

# **Policy and procedure for Fairness and Dignity at Work**

## **1. Introduction**

1.1. This policy is derived from Surrey County Council's corporate policy that covers Elected Members, all employees, and those undertaking work on behalf of the County Council.

1.2. The Governing Body considers acts of discrimination, harassment, victimisation and bullying to be harmful, causing fear, anxiety and stress to the person on the receiving end. Work, personal and family life can be affected by such acts leading to illness, absenteeism, accidents, poor performance, lack of commitment and individuals leaving. This has a direct impact on other colleagues, service delivery and the overall effectiveness of the School.

1.3. In keeping with the Equality Policy Statement this new policy opposes all forms of discrimination including those on the grounds of: age, asylum or refugee status, caring responsibilities, casual working, class, colour, disability (including physical, sensory impairment, mental health problems, or learning disability), ethnic or national origin, including Travellers, gender reassignment, HIV status, language, marital status, nationality (including citizenship), part-time working, race, religion, sex, sexuality, or trade union membership.

1.4. The Governing Body wants to create an environment in which discrimination, harassment, victimisation and bullying are known to be unacceptable, and where individuals feel able to bring complaints without fear of reprisal.

1.5. Any complaint brought under this procedure will be taken seriously and if proved will be dealt with as a disciplinary offence under the appropriate disciplinary procedure.

1.6. This policy and procedure has been produced in consultation with appropriate Trade Unions and is one of a number of measures introduced to support good management practices.

## **2. Purpose**

2.1. The purpose of this policy is to prevent harassment and provide a means of redress. If an individual believes they have been subject to unwanted or unwelcome behaviour of discrimination, harassment, victimisation or bullying then this policy provides a means of taking action to stop that behaviour.

2.2. Through this policy the Governing Body wants to achieve:

(a) An harmonious working environment based on dignity and respect.

(b) An environment where equality complaints are taken seriously and dealt with quickly and efficiently without victimising the individual who made the complaint.

(c) A culture where it is known that discrimination, harassment, victimisation and bullying are unacceptable.

(d) An environment where individuals or groups are aware of this policy and procedure and feel confident enough to bring complaints without fear of reprisal.

(e) A position where everyone has a responsibility to challenge discrimination, harassment, victimisation and bullying within the school.

### 3. Principles

3.1. For the policy to be successful everyone has a responsibility to overcome and confront their own prejudices. This includes Governors and all employees. To put this policy and procedure into practice everyone has a basic right to being treated fairly. The aim is to create an environment where Governors and employees:

(a) Apply equality and fairness in employment practices, through for example selection decisions for recruitment, promotion, transfer and training.

(b) Encourage and promote good management practice and act within the law to prevent discrimination, harassment, victimisation and bullying.

(c) Participate in actions introduced throughout the school designed to ensure equality of opportunity and non-discrimination.

(d) Take equality complaints seriously and deal with them sensitively, quickly and efficiently without victimising the individual who made the complaint.

(e) Draw the attention of management or the appropriate trade union to suspected acts or practices which affect fairness and dignity at work.

(f) Respect the dignity of each other and take positive steps to prevent discrimination, harassment, victimisation or bullying in any form, which may be perceived by an individual to be, unwanted or offensive.

### 4. Application

4.1. This policy covers Governors, all employees, and those undertaking work on behalf of the school [including volunteers]. It is also intended that this policy and procedure applies to anyone on work experience or secondment.

4.2. Staff in locally managed education establishments have their policies and procedures determined by their Governors. This policy has been recommended to and been adopted by the Governing Body as a model of good practice.

4.5. Where appropriate, visitors to the school should be made aware of this policy and procedure to treat others with dignity and respect at all times.

## 5. Links to other procedures

5.1. This policy is a principal tool in underpinning good equal opportunities. It also operates within a framework of best management practice to effectively manage situations and employees within the workplace, these include the Code of Conduct, Grievance Procedure, Disciplinary Procedure and many other tools. Procedures for minimising risks to health and safety from all sources or aggression and violence are set out in the Safety Manual (2nd Edition) Guidance Note F4.

