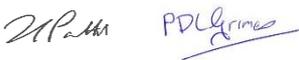


Ysgol Maesydderwen



Fairness & Dignity at Work Policy

Type: Local Authority

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CYNGOR SIR POWYS COUNTY COUNCIL

Fairness & Dignity at Work Policy

For Schools

YSGOL MAESYDDERWEN

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Cyngor Sir Powys County Council

Fairness and Dignity at Work Policy for Schools

Introduction

It is recognised that all employees have a right to be treated with dignity and respect at work. This principle also applies to other visitors to all of the Council's premises. If employees are not treated with dignity and respect it can have a hugely detrimental effect, causing fear, stress and anxiety for the individual(s) concerned and resulting in an increase in absenteeism levels, lower performance and reduced efficiency. In addition, there are a number of legislative measures in place that mean that such behaviour is unlawful.

The purpose of this policy and procedure is to assist in developing an environment and culture in which discrimination, harassment, victimisation and bullying are known to be unacceptable and also to provide adequate procedures to deal with such incidents should they occur.

1. Policy Statement and Scope

- 1.1 Every school in Powys is committed to a working environment, which offers equal opportunities and treatment for all employees, pupils, families and visitors.
- 1.2 The school deplures all forms of discrimination, harassment, victimisation or bullying under any circumstance. All employees are required not to behave in such a way as to cause offence to others regardless of who they are, in respect of their race, ethnic origin, nationality, skin colour, gender, gender identity, sexual orientation, religious or political convictions, trade union activities, victimisation as a result of challenges to harassment / discrimination, disabilities, sensory impairment or learning difficulties, status as ex-offender, age, real or suspected infection with AIDS / HIV, marital status, size or physical appearance.
- 1.3 Differences in attitude, background and culture can mean that what is perceived as unfair treatment or unacceptable behaviour by one person may not seem so to another. Within this policy it is used to describe any unwanted conduct which creates the effect of, violating a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for that person. The lack of intent to use unacceptable behaviour is no defence.

2. Policy Principles

- 2.1 This policy is written to seek to provide a working environment:
 - Which is free from discrimination, harassment, victimisation or bullying and the negative impact of such behaviour on the well-being and performance of employees, pupils, families and visitors.

- In which the dignity of individuals is clearly respected, and where all employees take responsibility for ensuring that this dignity is not abused.
- Where any employee who feels she / he has not been treated with dignity in the course of his / her work is able to raise a complaint without fear of ridicule, reprisal or victimisation, and in the knowledge that it will be treated seriously.
- Where a means of resolution in an immediate, discreet and confidential way is available to prevent repetition, with the option of pursuing a complaint formally.
- Where it is clearly understood by all employees that a breach of the relevant policy could lead to disciplinary action, which could result in dismissal.

2.2 Discrimination, harassment, victimisation or bullying amount to misconduct which may be gross misconduct depending on the nature and extent of the behaviour. Such misconduct will be dealt with under the Disciplinary Policy and may lead to dismissal.

2.3. Complaints against employees from pupils, families or visitors, including allegations of discrimination, harassment, victimisation or bullying, subject to investigation, may be dealt with in accordance with the Disciplinary Policy and Procedure. Unacceptable behaviour towards pupils, families or visitors, by employees will be treated as misconduct, which may amount, in serious cases, to gross misconduct and lead to summary dismissal.

3 Confidentiality

3.1 When an allegation is made, all parties must be mindful of their obligations with regards to confidentiality.

3.2 The complainant can be assured that any information divulged will be kept confidential within the system and the due processes applied. Failure to do so by any party privy to the information may be deemed to be misconduct and they will be subject to disciplinary action.

3.3 Where the complainant is clear about his/her options but refuses to take action where their Line Manager / Volunteer Adviser / Head Teacher or Chair of Governors believe that this would be appropriate, the complainant's decision must be accepted. The Line Manager / Advisor / Head Teacher or Chair of Governors should, in these circumstances, record the complainant's wishes and write to the complainant confirming the situation and making clear that the responsibility for taking no action rests with the complainant.

