

Anti-Harassment and Bullying Policy

Policy Owner: The Mercian Trust
People & Culture Committee

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Increasing Opportunities
Improving Outcomes

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1 Introduction

- 1.1 The Mercian Trust is committed to a work environment free of harassment and bullying, where everyone is treated with dignity and respect. The Trust takes a firm stance against bullying between pupils, and it is important that all staff lead by example with their own behaviour.
- 1.2 Harassment and bullying can have very serious consequences for individuals and the Trust including loss of morale, poor work performance, increased turnover of staff, legal claims and damage to our reputation.
- 1.3 We 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 our Disciplinary Procedure. In some cases, it may amount to gross misconduct leading to summary dismissal.
- 1.4 This policy has been implemented following consultation with staff and the recognised trade unions in February 2023, and has been formally adopted by the Trust.
- 1.5 This policy does not form part of any employee's contract of employment and may be amended at any time.

2 Scope and purpose of this policy

- 2.1 The policy sets out the types of behaviour that are unacceptable and covers bullying and harassment both in and out of the workplace such as on school trips, at school events or work-related social functions. This policy covers bullying and harassment by staff and also by third parties such as suppliers or visitors to the school.
- 2.2 This policy applies to all employees of the Trust, governors, contractors, casual and agency staff and volunteers (collectively referred to as **staff** in this policy). The policy does not apply to pupils or parents who consider they have been the subject of bullying or harassment by Trust employees, where separate complaints procedures apply.
- 2.3 Employees may make a complaint under this policy or the grievance policy but not both policies.

3 The legal framework

- 3.1 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 (protected characteristics). 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 staff are entitled to a safe place and system of work.
- 3.2 Individual members of staff may in some cases be personally legally liable for harassment of colleagues or third parties (including pupils), and may be ordered to pay compensation by a court or employment tribunal.

4 What is harassment?

4.1 Harassment is any unwanted physical, verbal or non-verbal conduct which has the purpose or effect of:

4.1.1 violating a person's dignity; or

4.1.2 creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

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

4.2 Unlawful harassment may involve conduct related to a protected characteristic (see 3.1) or of a sexual nature (sexual harassment). Harassment is unacceptable even if it does not fall within any of these categories.

4.3 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/her. Harassment may also occur even if an individual does not have a protected characteristic, but another individual engages in unwanted conduct towards them because:

4.3.1 they perceive the recipient to have a protected characteristic; or

4.3.2 they are associated with a person who does have a protected characteristic.

4.4 A single incident can amount to harassment although first-time conduct which unintentionally causes offence will not usually be harassment. However, it will become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to him/her.

5 What is bullying?

5.1 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.

5.2 Legitimate, reasonable and constructive criticism of a worker's performance or behaviour or reasonable instructions given to workers in the course of their employment, will not amount to bullying on their own. It is also recognised that differences of opinion, outbursts of bad temper etc. may occur from time to time in any normal working environment. We would normally expect our employees to resolve through informal processes rather than through the use of the formal procedure set out below.

6 Examples of bullying and harassment

6.1 Bullying and harassment can take the form of physical, verbal and non-verbal conduct. Employees should always consider whether their words or conduct could be offensive. Conduct may be harassment or bullying whether or not the person behaving in that way intends to offend. Examples of unacceptable conduct include (not an exhaustive list):

- 6.1.1 unwanted physical conduct or 'horseplay' including touching, pinching, brushing past someone, invading their personal space, and more serious forms of physical or sexual assault;
- 6.1.2 unwelcome sexual advances or suggestive behaviour or suggestions that sexual favours may further a career or that a refusal may hinder it;
- 6.1.3 continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;
- 6.1.4 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);
- 6.1.5 offensive or intimidating comments or gestures, or insensitive jokes or pranks;
- 6.1.6 jokes or comments about an individual's age, disability, sexual orientation or religion, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
- 6.1.7 ignoring or shunning someone, for example, by deliberately excluding them from a conversation, a workplace social activity or from meetings;
- 6.1.8 shouting at, being sarcastic towards, ridiculing or demeaning others;
- 6.1.9 physical or psychological threats;
- 6.1.10 overbearing and intimidating levels of supervision;
- 6.1.11 inappropriate and/or derogatory remarks about someone's performance;
- 6.1.12 abuse of authority, power or status by those in positions of seniority.

