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BULLYING AND HARASSMENT POLICY AND PROCEDURE

Owner: HR

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Next Review: September 2022

Bullying and Harassment Policy

Introduction

Our aim is to provide a working environment that respects the rights of each individual employee and where colleagues treat each other with the utmost respect. Any behaviour that undermines this aim is totally unacceptable.

The school therefore deplores all forms of harassment and bullying. It will not be tolerated under any circumstances and may lead to disciplinary action up to and including dismissal.



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While implementing and upholding the policy is the duty of all of our managers and line managers, all employees have a responsibility to ensure that bullying and harassment have no place in the workplace.

Principles and Procedure

The following procedure has been designed to inform employees about the type of behaviour that is unacceptable and provides employees who are the victims of harassment and bullying with a means of redress. The school will not tolerate harassment or bullying of any person.

As already indicated, harassment or victimisation may lead to disciplinary action up to and including dismissal if it is committed:

- in a work situation
- during any situation related to work such as at a social event with colleagues
- against a colleague or other person connected to the employer outside of a work situation, including on social media
- against anyone outside of a work situation where the incident is relevant to their suitability to carry out the role.

Aggravating factors such as the abuse of power over a more junior colleague will be taken into account when deciding what disciplinary action to take.

The school will also not tolerate harassment of staff by third parties and will take appropriate action to deal with all instances which are reported.

Definition of Harassment

Harassment is unwanted conduct that intentionally or unintentionally violates a person's dignity, or creates an intimidating, hostile, degrading, humiliating, or offensive working environment for them. Harassment at work is not only despicable and demeaning but may also be unlawful under the Equality Act 2010.

Each person has the right to decide what behaviour is either acceptable or unacceptable; if an individual finds certain behaviour unacceptable and they feel damaged by it, then that individual has every right to say so, and their right to do so will be respected. It is irrelevant whether the person who perpetrated the behaviour intended to cause offence.

People can be subjected to harassment on a wide variety of grounds.

These include:

- sex or gender — see the next section on sexual harassment
- sexual orientation
- transgender status



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- marital or civil partnership status
- pregnancy or maternity leave
- race, nationality, ethnic origin, national origin or skin colour
- disability
- age
- employment status, e.g. part-time, fixed-term, permanent, agency worker, contractor, subcontractor, etc
- membership or non-membership of a trade union
- the carrying out of health and safety duties
- religious or political beliefs
- deeply held personal beliefs
- criminal record
- health, e.g. AIDS/HIV sufferers, etc
- physical characteristics
- willingness to challenge harassment — being ridiculed or victimised for raising a complaint.

As harassment can occur on a variety of grounds, anyone perceived to be different from the majority is at particular risk.

Harassment is normally characterised by more than one incident of unacceptable behaviour, particularly if it recurs once it has been made clear that it is regarded by the victim as offensive. However, a single incident may constitute harassment if it is sufficiently serious.

The school, together with any managers or line managers who fail to take steps to prevent harassment or investigate complaints, may be held liable for their unlawful actions and be required to pay compensation to the victim, *as may the employee who has committed the act of harassment*.

There is no limit to the compensation that can be awarded in employment tribunals for acts of harassment.

Harassment on any grounds may also be a criminal offence under the:

- Criminal Justice and Public Order Act 1994
- Protection from Harassment Act 1997
- Crime and Disorder Act 1998
- Criminal Justice and Police Act 2001
- Anti-terrorism, Crime and Security Act 2001 (which cites religiously aggravated harassment as a criminal offence).



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These Acts mean that employees who are harassed by fellow employees or third parties may call in the police. Those found guilty face fines and/or periods of imprisonment of up to two years.

Examples of Harassment

Harassment takes many forms — from relatively mild banter to physical violence. Employees may not always realise that their behaviour constitutes harassment, but they must recognise that what is acceptable to one employee may not be acceptable to another; determining what is acceptable is an individual right that must be respected.

Examples of harassment include (but are not restricted to):

- verbal harassment — examples include crude language, offensive jokes, suggestive or offensive remarks, innuendoes, rude or vulgar comments, malicious gossip and offensive songs related to any of the protected characteristics (e.g. sex, race, religion, etc)
- non-verbal harassment — examples include wolf-whistles, obscene gestures, sexually suggestive posters/calendars, pornographic material (both paper-based and generated on a computer, including offensive screensavers), graffiti, offensive letters, offensive e-mails, text messages on mobile phones and offensive objects
- physical harassment — examples include unnecessary and unwanted touching, patting, pinching, or brushing against another employee's body, assault and physical coercion
- pressure for sexual favours (e.g. to get a job or promotion) or victimisation on account of the rejection of such pressure
- isolation or non-co-operation and exclusion from social activities for a reason related to sex, race, religion, etc.