3.4 The only exception to this rule of confidentiality will be if the person with whom the complainant discusses the matter honestly believes that there is an unacceptable risk to the complainant, another person or to the school. In these circumstances they will be enabled to take necessary action to notify the Head Teacher or Chair of Governors who may commence an investigation even if the complainant does not agree.

4. Legal Framework

4.1 There is a body of legislation relevant to this policy. In respect of fairness and dignity at work as well as many other aspects of employment, the school has obligations under the following legislation.

- Race Relations Act 1976 (Amendment) Regulations 2003
- Race Relation Amendment Act 2000
- Sex Discrimination (Gender Reassignment) Regulations 1999
- Human Rights Act 1998
- Disability Discrimination Act 1995
- Criminal Justice and Public Order Act 1994
- Protection from Harassment Act 1997
- Race Relations Act 1976
- Sex Discrimination Act 1975
- Rehabilitation of offenders Act 1974
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion or Belief) Regulation 2003
- Data Protection Act 1998
- Civil Partnership Act 2004
- Age Discrimination Legislation

4.2 Failure to deal effectively with allegations or incidents may lead to legal action against the school as well as individual employees. Employers have a legal responsibility to ensure a healthy and safe working environment free from unlawful discrimination.

4.3 Apart from being strictly forbidden and against the policies of Equal Opportunities and Fairness and Dignity at Work, harassment is a criminal offence punishable by a fine of up to £5,000 and/or a prison sentence of up to six months under the Criminal Justice and Public Order Act 1994 and the Protection from Harassment Act 1997 to unlimited fines and imprisonment of up to five years.

5. Definition of Harassment

5.1 For the avoidance of doubt, harassment is “unwanted conduct that violates people’s dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.” In determining whether conduct can reasonably be considered as having such effect, the perception of the Complainant will be the determining factor.

5.2 The following paragraphs provide an illustrative but by no means exhaustive guide to types of behaviour that are considered unacceptable. Further examples of unacceptable behaviour can be found in Appendix A.

5.3 Sexual harassment can include actions such as unnecessary and unwanted physical contact; unwelcome advances, attention or propositions; displaying sexually explicit material; sexual comments; persistent, demeaning or offensive jokes; sexual innuendo or expletives; unwanted comments about appearance;

degrading text / messages on computer screens or elsewhere; indecent demands or requests for sexual contact; or actual sexual assault.

- 5.4 Racial harassment can include actions such as derogatory name-calling; insults and racist jokes; racist graffiti; verbal abuse and threats; physical threats or attacks; ridicule of an individual for cultural differences; deliberate exclusion.
- 5.5 Personal harassment is any vindictive, cruel, malicious, threatening, abusive or humiliating behaviour against another person such as insulting remarks based on the grounds of personal appearance, personal circumstances, religious beliefs, socio-economic status, etc.
- 5.6 All employees have responsibility for respecting the feelings of others in the workplace, and behaving in a way, which does not cause offence. Harassment can be intentional or unintentional, however, it is the duty of employees to be aware of the impact their conduct may have on others. Harassment is always unacceptable whether intentional or not, and all reported cases should be investigated in accordance with this policy. The perception of the Complainant regarding the behaviour, which they believe constitutes harassment, will be the determining factor.

6. Definition of Bullying

- 6.1 For the avoidance of doubt, bullying is a serious form of harassment. It may involve actions, comments, physical contact or behaviour that is found to be objectionable. Personal vindictiveness against an individual(s) is also a factor. Bullying can be defined as an individual act or a series of actions, criticisms or personal abuse either in public or private, which humiliates, intimidates, undermines or demeans the individual(s) involved.
- 6.2 Bullying is to be distinguished from the actions of a manager making reasonable (but perhaps unpopular) requests of his/her staff including the need to manage performance effectively.
- 6.3 Following are some examples of behaviours that are considered to be bullying:
 - Using abusive language;
 - Unreasonably removing areas of responsibility;
 - Continually ignoring or excluding an individual;
 - Deliberately undermining an employee by overload and constant criticism;
 - Picking on one person when there is a common problem;
 - Frightening someone with physical or other threats; and
 - Shouting at or humiliating an individual in front of pupils, colleagues or in private;
 - Preventing individuals progressing by intentionally blocking promotion or training opportunities.