7 Informal steps

- 7.1 If you think you are being bullied or harassed, you should initially consider raising the problem informally with the person responsible. You should explain clearly to them that their behaviour is not welcome or makes you uncomfortable. If this is too difficult or embarrassing, you should speak to your line manager (or another manager if the matter relates to your line manager), who can provide advice and assistance in resolving the issue formally or informally.
- 7.2 If you are not certain whether an incident or series of incidents amount to bullying or harassment, you should initially contact your line manager (or another manager if the matter relates to your line manager) informally for confidential advice.
- 7.3 At this stage it may be appropriate to arrange some form of mediation and/or counselling if all parties agree.
- 7.4 If informal steps have not been successful or are not possible or appropriate, you should follow the formal procedure set out below.

8 Raising a formal complaint

- 8.1 If you wish to make a formal complaint about bullying or harassment, you should submit it in writing to the Trust Central HR team who will allocate an investigating officer and deciding manager as per Table 1 contact details are: HRmatters@merciantrust.org.uk.
- 8.2 Your 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.
- 8.3 As a general principle, the decision whether to progress a complaint is up to you. However, we have a duty to protect all staff and may pursue the matter independently if, in all the circumstances, we consider it appropriate to do so.

9 Formal investigations

- 9.1 We will investigate complaints in a timely and confidential manner. Individuals not involved in the complaint or the investigation should not be told about it. Wherever possible the investigation will be conducted by someone with no prior involvement in the complaint. The investigation should be thorough, impartial, objective and carried out with sensitivity and due respect for the rights of all parties concerned.
- 9.2 We will arrange a meeting with you, usually within ten working days of receiving your complaint, so that you can give your account of events. You have the right to be accompanied by a colleague or a trade union representative of your choice, who must respect the confidentiality of the investigation. You will be given an indication of the timescales for the investigation. The investigator will arrange further meetings with you as appropriate throughout the investigation.
- 9.3 Where your complaint is about an employee, we may consider suspending them on full pay or making other temporary changes to working arrangements pending the outcome of the investigation, if circumstances require and there is no alternative to suspension. The investigator will also meet with the alleged harasser or bully who may also be accompanied by a colleague or trade union representative of their choice 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.
- 9.4 Where your complaint is about someone other than an employee, such as a contractor, pupil, parent or visitor, we will consider what action may be appropriate to protect you and anyone involved pending the outcome of the investigation, bearing in mind the reasonable needs of the Trust and the rights of that person. Where appropriate, we will attempt to discuss the matter with the third party.
- 9.5 We will also seriously consider any request that you make for changes to your own working arrangements during the investigation. For example, you may ask for changes to your duties or working hours so as to avoid or minimise contact with the alleged harasser or bully.
- 9.6 It may be necessary to interview witnesses to any of the incidents mentioned in your complaint. If so, the importance of confidentiality will be emphasised to them.
- 9.7 At the end of the investigation, the investigator will submit a report to the allocated deciding manager to consider the complaint. A copy of the report and findings will be given to you and to the alleged harasser or bully, together with recommendations for further action.

- 9.8 The allocated deciding manager will arrange a meeting with you. usually within two weeks of receiving the report, in order to discuss the outcome and what action, if any should be taken. You have the right to bring a colleague or a trade union representative to the meeting.

10 Action following the investigation

- 10.1 If the deciding manager considers that harassment or bullying has occurred, prompt action will be taken to address it.
- 10.2 Where the harasser or bully is an employee, the matter will be dealt with as a case of possible misconduct or gross misconduct under our Disciplinary Procedure.
- 10.3 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.
- 10.4 Whether or not your complaint is upheld, we will consider how best to manage the ongoing working relationship between you 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.
- 10.5 Any staff member who deliberately provides false information or otherwise acts in bad faith as part of an investigation may be subject to action under our Disciplinary Procedure.

11 Appeals

- 11.1 If you are not satisfied with the outcome you may appeal in writing to the Trust Central HR team who will make the necessary arrangements for the appeal as per Table 1 contact details are: HRmatters@merciantrust.org.uk. The written appeal must state your full grounds of appeal, and be received within five working days of the date on which the decision was sent or given to you.
- 11.2 We will hold an appeal meeting, normally within ten working days of receiving your written appeal. This will be dealt with impartially by a more senior manager or panel of governors as per Table 1, who will not previously have been involved in the case (although they may ask anyone previously involved to be present). You may bring a colleague or trade union representative to the meeting.
- 11.3 We will confirm our final decision in writing, usually within 5 working days of the appeal hearing. This is the end of the procedure and there is no further right of appeal.

