**Anti-Harassment Policy for all staff 2024**

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**Contents**

[Version Control 1](#_Toc181731306)

[Policy Statement 3](#_Toc181731307)

[Unacceptable Behaviour: Harassment 4](#_Toc181731308)

[Sexual Harassment 5](#_Toc181731309)

[Racial Harassment 6](#_Toc181731310)

[Disability Harassment 6](#_Toc181731311)

[Other Forms of Unacceptable Behaviour 6](#_Toc181731312)

[Duty of governing bodies, Headteachers and managers 7](#_Toc181731313)

[Duty of All Members of Staff 8](#_Toc181731314)

[Complaints: procedure and support 8](#_Toc181731315)

[Disciplinary Action Following a Complaint of Unacceptable Behaviour 10](#_Toc181731316)

[Governors and Members of the Public 11](#_Toc181731317)

[Mediation 11](#_Toc181731318)

[Appeals Against Disciplinary Action for Unacceptable Behaviour 11](#_Toc181731319)

[Appendix 1. Examples of Acceptable and Unacceptable Behaviour 12](#_Toc181731320)

**Relevant Legislation**

* Equality Act 2010
* Employment Act
* Employment Rights Bill

**Related** **Policies**:

* Resolution Policy
* Equality Policy
* Code of Conduct

**Related Training**

Mandatory - National College ‘Preventing Sexual Harassment’

# Version Control

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| --- | --- | --- | --- |
| Version | Details | Author | Date |
| 1.0  | Policy formation | Esther Newman | 25th October 2024 |
| 1.1  | Formatting changes | Jeremy Masson | 29th October 2024 |

# Policy Statement

The Trust expects a high standard of behaviour of its Trustees, Governors, Central Team, Headteachers, staff and volunteers in performing their duties and responsibilities. To achieve this standard, it is essential that all concerned work in a supportive environment, characterised by Acceptable Behaviour.

Whilst acknowledging that there are other forms of behaviour that might be regarded as unacceptable within the workplace (fraud, theft, violence, etc) and leave the perpetrator open to action under agreed disciplinary procedure, this Acceptable Behaviour Policy / Anti-Harassment Policy is concerned with the way in which people interact with each other in the workplace.

Acceptable Behaviour promotes a working environment in which discrimination, harassment and bullying are regarded as unacceptable behaviour. It is expected that all adults within the Trust will conduct themselves in a manner, which is characterised by:

* Affording dignity, trust, and respect to all within the workplace
* Having awareness of the effects of our behaviour on others and avoiding making unreasonable and unmanageable demands of them
* Communicating honestly and openly, clearly stating what we mean and what we expect of others.
* Providing honest feedback based on evidence.
* Being open to constructive criticism
* Starting from the assumption that everyone is working to the best of their ability, taking account of their current stage of personal and professional development.

Unacceptable behaviour, for the purposes of this policy is defined as behaviour towards another individual in the workplace that constitutes discrimination, harassment, or bullying. Such behaviours are described in more detail below. Examples are given in the attached Appendix 1 but this is not an exhaustive list. Unacceptable behaviour can be perpetrated by anyone and can be directed at, or adversely affect all colleagues within the workplace. It should not be assumed that unacceptable behaviour is limited to the behaviour of managers towards subordinates since unacceptable behaviour by a member of staff can also adversely affect supervisory or management staff.

As the employer, the Trust seeks to promote equal opportunities, fully supports the rights and opportunities of all people to seek, obtain and hold employment without discrimination and recognises the fundamental right of all school staff to work in an environment free from unacceptable behaviour.

Discrimination can constitute a form of unacceptable behaviour and an employer that permits it to occur may be in breach of its duties under Equalities Act 2010.

Under Health and Safety legislation an employer is required to take all reasonable steps to provide a safe and healthy work environment, which would include taking steps to prevent staff from being subjected to unacceptable behaviour.

Finally, the legal duty of care towards employees and the implied contractual term of trust and confidence could be breached if unacceptable behaviour is allowed to occur within the workplace.

