NORTH WALES SCHOOLS MODEL POLICIES

Dignity at Work Policy

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NORTH WALES SCHOOLS MODEL POLICIES

Dignity at Work Policy

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Overview

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1.0 Dignity at Work Policy and Procedure

1.1 Purpose

The school recognises the value of a productive and supportive working environment and is fully committed to eliminating bullying and harassment. All employees have the right to be treated with dignity and respect at work and no form of victimisation, discrimination, intimidation or behaviour that amounts to bullying or harassment will be tolerated. Cases of identified bullying or harassment may result in disciplinary action being taken.

The school is committed to creating a working environment in which all employees are treated fairly and with dignity and respect. We want to maintain a culture where differences are valued and harassment and discrimination are not accepted. It is in everyone's interest for the environment in which we work to be harmonious and respectful. Although we like to think that this is always the case, this policy recognises that inappropriate behaviour, such as bullying and harassment, will not be tolerated. All allegations will be treated seriously and sensitively. They will be investigated promptly and a speedy resolution sought. Appropriate action, which may include disciplinary action, will be taken where an allegation of bullying and harassment has been substantiated.

It is therefore the aim of this Dignity at Work Policy to try to ensure that bullying and harassment do not occur, and to provide a fair and effective approach to be applied in all instances where allegations are made in respect of bullying and harassment.

In order to achieve this, the school will:

- Publicise this policy, procedure and accompanying guidelines amidst all school employees as widely as possible in order to ensure awareness of its existence, contents and aims.
- Promote the principles of equal opportunities in the workplace.
- Promote an open working environment where employees are encouraged to report cases of bullying or harassment without fear of victimisation.
- Provide employees with sufficient information to identify and deal with cases of bullying and harassment in the workplace and to apply this policy and procedure.
- Ensure that all complaints will be treated seriously and confidentially and responded to promptly in a sensitive manner.
- When appropriate, seek in the first place to resolve cases of bullying or harassment informally. In cases where this is not possible formal action will be pursued.

- Where possible, monitor the number and nature of cases arising in order to evaluate the success of the policy and to identify recurring problems, including discrimination on the grounds of a protected characteristic:
    - age;
    - disability;
    - gender reassignment;
    - marriage and civil partnerships;
    - pregnancy and maternity;
    - race;
    - religion or belief;
    - sex;
    - sexual orientation.

This document has been the subject of regional consultation with the Trade Unions and is recommended for adoption by the Governing Body.

It is the responsibility of the Headteacher/Chair of Governors to monitor the effectiveness of this policy.

1.2 Scope

This policy covers bullying and harassment of all schools employees, whose salaries are charged directly to a school's budget (i.e. fulltime, part time and temporary employees).

The policy covers bullying and harassment in the workplace and in any work-related setting outside the workplace, e.g. work related social events.

2.0 Principles

The school is responsible for meeting legal requirements and taking all reasonable and practical steps to promote dignity and prevent and eliminate all forms of bullying and harassment.

Managers should encourage professional behaviour and a productive working environment. The emphasis is on informal resolution and empowering individuals to effect positive change. Managers should deal with any concerns raised immediately and consistently to ensure an early and speedy resolution of any complaints of bullying and harassment.

All parties involved must respect confidentiality at all times and information must not be shared with anyone except those directly involved. This does not preclude a confidential

consultation with a friend, personal advisor, colleague or trade union representative for support.

Both the person making the complaint and the subject of the complaint have the right to be accompanied by a trade union representative, or fellow employee of their choice at all stages of the procedure.

Before invoking the Dignity at Work Policy, employees should wherever possible attempt to resolve their concerns informally and confidentially with the person(s) involved. This gives both parties the opportunity to clear up any misunderstanding and resolve matters informally. This would involve the person who feels they are being bullied or harassed making their feelings known to the person who is causing the offence and asking them to stop. The approach should be tactful, but firm aiming to build working relationships built on trust, honesty and mutual respect.