12 Protection and support for those involved

- 12.1 An employee who makes a complaint or who participates in good faith in any investigation conducted under this policy must not suffer any form of retaliation or victimisation as a result. Anyone found to have retaliated against or victimised someone in this way may be subject to a disciplinary process.
- 12.2 Victimisation is subjecting a person to a detriment because he/she has in good faith:
- 12.2.1 complained (whether formally or otherwise) that someone has been bullying or harassing him/her or someone else; or

12.2.2 supported someone to make a complaint; or

12.2.3 given evidence in relation to a complaint.

This would include isolating someone or giving them a heavier or more difficult workload. If you believe you have suffered any such treatment you should inform your line manager/Head Teacher. If the matter is not remedied, you should raise it formally using our Grievance Procedure or this procedure if appropriate.

12.3 Making a complaint or giving evidence that you know to be untrue may lead to disciplinary action being taken against you.

12.4 Anyone found to have retaliated against or victimised someone for making a complaint or assisting in good faith with an investigation under this procedure will be subject to disciplinary action.

12.5 If a complaint is made against you, do not dismiss the complaint out of hand because you were only joking or think the complainant is being too sensitive. Remember that different people find different things acceptable and everyone has the right to decide what behaviour is acceptable to them and to have their feelings respected by others. You may have offended someone without intending to. If that is the case, the person concerned may be content with an explanation and an apology from you and an assurance that you will be careful in future not to behave in a way that you now know may cause offence. Provided that you do not repeat the behaviour that has caused offence that may well be the end of the matter.

12.6 We offer access to confidential counselling, which is available on request for anyone affected by, or accused of, bullying or harassment. The details are available in confidence from the Mercian Central HR team contacted via hrmatters@merciantrust.org.uk.

13 Confidentiality and data protection

13.1 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.

13.2 As part of the application of this policy, the Trust may collect, process and store personal data in accordance with our data protection policy. We will comply with the requirements of **Data Protection Legislation** (being the UK General Data Protection Regulation and the Data Protection Act 2018) and any implementing laws, regulations and secondary legislation, as amended or updated from time to time. Records will be kept on the employee's personal file in accordance with our Workforce Privacy Notice, our Retention and Distribution Policy and in line with the requirements of Data Protection Legislation. This will include information about a complaint along with a record of the outcome and of any notes or other documents compiled during the process.

13.3 Breach of confidentiality may give rise to disciplinary action under our Disciplinary Procedure.

14 Review of this policy

This policy is reviewed and amended every 2 years by Trust. We will monitor the application and outcomes of this policy to ensure it is working effectively.

Table 1.

Employee	Investigating Officer	Deciding Manager (Hearing Chair)	Advisor(s) to the DM	Appeal Panel	Advisor(s) to the Appeal Panel
Teacher	Senior leader from own school or another school in the Trust	Headteacher or Senior Leader from the Central Team	Trust-appointed HR Advisor.	2x LGB 1x Trust representative.	Trust-appointed HR and/or Legal Advisor.
Leadership Spine	Senior leader from own school or another school in the Trust	Headteacher or Senior Leader from the Central Team	Trust-appointed HR Advisor.	2x LGB 1x Trust representative.	Trust-appointed HR and/or Legal Advisor.
Deputy Head (or second most senior member of staff who deputises for the HT)	Senior Leader from within the Trust Central Team or Headteacher from another school in the Trust	Headteacher or Senior Leader from the Central Team	Trust-appointed HR Advisor.	2x LGB 1x Trust representative.	Trust-appointed HR and/or Legal Advisor.
Associate Staff	Senior leader from own school or from within the Trust central team.	Headteacher or Senior Leader from the Central Team	Trust-appointed HR Advisor.	2x LGB 1x Trust representative. Or 2x Non-executive governors/trustees 1x Trust representative.	Trust-appointed HR and/or Legal Advisor.
Headteacher or Trust Executive Leader	Independent IO appointed by the CEO	CEO	Trust-appointed HR Advisor.	3x Trustees	Trust-appointed HR and/or Legal Advisor.
CEO	Independent IO appointed by the Chair of the Trust	3x Trustees	Trust-appointed HR Advisor.	3x Different Trustees	Trust-appointed HR and/or Legal Advisor.