

# Swift Academies

## Anti-Harassment & Bullying Policy

**Accepted by:** Board of Trustees March 2018

**Approving Body :** Board of Trustees

**Committee :** Standards

**Review Cycle:** 2 years

**Last reviewed:** March 2018

**Date for next review:** March 2020

### 1 INTRODUCTION

- 1.1 The Board of Trustees is firmly committed to equal opportunities and believes that every employee has the right to work in a safe environment without the fear of discrimination, harassment or abuse. As such, the Trust will not tolerate or condone harassment or bullying in any form.
- 1.2 This policy aims to prohibit harassment and bullying within the Trust and covers both employees and governors. It aims to promote an organisational culture, which is free from hostility and intimidating behaviour; where everyone feels a personal responsibility to ensure that the dignity and feelings of individuals are not abused and where individuals feel confident enough to bring complaints without fear of ridicule or reprisal.
- 1.3 The Trust accepts that, by creating the right climate, this policy can either help to prevent problems before they start, or before they develop further to the detriment of our employees.

### 2 COVERAGE OF POLICY

- 2.1 This policy applies to all employees of the Trust and to all Trustees.

### 3 POLICY STATEMENT

- 3.1 Trust employees should not have to tolerate conduct in the workplace that they would not tolerate outside the work environment. As such, the Trust will not tolerate or condone harassment or bullying in any form.
- 3.2 Complaints of harassment and/or bullying will be taken very seriously and be dealt with promptly and sensitively following the procedures outlined in this policy and the related management guidance. Strict confidentiality will be maintained throughout the process and information relating to complaints will only be shared with relevant parties.
- 3.3 Appropriate disciplinary action will normally be taken against any employee where a claim of harassment or bullying has been substantiated. This could result in a range of sanctions/warnings being issued, up to dismissal for gross misconduct. Similarly, any unwarranted allegations made in bad faith or with malicious intent will also be regarded as misconduct and will lead to disciplinary action.

## **4 WHY THE TRUST NEEDS TO TAKE ACTION**

4.1 The Trust acknowledges that harassment / bullying is not only unacceptable on moral grounds but may, if unchecked or badly handled, create serious problems for the Trust including:

- Poor morale and employee relations;
- Loss of respect for the Head Teacher/Head of School/Senior Managers;
- Poor performance and productivity, impacting on the overall quality of teaching and learning for pupils;
- Absence;
- Resignations;
- Damage to the Trust's reputation.

4.2 The Trust is responsible for the actions of its employees, as well as the employee being individually responsible. If harassment/bullying takes place in the Trust, the Board of Trustees may be liable and may be ordered to pay compensation unless it can be shown that it took reasonable steps to prevent harassment/bullying. Employees who harass may also be ordered to pay compensation.

## **5 LEGISLATIVE BACKGROUND**

5.1 The 1991 European Commission code 'Protection of Dignity of Men and Women at Work' highlights the need for employers to develop and implement coherent policies to prevent harassment. Employers have a duty of care for all their workers and liability in common law under the Sex Discrimination Act 1975; Race Relations Act 1976 and Equality Act 2010.

5.2 Harassment on the grounds of race, ethnic or national origin is unlawful under the Race Relations Act 1976 (Amendment) Regulations 2003. Harassment on the grounds of sexual orientation and religion or belief in the areas of employment and vocational training is also unlawful under The Employment Equality (Sexual Orientation) Regulations 2003 and Employment Equality (Religion or Belief) Regulations 2003. Harassment on the grounds of disability is unlawful under the Equality Act 2010. It is envisaged that legislation preventing harassment on age will be introduced by 2006.

5.3 The Health and Safety at Work Act 1974 states that employers are responsible for the health, safety and welfare at work of all employees and are liable for the actions of their employees at work.

5.4 The Employment Rights Act 1996; Criminal Justice and Public Order Act 1994 and Protection from Harassment Act 1997 also have an impact on bullying and harassment in the workplace.

## **6 HOW CAN HARASSMENT AND BULLYING BE RECOGNISED?**

6.1 The terms 'harassment and bullying' are often used interchangeably and many definitions include bullying as a form of harassment.

6.2 **Harassment** can take many forms and occur in a variety of situations. It may be directed at an individual, or a group of individuals. However, in general terms,

harassment is unwanted conduct affecting the dignity of men and women in the workplace. This may be related to age, gender, sexual orientation, race, ethnic origin, disability, sensory impairments or learning difficulties, religion or belief, political conviction, nationality, skin colour, membership or non-membership of a trade union, status as ex-offenders, willingness to challenge harassment leading to victimisation or indeed any personal characteristic of the individual. It may be persistent or an isolated incident.