## 6. The legal position

6.1. There are various statutory provisions, specifically the Race Relations Act 1976, the Sex Discrimination Act 1975, the Disability Discrimination Act 1995, and the Employment Rights Act 1996 which affect equal opportunities in employment and the rights of individuals to have a workplace free from discrimination, harassment, victimisation and bullying.

6.2. There is also the duty of care that the Governing Body, with the LEA in community schools, has towards providing a safe and healthy work environment under the Health and Safety at Work Act 1974.

6.3. The Governing Body takes the responsibilities placed on it by legislation and relevant codes of practices very seriously and this policy and procedure has been written to ensure that these requirements have been taken into account.

## 7. Responsibility for promoting Fairness and Dignity at Work in our school

7.1. Governors pledge themselves to treat members of the wider school community, their fellow Governors, and staff with dignity and respect and generally to uphold this policy.

7.2. Managers within the school have a responsibility to act within the law ensuring that their actions model best practice within the scope of this policy. They should foster an open and supportive working environment and if they see behaviour, which is inconsistent with this policy, then they should take action to correct the behaviour.

7.2.1. They must take steps to explain this policy and procedure to all existing employees, as well as through induction to new employees, ensuring that it is implemented and fully understood.

7.2.2. Managers are responsible for what their employees do in the course of their employment, whether or not the manager knows of those actions. This is known as vicarious liability and the onus is on the manager to show that they took such reasonable steps, as were practical, to prevent any act occurring or

re-occurring. Therefore if a manager is aware of an incident or is advised of a complaint then it should be taken seriously and dealt with promptly and sensitively.

7.3. Employees or those undertaking work on behalf of the school have a responsibility to comply with legal requirements and this policy in treating all colleagues with respect and dignity. They are also legally liable for their actions and behaviour whilst at work and can be held personally responsible if that behaviour or actions are not within the context of this policy and procedure.

7.3.1. Appropriate disciplinary action including dismissal for serious offences may be taken against any employee who fails to adhere to this policy. In the case of contracted people it may result in termination of the contract.

7.4. Third Parties The Governing Body will endeavour to bring its good employment practices to the attention of third parties in order to prevent our workers being subjected to any form of discrimination, harassment, victimisation or bullying.

8. What are discrimination, harassment, victimisation and bullying?

8.1. Actions or attention from a person may be open, implied or suggestive however they are unwanted, unwelcome and not returned by the recipient and therefore amount to some form of discrimination, harassment, victimisation or bullying.

8.2. Discrimination:

8.2.1. direct - when an individual or group receives less favourable treatment with some unjustifiable reason because of their sex, race or disability.

8.2.2. indirect - applying unjustifiable requirements and conditions which have a disproportionate impact on an individual of a particular group.

8.3. Harassment: unwanted, offensive and humiliating conduct affecting the dignity of those at work. It includes unwelcome verbal, non-verbal and physical conduct that could amount to unlawful discrimination. A person or group of people may do it deliberately or unknowingly. It is the harassed individual's perception of the behaviour, which is important. This behaviour may be an isolated incident or a series of events.

8.4. Victimisation: treating a person less favourably than others would be in the same circumstances because that person has made a complaint or allegations of discrimination, harassment, victimisation or bullying or has acted as a witness or informant in these proceedings or has in any other way been involved in the matter. Victimisation may also occur as a result of a persons' participation, or non-participation in trade union activities or membership.

8.5. Bullying: this may include a single incident or persistent criticism, personal abuse and/or ridicule, ignoring, excluding or other behaviour, either in public or private, which humiliates and demeans the individual involved, gradually eroding their self confidence, and the performance of their duties. It may involve the abuse of authority and the exercise of unfair disciplinary measures, unreasonable changes in an employee's responsibilities or exclusion of the individual from normal social, consultative and decision-making processes.

