

EQUITAS ACADEMIES TRUST



ANTI BULLYING AND HARRASSMENT POLICY

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Agreed: Policy Lead
Policy Lead: HR Manager

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ANTI HARRASSMENT AND BULLYING POLICY

1. INTRODUCTION

- 1.1 Equitas Academies Trust is committed to a work environment free of harassment and bullying, where everyone is treated with dignity and respect. The Trust takes a firm stance against bullying between pupils, and it is important that all staff lead by example with their own behaviour.
- 1.2 Harassment and bullying can have very serious consequences for individuals and the Trust including loss of morale, poor work performance, increased turnover of staff, legal claims and damage to its reputation.
- 1.3 The Trust will take allegations of harassment or bullying seriously and address them promptly and confidentially where possible. Harassment or bullying by a member of staff will be treated as misconduct under the Trust's Disciplinary Procedure. In some cases it may amount to gross misconduct leading to summary dismissal.
- 1.4 This policy does not form part of any employee's contract of employment and may be amended at any time.

2. SCOPE AND PURPOSE OF THIS POLICY

- 2.1 The policy sets out the types of behaviour that are unacceptable and covers bullying and harassment both in and out of the workplace such as on trips, at events or work-related social functions. This policy covers bullying and harassment by staff and also by third parties such as suppliers or visitors to each Academy within the Trust.
- 2.2 This policy applies to all employees of the Trust, Trustees, contractors, casual and agency staff and volunteers (collectively referred to as **staff** in this policy). The policy does not apply to pupils or parents who consider they have been the subject of bullying or harassment by Trust employees, where separate complaints procedures apply.
- 2.3 Staff may make a complaint under this policy or the grievance policy but not both policies.

3. THE LEGAL FRAMEWORK

- 3.1 The Equality Act 2010 prohibits harassment related to age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, religion or belief, sex or sexual orientation (protected characteristics). The Protection from Harassment Act 1997 also makes it unlawful to pursue a course of conduct which you know or ought to know would be harassment, which includes causing someone alarm or distress. Under the Health and Safety at Work Act 1974 staff are entitled to a safe place and system of work.
- 3.2 Individual members of staff may in some cases be legally liable for harassment of colleagues or third parties (including pupils) and may be ordered to pay compensation by a court or employment tribunal.

4. WHAT IS HARASSMENT?

- 4.1 Harassment is any unwanted conduct which has the purpose or effect of:
- (a) Violating a person's dignity; or
 - (b) Creating an intimidating, hostile, degrading, humiliating or offensive environment for them.
- 4.2 It also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.
- 4.3 Unlawful harassment may involve conduct related to a protected characteristic or of a sexual nature (sexual harassment). Harassment is unacceptable even if it does not fall within any of these categories.
- 4.4 A person may be harassed even if they were not the intended "target". For example, a person may be harassed by racist jokes about a different ethnic group if they create an offensive environment for him/her. Harassment may also occur even if an individual does not have a protected characteristic, but another individual engages in unwanted conduct towards them because:
- (a) They perceive the recipient to have a protected characteristic; or
 - (b) They are associated with a person who does have a protected characteristic.
- 4.5 A single incident can amount to harassment although first-time conduct which unintentionally causes offence will not usually be harassment. However it will become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to him/her.

5. WHAT IS BULLYING?

- 5.1 Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined or threatened. Power does not always mean being in a position of authority, but can include both personal strength and the power to coerce through fear or intimidation.
- 5.2 Legitimate, reasonable and constructive criticism of a member of staff's performance or behaviour or reasonable instructions given to staff in the course of their employment, will not amount to bullying of themselves. It is also recognised that differences of opinion, outbursts of bad temper, etc, may occur from time to time in any normal working environment. The Trust would normally expect staff to resolve through informal processes rather than through the use of the formal procedure set out below.