Sexual Harassment

Sexual harassment occurs when a worker is subjected to unwanted conduct as defined in (s.26(2) of the Equality Act 2010). The conduct need not be sexually motivated, only sexual in nature.

Conduct “of a sexual nature” includes a wide range of behaviour, such as:

- sexual comments or jokes
- displaying sexually graphic pictures, posters or photos
- suggestive looks, staring or leering
- propositions and sexual advances
- making promises in return for sexual favours
- sexual gestures



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- intrusive questions about a person's private or sex life or a person discussing their own sex life
- sexual posts or contact on social media
- spreading sexual rumours about a person
- sending sexually explicit emails or text messages
- unwelcome touching, hugging, massaging or kissing.

An individual can experience unwanted conduct from someone of the same or a different sex. Sexual interaction that is invited, mutual or consensual is not sexual harassment because it is not unwanted. However, sexual conduct that has been welcomed in the past can become unwanted.

Sexual harassment is unlawful and will not be tolerated by the school.

Definition of Bullying

Bullying is a sustained form of psychological abuse that aims to make the victim feel demeaned and inadequate. Bullying is defined as:

“Offensive, intimidating, malicious or insulting behaviour, or an abuse or misuse of power, which has the purpose, or effect of, intimidating, belittling and humiliating the recipient, leading to loss of self-esteem for the victim and ultimately the self-questioning of their worth, both in the workplace and society as a whole”.

Examples of bullying

Examples of bullying include:

- shouting or swearing at someone
- ignoring or deliberately excluding a person
- persecution through threats and instilling fear
- spreading malicious rumours
- constantly undervaluing effort
- dispensing disciplinary action which is totally unjustified
- spontaneous rages, often over trivial matters.

Examples of less obvious bullying include:

- deliberately withholding information or supplying incorrect information
- deliberately sabotaging or impeding work performance
- constantly changing targets without good reason
- setting an individual up to fail by imposing impossible deadlines
- unreasonably removing areas of responsibility and imposing menial tasks
- blocking applications for holiday, promotion, or training.



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These examples listed are not exhaustive. As with harassment, it is the perception of the recipient that determines whether any particular behaviour can reasonably be viewed as bullying.

Enforcement

The examples of harassment and bullying provided in this policy are not exhaustive. Any harassment or bullying will be classed as gross misconduct, for which employees may be summarily dismissed.

All complaints of harassment will be treated very seriously.

The school expects all managers and line managers to ensure that this policy and procedure is adhered to at all times and expects all employees to respect the dignity of their colleagues. The policy will be regularly monitored to ensure that it is achieving its aims, and that managers and employees are confident about its application.

Procedure for Dealing with Bullying and Harassment

The school recognises the sensitive nature of bullying and harassment. Employees who believe they are being bullied or harassed may wish to discuss their particular situation before deciding what action to take. The school operates an open-door policy to discuss workplace problems and employees can fully discuss the matter with their line manager on an informal basis. However, the school recognises that this may not be appropriate in all circumstances. If this is the case, employees can discuss the situation with the next higher level of management, HR or a member of the governing board.

Anyone giving advice will:

- ensure the conversation remains confidential as far as possible
- listen sympathetically
- help individuals consider objectively what has happened
- discuss what outcome the individual would wish to see
- draw attention to available procedures and options
- inform the individual of the legal liabilities involved
- help weigh up the alternatives, but without pressure to adopt any particular course
- assist the individual in dealing with the situation (if the individual asks for help).

Confidentiality will be maintained as far as possible. However, if an employee decides not to take any action to deal with the problem and the circumstances described are very serious, the school reserves the right to investigate the situation — as it has an overall duty of care to ensure the safety of all employees who may be adversely affected by the alleged harasser's/bully's behaviour.



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Solutions

Just as it is for the individual to decide what behaviour is either acceptable or unacceptable, then it is also for the individual to decide which route to take in addressing any problem that has occurred. There are two types of solutions available: informal and formal.

Informal solutions

Employees can choose to solve the matter themselves by simply approaching the harasser/bully, telling them that their behaviour is unwelcome and that it must stop, otherwise a formal complaint will be made.

If an individual would find it difficult or embarrassing to raise the issue directly with the person creating the problem, support can be sought from a colleague who can accompany the victim when speaking to the harasser/bully.

A third option is that the victim can approach HR and ask for support in approaching the harasser/ bully.

Mediation

If either party wishes to request third party mediation, they may do so by speaking to HR. However, mediation will only be considered where both parties agree to enter into the process.

