

Signed:

Date: March 2023

Review: March 2025 or sooner if required

Dignity at Work

1. Operational Summary

1.1. Scope

This procedure is recommended for adoption by the governing bodies of all maintained schools.

1.2. Policy Aim

The aim of this policy is to demonstrate the support and guidelines for headteachers to help them understand the role in implementing the Dignity at Work policy and the significance it has in day to day managerial operations.

1.3. Policy Summary

There is a positive approach throughout this policy to stress the intention to engender an open culture based upon trust and mutual respect. It seeks to create a healthy work environment in which all individuals are given the dignity and respect to which they are entitled to.

The policy states that bullying, harassment or unfair treatment of any kind is wholly unacceptable behaviour. It defines bullying and harassment and provides details of the mechanisms available to employees who have concerns to the way they are being treated.

2. Introduction

2.1. These guidelines are intended to help headteachers understand their role in implementing the Dignity at Work policy and its significance to their day to day managerial responsibilities. These guidelines explain some of the concepts and principles behind the policy, highlights the new features it contains and gives some practical advice to managers.

2.2. The Dignity at Work policy does not just apply to the actions of employees whilst at work but also outside of work. The use of social media is now more prevalent than ever and special care should be taken by employees to behave appropriately on social networking sites, and not to participate in behaviour that may be construed as harassment or bullying (or any other inappropriate behaviour) under the policy.

3. Roles and Responsibilities

3.1. **Governing body** - The governing body has a role in ensuring that a suitable working environment is provided for staff, including the establishment of appropriate policies and encouraging appropriate reporting.

3.2. **Headteachers/Managers** - The headteacher and other managers are responsible for helping staff to resolve their differences wherever possible and, in particular, encouraging reporting and ensuring that serious matters are appropriately dealt with using the relevant formal procedure. They also need to take reasonable steps to prevent harassment by a third party. They are also responsible for ensuring adequate dissemination and implementation of policies. They should ensure that awareness and understanding of harassment in both employment and service delivery is included in the induction of new staff and volunteers.

3.3. **Employees** - Every employee is under a duty to behave appropriately at all times and to actively seek to prevent harassment, discrimination, bullying and all other forms of unwarranted or improper behaviour in the workplace. Failure to do so, or inciting someone else to act inappropriately, may result in disciplinary action. Employees should also be aware that appropriate support should be available from their managers when needed in regards to harassment and dignity at work.

4. Legal Considerations

For behaviour to count as harassment in equality law, it has to be one of three types:

- Unwanted behaviour related to age, disability, race, sex, gender reassignment, religion/belief, sexual orientation, pregnancy/maternity or marriage and civil partnership that has the purpose or effect of violating a person's dignity or creates a degrading, humiliating, hostile, intimidating or offensive environment;
- Sexual harassment, which takes place when a person does something of a sexual nature (which might be verbal, nonverbal or physical) that has the purpose or effect of violating a person's dignity or creates a degrading humiliating, hostile, intimidating or offensive environment for that person; or
- An employee is treated less favourably than others because he or she either submits to or rejects sexual harassment or harassment related to sex or gender reassignment.

A complaint can be made against the employer and the specific individual(s) responsible for the harassment.

Employers, in certain circumstances, may also be held responsible for harassment of their employees by a third party, such as a pupil or their parents. An employer may be held liable if they fail to take reasonable steps to protect the worker from harassment. To protect themselves employers should take discriminatory acts seriously and be seen to implement

proactive measures which take members of the public, service users or contractors aware of their obligations not to harass employees.

Some forms of harassment, such as racially motivated incidents, can be a criminal offence and the police would investigate such complaints.

Harassment at work is sometimes linked to bullying. Bullying behaviour may or may not amount to harassment in equality law, depending on whether it is linked to any of the above protected characteristics.

5. Principles , concepts and definitions

5.1. Vicarious liability

The actions of any individual employee in the course of their employment which is unlawful under the Equality Act 2010, is treated as if it were done by the employer as well as the employee. The employer is vicariously liable. This is the principle which allows employees who suffer unacceptable behaviour at work to sue their employer rather than the culprit.

5.2. Employee's duty

The Dignity at Work policy emphasises the duty on every employee to behave appropriately at work. This echoes the standards set out in both the Code of Conduct and the Equality and Diversity policy.

5.3. Self definition

It is the impact of the unacceptable behaviour upon the recipient, rather than the intent of the alleged offender, that primarily but not exclusively determines acceptable or unacceptable behaviour. This definition is based upon decisions taken by the courts.

5.4. Harassment

Harassment is defined as improper comments or actions that are considered unwelcome, objectionable or demeaning by the recipient. The courts have also indicated that harassment may constitute discrimination and may leave both the employee and the employer liable under employment legislation. Harassment can also occur outside the work premises at work functions or after-work social gatherings. It is likely that the employer will still be held responsible for the behaviour as the courts have deemed this to be an extension of the workplace.