The Trust believes that it is an infringement of the rights of all staff not to be treated with dignity and respect and the Trust’s policy is, therefore, that unacceptable behaviour will not be tolerated or condoned. All staff and volunteers are expected to comply with this policy. The CEO and Headteachers will ensure that all staff members are aware of the content of this policy and by ensuring it is enforced. Appropriate measures might include:

* Ensuring that the policy is drawn to the attention of all new and existing staff.
* Discussion in staff meetings of what constitutes acceptable and unacceptable behaviour.
* Requiring the Headteacher to report to the Governing Body on steps taken to ensure compliance with this policy, including reporting action taken in all cases of non-compliance.
* Ensuring that staff can raise concerns in ways that avoid them feeling vulnerable to victimisation.

For members of the Central Team when the policy refers to Headteacher this will be the CEO.

The Headteacher will challenge an employee’s unsatisfactory performance, attendance, or conduct. Legitimate management action to deal with such issues will not be regarded as unacceptable behaviour, so long as the manager behaves appropriately and reasonably, using the relevant agreed employment procedures in a professional and constructive manner aimed at bringing about an improvement.

Action in accordance with the agreed disciplinary procedure will be taken against any member of staff who, following investigation, has been found to have behaved unacceptably towards another member of staff, a pupil or member of the public. In the most serious cases those behaving unacceptably towards another person in the workplace may be considered to have committed an act of gross misconduct that, if substantiated by an investigation carried out in accordance with the agreed disciplinary procedure, may result in summary dismissal.

# Unacceptable Behaviour: Harassment

The standard definition for harassment is unwanted behaviour related to any of the following protected characteristics.

* Age
* Disability
* Gender reassignment
* Race
* Religion or belief
* Sex
* Sexual orientation

Which has the purpose or effect of either violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

The following are some examples of specific types of harassment, but it should be noted that this policy applies to all forms of harassment.

# Sexual Harassment

Sexual harassment means unwanted conduct of a sexual nature or conduct based on sex detrimentally affecting the dignity of staff. Sexual harassment normally refers to behaviour that is unsolicited, unreciprocated and which can cause humiliation, offence, distress, interfere with job performance, create an unpleasant working environment, emphasise a member of staff's sexuality over their role(s) as an employee and fails to respect the rights of others. Or when an individual is treated less favourably because they submitted to or rejected, that unwanted conduct.

Sexual harassment may be committed by a fellow worker, an agent of an organisation, or a third party. It does not need to occur in person. It can occur via digital means including social media sites or channels e.g. WhatsApp.

The following are examples of sexual harassment that would constitute unacceptable behaviour within this policy:

* Making inappropriate comments about someone’s body, clothing or appearance.
* Sexual assault or rape
* Making sexual comments or jokes, which may be referred to as ‘banter’.
* Making sexual comments or jokes about someone’s sexual orientation or gender reassignment.
* Intrusive questions about a person’s sex life
* Sending sexually explicit emails, text messages or messages via other social media
* Unwanted physical contact for example touching hugging, massaging, or kissing.
* Unwelcome sexual advances, propositions, or pressure for sexual activity
* Continued suggestions for social activity outside the workplace after it has been made clear that such suggestions are unwelcome.
* Displaying or sharing pornographic or sexual images, or other sexual content
* Conduct that denigrates or ridicules or is intimidatory or physically abusive to a member of staff because of his or her sex.
* Suggestions that a member of staff's rejection of sexual advances will adversely affect their employment prospects or conditions of service.

Sexual harassment may be experienced by men, women and people of any gender identity or sexual orientation. It can be carried out by anyone of the same sex, a different sex or anyone of any gender identity.

Regular training sessions must be undertaken to ensure all staff understand what sexual harassment is and their role in preventing and addressing it.

# Racial Harassment

Racial harassment is an act that by relating to the subject’s race, colour, ethnic origin or religion causes a person to feel intimidated, humiliated, ridiculed, undermined or otherwise detrimentally affected.

The following are examples of racial harassment that would constitute unacceptable behaviour within this policy:

* Ridiculing an individual because of cultural differences
* Written abuse and the display of offensive material
* Embarrassing or derogatory remarks, racist jokes and name-calling
* Deliberate physical and/or verbal abuse
* Differential treatment, e.g. unfair allocation of work

# Disability Harassment

Disability harassment is any act relating to the subject’s disability that is intended to cause a disabled person a detriment. Disability may not be seen or obvious and it is essential that everyone is aware of the fact that they will not know or need to know an individual's specific disability.