This list is not exhaustive and is intended to act as a guide to illustrate types of unacceptable behaviour.

7. Impact of Harassment and Bullying

7.1 This policy recognises that conduct constituting harassment and bullying has a negative impact on the working environment and therefore the effectiveness with which the area operates. Some examples of the possible impact on employees who may be the subject of harassment and bullying are given below.

- **Physical Effects** - Feeling sick, tearful, sweating, shaking, disturbed sleep, palpitations, loss of energy, stomach/bowel problems, severe headaches, minor aches and pains
- **Emotional Effects** - Anxiety, irritability, panic attacks, depression, anger, aggressive feelings, lack of motivation, loss of confidence, feeling of isolation, reduced self-esteem

8. Management Responsibility

8.1 Managers, Headteachers and Governors have a responsibility to ensure that employees perform their roles effectively and to acceptable standards. Managers, Headteachers and Governors also have a responsibility to issue reasonable instructions and expect them to be carried out. The legitimate management of employees should be distinguished from bullying or harassing behaviour. Crucially managers, Headteachers and Governors should:

- foster a climate that discourages the occurrence of harassment by educating employees in relation to behaviour that might be deemed as inappropriate;
- pay attention to style of dealing with people, ensuring that employees are treated with dignity and respect;
- act upon potential breaches of this policy and unacceptable behaviour despite the absence of a formal complaint;
- ensure that employees have an understanding of this policy and know where to seek help.

8.2 Where an individual becomes aware of discrimination, harassment, victimisation or bullying, whether or not a formal complaint has been made, they must take the matter forward and report it to the Head Teacher or Chair of Governors after discussing it with the victim unless expressly requested not to do so.

8.3 Managers, Headteachers and Governors must understand this Fairness and Dignity at Work policy and procedure and be able to provide information on it as required. Training will be provided to managers, Headteachers and Governors to assist them in undertaking their responsibilities.

8.4 The only exception to this rule of confidentiality will be if the person with whom the complainant discusses the matter honestly believes that there is an unacceptable risk to the complainant, another person or to the school. In these circumstances they will be enabled to take necessary action to notify the Head Teacher or Chair of

Governors who may commence an investigation even if the complainant does not agree.

9. Employee Responsibility

9.1 All employees are responsible for complying with this policy and procedure, co-operating with those who are responsible for carrying out associated duties and for ensuring that they do not incite, condone or commit any form of discrimination, harassment, victimisation or bullying.

9.2 Individual employees also have a role to play by:

- helping to create a climate that discourages harassment. Making it clear that they find such behaviour unacceptable;
- supporting colleagues. This may include challenging the harasser at the time of the incident, offering support in any other way and co-operating in any investigation; ensuring no victimisation of Complainants occurs.

9.3 If an individual employee becomes aware of an incident of discrimination, harassment, victimisation or bullying, he / she must report it to the relevant Line Manager or Head Teacher or Chair of Governors as and when it occurs.

9.4 Differences in culture, attitudes and experience, or misinterpretation of social signals, can mean that what is perceived by the person experiencing the behaviour as bullying and harassment, may be perceived by others as normal. Employees should be aware that they may need to modify their behaviour in response to the feelings and sensitivity of others.

10. Relevant HR Policies

- Equality of Opportunity in Employment Statement and supporting Good Practice Guides
- Grievance Policy
- Disciplinary Policy
- Prevention and Mitigation of Stress in the Workplace Policy and Procedure
- Violence at Work Policy and Procedure

10.1 The Fairness and Dignity at Work Policy should be used for grievances that are related to harassment and bullying. Managers, Headteachers, Governors, Human Resources Advisers and Trade Unions should advise the Complainant on which procedure is appropriate. However, during the course of an investigation if it becomes apparent that it is not a straightforward grievance or harassment case, and that an inappropriate procedure has been used, steps should be taken by the investigating officers to use the appropriate procedure. All parties should be made aware of this.

