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# Dignity at Work Policy

March 2014

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**Dignity at Work Policy**

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## Dignity at Work Policy

### 1. Introduction

- 1.1 As the employer of staff in our Academies, Northern Education Trust (NET) recognises the statutory responsibilities related to employment. Day to day management of staff is delegated to the Principal and line managers in each academy. Throughout this document reference is made to the responsibilities held by the Governing Body/Principal for operational purposes. Ultimate responsibility rests with the Trust.
- 1.2 The Trust and the Governing Body of xxxxxxxxxxxx Academy recognise that actual or perceived harassment is a factor which can adversely affect employees' working, domestic and social lives as well as their personal well being. Harassment may be unlawful behaviour contrary to the Equality Act 2010 and Employment Regulations on religion, belief and sexual orientation. Harassment is also improper and inappropriate behaviour because it lowers morale and interferes with work.
- 1.3 The Trust and the Governing Body therefore has a duty to address harassment and bullying to make every effort to eliminate harassment and intimidation from the workplace.
- 1.4 This procedure applies to all employees of the Trust working in the Academy. In accordance with this procedure, if there are issues in relation to the Principal, the role of the Principal in this procedure shall be undertaken by the Chair of Governors or such person as may be appointed by the Governing Body or the Trust
- 1.5 Disciplinary action, including dismissal for serious offences, will be taken against any employee who is found to be guilty of intentional harassment or bullying. Equally, making malicious or unwarranted complaints of bullying or harassment will be considered a disciplinary offence.
- 1.6 Unintentional or misdirected harassment may still be offensive but can be eliminated if all employees show greater consideration or sensitivity towards their fellow employees. Examples of action in these incidents may include conciliation, support and opportunity for awareness training, or transfer to another job where appropriate.
- 1.7 Any member of staff told by a colleague that their attentions or actions are not welcome should have enough respect for them to stop. If it was not realised that distress was caused, it should be considered how it might feel if the roles were reversed or members of family/partner had complained about someone harassing them at their place of work.
- 1.8 As well as conferring rights on all Trust employees this policy also brings with it responsibilities. It is the responsibility of all Trust employees to bring to the attention of management behaviour or actions that are affecting the dignity at work of themselves or others. It is also the responsibility of all members of staff to act in a way that respects the dignity of others.
- 1.9 If a member of staff believes that they are the victim of bullying or harassment it may not be possible or appropriate to challenge the person direct. In such circumstances the employee should immediately inform their Line Manager/Principal who will be able to help resolve the problem. Alternatively anyone unsure as to whom to

approach could contact the Trust HR function for assistance. Names and contact details are provided at the end of this policy. This must be done as soon as the individual recognises that the behaviour is having an adverse effect on them. In the first instance attempts will be made to solve the problem on an informal basis unless the behaviour complained of is of such a serious nature that it warrants immediate referral to the disciplinary procedure.

- 1.10 Any member of staff should feel confident enough to report unwelcome attention and be assured that complaints will be handled both thoroughly and confidentially.
- 1.11 It is understandable that any employee who feels he or she is being harassed or bullied will be distressed and in need of emotional support and practical advice. An employee may wish to discuss what is happening with their trade union representative, Trust HR function or an appropriate Counselling service.
- 1.12 It is recognised that to be accused of harassment or bullying can also be stressful, particularly if an individual was unaware their behaviour was causing a problem. It is therefore important to understand that all parties in this situation may require support.
- 1.13 Allegations of harassment and bullying will be handled confidentially and dealt with promptly. In order to maintain confidentiality it is important that everyone involved respects this principle. All parties involved will receive a fair and impartial hearing.
- 1.15 The Governing Body agree that Trust employees shall be protected from intimidation, victimisation or discrimination for filing a complaint or assisting in an investigation. Retaliation against an employee for complaining about harassment is itself a disciplinary offence.
- 1.14 This policy has been drawn up following consultation with the trade unions. It is jointly recognised that every employee has a right to work in an atmosphere free of harassment and bullying. Employees' are encouraged to seek support and advice from their trade union representative where appropriate.