6. EXAMPLES OF BULLYING AND HARASSMENT

- 6.1 Bullying and harassment can take the form of physical, verbal and non-verbal conduct. Staff should always consider whether their words or conduct could be offensive. Conduct may be harassment or bullying whether or not the person behaving in that way intends to offend. Examples of unacceptable conduct include:
- (a) Unwanted physical conduct including touching, pinching, brushing past someone, invading their personal space, and more serious forms of physical or sexual assault;

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- (b) Unwelcome sexual advances or suggestive behaviour or suggestions that sexual favours may further a career or that a refusal may hinder it;
- (c) Continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;
- (d) sending or displaying material that is pornographic or that some people may find offensive (including e-mails, text messages, video clips and images sent by mobile phone or posted on the internet);
- (e) Offensive or intimidating comments or gestures, or insensitive jokes or pranks;
- (f) Jokes or comments about an individual's age, disability, sexual orientation or religion, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
- (g) Ignoring or shunning someone, for example, by deliberately excluding them from a conversation, a workplace social activity or from meetings
- (h) Shouting at, being sarcastic towards, ridiculing or demeaning others;
- (i) Physical or psychological threats;
- (j) Overbearing and intimidating levels of supervision;
- (k) Inappropriate and/or derogatory remarks about someone's performance;
- (l) Abuse of authority, power or status by those in positions of seniority.

7. INFORMAL STEPS

- 7.1 If a member of staff thinks they are being bullied or harassed, they should initially consider raising the problem informally with the person responsible. The staff member should explain clearly to them that their behaviour is not welcome or makes them uncomfortable. If this is too difficult or embarrassing, the employee should speak to their line manager (or HR Manager if the matter relates to their line manager), who can provide advice and assistance in resolving the issue formally or informally.
- 7.2 If the staff member is not certain whether an incident or series of incidents amount to bullying or harassment, they should initially contact their line manager (or HR Manager if the matter relates to their line manager) informally for confidential advice.
- 7.3 If informal steps have not been successful or are not possible or appropriate, the staff member should follow the formal procedure set out below.

8. RAISING A FORMAL COMPLAINT

- 8.1 If a member of staff wishes to make a formal complaint about bullying or harassment, they should submit it in writing to the HR Manager whose role is to achieve a solution wherever possible and to respect the confidentiality of all concerned. If the matter concerns that person, then the matter should be referred to a member of the Senior Leadership Team of the relevant Academy.
- 8.2 Where the Executive Director / Headteacher feels bullied or harassed they should raise the matter with the Chair of the Trust Board, or if it involves the Chair of the Trust Board, with another member of the Trust.
- 8.3 The written complaint should set out full details of the conduct in question, including the name of the harasser or bully, the nature of the harassment or bullying, the date(s) and

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time(s) at which it occurred, the names of any witnesses and any action that has been taken so far to attempt to stop it from occurring.

- 8.4 As a general principle, the decision whether to progress a complaint is up to the complainant. However, the Trust has a duty to protect all staff and may pursue the matter independently if, in all the circumstances, it is considered appropriate to do so.

9. FORMAL INVESTIGATIONS

- 9.1 Complaints will be investigated in a timely and confidential manner. Individuals not involved in the complaint or the investigation should not be told about it. The investigation will be conducted by someone with no prior involvement in the complaint. The investigation should be thorough, impartial, objective and carried out with sensitivity and due respect for the rights of all parties concerned.

- 9.2 A meeting will be arranged with the nominated investigating officer and the person that has made the complaint, usually within five working days of receiving the complaint, so that the complainant can give their account of events. The complainant will be given an indication of the timescales for the investigation. The investigator will arrange further meetings with the complainant as appropriate throughout the investigation.

- 9.3 Where the complaint is about an employee, it may be considered appropriate to suspend them on full pay or make other temporary changes to working arrangements pending the outcome of the investigation. The investigator will also meet with the alleged harasser or bully who may also be accompanied by a colleague or trade union representative of their choice to hear their account of events. They have a right to be told the details of the allegations against them, so that they can respond.

- 9.4 Where the complaint is about someone other than an employee, such as a contractor, pupil, parent or visitor, the action may be appropriate to protect the complainant and anyone involved pending the outcome of the investigation, bearing in mind the reasonable needs of the Trust and the rights of that person. Where appropriate, the matter will be discussed with a third party.

- 9.5 The Trust will also seriously consider any request that is made for changes to working arrangements during the investigation. For example the complainant may ask for changes to their duties or working hours so as to avoid or minimise contact with the alleged harasser or bully.

- 9.6 It may be necessary to interview witnesses to any of the incidents mentioned in the complaint. If so, the importance of confidentiality will be emphasised to them.

- 9.7 At the end of the investigation, the investigator will submit a report to the Headteacher or HR Manager nominated to consider the complaint. A copy of the report and findings will be given to the complainant and to the alleged harasser or bully, together with recommendations for further action.