6.3 The Race Relations Act 1976 (Amendment) Regulations 2003; Employment Equality (Religion or Belief) Regulations 2003 and (Sexual Orientation) Regulations 2003 define harassment as occurring when unwanted conduct, based on the relevant grounds, has the purpose or effect of violating someone's dignity or creating an environment that is intimidating, hostile, degrading, humiliating or offensive to someone.

6.4 In general, **bullying** may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, spoil the reputation of or injure the recipient, publicly or privately. Cases almost always involve one person in a position of authority bullying an individual or group in a subordinate role. However, an individual may also bully a peer, and groups of people may pick on an individual.

6.5 Examples of what will be considered as unacceptable behaviour include:

- physical contact ranging from touching to serious assault;
- verbal and written harassment through jokes, offensive language, computer messages, gossip, slander or letters;
- visual display of inappropriate materials, posters, graffiti, obscene gestures, etc;
- isolation of individuals, e.g. exclusion from a group or departmental activities;
- coercion ranging from pressure for sexual favours through to pressure to participate in political or religious groups etc;
- intrusion by pestering, spying or stalking;
- intimidating behaviour or abuse of power i.e. bullying.

This list is not exhaustive. Behaviour may not be intended to harass or bully, but it may be perceived or felt to do so by the recipient. In short, it is the recipient who decides what constitutes harassment / bullying in terms of what is unacceptable / offensive to them personally.

6.6 However, it is worth noting that behaviour that is considered as harassment / bullying by one person may be considered firm management by another. Behaviour of people in the workplace can also vary from day-to-day. Someone who is normally perfectly civil to those around them can occasionally appear impatient, pre-occupied or fail to show the courtesy and respect expected of them by the Trust. This may be for a variety of reasons, including pressure of work, domestic difficulties or ill health. These day-to-day variations are a normal part of workplace behaviour and would not necessarily constitute harassment / bullying.

6.7 The concept of 'reasonableness' also has to be considered in that, when assessing whether harassment has taken place, an Employment Tribunal would consider whether, taking into account all the circumstances, the alleged harasser

or bully 'could reasonably be considered' as having violated the complainant's dignity, or created an offensive environment for them.

## **7 RESPONSIBILITY**

- 7.1 The Board of Trustees is responsible for implementing, promoting and monitoring this policy, to ensure that complaints are effectively resolved and that no victimisation occurs. The Board of Trustees should ensure that records of cases kept for the purposes of monitoring the number, nature and outcomes of incidents of alleged harassment and bullying and will assist in ensuring that appropriate training and support is made available to all those involved in the process.
- 7.2 The Head Teacher/Head of School is responsible for ensuring that the policy is adhered to within the Trust and that complainants and those against whom allegations have been made are reassured that all records will be kept confidentially. The Head Teacher/Head of School is also responsible for ensuring that they have School Listening Officers who have been trained to support both parties. Listening officers should not be Head Teacher/Head of Schools/Deputy Head Teacher, as this could lead to a conflict in interest. However, the Head Teacher/Head of School can have a positive role in trying to resolve allegations at the informal stage where possible. Support and guidance can be obtained from the Trust's Human Resources provider both for the informal and formal stages of the process
- 7.3 The Head Teacher/Head of School and the Senior Management Team must ensure that all employees are aware of their responsibilities under the policy whilst at the workplace or attending work functions or staff parties. They must also set a good example in this area, as their behaviour is as important as any policy.

## **8 EMPLOYEE / TRUSTEE'S RESPONSIBILITY**

- 8.1 Employees / Trustees are expected to behave in a proper manner towards their colleagues both in the workplace and whilst attending any work functions or parties. They have an obligation to help prevent harassment and/or bullying in the workplace by:
- being aware of the issue;
  - making sure that their own conduct does not cause offence or misunderstanding;
  - taking a positive stance against harassment / bullying at work;
  - supporting colleagues who are being harassed / bullied;
  - talking to their manager / listening officer / union representative if they feel they are being harassed / bullied.

## **9 THE PROCEDURE**

- 9.1 If an employee makes an allegation of harassment and/or bullying, the Trust will take the allegation seriously and the matter will be dealt with promptly and sensitively. Support will be given both to the employee who has made the allegation and the employee against whom the allegation(s) have been made.
- 9.2 The general principle is that the decision to progress a complaint rests with the individual. However, as this principle needs to be balanced against the Trust's responsibility to ensure the general welfare of employees, there may be occasions where the Trust has to progress a complaint where the individual does not necessarily wish to do so.
- 9.3 The Trust will endeavour to protect employees from intimidation, victimisation or discrimination for filing a complaint, or assisting in an investigation. Retaliation against an employee for complaining about harassment /bullying will be regarded as a serious disciplinary offence.
- 9.4 Strict confidentiality will be maintained throughout the process and information concerning the complaint will only be shared with relevant parties.
- 9.5 Where the complaint of bullying and harassment is in relation to the Head Teacher/Head of School the complaint should be made to the Chair of Trustees.
- 9.6 Where the complaint is against a member of the Board of Trustees the complaint should either be taken to the Chair Board of Trustees in the first instance or where the Chair of Trustees is the subject of the complaint advice should be sought from the Trust's Governance Support provider.