## **2. Legislation**

- 2.1 Bullying or Harassment may be in breach of a number of pieces of legislation, including:-

Equality Act 2010  
Employment Rights Act 1996  
Health and Safety at Work Act 1974  
Trade Union and Labour Relations (Consolidation) Act 1992  
Management of Health and Safety at Work Regulations 1999  
Protection for whistleblowers under the Public Interest Disclosure Act 1998  
Criminal Justice and Public Order Act 1986  
Protection from Harassment Act 1997  
Malicious Communications Act 1988  
The Defamation Acts 1952 and 1996

- 2.2 This policy does not cover bullying and harassment by customers, suppliers, vendors, visitors or other members of the public. The Governing Body and the recognised Trade Unions and Professional Associations are however committed to eliminating such bullying and harassment against employees.

- 2.3 However, under the Equality Act 2010 (s.40) an employer is liable for harassment if an employee is harassed by a third party (e.g. a customer) and the employer failed to take reasonable steps to prevent it. This liability does not arise unless the employer knows of at least 2 other occasions when that employee has been harassed by a third party, though it need not be the same third party.
- 2.4 In the event of any bullying or harassment of customers, suppliers, vendors, visitors or other members of the public by employees, this would be dealt with through the disciplinary procedure.

### **3. Rights and Responsibilities**

#### **3.1 The Governing Body will**

- Accept its legal and moral responsibility to deal effectively with bullying and harassment in the workplace using this policy and, if appropriate, the disciplinary procedure.
- Ensure that all employees are aware of the dignity at work policy and procedure.
- Provide guidance to all employees responsible for dealing with complaints of bullying and harassment.
- In appropriate circumstances, direct employees to the mediation service.

#### **3.2 Managers will**

- Implement the dignity at work policy and ensure that all employees are made aware of their responsibilities under the policy.
- Ensure that the workplace environment is non-threatening and supportive and take steps to prevent bullying or harassment.
- Behave in a way that does not bully/harass another person.
- Treat complaints of harassment seriously, sensitively and confidentially.
- In appropriate circumstances, direct employees to the mediation service.

#### **3.3 Managers (General)**

All members of staff who have supervisory/management responsibilities have a duty to eliminate any harassment or intimidation of which they are aware. Failure to take action to tackle harassment and bullying will be considered as a failure to fulfil all the responsibilities of their position. Further advice on tackling specific incidents of harassment and bullying is available from the Trust HR function.

Because harassment is sometimes linked to the exercise and abuse of power, it is particularly important that the Principal/Line Manager never threatens or insinuates, either explicitly or otherwise, that an employee's job prospects, job security, access to training, equal treatment, inclusion within teams, support and provision of conditions of service in any way depend upon the acceptance of sexual advances, requests for gifts or any favours. Such conduct or similar misuses of authority by the Principal/Line Manager will be treated as a serious disciplinary offence. All members of staff must be treated in a fair, equitable and consistent manner.

In particular it is important that the Principal/Line Manager are aware of the impact of their behaviour on members of the Academy staff. Nothing in this policy should prevent legitimate professional dialogue about employees' behaviour or performance, however it

is important that the Principal/Line Managers learn to identify where an employee is inappropriately adversely affected.

### **3.4 Employees will**

- Respect the personal dignity of all colleagues.
- Behave in a way that is not offensive to others.
- Support the Governing Body in its efforts to eradicate any such behaviour.
- Where possible, recognise at an early stage where things are going wrong and if at all possible raise the problem with the individual concerned.
- Request support from the Trust HR function and or/their trade union to help resolve problems at an early stage.
- Not be tempted to proceed with unfounded or malicious complaints. Where a formal review is conducted it will examine and report on the behaviour and responsibility of all parties involved in the complaint.
- As a third party observer of an incident or incidents you should report your concerns to your Line Manager/Principal or the Trust HR function in the first instance.
- In appropriate circumstances, make use of the mediation service.

#### **It is the right of every employee to:**

- Be treated with respect and dignity in the workplace.
- Challenge inappropriate behaviour and raise complaints under this procedure without fear of reprisal.