11. Advice and Counselling

- 11.1 In addition to the support and advice provided by management to employees who feel that they have been discriminated against, harassed, victimised or bullied, support and advice is also available from a number of other sources such as the Human Resources Department and Trade Unions. Information on the policy and procedure and options for possible action are available from these sources.
- 11.2 Counselling, support and advice is also available to those against whom complaints have been made.
- 11.3 Facilities for confidential interviews will be made available.
- 11.4 Support / advice / training will also be made available and may be required to be undertaken, for those individuals whose behaviour has been found to be unacceptable, following informal and formal processes, including disciplinary action, to assist in preventing recurrence.

12. Communication

- 12.1 Every effort will be made to communicate as widely and appropriately as possible the school's commitment to eliminate unacceptable behaviour (staff induction, Staff Handbooks, notice boards, etc.) and the policy and procedure to support this aim, including the availability of confidential counselling, advice and information, the means of making a complaint and the reassurance that complaints will be handled effectively.

13. Training

- 13.1 Training will be provided to ensure that those with management responsibility for employees are clear about the policy, the procedures and their own responsibilities.
- 13.2 All employees are expected to undertake Dignity at Work training, the responsibility for which lies with the Head Teacher.
- 13.3 Training will be provided for the Governors who are Investigatory panel members to ensure they understand the Dignity at Work policy and procedure and associated policies and procedures, such as the disciplinary procedure and are able to carry out investigations fairly and thoroughly.

14. Monitoring

- 14.1 Monitoring of the operation of the policy will be carried out as part of planned reporting of the Council's Equal Opportunities Policy.
- 14.2 The monitoring will be aimed at measuring the number and gender / occupation / staff and nature of complaints, assessing trends and identifying any problem areas. A means of monitoring whether individual complaints have been resolved, with no subsequent victimisation, will also be sought.
- 14.3 The monitoring will be a means of checking that the commitment to communication, training and the provision of counselling and advice has been fulfilled.

Forms of Harassment

1. Race

- 1.1 This is offensive or hostile treatment of an individual(s) on the basis of their race, nationality, ethnic origin, or skin colour.

Examples include:

- Racial abuse of a physical, verbal or prejudicial nature, racist jokes, insults, ridicule or name calling of a racist nature, ridicule or insulting remarks based upon cultural dress, the display of racially offensive written or visual material including graffiti and open hostility to black and other racial groups. The sending of degrading or offensive text/email messages.

More subtle forms include:

- Deliberate unfair allocation of work, unequal treatment in the application of conditions of employment, unreasonable pressure to complete tasks, exclusion from conversation and normal workplace activities or social events, unreasonable withholding of permission to attend training or similar events and disproportionate monitoring of timekeeping.

2. Gender

- 2.1 This is unwanted conduct of a sexual nature, or other conduct based on gender affecting the dignity of women and men at work including:

- 2.2 Unnecessary touching and invasion of another person's body space, unwelcome, unwanted advances, patronising comments, propositions. Pressure of sexual activity, suggestive remarks, innuendoes or lewd comments, jokes of a sexual or prejudicial nature and unwanted comments on dress or appearance. The sending of degrading or offensive text/email messages. The display of pornographic or sexually suggestive pictures, objects or written material, leering or sexually suggestive gestures are examples of non-verbal conduct which fall into this category.

3. Gender Reassignment

- 3.1 Offensive or hostile treatment of an individual on the basis of their going through gender reassignment, and at any stage of the process. This may include:

- Offensive, patronising language, action or behaviour including jokes, inappropriate comments and questioning, the consistent or repeated failure to provide facilities or requirements, sending of degrading or offensive text/email messages.

