

## **WORKPLACE AND WORK-RELATED BULLYING AND HARASSMENT**

### **A MODEL PROCEDURE FOR ALL STAFF IN SCHOOLS WITH DELEGATED BUDGETS (AND TEACHERS IN CENTRALLY MANAGED SERVICES) (REVISED MAY 2023)**

#### **1. PURPOSE**

- 1.1 This document sets out the procedures to be followed in dealing with complaints of harassment and bullying. This procedure is intended to:
- give clear guidance to all concerned in such situations;
  - enable complaints to be resolved as efficiently and quickly as possible;
  - minimise the prospect of damage to relationships at the school.
- 1.2 This procedure has been agreed between the Authority and the recognised Trade Unions and Teacher Associations.
- 1.3 This procedure has been adopted and is published as part of the staffing policies of the Governing Body of Rockwood Nursery School

#### **2. APPLICATION**

- 2.1 This procedure applies to all staff employed in Rockwood Nursery School
- 2.2 If the complaint is raised by a teacher in a Centrally Managed Service, the relevant senior manager should be substituted for any reference to the Headteacher. The Head of Service should be substituted for any reference to the Chair of Governors.
- 2.3 Where possible, the complaint should be resolved informally (see informal stage, section 6). Where the informal stage fails or is considered by the member of staff to be inappropriate, the formal stage should be invoked (see formal stage, section 7).
- 2.4 This procedure should be used for dealing with individual complaints of bullying and harassment. Where more than one employee submits a complaint of a similar nature, this should be dealt with in accordance with Annex 4 '*Collective Bullying & Harassment complaints*'.

### **3. CONFIDENTIALITY**

- 3.1 All parties involved in a complaint of bullying and harassment will be expected to observe the principle of confidentiality in relation to the content of the complaint and its surrounding issues. Failure to observe this principle could have an adverse impact on the outcome of a complaint.
- 3.2 All documentation and discussions at meetings within this procedure are confidential, although may be shared with all parties involved in the complaint and any members of the governing body committees who are involved in hearing cases relating to the complaint (including the submissions of any witnesses). The School processes personal data collected during informal complaints and the formal procedure in accordance with its data protection policy. In particular, data collected as part of informal complaints and the procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of responding to the complaints, seeking professional advice or conducting the bullying and harassment procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the school's data protection policy. It may also constitute a disciplinary offence, which will be dealt with under the disciplinary procedure.

### **4. GENERAL PRINCIPLES**

- 4.1 Any member of staff who makes or is the subject of a complaint under this procedure will receive a copy of the procedure, as will any person involved in the process (e.g. witnesses, investigating officers etc).
- 4.2 A member of staff has the right to attend and be represented by a work colleague or trade union representative at any meeting convened under this procedure. The representative cannot be a person that is involved in the investigation (i.e. witness, complainant, respondent etc).
- 4.3 Witnesses may also be accompanied by a colleague or trade union representative. However, should the representative of a witness be unavailable to attend the hearing scheduled, the hearing will not be postponed.
- 4.4 At any meeting convened under this procedure, access to an adjournment should not be unreasonably refused.
- 4.5 With the exception of a complaint against the headteacher, governors are not involved prior to the formal stage.
- 4.6 The Clerk to the Governors, in setting a date for a meeting to consider the formal stage of a complaint, will inform the Governors that a full report is to be submitted to them. Any attempt by any Governor to elicit further details, at that stage, would be inappropriate. The Chair of Governors will be kept informed of general progress, but not given access to detailed information in view of the fact that this might disqualify him/her on grounds of bias from further involvement.
- 4.7 The formal stage of the procedure against another member of staff will include a right of appeal.
- 4.8 The Headteacher/Chair of Governors can obtain advice about dealing with bullying and harassment investigations from the Schools HR Team.

- 4.9 Anonymous complaints will not be dealt with via the Bullying & Harassment Procedure.

## **5. INITIAL STAGES**

- 5.1 It is expected that the majority of bullying and harassment complaints will be resolved without recourse to the formal stage of this procedure.
- 5.2 At any stage of this procedure, it is open to both parties to seek mediation to resolve the dispute. Mediation is defined as 'a structured process in which a neutral third party, called a mediator, helps disputing parties to work through and resolve problems and create a way forward.' It should be noted that mediation will not be possible without the full, voluntary agreement of both the parties. This would be facilitated by a suitably trained and/or experienced mediator. Further information about the mediation process is contained within Annex 3.
- 5.3 Staff may find it helpful to keep records of incidents of behaviour which they consider to be harassment or bullying, noting the date and time of the incident and details of any witnesses. Such records can be helpful in describing the problem and may also be used if any formal action is subsequently taken. It is expected, however, that such records should not be kept for extended periods without the complainant's concerns being raised. Good practice is to raise concerns as early as possible and, ideally, within 3 months of the event/last event. Only in exceptional circumstances should concerns be raised about incidents that occurred more than 12 months prior to the complaint. There will be an opportunity to propose exceptional circumstances for consideration and the investigating officer will decide whether exceptional circumstances apply.