### **3.5 Trade Unions/Professional Associations will**

- Support the Governing Body in its efforts to provide a working environment free from harassment and bullying.
- Help to ensure that the workforce is aware of the dignity at work policy and encourage employees who may have a problem to use the procedure.
- Advise members of their rights and responsibilities under the policy and to represent members as and when appropriate.
- Advise members accordingly when they appear to be making malicious claims.
- In appropriate circumstances, direct members to the mediation service

## **4. Definitions**

### **4.1 Harassment**

4.1.1 A clear distinction can be drawn between friendly attention, which is reciprocated by another employee, and unwanted, or unpleasant behaviour, which causes distress or fear.

4.1.2 The following paragraphs give a general description of activities which may constitute harassment but do not exclude other forms of inappropriate behaviour which are irrelevant to, and have a negative effect on, the performance of a person's duties.

4.1.3 The Equality Act states that a person harasses another if:

- (a) they engage in unwanted conduct related to a relevant protected characteristic, and

(b) the conduct has the purpose or effect of:

- (i) violating the other person's dignity, or
- (ii) creating an intimidating, hostile, degrading, humiliating offensive environment for the other person.

4.1.4 The relevant protected characteristics are:

- age
- disability
- gender reassignment
- race
- religion or belief
- sex
- sexual orientation
- marriage and civil partnership
- pregnancy and maternity

4.1.5 Sexual harassment includes unwanted conduct based on a person's sex, sexual orientation, gender reassignment or perceived sexuality, which is offensive to the recipient. It can be based on actions over a period of time but where it is sufficiently serious; a single incident will constitute sexual harassment. Sexual harassment also includes actions that because of a person's rejection of or submission to the conduct, that person is treated less favourably than if they had not rejected or submitted to the conduct.

4.1.6 Racial harassment includes any racially motivated actions by a person or group of people at work which are directed at one or more employees, are repeated and/or unwanted; causes humiliation, pain or distress; interferes with job performance or creates an unpleasant working environment.

4.1.7 Harassment of disabled people includes unwanted conduct or comments made because of an individual's disability or perceived disability. This includes a person's HIV status.

## 4.2 Bullying

4.2.1 Bullying is persistent behaviour directed against an individual which is intimidating, offensive or malicious and which undermines the confidence and self-esteem of the recipient.

4.2.2 Bullying does not include legitimate professional dialogue between colleagues.

4.2.3 Examples

The following are examples of inappropriate behaviour covered by the policy: -

- unwanted physical contact ranging from touching to serious assault
- verbal and/or written harassment through jokes, offensive language, gossip and slander
- visual display of posters, graffiti, obscene gestures, etc.

- isolation or non-co-operation at work, exclusion from social activities
- coercion including pressure for sexual favours
- unfair and or destructive criticism, including threats of dismissal, particularly in public
- admonishment in front of pupils
- any other unreasonable behaviour towards another employee which causes distress or fear and undermines their right to dignity at work.
- threatening behaviour

## **5. Procedure**

- 5.1 Where possible a Trust employee who believes that they are being bullied or harassed should raise the problem with the individual concerned.
- 5.2 Where this is not possible or appropriate the employee should immediately inform the Principal/Line Manager who will be able to help resolve the problem.
- 5.3 If a Trust employee believes it is the Principal, who is bullying or harassing them, they should inform the Chair of Governors in the first instance.
- 5.4 If unsure as to whom to approach the Trust HR function can be contacted for assistance, this should be done as soon as the individual recognises that the behaviour is having an adverse effect on them.
- 5.5 Employees should also be encouraged to contact their trade union representative.
- 5.6. If, following an informal meeting, the facts of the case are not in dispute and there is a genuine desire by all parties to resolve the problem, an informal resolution will be sought at this stage. Where appropriate external mediation services may be used. Unless there is a clear breach of the disciplinary code all parties will be encouraged to seek an informal resolution to the problem.
- 5.7 Should an informal resolution not be possible or appropriate the employee should follow the Academy's Formal Grievance Procedure and lodge a formal grievance in writing. The Principal or nominee will be appointed as nominated officer to conduct a full investigation of the circumstances of the complaint.
- 5.8 The Academy's Grievance procedure will be followed to deal with the complaint. It is however recognised that concerns relating to bullying and harassment are particularly sensitive. The following paragraphs therefore provide detailed guidance to conducting this type of review.
- 5.9 The nominated officer will have full authority to resolve the complaint; as such their findings will be binding on all parties, subject to the appeal procedure.
- 5.10 The investigation is designed to gather all the information required and where appropriate to recommend an improvement plan to resolve the problem.
- 5.11 The nominated officer will interview the complainant to confirm the details of the allegations/concerns raised in the written complaint. The complainant is entitled to be accompanied by a trade union representative or work colleague.