## 9. Examples of Inappropriate Behaviour

9.1. The following are examples of inappropriate behaviour at work and not an exhaustive list:

9.1.1. Physical Conduct: ranging from touching another employee to serious assault including the threat of such actions.

9.1.2. Verbal Conduct: includes sarcastic comments, unwelcome advances, propositions, lewd comments or abusive language, innuendoes and jokes of an offensive nature, or linked to a disability.

9.1.3. Non-Verbal Conduct: threatening or intimidating behaviour (including aggressive body language), the display or circulation of offensive or suggestive pictures, objects or written material, graffiti, or conduct which degrades a person.

9.1.4. Other unacceptable conduct: isolation or non-co-operation at work, exclusion from social activities, coercion, intrusion by pestering, spying or abuse of powers.

## 10. Advice, support and representation

10.1. Allegations of harassment will be taken seriously by managers/Governors and dealt with promptly and sensitively and no one need fear victimisation for making or being involved in a complaint. Employees may want to seek help, advice or support from a work friend, work colleague, trade union representative, Manager, attached Education Personnel Consultant or the County's Welfare Officer.

10.2. At either the informal or formal stages of the procedure an employee may be referred or seek referral themselves, to the Occupational Health or Welfare Units for advice and/or counselling.

## 11. What to do

(Note: Throughout this procedure harassment has been used to cover discrimination, harassment, victimisation and bullying)

11.1. Action under this procedure may be brought by an individual or a group of people.

11.2. Effective and sensitive action at an early stage will do much to prevent any problem escalating.

11.3. Any complaint concerning a Governor or Headteacher should be referred to the Chair of Governors.

11.4. Any complaint or allegation made against the Chair of Governors should be referred to the Vice-Chair of Governors or other nominated Governor who would then take responsibility for the procedure.

## 12. Informal procedure

12.1. The informal procedure should be used in the first instance to deal with cases of harassment. In many cases the alleged harasser will not be aware that they are causing offence and when the person knows that it is unacceptable will change their behaviour. If, however, the alleged harassment is so serious or the informal stage has not been successful then there is a Formal Procedure to follow, detailed below.

12.2. Wherever possible, an employee who feels that they have been the subject of harassment, should tell the person responsible. Before doing this the person subject to the harassment should plan what they are going to do and how they are going to do it. The following provides an outline of what to do:

(1) Approach the person.

(2) Describe the behaviour or comments that upsets them.

(3) Explain that the behaviour is unwelcome, improper and against the policy of the organisation.

(4) Describe the effect it has on them.

(5) State that they find the behaviour offensive and ask that it stop.

(6) Ask the person to change their behaviour.

12.3. There should not be a discussion of the rights or wrongs of this. In view of the potentially sensitive nature of such a conversation the person who is the subject of the harassment may wish to ask a work friend, work colleague, or trade union representative, to be present. In some instances, they may find it easier to write to the person responsible, instead. (A copy of the letter should be retained).

12.4. In circumstances where it is too difficult or embarrassing for an individual to do this for themselves, an alternative approach would be for the individual to ask a work friend, work colleague, their trade union

representative, Manager or the school's attached Education Personnel Consultant acting on the individual's behalf to speak to the person.

12.5. A further alternative is for the individual to seek mediation by the Manager or school's attached Education Personnel Consultant or a representative of the Diocesan Director of Education [in the case of Voluntary Aided schools]. They will bring all the parties together and aim to outline the behaviours that are causing offence and ask that they stop.

12.6. Employees are advised to keep their own record of the harassment, noting the date, time, and nature of each incident and whether there were any witnesses. A recording sheet is attached in Appendix 1 and may be copied when required.

12.7. The aim at this stage is to inform the person who is alleged to be doing the harassing of the effect of their actions or comments on the person receiving them. It may not always be possible to get an apology but an agreement to cease the unwanted behaviour should be reached.