The following are examples of behaviour towards disabled people that would constitute unacceptable behaviour within this policy:

* Staring and/or uninvited touching
* Speaking to others rather than to the disabled person directly
* Asking intimate questions about a person's impairment
* Making assumptions about disabled people
* Physical abuse, intimidation or name calling.
* Questioning a disabled person's work capacity and/or ability
* Making assumptions or speculating about someone's impairment.
* Unwarranted differential treatment
* Ridiculing an individual because of a disability

# Other Forms of Unacceptable Behaviour

Bullying in the workplace may be defined as persistent, offensive, abusive, intimidating, malicious or insulting behaviour, abuse of power or unfair penal sanctions, which makes the recipient feel upset, threatened humiliated or vulnerable, which undermines their self-confidence, and which may cause them to suffer stress. Such behaviour is not limited to behaviour by managers towards subordinates, it can also be perpetrated by members of staff towards colleagues and managers.

Examples of bullying may include:

* Open bullying such as displays of rage at staff in front of colleagues, pupils or other people, name-calling, persistent unjustified criticism, and public humiliation.
* Unseen bullying such as setting objectives with unreasonable deadlines, unreasonably removing areas of responsibility, and inflicting menial tasks instead, constantly changing working patterns without justification, deliberately ignoring or excluding an individual or talking only to a third party to isolate another, unreasonably or unpleasantly challenging or refusing to comply with reasonable management direction or requests.

Employees may also be vulnerable to unacceptable behaviour at work relating to their actual or perceived sexual orientation or sexuality. Such behaviour would be likely to constitute unlawful discrimination or harassment under the Equalities Act 2010.

Employees may also be vulnerable to unacceptable behaviour at work relating to their religious beliefs or age. Such behaviour would be likely to constitute unlawful discrimination or harassment under the Equalities Act 2010.

* + 1. Employees have legal protection from discriminatory treatment on basis of their membership, or not, of a trade union and associated activities. Such treatment would constitute unacceptable behaviour.

Unacceptable behaviour can arise simply from employees being unwilling to behave in an acceptable way towards another or others at work for reasons of personal dislike. Whatever the motivation, unacceptable behaviour as broadly defined within this policy should not be condoned or tolerated.

* + 1. The examples given above are not exhaustive. The Trust may from time to time specify further examples of conduct that will be regarded as unacceptable behaviour and leave the perpetrator open to possible action under the agreed disciplinary procedure.

Victimisation is a distinct form of unacceptable behaviour covered by this policy. Victimisation is behaviour in breach of specific provisions of employment legislation that make it unlawful to treat a person less favourably because they have initiated, or given evidence or information in connection with, a complaint of unlawful treatment. Victimisation of an employee because they have made a complaint, initiated a grievance under the agreed grievance procedure, or given evidence or information in relation to a complaint or grievance may be considered an act of gross misconduct that, if substantiated by an investigation carried out in accordance with the agreed disciplinary procedure, may result in summary dismissal.

# Duty of governing bodies, Headteachers and managers

Staff are sometimes reluctant to complain of unacceptable behaviour because of:

* Retaliation or public humiliation
* Not being believed or taken seriously
* What other people may think.
* A complaint not being handled in a sensitive and confidential manner or that no action will be taken regarding the complaint.
* Being discriminated against in employment
* The person involved in the harassment is their line manager.

The Trust, Governing Bodies, Headteachers and managers must take steps to stop unacceptable behaviour that they suspect to exist in their areas of responsibility. Failing to do so could be a breach of the duty of care towards employees. Line managers have an important role to play in identifying and challenging behaviours which are unacceptable. Failure to act on unfair treatment may lead to action being taken against the line manager. Training and guidance will help line managers to give them confidence to tackle any form of harassment.

# Duty of All Members of Staff

All members of staff should take all reasonable steps, by behaving courteously and professionally towards others at all times, to ensure their conduct does not cause offence or make others feel bullied, sexually harassed or intimidated. They must discourage all forms of unacceptable behaviour and support colleagues who may be victims of such treatment.

School staff should report any suspected incidents of unacceptable behaviour by or towards others in the workplace to their line manager or to the Headteacher. If staff would like to talk in confidence they can talk to a member of the HR team who will offer advice and guidance and can provide additional support such as Care First.

