

LOOE COMMUNITY SCHOOL

DIGNITY AT WORK POLICY

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DIGNITY AT WORK POLICY

1 INTRODUCTION

This policy has been determined by the Local Education Authority in consultation with the recognised trade unions, teachers' associations and the Governors' Council. This policy is recommended to schools for adoption immediately. Should schools decide to develop their own procedure, they will need to re-open trade union consultation on an individual basis.

2 PURPOSE

The purpose of this policy is to communicate the expectations that the Governing Body of Looe Community School has about the standards of language and behaviour that all members of staff have the right to expect and are expected to show to others in their communication and behaviour at work. It aims to assist in the development and maintenance of a working environment in which bullying and harassment are known to be unacceptable and to ensure that, where it occurs, there are adequate arrangements in place for raising and dealing with it and for preventing reoccurrence.

3 SCOPE

This policy applies to instances of alleged bullying or harassment in the workplace as defined in the Procedures & Notes of Guidance that accompany this Policy. Members of staff may raise any concerns arising from their employment which are not captured by this definition through the School's Grievance Procedure.

The policy applies to the Governing Body and all members of staff working under a contract of employment at the school. These standards of behaviour also apply to school or university students in temporary work placements, agency workers temporarily employed by the school and casual workers, including supply teachers, in terms of the standard of behaviour such individuals are expected to demonstrate and can expect to receive during their work period with the school. The Governing Body will also make clear its expectations regarding standards of behaviour to all contractors and partners whose employees work on or in school premises or undertake work on the Governing Body's behalf.

Headteacher, other managers and the Governing Body have specific responsibilities to direct the work of members of staff and to manage performance. It is not intended that this policy affects Headteachers, other managers or the Governing Body exercising these responsibilities appropriately and fairly. This includes issuing instructions, providing critical feedback to allow employees to improve their performance, taking action to control absence or to deal with misconduct, even whether employees feel that the action is unjustified or unfair.

4 POLICY STATEMENT

The Governing Body values the contribution made by all members of staff to the delivery of a high quality education service for the benefit of the school and the community of Cornwall. We recognise that the quality of this contribution will be influenced and enhanced if all members of staff can enjoy a working environment which supports and encourages them in working to their full potential.

The Governing Body is committed to promoting and sustaining a working environment in which all members of staff feel valued and respected and in which they co-operate and communicate effectively with each other in seeking to achieve the highest standards of work performance. Any language or behaviour which has the effect of undermining, humiliating or threatening another person, including harassment and bullying, is unacceptable and will be neither permitted nor condoned. We believe that most members of staff will actively support this commitment and will use language and behaviour that is consistent with our expectations. We also recognise, however, that we need to have clear arrangements in place for raising and addressing any instance of the use of language and behaviour that is incompatible with these expectations.

The Governing Body will demonstrate its commitment to a working environment and working relationships which are based on respect for and recognition of the individual contribution made by all members of staff by:

- clearly communicating the standards that all members of staff have the right to expect and are expected to demonstrate to others in all workplace communications;
- equipping the Headteacher and Managers with the knowledge and skills required to influence a positive working environment and working relationships;
- alerting all members of staff to the type of language and behaviour that is not acceptable and, where this occurs, how this will be dealt with;
- identifying a range of sources of information and assistance for members of staff to help them decide what to do if they experience unacceptable language or behaviour (appropriate information is contained in the Procedures and Notes of Guidance accompanying this Policy);
- establishing appropriate informal and formal arrangements for members of staff to raise instances of unacceptable language or behaviour. Information concerning these arrangements are given in the Procedures and Notes of Guidance accompanying this Policy;
- ensuring that complaints are handled sensitively and are fully investigated through appropriate procedures. Information concerning these arrangements are given in the Procedures and Notes of Guidance accompanying this Policy;
- monitoring the implementation of this policy and evaluating its effectiveness.

5 RESPONSIBILITIES

5.1 The Governing Body, Headteacher, Senior Management Team and Line Managers:

The Governing Body, Headteacher, SMT and Line Managers have a responsibility to implement this policy by:

- setting examples and standards of behaviour in the workplace;
- recognising destructive behaviour and taking action where it occurs;
- ensuring that staff (particularly new appointments) know about this policy and how to raise bullying/harassment issues;
- being clear about their role in dealing with complaints.

5.2 Members of staff:

All members of staff are responsible for their own behaviour and must adhere to any DfES and school Codes of Conduct. Each member of staff has a role to play in creating a work environment in which the dignity of all members of staff is respected. Every member of staff is required to:

- take ownership of and adhere to this policy;
- treat colleagues, pupils and parents with dignity and respect and be aware of how their behaviour can affect other people;
- support colleagues who are being bullied or harassed and bring incidents to the attention of line management or trade union representative;
- set an example for new colleagues;
- consider their language and attitudes to others and think before making personal comments;
- use this Policy and associated procedures appropriately.

6 PROCEDURAL ARRANGEMENTS

Appropriate informal and formal procedural arrangements have been developed to support this Policy. Full details of these can be found in the Procedures & Notes of Guidance document accompanying this Policy.