4. Disability

4.1 This is unfair and unwelcome treatment based on the fact that a person has a physical or sensory or mental impairment or, learning difficulties, including:

- Offensive patronising language, action or behaviour including jokes about disability, inappropriate comments and questioning regarding a person's impairment, the consistent or repeated failure to provide clear identified facilities or requirements in order for a person to perform his/her duties or receive an adequate service, prevention of attendance at training or similar events. The sending of degrading or offensive text/email messages.

5. Age

5.1 Ridiculing or demeaning behaviour based on stereotypical perceptions and prejudices, about a person(s) because of their mature age and experience, or lack of experience in the case of a young person, including:

- Unnecessary stipulation of age as a criteria in job descriptions, not taking a person seriously because of his/her age, unfair exclusion of people from training or promotion.

6. Sexual Orientation

6.1 Behaviour, which condemns, ridicules or excludes individuals on the basis of stereotypical perceptions of Sexual Orientation including:

- Offensive jokes, ridicule or name calling, comments that are anti-lesbian or anti-gay or which stereotype lesbians or gay men, the display or circulation of offensive written or visual material, use of verbal abuse, threats or derogatory comments about people who are, or are assumed to be lesbian or gay, using intrusive questioning about a person's partnership or domestic circumstances, the systematic exclusion of lesbians or gay men from workplace activities, and unequal treatment in the application of conditions of employment.

7. HIV/AIDS

7.1 Treating somebody adversely because he/she has or it is suspected/believed that he/she has HIV or AIDS.

8. Religion/Belief

8.1 Socially unacceptable behaviour, which fails to accommodate or acknowledge the rights or needs of individuals with different and dedicated religious convictions, beliefs and practices. This may take many forms including criticising people for items worn for religious reasons. Denigrating cultural festivals, or making derisory comments against an individual's beliefs.

9. **Bullying**

9.1 Persistent action, which humiliates, intimidates, undermines or demeans the person involved including:

- Using abusive language, unreasonably removing areas of responsibility, continually ignoring or excluding an individual, deliberately setting objectives with impossible deadlines, picking on one person when there is a common problem, frightening someone with physical or other threats and continually shouting at or humiliating an individual in front of pupils, colleagues or in private.

10. **Stalking**

10.1 Stalking is a form of harassment which is being more commonly reported. It involves pestering an individual, either in person or in writing or by electronic formats or on the telephone. Stalking can also involve following an individual or spying on them, alarming the recipient or causing distress and may involve violence or lead to a fear of violence.

NB. The above examples are a general guideline and some of the offences listed under a particular heading may also apply to other situations. The above examples are not exhaustive.

Procedure for Dealing with Cases of Bullying and Harassment

1. Dealing with a Complaint Informally

- 1.1 It is preferable for all concerned that complaints of harassment are dealt with informally wherever possible. This is likely to produce solutions which are speedy, effective and minimise embarrassment and the risk of breaching confidentiality.
- 1.2 However, informal solutions should not be used to discourage employees from recourse to formal procedures where they are the preferred option. Furthermore there will be some instances where the seriousness of the complaint warrants formal action, and possibly criminal proceedings. Formal procedures may also be appropriate where a previous attempt at informal resolution has proved unsuccessful.
- 1.3 The general principle should be that the decision to progress a complaint rests with the individual. There may, however, be situations in which the principle has to be balanced against the employer's responsibilities to ensure the general welfare of employees – particularly where serious complaints are made which the complainant is unwilling to pursue.
- 1.4 In such cases counselling may help and encourage the complainant to pursue the matter, though no undue pressure should be exerted. Failure to deal with such accusations also leaves the accused perpetrator in an invidious position if the allegations cannot be dealt with. All reasonable efforts should therefore be made to bring the matter into a forum where it can be investigated and satisfactorily resolved.
- 1.5 In many cases of harassment the recipient may wish to raise the problem informally with the alleged perpetrator pointing out that their conduct is unwelcome, offensive or interfering with their work. A written request that the behaviour stops may be effective.
- 1.6 The employee who finds it difficult or embarrassing to raise the problem directly with the person creating the problem may wish to seek the support of their line manager, Head Teacher, Chair of Governors, trade union representative, Human Resources or another colleague.
- 1.7 Where the complaint is about an employee's line manager, the complaint may be raised with a more senior manager or an appointed Governor. The manager or Governor will meet the alleged perpetrator and may arrange a meeting of that individual with the complainant. If a meeting is arranged, the complainant and the alleged perpetrator may be accompanied by a trade union representative or work colleague.
- 1.8 The purpose of the meeting as noted in 1.7 above is to resolve matters informally. A record of the conversation should be kept. The manager or Governor may seek the advice of Human Resources to assist in resolving matters.