12.8. If the harassment continues, or it can not be resolved informally or it is so serious, action should be taken through the Formal Procedure outlined below.

12.9. Where a Manager or the school's attached Education Personnel Consultant has been involved then they have a responsibility to ensure that the matter has been dealt with appropriately. If they feel that the matter has not been resolved appropriately or is so serious that an investigation should be undertaken then they should recommend this to their Headteacher / Chairman of Governors. This can be either with or without the consent of the individual who raised the complaint originally.

### 13. Formal procedure

13.1. Any employee who feels they have been harassed should, if the situation is not resolved informally, report the alleged incident(s) to their Manager. The nature, or circumstances, of the complaint may be such that an employee may not wish to discuss the matter with their Manager. In that event, they should report the incident to the next Manager up or the school's attached Education Personnel Consultant who, if required, will make arrangements for the complainant to speak in the first instance either to another Manager, or another nominated individual, or to someone of the same sex or race if the complaint is that of sexual or racial harassment. If an employee feels that they cannot report the incident to either a Manager or the school's attached Education Personnel Consultant, then they should seek assistance from the County's Welfare Officer or their trade union representative.

13.2. The complaint should be made in writing as soon as possible after the alleged incident(s), outlining the grounds for the complaint, and the type of complaint i.e. discrimination, harassment, victimisation, or bullying. The

complaint should also include details of any informal steps taken to resolve the matter and the outcome of this along with copies of any recording sheets that they have completed.

13.3. Employees should be assured that any allegation will be dealt with seriously, and as far as possible, confidentially, and they need not fear victimisation for making, or being involved in a complaint as a witness or in support of another employee.

#### 14. Investigating officer(s)

14.1. The matter will need to be investigated thoroughly and this is the responsibility of the person to whom the issue has been referred. However, advice and assistance can be obtained from the school's attached Education Personnel Consultant or a representative of the Diocesan Director of Education [in the case of Voluntary Aided schools]. As soon as possible and at least within 5 working days of receiving the complaint the Manager in discussion with Headteacher/Chair of Governors should assign, in conjunction with Education Personnel, an impartial Investigating Officer(s) who is not connected with the allegation in any way.

14.2. Careful consideration should be given as to who the Investigating Officer(s) should be to ensure that they have some knowledge of harassment issues and an understanding of the nature of the complaint e.g. race, gender etc. It is important that the investigation is carried out properly. For this reason it may be advisable to have more than one Investigating Officer to provide a balanced and robust approach to the investigation.

14.3. To make sure that the matter is investigated as quickly as possible the Investigating Officer(s) should, as far as possible, be dedicated to the investigation.

#### 15. Support worker

15.1. The school's attached Education Personnel Consultant will nominate an individual to be a Support Worker for the complainant and the alleged offender whilst this procedure is being followed. Their role will be to keep in touch with the individual and offer support to them.

#### 16. Suspension

16.1. The Headteacher/ Chair of Governors should seek advice on the options and way forward from their attached Education Personnel Consultant before reaching a decision on whether it is appropriate for the complainant and the alleged offender to continue working together during the investigation. It may be advisable for the duration of the investigation to:

(a) Suspend the alleged offender, on full pay, in accordance with the appropriate disciplinary procedure.



(b) Temporarily move either the complainant or alleged offender in accordance with the terms of their employment.

(c) Grant the complainant special leave in accordance with any special leave provisions.

If suspension takes place it is advisable to set a review date to ensure that the suspension is closely monitored and does not go on any longer than absolutely necessary.

## 17. Investigation

17.1. The Investigating Officer(s) using the information submitted by the complainant should:

1. Throughout the investigation offer the complainant and the alleged offender the opportunity to be accompanied/represented by a work friend, work colleague or trade union representative.