10. ACTION FOLLOWING THE INVESTIGATION

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- 10.1 If the Headteacher / HR Manager considers that harassment or bullying has occurred, prompt action will be taken to address it.
- 10.2 Where the harasser or bully is a member of staff the matter will be dealt with as a case of possible misconduct or gross misconduct under the Trust's Disciplinary Procedure.
- 10.3 Where the harasser or bully is a third party, appropriate action might include putting up signs, setting out acceptable and unacceptable behaviour; speaking or writing to the person and/or their superior about their behaviour, or, in very serious cases, banning them from the premises or terminating a contract with them.
- 10.4 Whether or not the complaint is upheld, it will be considered how best to manage the ongoing working relationship between the complainant and the alleged harasser or bully. It may be appropriate to arrange some form of mediation and/or counselling or to change the duties, working location or reporting lines of one or both parties.
- 10.5 Any staff member who deliberately provides false information or otherwise acts in bad faith as part of an investigation may be subject to action under the Trust's Disciplinary Procedure.

11. APPEALS

- 11.1 If the complainant is not satisfied with the outcome they may appeal in writing to the Headteacher, stating the full grounds of appeal, within five working days of the date on which the decision was sent or given to the complainant.
- 11.2 The Headteacher will hold an appeal meeting, normally within five working days of receiving the written appeal. This will be dealt with impartially by another senior manager or Trustee who has not previously been involved in the case (although they may ask anyone previously involved to be present). The complainant may bring a colleague or trade union representative to the meeting.
- 11.3 The final decision will be confirmed in writing, usually within five working days of the appeal hearing. This is the end of the procedure and there is no further right of appeal.
- 11.4 If the complaint is concerning the Headteacher then the appeal should be directed to the Chair of the Trust Board.

12. PROTECTION AND SUPPORT FOR THOSE INVOLVED

- 12.1 Staff who make complaints or who participate in good faith in any investigation conducted under this policy must not suffer any form of retaliation or victimisation as a result.
- 12.2 Victimisation is subjecting a person to a detriment because he/she has in good faith:
 - (a) Complained (whether formally or otherwise) that someone has been bullying or harassing him/her or someone else; or
 - (b) Supported someone to make a complaint; or
 - (c) Given evidence in relation to a complaint.

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This would include isolating someone or giving them a heavier or more difficult workload. If the complainant feels they have suffered any such treatment then they should inform their line manager. If the matter is not remedied the complainant should raise it formally using the Trust's Grievance Procedure or this procedure if appropriate.

- 12.3 If the person making the complaint or giving evidence know their testimony to be untrue then this may lead to disciplinary action being taken.
- 12.4 Anyone found to have retaliated against or victimised someone for making a complaint or assisting in good faith with an investigation under this procedure will be subject to disciplinary action.
- 12.5 The person whom the complaint is made against should not dismiss the complaint out of hand because they were only joking or think the complainant is being too sensitive. Different people find different things acceptable and everyone has the right to decide what behaviour is acceptable to them and to have their feelings respected by others. It is possible to offend without intending to. If that is the case, the person concerned may be content with an explanation and an apology from the person whom the complaint is made against and an assurance that they will try not to cause offence in future.
- 12.6 The Trust provides access to confidential counselling, which is available on request for anyone affected by, or accused of, bullying or harassment. The details are available in confidence from the HR department.

13. CONFIDENTIALITY AND DATA PROTECTION

- 13.1 Confidentiality is an important part of the procedures provided under this policy. Everyone involved in the operation of the policy, whether making a complaint or involved in any investigation, is responsible for observing the high level of confidentiality that is required. Details of the investigation and the names of the person making the complaint and the person accused must only be disclosed on a "need to know" basis.
- 13.2 As part of the application of this policy, the Trust may collect, process and store personal data in accordance with our data protection policy. We will comply with the requirements of Data Protection Legislation (being (i) the General Data Protection Regulation ((EU) 2016/679) (unless and until the GDPR is no longer directly applicable in the UK) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998, including the Data Protection Act 2018). Records will be kept on the employee's personal file in accordance with our Staff Privacy Notice, our Retention and Destruction schedule and in line with the requirements of Data Protection Legislation. This will include information about the complaint along with a record of the outcome and of any notes or other documents compiled during the process.
- 13.3 Breach of confidentiality may give rise to disciplinary action under The Trust's Disciplinary Procedure.

14. POLICY REVIEW

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14.1 This policy will be reviewed and amended annually by the Trust. We will monitor the application and outcomes of this policy to ensure it is working effectively.

Date of next review: May 2020

Signed by

Member of Trust Board: Wadim Wesolek Date: 11th May 2020

Review Date: May 2021