5.5. Forms of harassment

Examples include:

- Violence or threats of violence;
- Unwelcome physical contact;
- Jokes, offensive language, gossip, slander or hate mail;

- Posters, graffiti, obscene gestures, drawings or emblems;
- Isolation or non co-operation;
- Coercion for sexual favours;
- Intrusion by pestering, spying or stalking;
- Overbearing supervision or misuse of position;
- Unfair treatment.

5.6. Bullying

Bullying can be defined as repeated aggression - verbal, psychological or physical - conducted by an individual or group in relation to another individual or group. In general terms it can be described as the intimidation or undermining of someone, or the misuse of power or position which leaves the individual or group feeling upset, hurt, vulnerable or helpless.

The following list is not exhaustive but provides examples which may be construed as bullying:

- Persistent negative attacks on a colleague's personal or professional performance;
- Criticising a colleague in front of others;
- Spreading malicious rumours/making malicious allegations;
- Persistently setting tasks with impossible deadlines or which are unachievable;
- Removing and replacing areas of responsibility with menial or demeaning tasks;
- Undervaluing a colleague's contribution, placing unreasonable demands on and/or over-monitoring a colleague's performance;
- Withholding information with the intent of deliberately affecting a colleague's performance;
- Excluding colleagues by talking solely to others so as to isolate another;
- Homophobic or biphobic remarks and behaviours.

Bullying need not be face to face, it may be written communication, electronic mail and by telephone.

5.7. Discrimination

Discrimination is any unfavourable and unjustifiable treatment received by an individual because of their age, gender reassignment, sex, race, disability, sexual orientation, religion/belief, pregnancy/maternity or marriage and civil partnership. Discrimination is illegal under the Equality Act 2010.

5.8. Victimisation

Victimisation is abuse or unfavourable treatment given in reprisal against someone who has complained or given evidence under the terms of this policy. Victimising someone who makes a complaint under the Equality Act is illegal.

5.9. Incitement

Incitement refers to encouraging someone to harass, intimidate or discriminate against others or to collude in any inappropriate behaviour.

5.10. Sexuality

The Equality Act 2010 also makes it illegal to discriminate against workers because of sexual orientation. Regardless of whether an individual's sexuality is known, it is illegal to discriminate on the assumption of their sexuality, even if the assumption is incorrect. It is also illegal to discriminate on the grounds that an individual associates with others of a known or assumed sexuality.

5.11. Religion or belief

The Equality Act 2010 also makes it illegal to discriminate against workers because of their religion or belief. This would also include workers who are discriminated against because of their non-belief. As with sexual orientation, the mistaken or assumed religion or belief or their association with others of a known or assumed religion or belief is included.

5.12. Gender reassignment

The Equality Act 2010 provisions to make it unlawful to discriminate on grounds of gender reassignment in the areas of employment and vocational training. This protects individuals who are discriminated against because they intend to undergo, are currently undergoing or have undergone gender reassignment.

5.13. Informal action

Wherever possible staff are encouraged to raise concerns with their line manager but it is understood that, sometimes, individuals may not feel able to use this approach. Any employee unsure about how to make a harassment complaint can contact their trade union representative or the School Support Adviser within the Children's Services Group for advice about how to access the procedure.

Some individuals will feel confident enough to face their harasser directly. If so, employees could try the following steps but should avoid putting themselves in any difficult, frightening or dangerous situations:

- Tell the harasser that the behaviour must stop;
- Say that if it does not further action will be taken;
- Be firm, assertive and polite;
- If the behaviour does not stop, put it in writing and keep a copy;
- Keep written notes of dates, places, times, incidents and any witnesses.

An employee will need specific details if they decide to pursue a formal complaint. They will need an accurate diary of events and should monitor any changes in the work pattern or attitude of the harasser.

If an employee is unsure about facing their harasser alone they could ask someone to accompany them or to act on their behalf.

5.14. Formal action

Formal complaints are made through the school's Grievance Procedure which, if upheld, may result in proceedings under the Capability and Disciplinary procedures. Grievances should be initially made to an employee's line manager or to the next level in the management structure where the immediate line manager is the subject of the complaint.

The school will instigate a discreet and impartial investigation into each complaint under the Dignity at Work policy. All matters relating to this procedure will be treated confidentially. Victimisation or retaliation against a complaint or a witness is a disciplinary offence.

5.15. Investigation

A prompt, thorough and impartial investigation will be carried out into every complaint. An employer has little hope of mounting a credible legal defence if they cannot show that they have treated a complaint seriously. Failure to carry out a proper investigation may in itself constitute a breach of the implied duty of trust and respect.

5.16. Impartiality

The investigation process aims to establish exactly what happened in an alleged incident. Managers must remain impartial throughout.

5.17. Fair treatment

Both the accused and the complainant shall receive fair and impartial treatment. Support and guidance throughout the procedure is available from your HR Adviser.

5.18. Mediation

Mediation is encouraged as a way of resolving issues without the need to invoke the formal process. Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement. The role of the mediator is not to make decisions or judgements in relation to the grievance but to facilitate the procedure to enable those involved to reach an acceptable outcome.

Where mediation is necessary, the manager should contact the HR Adviser to arrange mediation via a mediation coordinator.