2. Meet the complainant separately to elaborate on their written submission. It is important to establish with the complainant what the key issues are that need to be addressed. Once the key issues have been identified the complainant should verify these.

3. Ask the complainant to identify who they think can support their complaint. From this the Investigating Officer(s) will decide whom they need to interview.

4. Meet the alleged offender separately to outline the complaint, and allow them the opportunity to respond. Ask them to identify anyone they think should be interviewed in support of them. The Investigating Officer(s) will decide whom they need to interview.

5. Meet separately any others who may be able to provide information on the complaint and offer them the right to be accompanied/represented by a work friend, work colleague or trade union representative.

6. Have a separate note taker present where possible. Notes and records of the meetings will be the responsibility of the Investigating Officer(s). Interviewees should be given the opportunity to see any notes or records produced following their interview and asked to sign them as a correct record of the interview.

7. Inform everyone involved in the procedure that it may lead to disciplinary action being taken and they may be asked to attend a disciplinary hearing.

8. Conduct the investigation in a confidential manner releasing information on a "need to know basis" only. Any unjustifiable breach of confidentiality may be regarded as a disciplinary offence. There may be circumstances where confidentiality needs to be breached for example on the grounds of Health

and Safety but this will be discussed with the person(s) concerned and the reasons explained.

9. Ensure that the investigation is handled with sensitivity and due respect for the rights of both the complainant and the alleged harasser.

10. Be objective and impartial throughout the investigation.

11. Complete the investigation as speedily as practicable, in all the circumstances, and where there are delays the reasons for this should be set out in writing to all those involved and agreement reached on the timescales.

12. Take care to ensure that the careers and reputation of either party are not prejudiced.

13. Seek advice or assistance from the school's attached Education Personnel Consultant on any aspect of the procedure about which they are unsure of.

14. Within 5 working days (sooner if practical) of completing the investigation decide whether there is substance to the complaint (this is based on a reasonable belief that something took place). If more than one Investigating Officer has been assigned, they should aim to reach a consensus as to whether it is upheld or not. If it is upheld then a recommendation should be made to the Headteacher/ Chair of Governors to consider taking disciplinary action against the offender in accordance with the relevant procedure (see Possible Action below).

15. Confirm in writing the outcomes and findings to the complainant and the alleged harasser (they may now be the offender). Depending on the circumstances this may be done either together or separately.

16. Place a copy of the letter on the personal file of the complainant and alleged harasser/offender. It is advisable to keep this confidentially on the file with viewing permitted on a "need to know basis only".

17. Advise the complainant that if they are dissatisfied with the decision, or if they believe the complaint has not been adequately investigated then they have the right of appeal using the Appeals Mechanism of the school's adopted Grievance Procedure or the appropriate complaints procedure in the school. Appeals must be lodged as soon as possible (and at the latest within 10 working days of the receipt of the letter) with the Clerk to the Governors.

18. Possible Action

18.1. Where a complaint has not been upheld or where there may nonetheless be a need, action may need to be considered by the Investigating Officer(s) and Headteacher/ Chair of Governors in order to facilitate the complainant and alleged offender being able to work together following the investigation. Possible ways forward may be:

(a) Providing counselling for both parties.

(b) Offer mediation sessions, if appropriate, to help the parties resolve matters.

(c) Consider a voluntary transfer\* or rescheduling the work of one of the parties, rather than requiring them to work together against their wishes. This must be offered to both parties and achieved through agreement.

18.2. Where a complaint has been upheld there are two ways of dealing with the alleged offender depending on the seriousness of the situation.

18.2.1. Less serious situations where behaviour is unacceptable, unintentional and the actions are regretted it may not require formal disciplinary action to be taken. It may be more appropriate to resolve the situation with non-disciplinary measures, less serious disciplinary action or a combination of the two. In these cases the possible managerial action might be:

(a) Seek to get an apology.

(b) Providing counselling for both parties.