- 1.9 As part of the informal procedure, the services of a mediator may be engaged through Human Resources.
- 1.10 Where the person against whom the complaint has been made indicates that she/he was unaware that the behaviour was unwelcome and unwanted, or offensive and constituted discrimination, harassment, victimisation or bullying, but acknowledges that there is a problem, then with the agreement of the complainant, steps will be taken where possible to put matters right and prevent a recurrence.
- 1.11 This may include a reminder/explanation of what constitutes unacceptable behaviour, the policy and procedure to be followed should a formal complaint be made and the possible outcome of any formal procedure.
- 1.12 It is recognised that complaints may be orchestrated with mischievous or malicious intent. These will be viewed seriously and may result in disciplinary action up to and including dismissal against the complainant.

2. The Formal Procedure

- 2.1 The formal procedure will be necessary in those instances where the informal route has proved ineffective or where the allegation of harassment is of such a serious nature that it is necessary to invoke the formal procedure from the outset. The individual who is claiming harassment has the right to proceed straight to the formal procedure if they wish using the process as described above.

3. Making a Formal Complaint

The employee should submit their complaint of bullying or harassment in writing to the Headteacher or Chair of Governors.

The written complaint needs to include:

- Details of the time, date, place and any other relevant data, including a note of what has occurred;
- Details of any witnesses, or persons in the immediate neighbourhood who may not have witnessed the event but may at least be able to corroborate that the persons involved were at the location at the time stated;
- details of any steps taken to stop the unacceptable behaviour, including any previous (informal) action;
- Details of any other employees who have been treated in the same way;
- Details of any former complaint made about the incident or linked incidents;
- Details about where and to whom the complaint was made.

4. The Investigative Process

- 4.1 Upon receipt of a formal written complaint, the Head Teacher or Chair of Governors or their nominated officer will arrange for the complaint to be formally investigated by a Human Resources Adviser, who will use the Grievance or Disciplinary procedure to investigate this matter.

5. Informal Action

- 5.1 If there is evidence that harassment or bullying has taken place, the Head Teacher or Chair of Governors will decide as to what action is appropriate. When it is judged that harassment has occurred, but formal disciplinary action is not warranted, other action such as guidance, counselling, training or voluntary transfer to a another class without invoking the disciplinary procedure may be recommended.

6. Formal Action

- 6.1 Where it is deemed that the actions of the alleged perpetrator warrant formal disciplinary action, the action must be carried out in accordance with the Council's Disciplinary Procedure.
- 6.2 It may be necessary to relocate or transfer one party to an alternative work location within the school, so that both parties do not work together. It is the perpetrator who should be moved or transferred and not the complainant. However, the complainant should be given prior choice as to whether they wish to be transferred instead. Where a transfer occurs, it should not lead to any disadvantage for the complainant. Where neither party wishes to transfer, the Head Teacher, in consultation with the Chair of Governors, may compulsorily transfer the perpetrator where this is judged appropriate.
- 6.3 If a complaint is not upheld, consideration may still be given where practicable, to the voluntary transfer of one of the employees concerned, rather than requiring them to continue to work together against the wishes of either party. In such cases, the person against whom the complaint was lodged should be given first choice as to whether they want to be transferred.

FLOWCHART OF PROCEDURE

APPENDIX C