3.0 Definitions

Bullying and harassment cases can be very difficult to recognise or indeed distinguish between as individuals' definitions of each vary. This policy and procedure therefore deal with the issues of bullying and harassment together as forms of unacceptable behaviour; both cases of alleged bullying and harassment will be treated equally seriously by the school.

Equality law offers protection to individuals from discrimination and harassment on the grounds of their 'protected characteristics'. Individuals are protected from direct and indirect discrimination while applying for a job, during their employment, and after the working relationship ends.

The law provides protection based on the following protected characteristics;

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

In addition, the law also provides protection for other groups, such as Trade Union Activists and Whistle blowers.

Conduct may be harassment whether or not the person behaving in that way intends to offend. Something intended as a "joke" may offend another person. Different people find different things acceptable. Everyone has the right to decide what behaviour is acceptable and to have their feelings respected by others.

The following definitions may assist in determining the nature of a complaint:

- **<u>Bullying</u> – "offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient".** (ACAS Guidelines, 2010).

- **<u>Harassment</u> – "unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual."** (ACAS Guidelines, 2010)

The following are examples of the types of behaviours that may be interpreted as bullying or harassment; this is not an exhaustive list but is intended to give an idea of the types of conduct covered by this policy:

- Spreading malicious rumours, or insulting someone by word or behaviour (particularly if relating to protected characteristics).
- Distributing information that is critical about someone, to others who do not need to know.
- Ridiculing or demeaning someone - picking on them or setting them up to fail.
- Exclusion or victimisation.
- Unfair treatment.
- Overbearing supervision or other misuse of power or position.
- Unwelcome sexual advances - touching, standing too close, the display of offensive materials.
- Making unwelcome contact outside of school.
- Making threats or comments about job security without foundation.
- Deliberately undermining a worker by overloading and constant criticism.
- Preventing individuals progressing by intentionally blocking promotion or training opportunities.
- Displaying offensive material e.g. calendars, screensavers.
- Inappropriate jokes, gestures or other comments relating to protected characteristics.
- Name calling, use of inappropriate nick names.

- Excluding an individual because they are associated or connected with someone with a protected characteristic.
- Excluding an individual because they are perceived to have a protected characteristic when they do not.
- Social Media bullying

4.0 Victimisation

Victimisation is subjecting a person to a detriment or less favourable treatment because he/she has made an informal/formal complaint or supported or provided evidence for someone else that has made a complaint.

Victimisation can also be on the grounds of being a Trade Union Activist, where an employee suffers detriment for being a Trade Union member or for taking part in trade union activities.

Employees with a genuine belief that they or a colleague have been subjected to bullying and/or harassment and who makes attempts to deal with the issue should not receive less favourable treatment as a result.

However, an employee that makes a complaint which is untrue or an employee who gives evidence that is known to be untrue, may be proven to be vexatious, which could lead to disciplinary action being taken against the employee.

5.0 The Equality Act 2010

Work-related bullying may result in claims in the Employment Tribunal for damages for discrimination and/or victimisation under the Equality Act 2010 or, if the bullied employee resigns as a result of the bullying, for constructive unfair dismissal. Such bullying may also result in a common law tort claim in the civil courts (High Court or County Court) for damages for stress causing psychiatric injury, or a claim under the Protection from Harassment Act 1997. In addition to being contrary to the school's policy, some forms of bullying could result in the perpetrator being liable to criminal prosecution

6.0 Informal Procedure

For most cases of alleged bullying or harassment, the first stage is to seek to resolve the problem informally. Informal solutions can often provide more positive outcomes for all concerned and result in improving and maintaining good working relationships. Most people who complain that they are being bullied or harassed simply want the behaviour to stop.

It is often the case that the alleged bully or harasser is not aware that his/her actions are inappropriate or upsetting and it is likely that simply informing the person of the effects of their behaviour will be enough to cause it to cease. It is important to remember that there is no single definition of what constitutes bullying or harassment and perceptions vary greatly from one person to the next.

