have made to resolve the complaint.
- The reason(s) why the employee remains dissatisfied with the outcome of the informal stage of the procedure, or why the informal procedure is inappropriate
- Details of any outcomes sought

*Where the Headteacher is the alleged harasser, the employee should submit their complaint in writing to the Chair of Governors or the Strategic Director of Children's Services or representative (or equivalent role for a non-Local Authority School).

- A Trade Union Representative may bring a complaint on behalf of the employee.

Manager/Headteacher

Potential Misconduct

At this stage the Headteacher should consider the best and swiftest means of resolution and also the view of the employee in determining whether the nature of the allegation constitutes potential serious misconduct, according to the School's disciplinary procedure.

It is recommended that advice is sought from the School's HR provider at this stage.

If so, from this point, the School's disciplinary procedure should be followed and the complainant should be advised of this decision.

Further Investigation Required

If the complaint does not appear to concern behaviour which could be considered to be serious misconduct, but it is felt by the Headteacher that further investigation will be required to clarify the issue and to determine what action should be taken, then an Investigating Officer will undertake that investigation.

- It is recommended that advice is sought from the School's HR provider at this stage.
- Separate meetings should be held with the complainant and the person against whom the allegation has been made, as soon as practically possible, but within seven calendar days of receipt of the employee's written complaint.
- Both the complainant and the person against whom the complaint has been made may choose to be accompanied at these meetings.
- If necessary, other witnesses should be interviewed, if this is considered necessary, to ascertain facts which may have a bearing on the case
- Should the relationship between the two parties create an unworkable situation, alternative working arrangements can be considered, if this appears to be the only option. It is recommended that advice from the School's HR Provider is sought in these cases and this step should only be considered as a short term temporary measure.
- Having concluded interviews, if the allegation is found to be unsubstantiated, attempts should be made to conciliate between the two parties. Following satisfactory conciliation, the process is complete.
- Where the complaint is found to be frivolous, malicious or vexatious, this should be treated as misconduct and lead to disciplinary action.
- Where the allegation is found not to be substantiated, but it is not possible to reach conciliation (the complainant remains aggrieved) there is a right of appeal. In these cases, both employees may need further support to successfully re-establish good working relationships.
- Where the claim appears to be substantiated, (i.e. harassment has occurred) then the Headteacher/manager should consider either, management intervention and guidance or to pursue the allegations of misconduct derived from the findings of the investigation under the disciplinary procedure. In these circumstances, it may not always be necessary to conduct a separate investigation.

All parties should be notified in writing of the decision taken and of any actions to be put in place.

Formal Stage 2 – Appeal

- If the complainant is not satisfied with the outcome of the formal stage, there is a right of appeal to The Governing Board* which must be registered in writing to the Chair of Governors within 10 working days of receipt of the written notification of the outcome of the formal Stage 1.
- The grounds for appeal are that the Claimant believes that:
 - new substantial and relevant evidence has come to light;
 - there is evidence that the complaint was not adequately or properly investigated in accordance with the procedure;
 - there is evidence that the complaint was not fairly investigated
- The grounds of the appeal should be set out in the appeal letter and the employee or their representative will use those grounds to establish their case at the beginning of the appeal.
- The Chair of Governors will reply to the appeal letter within 10 working days of receipt, acknowledging the registering of the appeal and arrange the hearing as soon as practicable. The appeal committee will be comprised of at least three governors. There will be a minimum of 10 working days' notice of the appeal date.
- Any statements of case or evidence on which either management or the employee intends to rely should be provided to the Appeals Panel and other party at least 5 working days prior to the hearing.
- The employee has the right to be accompanied at the appeal.
- The employee will be informed of the outcome in writing within 5 working days.

That outcome is the final stage within the School's procedures.

There is no right of appeal for the complainant regarding sanctions imposed on the harasser following disciplinary action.

*The Governing Board may choose to delegate the responsibility of hearing an appeal to the Headteacher where there are sufficient line managers in the school staffing structure to be able to fulfil the informal and formal stages in the procedure. In this case the Governing Board would only hear an appeal where the alleged harasser is the Headteacher. Governors who have been involved in the case will be precluded from hearing the appeal.

Further Guidance

For advice on what constitutes harassment or bullying and for examples, please see Manager Guidelines to Harassment.

Harassment by third parties

There may be circumstances in which an individual is subjected to unwanted conduct from a third party such as a parent, client or contractor. Abusive, offensive or threatening behaviour will not be tolerated.

If an employee makes a complaint about a third party, an investigation should be carried out and action taken to prevent a reoccurrence. When a complaint is upheld, consideration should be given to actions necessary to rectify the situation. This may include mediation, conciliation and restrictions on access to the school where appropriate.

The notice in Appendix 3 should be displayed prominently in the school's reception area.

Social Media and Bullying

Social media has presented opportunities for bullying in a different form – through the internet. This form of bullying may not be so tangible, as the victim may not see it personally, though colleagues may, and it can carry on away from the workplace. Cyber bullying will be dealt with in the same way as other forms of bullying, as it can be as damaging to the individual as any other form of bullying.

8. Governors

Where the alleged harasser is a Governor, the complaint should be raised with the Chair of Governors.

The complaint will be investigated by the Chair of Governors and the Headteacher who will respond in writing direct to the complainant detailing their findings. This will normally be within 15 working days of being called upon to investigate the matter.

If the claim of harassment is found to be substantiated, appropriate disciplinary action will be taken by the Chair of Governors, with subsequent

appeal by the Governor involved against sanction(s) imposed being heard by a specially constituted Appeal panel appointed by the Governing Body.

Applications for appeal must be made in writing to the Chair of Governors within 14 days of receipt of notification of the decision.

9. Monitoring

The Headteacher should be kept informed and keep confidential records of all harassment cases.

Cases of harassment or bullying will be monitored by the Governing Body by means of confidential reports from the Headteacher on at least an annual basis, reporting in line with Public Sector Equality requirements as required.