## **6. INFORMAL STAGE**

- 6.1 Complainants are strongly encouraged to have their complaint considered informally as this can often result in a quicker and more constructive outcome than an immediate progression to the formal stage. Use of the informal stage will not affect the right of the complainant to subsequently take formal action. Any complaint documentation/notes made at this stage may be referred to in any later stages of the procedure.
- 6.2 The aim of the informal stage is to allow staff who feel that they are the subject of workplace/work-related harassment or bullying to inform the other person(s) involved that their conduct is regarded as unwelcome and must stop.
- 6.3 The member of staff should make it clear to the other person(s), if appropriate and they feel able to do so, that the behaviour is unwelcome, offensive and/or interfering with work.
- 6.4 If the member of staff feels uncomfortable in approaching the other person(s) directly, assistance may be sought from a colleague, trade union representative or member of the School's Senior Management Team.
- 6.5 Where such an approach does not succeed or is inappropriate, the member of staff should submit a note of complaint to the Headteacher who will send a copy to the other person(s). The Headteacher or, if appropriate and mutually agreed by both parties, another senior member of staff, will facilitate and chair a meeting between the member of staff and the other person.

- 6.6 This meeting should take place within five working days of the initial note of complaint being received by the Headteacher.
- 6.7 If the other person is the Headteacher, the member of staff should submit a note to the Clerk to the Governors, who will send a copy to the Headteacher.
- 6.8 The Clerk to the Governors will contact the Head of Schools HR, who will arrange for an independent party to facilitate and chair a meeting between the member of staff and the Headteacher. Where appropriate, the Diocesan/Church Officer may also be involved.
- 6.9 Wherever possible, this meeting should take place within 10 working days of the initial note of complaint being received by the Clerk to the Governors.
- 6.10 Should the behaviour continue, or the member of staff considers the informal stage to be inappropriate, due to the nature of the complaint, the formal stage should be invoked.

## **7. FORMAL STAGE**

- 7.1 It is expected that complainants will try and resolve their complaints through the initial or informal stages. However, where the complaint has not been resolved informally, or given the nature of the complaint, the informal stage is considered by the member of staff to be inappropriate, the member of staff should submit a formal written complaint using the Complaint Form at Annex 2. The Complaint Form is split into Section A (personal details) and Section B (details of complaint). The complainant must complete a Section B for each respondent. Only Section B must be shared with the respondent.
- 7.2 The completed complaint form must be forwarded to the Headteacher. If the person against whom the allegations have been made is the Headteacher, the member of staff should submit the completed complaint form to the Clerk to Governors, who will forward a copy to the Chair of Governors and the Head of Schools HR within 5 working days.
- 7.3 Wherever possible, the complainant should receive a written acknowledgement of receipt of the complaint and provided with the name of the investigating officer within 5 working days.
- 7.4 The respondent should be advised in writing of the allegation (using Section B of the Complaint Form) and provided with the name of the investigating officer within 5 working days of the complaint being formally acknowledged. The Headteacher/Chair of Governors should share this information with the alleged harasser in as sensitive a way as possible. They should also be informed that the complaint will be investigated in accordance with the investigation guidance given at Annex 1 and that they will be interviewed as part of this investigation, in due course.
- 7.5 The Headteacher/Chair of Governors should consider any immediate action such as alternative working arrangements. In cases of very serious allegations that may constitute gross misconduct or require criminal investigation, suspension of the respondent pending the outcome of the investigation or referral to an external agency e.g. Police, Children's Social Care should be considered. Advice should be sought from a member of the Schools HR Team in such cases. The decision

to suspend may be taken at any stage in the investigation process, dependent upon the findings of the investigation.