Before invoking the Dignity at Work policy, employees should wherever possible, attempt to resolve their concerns informally and confidentially with the person(s) involved. This gives both parties the opportunity to clear up any misunderstanding and resolve matters informally. This would involve the person who feels he or she is being bullied or harassed making his or her feelings known to the person who is causing the offence and asking him or her to stop. The approach should be tactful, but firm aiming to build working relationships built on trust, honesty and mutual respect.

There will be situations where an employee is experiencing such distress, anxiety and embarrassment that he or she feels such an approach would be inappropriate or does not feel able to approach the colleague whose behaviour they feel is causing these difficulties. In other cases, the employee may have tried, without success, to deal with the issue by a direct approach to the person they feel is the cause of the problem. In either of these cases, the employee should seek the support of their Headteacher/Line Manager and invoke the informal stage of this procedure. If the Headteacher/line manager is implicated in the alleged behaviour, the employee should approach the Chair of Governors (in the case of the Headteacher) or the line manager's, manager. Support may also be sought from a work colleague, trade union representative or HR representative.

The aim of the informal stage is to facilitate mediation between the complainant and the alleged harasser and, if possible, to achieve conciliation between them.

6.1 Mediation

Mediation refers to neutral and objective facilitation by a third party to help the parties communicate with each other and come to an agreement. Conciliation refers to the process once a decision has been made, whether formally or informally, to facilitate the restoration of positive working relationships.

Mediation can play a vital role in complaints about bullying and harassment, by providing a confidential avenue for an informal approach, and perhaps the opportunity to resolve the complaint without need for any further or formal action. Mediation may resolve the issue or help support the person accused as well as the complainant.

Mediation is most likely to be successful if both parties understand what mediation involves and enter into the process voluntarily with a mind set to seek to repair the working relationship.

The mediation process will give the complainant the chance to explain to the alleged harasser the effect their behaviour is having on him or her and the alleged harasser the opportunity to respond. From the complainant's point of view, this will involve an end to the behaviour that is causing them distress.

Both parties must agree to mediation. If any of the parties do not agree to mediation, it cannot be used to resolve the issues.

The process of mediation should be arranged by the Headteacher. In cases where the Headteacher is the subject of the complaint, the mediation should be arranged by the Chair of Governors and/or a HR representative.

Whichever approach is used, the employee should record the action taken and the outcome as evidence of the attempt to resolve the situation.

If the parties are unable to resolve the matter through mediation and the complainant remains unhappy, then the matter can be returned to the formal procedure. Further information on the mediation process can be obtained from the HR department. The HR representative will be able to offer advice and support on implementing the informal procedure.

Please see Appendix 1 for more information on mediation.

7.0 Formal Procedure

If informal action does not resolve the alleged bullying or harassment problem, or the circumstances of the case are considered sufficiently serious that use of the informal procedure would not be appropriate, then formal action should be taken.

Complaints should be raised as soon as possible following an act of alleged bullying or harassment so that the matter can be dealt with quickly and fairly.

7.1 Raising a Complaint

Formal complaints should be made in writing to the relevant Head teacher. However, if the complaint relates to a Headteacher, the complainant should write to the Chair of Governors.

The complaint should describe the incident(s) when the complainant felt he/she was being bullied, harassed or victimised, including dates, times, the names of those involved, the names of any witnesses and the nature of the incident(s). The complainant should provide

details and the outcome of attempts to resolve the matter informally, or the circumstances as to why this has not been possible.

7.2 Consider the use of the informal procedure

Upon receipt of the complaint, the officer to whom the complaint was raised will consider whether use of the informal procedure has already been tried and/or would be more appropriate in the first place (as per section 6). This decision is to be agreed with the complainant in all cases. Otherwise, if it is agreed that the formal procedure will be pursued, the following steps will be taken.

7.3 Suspension / Alternative Duties

In the event of a serious bullying and harassment allegation, the Headteacher / Chair of Governors to whom the complaint was made will consider whether to suspend or temporarily redeploy the alleged bully/harasser in order to prevent further contact between the individuals concerned and enable a full investigation to take place. Suspension on full pay could be considered alongside other alternatives including separating the relevant individuals by temporarily assigning one to suitable alternative duties, in line with the schools Disciplinary Policy.