# Complaints: procedure and support

Complaints of unacceptable behaviour should be investigated fairly and promptly, and with sensitivity in a confidential manner and with due regard to the rights of all parties concerned. Every effort will be taken to ensure that staff will be protected against victimisation or retaliation for bringing a complaint of unacceptable behaviour or for assisting an investigation. Any evidence of victimisation will result in a thorough investigation and, possibly, serious disciplinary action. In cases involving alleged unacceptable behaviour both the complainant and the respondent may seek support from a trade union representative or colleague and have a right to representation if the formal disciplinary or grievance procedures have been invoked.

Initially and where practicable the complainant should tell the alleged harasser or bully to stop and make it clear that their behaviour is unwelcome. The alleged harasser or bully may be genuinely unaware of the effect of their behaviour. A member of staff may wish to discuss their concerns with:

* Their trade union representative, or
* HR, or
* Care First

All of these people will, in the first instance, provide help and advice in complete confidence without obligation to take a complaint further. In circumstances where it is inappropriate or staff feel unable themselves to approach the alleged harasser, they may seek assistance and advice from their trade union representative.

Alternatively, staff may raise their concerns directly with their manager or the Headteacher\* who will arrange to discuss the concerns fully with the employee and may respond by proposing informal action to address the employee’s concerns. In more serious cases the manager or Headteacher\* may propose responding to the concerns by initiating a formal investigation. The decision to progress the matter as a formal complaint should normally lie with the employee who considers he or she has been subjected to unacceptable behaviour. However, management has the right to initiate a formal investigation where it appears that the behaviour complained of is so serious that it cannot be left unaddressed, even if the victim is unwilling to make a formal complaint.

Complaints can also be raised via completing our online by submitting a statement via the [Whistleblowing Reporting Form](https://forms.office.com/e/ScfWs1QtKj)

If the initial response does not result in the unacceptable behaviour ceasing, in more serious cases, or if the member of staff wishes to make a formal complaint immediately, they should make a formal complaint to the Headteacher\* under the provisions of this procedure.

A written acknowledgement of the complaint will be made by the Headteacher\* within a reasonable timeframe after receipt, no more than 10 days. The Headteacher\* will arrange to discuss the complaint with the employee prior to initiating a formal investigation to ensure that he/she has a clear understanding of the nature of the complaint and confirm that the matter warrants a formal investigation, and the employee wishes such an investigation to proceed. The employee may wish to be accompanied by a trade union representative or colleague during such a discussion.

A formal investigation will involve the following stages:

1. The Headteacher\* will delegate to a suitably experienced senior member of staff the role of investigating officer with the task of investigating into the complaint.
2. Depending upon the nature, seriousness and circumstances surrounding the complaint, the Headteacher\* may decide to: -
3. Suspend the party against whom the complaint is made on full pay until the necessary investigations have been carried out.
4. Allow the person who has made the complaint time off on full pay should this be considered necessary.
5. Make arrangements, if possible, to minimise the extent to which the parties come into contact whilst undertaking their duties
* The investigating officer should consider the need to take advice from HR on the conduct of the investigation.

The investigating officer should complete the investigation into the complaint within 10 working days, which should include interviewing all those concerned separately. In more complex cases, additional time must be allowed to complete the investigation. Whilst there is no right to be accompanied during an investigative interview, a request from the complainant or respondent to be accompanied at such interviews by a trade union or other representative will not be refused unless it gives rise to unacceptable delay in conducting the investigation.

After concluding the investigation, the investigating officer will report in writing to the Headteacher (or Chair of Governors where the person against whom the allegations are made is the Headteacher). After considering the report of the investigating officer, the Headteacher (or CEO / Chair of Governors) will determine on one of the following courses of action:-

1. Not to uphold the complaint where it is shown not to be founded.
2. To uphold the complaint and implement a course of action short of disciplinary action which will prevent further unacceptable behaviour taking place
3. To uphold the complaint and deal with the perpetrator under the agreed disciplinary procedure by convening a disciplinary hearing. Such a hearing will be conducted by the Headteacher or a staffing panel of Governors as appropriate in view of the seriousness of the alleged misconduct (disciplinary hearings dealing with alleged misconduct by the Headteacher will always be conducted by a staffing panel of Governors).

The outcome of the complaint should be communicated to both parties in writing. The complainant may at this stage, if dissatisfied with the response of the Headteacher (or CEO when the case involves allegations against the Headteacher), ask for the matter to be referred to an appeals panel for further consideration. The decision of the appeals panel will be final within this procedure.