Formal solutions

Where informal solutions fail, or serious harassment or bullying occurs, employees can bring a formal complaint in the form of a grievance, with the procedure adapted to take account of the sensitivities of such situations.

Each step and action under the formal grievance procedure will be taken without unreasonable delay. Complaints will be investigated swiftly and confidentially while ensuring that the rights of both the alleged victim and the alleged harasser are protected.

Employees and witnesses can be assured that they will not be ridiculed or victimised for making, or assisting in making a complaint, even if it is not upheld, as long as it is made in good faith.

Everyone involved in the investigation, including witnesses, will be required to maintain confidentiality — a failure to do so will be a disciplinary matter.

The procedure is as follows.

Step 1 — Lodging a grievance and conducting an investigation

- The complaint should be put in writing, outlining the alleged incidents — when and where they occurred, the harm caused, the names of any witnesses and the name of the



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alleged harasser or bully. The complaint should be sent to HR (or if that is not possible because the complaint is against HR) an impartial governor. The contact details for a governor will be provided with their prior agreement.

- If the victim would find it distressing to set out their complaint in writing, then they should contact HR, who will provide assistance.
- HR (or where the complaint is about HR the governing body) will be responsible for progressing the complaint.
- HR (or where the complaint is about HR the governing body) will conduct investigatory interviews with the complainant, the individual against whom the complaint has been lodged, and any relevant witnesses. The right to accompaniment will be provided to all those interviewed.
- Those involved in the investigation will submit a full report to HR which HR submits to the governing body.

Step 2 — Grievance meeting

- The employee will be invited to a meeting with HR and a nominated member of SLT or the governing body to discuss the grievance and the result of the investigator's report.
- The employee has the right to be accompanied by a colleague or trade union official of their choice at the meeting.
- The timing and location of the meeting must be reasonable.
- The employee must take all reasonable steps to attend the meeting.
- The meeting will be conducted in a manner that enables the employee to explain their case and HR to set out the results of the investigation.
- Within a reasonable time period HR will inform the employee of their decision and notify the employee of their right to appeal against that decision if they are not satisfied with it.

Step 3 — Hearing the appeal

- If the employee does wish to appeal, they must inform HR who will inform a member of the governing body who has not been involved in the Step 2 of the grievance and who will hear the appeal.
- The employee will be invited to attend an appeal meeting.
- The employee has the right to be accompanied by a colleague or trade union official of their choice to the appeal meeting.
- The timing and location of the meeting must be reasonable.
- The employee must take all reasonable steps to attend the meeting.
- The meeting will be conducted in a manner that enables both sides to explain their cases.



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- Within a reasonable time period HR will inform the employee of their decision and notify the employee of their right to appeal against that decision if they are not satisfied with it.

Full records will be kept of the grievance proceedings and copies of meeting records will be given to the complainant.

If at the end of Step 1, the complaint is upheld, the matter, HR will instigate disciplinary proceedings against the person who perpetrated the bullying or harassment.

Training and counselling

Training and/or counselling will be offered to the complainant and/or to the (alleged) harasser, even if the complaint has not been upheld. This will be provided by our counsellor or an external provider, as appropriate.

Monitoring and Review

Where harassment or bullying has been found to have occurred, and the perpetrator remains in employment, regular checks will be made to ensure that harassment has stopped and that there has been no victimisation or retaliation against the victim. Somerhill will also ensure that the employee who committed the act of harassment or bullying is not victimised in any way.

Malicious Complaints

Where a complaint is blatantly untrue and has been brought out of spite, or for some other unacceptable motive, the complainant will be subject to the school's disciplinary procedure, as will any witnesses who have deliberately misled Somerhill during its investigations.

Dealing with Harassment by a Third Party

Third- party harassment can lead to legal liability and will not be tolerated by Somerhill.

A worker who is bullied or harassed by a third party is not expected to enter into any confrontation with the third party that may put their personal safety at risk.

If, however, a member of staff decides to tackle the matter themselves, they should take the following steps.

- Politely ask the third party to stop the bullying or harassment and inform them that bullying or harassment of any member of staff by a third party will not be tolerated.
- If the third party does not stop the bullying or harassment — repeat step 1 and warn them that action will be taken against them if the bullying or harassment continues.
- If the third party still does not stop the bullying or harassment — report the incident to their line manager.



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The complaint will be investigated immediately and in some cases the bully or harasser may be asked to leave the employer's premises and not return. In all instances of such third-party harassment Somerhill will take effective remedial action, including reporting any criminal act to the police.

Members of staff should report any incident of bullying or harassment by a third/external party to HR, whether or not they have managed to resolve it. The report will be used for the purpose of monitoring the effectiveness of the school's bullying and harassment policy.