Any acts to suspend an employee will be considered to be a neutral act and it should be managed in a way that does not pre-judge the allegations or penalise either employee. Any suspension from work will be in line with the School's Disciplinary Policy and will be monitored regularly to ensure that suspension remains appropriate and that the investigation is progressing as quickly as possible. A suspension risk assessment should always be completed.

7.4 Appoint an Investigating Officer

The Headteacher / Chair of Governors to whom the complaint was made will appoint an investigating officer to conduct an investigation into the alleged incident(s) of bullying or harassment. This will normally be a member of the school's senior management team, a governor or an independent investigator. The Headteacher should not act as investigating officer. The investigating officer will acknowledge receipt of the complaint in writing with the complainant within 5 working days of its receipt. An employee may object to the person selected to carry out the investigation. He/she should send their objection including the grounds to the Headteacher / Chair of Governors. It is for the Headteacher / Chair of Governors to consider whether the objection is valid. The Headteacher / Chair of Governors

may discuss the matter with the LA and should take account of the advice received to reach a decision about the suitability of the investigating officer.

7.5 Investigation

The investigating officer will write to the complainant to arrange a meeting with them as soon as possible to establish the details of the alleged bullying or harassment incident(s) and to agree on the next course of action. The complainant will be entitled to be accompanied by a Trade Union Representative or a work colleague.

The investigating officer will conduct an investigation of the alleged bullying or harassment incident(s) giving full consideration to both sides. If deemed necessary, the investigating officer will interview anyone who may be able to assist such as witnesses to the alleged incident(s).

Once the investigating officer has collected all relevant information, he/she will contact the named employee and arrange a meeting to conduct an investigatory meeting. The named employee will be entitled to be accompanied by a Trade Union Representative or work based colleague. The purpose of this meeting will be to give the named employee an opportunity to respond to the allegations and provide any other relevant information to enable the investigating officer to compose a balanced and informed report.

Wherever possible investigations should be completed within 20 school days of the first meeting with the complainant. If required, investigating officers can make a request for an extended period of time to complete the investigation depending on the complexity of the complaint from the relevant Headteacher / Chair of Governors and objective reasons for any delay should be included in the final report. All parties should be kept updated about progress and informed of the reasons for any delays/extensions that are required.

The investigating officer will compose a report to the Headteacher or Chair of Governors presenting the findings on the allegation(s). The report will adopt an entirely objective approach and set out the facts of the case.

The Headteacher / Chair of Governors and the investigating officer will come together as soon as possible following completion of the report in order to discuss the findings and address any questions that may arise. This meeting should not take place any longer than one week after completion of the report, except in exceptional circumstances. The purpose of the meeting will be for the Headteacher / Chair of Governors, in consultation with the investigating officer, to come to a view on the alleged bullying or harassment situation. The needs of the school will be considered in addition to those of the individuals concerned. Possible outcomes include training, mediation, redeployment or disciplinary action. Where disciplinary action is

necessary the matter will be dealt with in accordance with the School's Disciplinary Procedure, using the Dignity at Work Investigation report that has been prepared.

The named employee and complainant will be invited to attend a meeting with the Headteacher / Chair of Governors. Wherever possible, this should be with all parties at the same time, the only exception being, if this would be detrimental to one party due to the circumstances of the case. The purpose of these meetings is for the Headteacher / Chair of Governors to hear directly from both parties and question both parties in order to clarify his/her understanding of the issues involved. Within 5 school days of these meetings, the Headteacher / Chair of Governors will write to both parties to confirm the outcome of the investigation and any actions that are proposed to be taken.

8.0 The outcome of the investigation

If, following investigation, it is found that there is a case to answer based on the evidence, prompt action will be taken to remedy the discrimination or stop the harassment and prevent its recurrence.