# Disciplinary Action Following a Complaint of Unacceptable Behaviour

Any disciplinary hearing arising from an investigation into a complaint of unacceptable behaviour will be conducted in line with the agreed disciplinary procedure. A staffing panel conducting a disciplinary hearing may be accompanied throughout by a member of the HR team who will be present in an advisory capacity.

At a disciplinary hearing the complainant and the investigating officer will be called as witnesses in the case against the alleged harasser or bully.

At the end of a disciplinary hearing, having heard all evidence and representations, the Headteacher (or staffing panel) will, in the absence of the parties to the complaint, determine whether there is evidence of unacceptable behaviour amounting to misconduct and, if so, what disciplinary action is to be taken.

Once a decision has been reached the parties to the complaint will be recalled and the decision will be made known. The outcome will be communicated in writing to the person against whom the allegations were made within 5 working days of the disciplinary hearing.

# Governors and Members of the Public

In the case of a complaint of unacceptable behaviour by a member of the Governing Body, the Headteacher will investigate and submit a report to the Chair of Governors with a recommendation concerning action. The Headteacher can obtain guidance on possible sanctions against Governors from the Head of Governance and Chair of Trust.

Allegations of unacceptable behaviour towards school staff by members of the public to include parents, contractors, external visitors, this list is not exhausted and should be reported to the Headteacher who will consult with the HR/Legal advisor before deciding an appropriate course of action, which may involve initiating criminal proceedings.

This policy is not intended to cover unacceptable behaviour by pupils towards employees. School management should, however, recognise that this can arise and take steps within the school’s behaviour policies to limit its extent and impact.

Appropriate action will be taken against any member of staff who is found to have behaved unacceptably towards a member of the public. Complaints received by members of the public will be dealt with as potential disciplinary issues.

# Mediation

The HR team can provide workplace mediation to help restore and maintain the employment relationship between work colleagues, where appropriate. Mediation can complement the Trust’s formal arrangements for dealing with workplace issues such as harassment, discrimination, victimisation, and bullying. It can offer early assistance before problems escalate and help staff consider the available options to resolve the situation.

Mediation is a confidential and voluntary process in which a neutral person helps employees in dispute explore and understand their differences so that they can find their own solution. Please contact the HR for information.

# Appeals Against Disciplinary Action for Unacceptable Behaviour

When a written warning or more serious disciplinary action is taken against an employee for unacceptable behaviour, he/she will be notified of the right of appeal. Appeals will be managed under the agreed appeals procedure. The outcome of an appeal conducted under the agreed appeals procedure is final within the Trust’s procedures.

# Appendix 1. Examples of Acceptable and Unacceptable Behaviour

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| **Acceptable Behaviour** | **Unacceptable Behaviour** |
| Comforting someone who appears to be upset by using a soft tone of voice, offering additional support.  | Invading their personal space, touching or hugging them.  |
| Explaining the reason for a deadline or target and discussing it; trying to agree a reasonable basis for proceeding | Continually setting unreasonable deadlines without discussing the difficulties of meeting them or setting unattainable targets |
| Discussing privately what went wrong and how to prevent it from happening again | Shouting or swearing at someone when something goes wrong or humiliating someone in front of others |
| Assuming people can do the work required, unless there are legitimate reasons for doubting this, requiring greater monitoring  | Excessively supervising / monitoring someone when the circumstances don't justify it. Eroding someone's job by removing responsibilities or autonomy |
| Inviting comments and participation from all those you think may have an interest, even if you cannot act upon everything | Cold-shouldering someone to exclude them from an activity, meeting or communications or withholding information or resources required to do the job |
| Using email sensibly and communicating email requests reasonably | Unnecessarily bombarding someone with emails, copying e-mails about personal matters to unnecessary recipients or being brusque or offensive in emails |
| Discussing and publicising contributions with all those involved | Not giving individuals appropriate credit for their contribution to e.g. papers, reports or other literature |
| Praising people for their positive contributions or talking to them privately about any issues of concern | Publicly casting aspersions on a person’s personal or professional standing, through jokes, innuendo or malicious gossip  |
| Communicating with people privately, in a professional manner, as soon as a problem occurs.  | Making physical, sexual or verbal threats, which may include the use of intimidating body language or swearing.  |