### **Informal Procedure**

- 9.7 In some cases, it may be possible and preferable to try to resolve the issue by using the informal procedure. This aligns with the informal stage of the Trust's Grievance Procedure, which stipulates that matters of concern should be discussed in the first instance with a supervisor/line manager in an effort to find a resolution.
- 9.8 It is particularly relevant to try and resolve issues via the informal procedure in cases where the person against whom the allegation(s) have been made is unaware that their words / actions have been perceived by the recipient as harassment / bullying and is genuinely keen to correct his/her behaviour. In such cases, the Head Teacher/Head of School /Senior Management Team, should encourage use of the informal procedure in the first instance before moving to the formal procedure, unless the allegations are so serious as to make this inappropriate.
- 9.9 Confidential records will be kept on harassment and bullying cases. Where a resolution is reached through the informal procedure involving management intervention, a copy of the outcome of the meeting will be given to those involved.

## **Formal Procedure**

- 9.10 If an employee feels unable to take initial action under the informal procedure or feels the need to progress the complaint straight to the formal stage (subject to consideration of paragraph 9.8), or the situation is so serious as to warrant the informal procedure inappropriate, the formal procedure should be followed using the same basic principles as in the Trust's Grievance Procedure. This is because a complaint of harassment / bullying is a form of grievance. Any slight modifications required to the Grievance Procedure are set out in the management guidance to this policy. The formal procedure should also be followed when initial action through the informal procedure has proved to be ineffective. Where management has concerns about the complainant's health in relation to progressing an allegation under the formal procedure, advice must be sought from Occupational Health.
- 9.11 If there is evidence when the grievance is first received, or evidence emerges whilst investigating any alleged grievance, that indicates that there has been serious harassment or bullying on whatever grounds (including racial or sexual) that could constitute gross misconduct, the grievance procedure will be suspended and the matter investigated under the Trust's Disciplinary Procedure. The Head Teacher/Head of School should advise the Trust's Human Resources provider who will advise as to whether suspension or temporary re-arrangement of duties for employee(s) against whom the allegations have been made is necessary.

## **Possible Resolutions**

### ***Complaint Unproven***

- 9.12 If it is decided that there is no case to answer, the complainant and the individual(s) against whom the allegations have been made will be informed of this decision in writing. Support will be provided to both parties. Both parties will also be assured of their rights in terms of protection against victimisation and procedures for monitoring the situation will be put in place. Attempts will be made to restore good working relationships between both parties by the Head Teacher/Head of School.

### ***Sufficient Evidence of Unacceptable Conduct***

- 9.13 Where an investigation under the formal procedure identifies that there is sufficient evidence of unacceptable conduct, the Trust should normally investigate the matter under the Disciplinary Procedure.
- 9.14 Equally, where an investigation under any stage of the formal procedure indicates that the alleged complaint of harassment or bullying was false or malicious, the complainant will face disciplinary action with the likelihood of dismissal for gross misconduct.

## **10 APPEALS**

- 10.1 Under the Grievance Procedure, the employee who has made the allegations has the right to proceed to Stage 2 or 3 of the procedure if s/he is not satisfied with the outcome. However, this needs to be modified in harassment / bullying

cases as follows:

- The grievance should only progress to Stage 2 or 3 of the procedure where the employee has passed directly to these stages on the advice of the Head Teacher/Head of School in consultation with the Trust's Human Resources provider.
- In all other cases, the complainant may only proceed to stage 2 or 3 of the procedure when the complaint is unproven and when the complainant can also demonstrate that the manager investigating the grievance has incorrectly applied the procedure. The complainant cannot appeal against the actual decision taken.

10.2 Under the Disciplinary Procedure, the employee against whom the allegations have been made has a right of appeal against any disciplinary sanction imposed. Similarly, where an employee's false or malicious allegations have resulted in a disciplinary sanction being issued, they too have the right of appeal under the Disciplinary Procedure.

## **11 REPRESENTATION**

11.1 Both the aggrieved person and all other parties to a grievance have the right to representation.

## **12 RELATED POLICIES**

12.1 In cases where the allegation of harassment/bullying is racially motivated and concerns solely employees / Trustees, the incident must be reported using the 'Guidelines for Reporting and Dealing with Suspected Racial Incidents' but investigated under the Anti Harassment and Bullying Policy.

12.2 This policy should also be read in conjunction with the Trust's Grievance Procedure, Disciplinary Procedure, and the associated management guidance.

## **13 FURTHER GUIDANCE**

13.1 For further information on this policy, please refer to the management or employee guidance.