- 7.6 Within the interests of all parties and without undue delay, the Headteacher/Chair of Governors will organise a full investigation of the complaint. Wherever possible, the investigation process should commence within 10 working days of the submission of the Complaint Form. Guidance on the conduct of the investigation is given at Annex 1. The investigation may be undertaken by an employee of the school/college, a member of the governing body, or an independent party. The investigation process must be open and honest, without bias to either party.
- 7.7 The investigating officer must inform the complainant and the respondent of any delays during the investigation. Complete records should be kept of all meetings and investigations must be kept strictly confidential. (Both parties should be provided with an update on the progress of the investigation after 20 working days). The investigation process should last no longer than 30 working days. However, in some circumstances the investigation process can take longer due to the complexity of the investigation or delayed availability of those involved in the investigation process. In these cases, the complainant and the respondent will be informed of the delays and the reasons thereof.
- 7.8 Following the conclusion of the investigation as set out in 7.6 a confidential written report of the findings will be produced. If the investigation was conducted by an independent investigator, a copy of the report will be provided to the Headteacher/Chair of Governors.
- 7.9 The Headteacher/Chair of Governors will consider, in the light of the findings of the report, the possible outcomes and come to a decision. In considering the findings of the investigation the Headteacher/Chair should bear in mind the principle that the Investigating Officer's conclusions will have been reached on the *balance of probability* as to whether harassment took place in relation to the appropriate definition of harassment. The Headteacher/Chair of Governors may wish to seek the advice from a representative of the Schools HR Team (not the Investigating Officer) in determining an appropriate outcome.

Possible outcomes arising out of such an investigation are as follows. These outcomes are not mutually exclusive:

1. The complaint was unfounded and therefore no formal action will be taken against the respondent.
2. Seek redress through an apology and/or informal advice to amend behaviour to be given to the respondent.
3. Arrangements for mediation to take place between the parties, providing both parties agree to volunteer for this process.
4. The respondent and/or member of staff and other parties involved to attend a de-brief meeting to discuss the issues under investigation.
5. The matter should be dealt with in accordance with the School's Disciplinary Procedure, which may involve a meeting of the Disciplinary and Dismissal Committee. In these cases, all further action taken will be under the Disciplinary Procedure and action under this procedure will

cease. In these circumstances it is likely that the complainant will be called as a witness for the Disciplinary Hearing.

6. In the case of a complaint that appears to be malicious, the matter should be dealt with in accordance with the School's Disciplinary Procedure which may involve a meeting of the Disciplinary and Dismissal Committee.

Where the allegation(s) of bullying and harassment is/are proven following the Bullying and Harassment investigation, the complainant(s) will not have a right of Appeal under the Bullying and Harassment Procedure.

(Consideration will need to be given as to whether or not the case may be regarded as gross misconduct and therefore require the suspension of the employee(s) against whom the complaint has been made or who appears to have made a malicious complaint.)

- 7.10 Once the Headteacher/Chair of Governors has taken a decision, it will be confirmed in writing to the complainant and the person against whom the allegation has been made within 5 working days of the decision being taken. At the same time, the Headteacher/Chair of Governors should also provide the complainant and respondent with a copy of the report, preferably on the same date and by the same method (i.e. posted to home address or hand delivered in school). In the case of a collective complaint, one copy of the report will be provided to the co-ordinator of the complaint, so that s/he can share the content/outcomes/recommendations with the complainants, as appropriate.

Both the complainant(s) and the respondent should be reminded of the need to maintain confidentiality in terms of the content of the report and outcome letter. The outcome letter for each party will be retained on their personal file.

- 7.11 The report may subsequently be provided to members of the relevant Committees of the Governing Body who may be convened to hear the appeal against the findings of the report, or the case for action following on from this procedure (i.e. Disciplinary and Dismissal Committee).
- 7.12 If the decision is to recommend subsequent action under an alternative procedure (e.g. disciplinary procedure), at the end of this process, the complainant should be informed whether disciplinary action was taken or not, but should not be provided with details of what action was taken.
- 7.13 The report will not be retained on the personal file of either employee, unless it forms part of an adverse report written as part of the disciplinary procedure.

## **8. SUBSEQUENT ACTION**

- 8.1 In the case of an outcome short of dismissal the headteacher (or, where appropriate, the Chair of Governors) will consider sensitively how best a continuing working relationship between the parties can be arranged. Advice and support should be sought from the Schools HR Team /Diocesan/Church Officer/School Adviser, as appropriate. Consideration will be given, where practicable, to a voluntary reassignment of duties or responsibilities, or, if it is possible, a transfer of one of the parties to another area of the establishment so that they are not required to continue to work together in a situation which is found to be unacceptably difficult.