The outcome of the investigation into the allegations may be that:

- The matter is referred to a Disciplinary Hearing and the case is heard in line with the School's Disciplinary Policy.

- The allegations are not viewed as discrimination or harassment but the situation may benefit from some other form of intervention such as conflict resolution, mediation or counselling.

- Standards for future conduct are set, which could involve management advice and training.

- The complaint is found to be false or malicious, in which case disciplinary action may be taken against the complainant.

It is not open to the complainant, within this procedure, to take issue with a decision on the action to be taken against the alleged harasser as a result of the investigation into his/her complaint.

Where a complaint has not been substantiated, but the complaint was genuinely raised in good faith, mediation / conciliation may be offered to both parties to restore working relationships.

9.0 Appeals Procedure

If the complainant is dissatisfied with the investigation process or the findings of the formal investigation (but not the action taken), he/she is entitled to appeal against the decision. An appeal should be lodged within 5 school days from the receipt of the report.

The employee should write to the Clerk of Governors stating that he/she wishes to appeal and the grounds/reasons for the appeal. The Clerk will then refer the matter to the relevant Governors committee within 15 school days from the receipt of the application.

The appeal will be heard by the relevant Governors Committee, as soon as is practicable and normally within 10 school days of receipt of the appeal from the clerk. Appeal hearings will not normally take the form of a re-hearing but will focus on the points raised in the appeal letter. However, under certain circumstances, e.g. if new evidence comes to light, it may be appropriate to rehear part or all of the case. The chair of the appeal committee will inform the respondent of the decision reached and confirm this in writing within 10 school days of the hearing.

The complainant does not have the right of appeal when the outcome is that there will be a disciplinary hearing.

The respondent does not have the right of appeal under the Dignity at Work policy. In the event that the matter goes to a disciplinary hearing, the respondent would have the right of appeal under the disciplinary procedure.

10.0 Employees leaving the employment of the Authority

If a formal complaint is presented under this policy and then the individual leaves the employment of the School/Council, the procedure will continue as described above.

If an individual leaves the employment of the School/Council then decides they wish to make a formal complaint regarding their employment, this should be confirmed in writing to the Headteacher / Chair of Governors via the schools complaints procedure.

11.0 Monitoring and Review

The policy will be reviewed to ensure compliance with changes in employment legislation or recommended best practice.

Relevant Legislation
The Equality Act 2010
The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000
Criminal Justice and Public Order Act 1994
Protection from Harassment Act 1997
Health and Safety at Work Act 1974
Trade Union and Labour Relations (Consolidation) Act 1992

Appendix 1 – Mediation

The school is committed to encouraging harmonious working relationships between colleagues. Mediation is a versatile process which can be used not only as an alternative to the formal procedures, but also as a rapid first intervention to prevent escalation of the dispute or even to repair the working relationship after formal procedures have concluded.

Aims of mediation

- To provide individuals with an objective and impartial framework for resolving conflicts at an early stage;
- To offer an alternative to formal procedures as a means of resolving conflict.
- Mediation can take place at any stage of the process.

What is mediation?

Mediation is an informal process that compliments the schools formal and informal procedures for dealing with workplace issues.

- It is used to help improve or restore working relationships between individuals.
- It is voluntary and completely confidential.
- A mediator (a neutral third person, who is appropriately trained and experienced), will work with the parties to help find their own solutions and reach an agreement designed to resolve disagreement or improve the situation. All mediators will be appropriately trained.
- It is based on the principles of collaborative problem solving, with a focus on the future and rebuilding relationships, rather than apportioning blame.
- It gives the participants an opportunity to step back and look at how the situation can be put right, looking at their own actions as well as those of the other party.

Mediation is conducted on the basis that both parties want to achieve a mutually agreeable outcome and solution. A successful mediation should lead to both parties feeling that the outcome is fair, reasonable and appropriate under the circumstances.