(c) Providing awareness training for the offender and coaching if they are at a supervisory or management level.

(d) Placing a note on the offender's file with basic details of the outcome of the investigation. This will remain until the Investigating Officer is satisfied that there has been no reoccurrence of the issues raised by the complainant. The Investigating Officer(s) will review the case after 3 months and a further period after that if required.

(e) Offering to implement changes in the working environment of the complainant in order to reassure them and build their confidence. This may mean moving\* the offender in the first instance and only offering to move\* the complainant if they ask for it or moving the offender is not feasible.

(f) Issuing an oral warning (in accordance with the relevant disciplinary procedures) to the offender and any repeat of the behaviour will be dealt with by formal action under the relevant disciplinary procedure.

18.2.2. Serious situations where disciplinary action is recommended. Where there is sufficient evidence of unacceptable conduct examples of which might be:

(i) the offender understood or should have understood that their conduct was inappropriate or unwelcome

(ii) intimate physical contact that was unwelcome and unwanted

(iii) a repetitive pattern of behaviour targeted specifically at the complainant

(iv) a one off, but serious incident, targeted at the complainant

- (v) the offender had been warned of their behaviour before and not changed their conduct.

18.2.2.1. In these cases a disciplinary hearing should be arranged in accordance with the relevant disciplinary procedure and possible action arising from the hearing may include:

- (a) an oral warning
- (b) a written warning
- (c) dismissal

18.2.2.2. Additional sanctions such as those outlined above may also be applied. Records of formal action will remain on the individual's personal file in accordance with the relevant disciplinary procedure.

18.2.2.3. A right of appeal will also be available in accordance with the relevant disciplinary procedure that has been applied.

\*Note- If the decision is to move either the offender or complainant the transfer should be referred to the school's attached Education Personnel Consultant for advice and guidance in terms of the feasibility and the effect this has in relation to their contract of employment.

## 19. Subsequent Action

19.1. Where there has been sufficient concern about a complaint it is important to check that the harassment has stopped and that there has been no victimisation. The Investigating Officer(s) will review the case 3 months after the date of the decision letter to ensure that the harassment has stopped and there has been no victimisation. Should the Investigating Officer(s) not be satisfied that the harassment has stopped then they should seek advice from the school's attached Education Personnel Consultant as to the options and way forward. This may include the reinstatement of the informal or formal procedure, a further investigation, or the consideration of disciplinary action depending on the circumstances.

## 20. Monitoring and Review

20.1. Every case formally investigated under this Procedure must be monitored by the Education Department using the monitoring form in Appendix 2 in order to ensure that the procedures are working effectively. The Investigating Officer(s) must maintain the Monitoring Form while they are involved in the case, and then it should be handed over to the school's attached Education Personnel Consultant who will continue any further monitoring and collation of annual data.

20.2. The Director of Education will be required to report the collection of data annually to the Director of Corporate Development, who will monitor the effective operation of the policy generally and review it periodically. The information will in turn be shared with the relevant Trade Union, but the identity of those involved will not be disclosed.

## 21. Confidentiality

21.1. All matters relating to any part of the above procedure are to be treated in strict confidence, and should not be relayed to a third party without receiving the prior permission of both parties. Any breach of this level of confidentiality will render those responsible liable to disciplinary action. There may be instances however, where confidentiality needs to be breached e.g. due to health and safety implications.

## 22. Paper work and record keeping

22.1. The Investigating Officer(s) has responsibility for maintaining all the papers relating to the investigation. At the end of the investigation all papers will be handed over to Education Personnel for safekeeping. Only a copy of the outcome letter should be kept on the complainant's and alleged harasser's personal files together with details of any action taken.

## 23. Frivolous, vexatious or malicious accusations

23.1. Frivolous, vexatious or malicious accusations of discrimination, harassment, victimisation and bullying are extremely painful and disruptive and may lead to disciplinary action being taken against the employee making those accusations.