- 8.2 Where the complainant has been absent from work during the proceedings, every effort will be made to ensure that they return to a working environment where they feel comfortable and becomes fully integrated into the school as soon as possible.

## **9. APPEALS PROCESS**

- 9.1 If the complainant is not satisfied with the decision of the Headteacher/Chair of Governors and/or the action taken following the investigation, they have the right of appeal to the Appeals Committee of the Governing Body. There is no right of Appeal for the complainant where the outcome of the investigation is that the allegations of bullying and harassment are proven and disciplinary action is appropriate. The right of appeal for the complainant only applies in cases where the complaint is either not upheld or only partially upheld.
- 9.2 The complainant must lodge their appeal in writing, clearly stating why they are not satisfied with the outcome of the report, within 10 working days of receipt of the letter confirming the outcome of the investigation. The Appeal should be submitted to the Clerk to Governors with a copy to the decision maker.
- 9.3 The meeting will be conducted in accordance with the procedure outlined at Appendix A.
- 9.4 It is not the role of the Committee to decide whether or not Bullying and Harassment has taken place. At the end of the Appeals Hearing the Committee are only able to either:
- confirm the action taken by the Headteacher/Chair of Governors; or
  - refer the matter back for further consideration by the Headteacher/Chair of Governors within the grounds given for referral (e.g. the emergence of new/additional information).
- 9.5 The decision of the Appeals Committee is final.
- 9.6 There is no right of appeal for the respondent.
- 9.7 There is no right of Appeal for the complainant where the outcome of the Investigation is that the allegations of bullying and harassment are proven and disciplinary action is appropriate. The right of appeal for the complainant only applies in cases where the complaint is either not upheld or only partially upheld.

## **10. BULLYING AND HARASSMENT COMPLAINTS RAISED WHERE DIFFERENT PROCEDURES HAVE ALREADY COMMENCED**

- 10.1 Where a Bullying and Harassment complaint is raised during the formal stages of a different procedure and the complaint relates to matters already under consideration as part of that procedure, this would normally be dealt with as part of that procedure.

10.2 Where the Bullying and Harassment complaint is deemed not to be related to the matters being considered under a different procedure, the provisions of this procedure will apply.

## **11. SICK PAY**

If, after evidence from an approved medical practitioner, a period of absence is attributed to proven harassment or bullying, the absence will be regarded as an industrial injury for the purposes of entitlement to sick pay.

## **12. REVIEW**

This procedure will be reviewed after one year of operation and thereafter, as required.



## APPENDIX A

### PROCEDURE TO BE FOLLOWED AT THE MEETING OF THE APPEALS COMMITTEE

1. The employee and Headteacher/Chair of Governors are entitled to be present at all times except when any matter falls solely to the Committee to consider.
2. Both parties may be accompanied by a representative and all references to the employee and Headteacher/Chair of Governors shall be taken to include their representatives.
3. The Chair of the Committee will invite the employee and Headteacher/Chair of Governors, in that order, to make submissions to the meeting and invite cross examination.
4. The introduction of relevant additional documentary evidence will be allowed.
5. The employee and Headteacher/Chair of Governors, in that order, will have the right to call witnesses, who will be available for questioning by both the employee and Headteacher/Chair of Governors and by the Governors.
6. Witnesses will only remain at the meeting for so long as they are giving evidence or being questioned.
7. The Chair of the Committee will invite the members of the Committee to ask questions of the employee and/or Headteacher/Chair of Governors and witnesses.
8. The employee and Headteacher/Chair of Governors will, in that order, have the right to make a final or closing statement to the Committee.
9. All other parties will then withdraw and the Committee will consider the Appeal and reach a decision.
10. The Clerk to the Governors, if present, should take no part in the proceedings, but will remain with the Committee. They will make available any notes taken of the evidence and will record the decision of the Committee.
11. If the Chair of the Committee decides that further questions need to be asked, or clarification is required, the full meeting will be resumed.
12. Any CSA or Diocesan officer present will provide advice, as requested, to assist the Committee in coming to a decision.
13. When the Committee of Governors have reached a decision the employee and Headteacher/Chair of Governors will be asked to return to the meeting and the decision will be communicated.
14. The Clerk to the Governors will document the proceedings of the meeting. The decision will be confirmed in writing to the employee with a copy to the Headteacher/Chair of Governors and the Chair of the panel that heard the case, within five working days of the conclusion of the meeting.
15. **Note** Where the Clerk to the Governors is not present, an alternative clerk nominated by the school will carry out the Clerking function.