The mediation procedure

Stage 1 – First contact with the participants (individual meetings)
Stage 2 – Setting the scene (joint meeting)
Stage 3 – Exploring the issues
Stage 4 – Building the agreement

Stage 5 - Closure
Post mediation - Evaluation

The mediation process is as follows.

Stage 1 - First contact with participants (Individual meetings)

The mediator will meet both parties individually for the purpose of:

- Explaining the role of the mediator and the process of mediation, including confidentiality.
- Highlighting that confidentiality will only be breached if issues of a criminal nature surface, at which point the meeting will stop and HR will be informed. The appropriate authority e.g. the Police may need to intervene.
- Defining the core issues and identifying the ideal outcome expected by both parties. The mediator may need to meet either or both parties again to clarify any further issues arising from stage one.
- The mediator will outline the subsequent stages of the process, identifying an appropriate time and location for the joint meeting.

Stage 2 - Joint meeting - Setting the scene

The mediator will:

- Agree the agenda
- Set the boundaries and ground rules in agreement with both parties
- Explain and agree the process
- Clarify and summarise the agreed areas of conflict

Stage 3 - Exploring the issues

The mediator will:

- Explore the issues with the parties
- Encourage communication
- Manage any conflict during the early stages of the discussion
- Encourage a mutual understanding about the problem
- Check understanding and clarify assumptions
- Identify any concerns about the issues
- Encourage a change of focus from the past to the future

- Summarise areas of consensus and disagreement

Stage 4 - Building the agreement

Mediation will work towards:

- Generating and evaluating options
- Encouraging problem solving
- An acceptance or acknowledgement of conciliatory gestures
- Encouraging both parties to move from a non-negotiable stance, focussing on future resolution rather than the past problem
- Constructing agreements and creating fall back arrangements
- Identifying the next steps if no agreement is reached

Stage 5 - Closure

- The session will be concluded when both parties agree that they have dealt with the conflict and have reached a mutual agreement with a clear understanding of what has been agreed.
- An agreement will be drawn up in clear unambiguous language for signing by both parties.
- It will be agreed who retains copies (e.g. the manager may require a copy to monitor that any agreed action is followed through and maintained).
- Confidentiality will be respected.
- Close the session, reasserting the need for confidentiality.
- Arranging follow up (if necessary). Where some issues remaining outstanding, the mediator may suggest a further session is arranged. The parties may also decide to hold follow-up meetings (even if full agreement has been reached), either with or without the mediator. At this stage, the meeting will be concluded by the mediator who will re-confirm the confidentiality of the process. If no agreement over the issues is reached, the mediator will attempt to gain agreement from the parties as to what the issues are and to how they will proceed in the future.

Post mediation – evaluation

- A return will be provided by mediators to the HR representative for monitoring and evaluation purposes. No personal information will be recorded as part of this process.
- There is no appeal process associated with mediation however participation in mediation does not exclude individuals from other courses of action. Individuals also

have the option to register their concerns about the process, or a particular mediator with the HR representative.

Appendix 2 – Dignity at Work Policy Flow Chart

Dignity at work - Overview of procedure

If you feel you have been bullied or harassed

Keep a record:

- Date, time and place
- Who was involved
- What happened
- Names of witnesses
- Anything else relevant

You can discuss any concerns with:

- Your line manager
- Your Trade Union Representative
- Occupational Health
- Human Resources

Informal Procedure

If you feel able to do so, speak to the person you feel is bullying or harassing you and ask them to stop.

If you can't speak directly to the person you feel is bullying or harassing you, a HR representative can arrange a facilitated meeting.

In certain circumstances, formal mediation can be arranged through HR.

Formal Procedure

Register your complaint in writing with your line manager.

Your line manager will acknowledge your complaint and arrange a formal meeting with you within 2 weeks.

Your manager will decide if a dignity at work investigation is required. If this happens, it is likely to include interviews with all witnesses.

A report will be produced to determine how to resolve the issue.

Possible outcomes

- Complaint is upheld - this may result in a disciplinary investigation
- Complaint is partially upheld - this may result in disciplinary investigation
- That the complaint is not upheld