5.19. Malicious complaints

Making a complaint purely out of malice will constitute a disciplinary offence.

5.20. Criminal offence

There is now a criminal offence of intentional harassment. Under the Criminal Justice and Public Order Act 1995, the use of threatening, abusive or insulting words or disorderly behaviour intended to cause harassment, alarm or distress is a criminal offence. Regardless of whether the harassment is due to one of the protected characteristics the police will now investigate complaints. Under the Protection from Harassment Act 1997 anyone who persists in pursuing a

course of conduct likely to cause harassment will now be liable to imprisonment for up to five years, as well as a civil claim from the victim.

6. What should managers do?

6.1. Be aware

In addition to being familiar with these notes of guidance, managers should also read the Code of Conduct. Managers and employees must appreciate the standard of behaviour that is expected. If managers are unsure about anything or have queries, they seek clarification from their own supervisor or from the HR Adviser.

Managers should take notice of team's behaviour and watch for unexpected changes. They shouldn't be afraid to approach employees if they suspect something is wrong. All managers have a duty under the Health and Safety at Work Act 1974, to care for the health and safety of their employees.

6.2. Be proactive

When carrying out induction of new employees, managers should use the opportunity to clearly state the standards of behaviour that they expect as a school. They should challenge any behaviour that they are unhappy with immediately. They should deal with any complaints quickly. Leaving situations to resolve themselves or in the hope that the individuals will sort it out themselves, can actually make things worse.

6.3. Be firm but fair

Managers should listen to the views of the employees. They should involve employees when it's appropriate. Once they have reached a decision, managers should make sure that they communicate it clearly to their employees and ensure all involved fully understand all its implications and what is expected to happen.

6.4. Be receptive

Someone suffering harassment often feels vulnerable and reluctant to complain. They find it difficult and embarrassing to recount offensive language or behaviour. They may also worry that others will trivialise or ridicule what has happened or that they will not take their complaint seriously, especially where the harasser is a more senior member of staff.

6.5. Work with facts

When a member of staff makes a complaint the manager needs to quickly pull together details of what has happened. They should make sure that their enquiries are objective, impartial and discrete. Managers should keep an open mind and not make assumptions. Managers should distinguish between what is fact and what is opinion, hearsay or an assumption. They should talk to their manager and not be afraid to seek advice at an early stage.

6.6. Privacy and confidentiality

Managers must receive and deal with complaints in strict confidence, respecting the privacy of all those directly or indirectly involved. All documents or correspondence relating to a complaint should be marked as confidential and kept secure at all times.

Questions of behaviour, conduct or discipline are best raised in private. Managers should never discipline employees in front of their work colleagues as they may leave themselves open to accusations of bullying.

7. Advice and support available

7.1. Education Support Partnership

Teachers and support staff can access free, confidential support by telephone from the Education Support Partnership on 08000 562 561.

7.2. Staff Wellbeing Guidance

Through the HR SLA at Northumberland County Council, you receive access to our range of health and wellbeing support. (Appendix 1) This encompasses the following:

- Occupational Health Service
- Counselling Helpline
- Chaplaincy and Independent Listening Service

8. Consultation process

Trade union representatives have been consulted on this policy. The policy will be communicated to all affected managers and will be available on the Human Resources pages of the Intranet.

Appendix 1 - Staff Wellbeing Guidance

Through the HR SLA at Northumberland County Council, you receive access to our range of health and wellbeing support. This encompasses the following:

Occupational Health Service

Since April 2016, Northumberland County Council and Northumbria NHS Healthcare Foundation Trust have operated a shared Occupational Health Service. This is SEQOHS (Safe, Effective, Quality Occupational Health Service) accredited and through this service, appointments are available with trained Occupational Health Nurses and Physician. Referrals through this service are also possible to Counselling, Psychology and Physiotherapy practitioners within Northumberland.

Counselling Helpline

Northumberland Council Council subscribes to the DAS Personal Counselling Helpline (Telephone 0117 934 2121 - *Calls charged at national rates*). DAS will provide a confidential counselling service to any employee over the telephone. To access the service, please telephone the number shown above and quote the policy number: HL/3856205. All calls will be dealt with in strictest confidence.

Chaplaincy and Independent Listening Service

The faith and chaplaincy team are trained volunteers licenced by the Diocese of Newcastle, and can offer support through a listening service. They have experience of providing pastoral and spiritual support to people of all faiths and of no faith. They can support with personal issues of concern that might arise within or outside the workplace. The service supplements existing support for colleagues while being separate from the council's formal procedures. The volunteers will also be able to signpost staff to other faiths and denominations and views via the Churches Together Group, the North East Regional Faith Network or the local Humanist Group and will be supported and guided by the work of the Industrial Mission Association. The team can be contacted by email in the first instance - (chaplains@outlook.com) or Rev Simon White can be contacted via 07983411485.

Education Support Partnership

You can also access support and counselling from a free helpline 08000 562 561.

The helpline is available to all teachers, lecturers and staff in education (primary, secondary, further or higher education) in England, Wales and Scotland 24/7, 365 days a year.