- 5.12 The nominated officer will then interview all other parties involved including any witnesses that may be able to provide supporting information about the incidents and or events complained of.
- 5.13 The nominated officer will take the responsibility of keeping people informed of progress.
- 5.14 In circumstances where it is felt that there has been a complete breakdown of professional working relationships it may be appropriate to transfer either or both parties, with their agreement, to a different post within the Academy (if possible), for the period of the investigation. Any transfer should not be seen as an indication of guilt or otherwise, or involve any detriment in conditions of service.
- 5.15 The nominated officer's job is to gather as full a picture as possible in order to be able to produce a plan of action needed to be taken by the Academy. To this end an important part of their role is to identify what outcome will be acceptable to each of the party's concerned and what support will be required to achieve this.
- 5.16 All parties interviewed will be reminded at the outset of the investigation that the interview and any statements gathered, although confidential, may be disclosed as required for audit, disciplinary, employment tribunal or other legitimate purposes.
- 5.17 It is important to understand that a formal investigation will consider the behaviour of all parties concerned with the allegations. It should be recognised that the investigation could potentially identify behaviour and actions that were sufficiently serious that disciplinary action against one or more parties would be considered.
- 5.18 The nominated officer will give the complaint careful consideration before responding. The nominated officer will arrange a meeting with the interested parties to confirm the outcome of the investigation and if appropriate the management action to implement any improvement plan to resolve the issues. The feedback can be given individually or in groups as appropriate.
- 5.19 The outcome of the investigation will be confirmed in writing by the nominated person following the feedback meeting and will inform the employee(s) that they can appeal against the decision if they are not satisfied with it.
- 5.20 Mediation and conciliation services may be used to assist a return to normal working relationships. In addition, training, mentoring or other forms of support may be offered to anyone whose behaviour may have inadvertently caused the difficulties. Where appropriate, external mediation services will be used. It is anticipated that all parties will participate in whatever remedial action is proposed by the nominated officer and allow time for the process to work.
- 5.21 The right of appeal does not cover referral, or otherwise, to the disciplinary procedure. The right to instigate a disciplinary investigation remains with the Academy, should disciplinary action result a right of appeal is contained within that procedure. Equally not to take disciplinary action as a result of a complaint is a management decision but the decision must be made, and seen to be made, on a consistent, fair and equitable basis.

## **6. Appeals**

- 6.1 Where the employee(s) remain aggrieved following receipt of a formal written response from the nominated officer, the matter may be referred to the Governors

Appeal Committee. Any appeal should be sent to the Chair of the Governing Body within 5 working days of receipt of the decision stating the grounds for the appeal.

- 6.2 A meeting of the Appeals Committee will be held to enable the employee to state their appeal and for Governors to consider the grounds for appeal. The appeal meeting will be conducted as a full re-hearing of the grievance and held within 20 working days of the lodging of the appeal. The employee should have at least 5 working days' notice of the Appeal Hearing.
- 6.3 The employee will be informed in writing of the outcome of the appeal. The decision of the Appeal Hearing is final and binding on all parties and once made must then be notified to the employee in writing.
- 6.4 Please note it is the practice of Northern Education Trust, that where necessary, Governors can be used from other NET academies for any hearing or appeal process.

## **CONTACTS**

For advice on the content of this policy please contact:

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Employees are also encouraged to contact their trade union representative for advice and support where appropriate.