7 CONFIDENTIALITY

In all aspects of implementing the procedural arrangements of this Policy the matter of confidentiality is important. It is the Governing Body's expectation that information obtained during the course of managing or in any other way being involved with complaints of bullying or harassment will be treated as being confidential to those who have a legitimate interest in the issue. Anyone failing to maintain confidentiality may be subject to disciplinary action.

The only occasion where confidentiality may be breached is when a member of staff discloses a serious allegation but does not wish to pursue this complaint. In this event the person to whom the member of staff discloses information should seek advice from CYPF Personnel to determine whether or not the member of staff or other members of staff may be at a potential risk from the alleged bully/harasser. In instances where an unacceptable level of risk is determined the allegation will have to be disclosed because of the duty of care to protect members of staff.

8 MISUSE OF THIS POLICY AND ASSOCIATED PROCEDURES

It is in the School's interest that the Headteacher, Governors, Line Managers and all members of staff should be able to carry out their duties without the threat of ill-intentioned, malicious or vexatious complaints. Complaints of bullying or harassment will be treated seriously by the Governing Body. Anyone found to be making mischievous or malicious complaints will therefore be subject to the appropriate disciplinary procedures.

If a complainant decides to withdraw a complaint at any stage during the procedure, the Governing Body reserves the right to continue with an investigation. Whilst it is understood that members of staff may not wish to pursue a complaint for legitimate reasons, if it is found that an allegation is malicious or fabricated the complainant may be liable to disciplinary action.

9 MONITORING AND REVIEW OF THE POLICY

The Governing Body and Cornwall County Council wish to ensure that this policy and associated procedures are effective and address all bullying and harassment issues raised appropriately. A review of the policy will be undertaken one year after its initial introduction by the County Council.

A monitoring system will be established at the outset to monitor the number, nature, origin and outcome of complaints which are made. This monitoring system will involve managers/Headteachers/Governors who deal with bullying/harassment complaints completing a monitoring form and returning it to CYPF Personnel.

The information gathered for monitoring purposes will not reveal the identity of the individuals involved in any case. It will be used for the purpose of analysing the effectiveness of the policy and whether any changes to the policy are required to be made.

Comments will be invited regarding the effectiveness of the policy from the trade unions and a report will be made to the Council's Management Board with statistical information derived from the monitoring process and any recommendations considered necessary to improve the effectiveness of the policy and associated procedures.

Thereafter, a report will be made to the Management Board on an annual basis concerning the statistical information derived from the monitoring process and any key issues concerning the effectiveness of the policy and associated procedures.

10 COMMUNICATION AND TRAINING

Training will be made available to Governors, Headteachers, managers and supervisors in relation to their responsibilities under this policy.

Training will be made available to those who may be asked to act as an Investigating Officer within the procedural arrangements accompanying this Policy, and, more generally, in the skills required to investigate a complaint under this policy.

This policy will be communicated to all existing members of staff and all new members of staff will be made aware of this policy through the school's induction programme.

All members of staff will be informed about where a copy of this policy can be found (eg in the School Handbook in the School Office).

PROCEDURES AND NOTES OF GUIDANCE

DIGNITY AT WORK POLICY

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1 INTRODUCTION

These guidance notes have been produced as a supplement to Looe Community School's Dignity at Work Policy.

They provide general notes of guidance concerning the impact and legal background in relation to dignity at work, and guidance regarding definitions of acceptable and unacceptable behaviour in the workplace as well as detail of support and advice available to members of staff in connection with the Policy.

The informal and formal procedures associated with the Dignity at Work Policy are also outlined in this document.

Please ensure that you read this document in conjunction with the policy statement.

2 LEGAL FRAMEWORK OF BULLYING AND HARASSMENT

Currently there is no single piece of legislation that confers explicit rights and responsibilities on employees and employers in relation to acts/behaviour affecting individuals' dignity at work, although a Dignity at Work Bill is currently proceeding through Parliament that aims to do precisely that. Currently, according to circumstances, it is open to employees to take action against their employer for acts of bullying and harassment in the workplace under various piece of health and safety or employment legislation. Full details of the legal framework relating to acts of bullying/harassment at work are set out in Appendix 1.

3 THE IMPACT OF BULLYING AND HARASSMENT

Bullying and harassment can impact both in terms of the individual experiencing the bullying/harassment and on the overall organisation.

For the individual, the impact of bullying/harassment at work results in feeling unhappy, threatened, humiliated, demeaned or undermined. This in turn could have a more profound effect on the individual both in terms of their mental and physical health. This can include a range of symptoms, such as stress, fear, anxiety and depression to physical sickness, excessive drinking/smoking, digestive and/or nervous disorders and difficulty in concentrating.

For the organisation, bullying/harassment can also result in high absenteeism, an increase in the number of accidents, poor performance and general low morale of employees and an increased labour turnover.

4 DEFINITIONS

4.1 Acceptable behaviour - effective workplace communications

Effective workplace communications are characterised by:

- clear and reasonable goals, expectations and performance standards;
- acknowledgement of and respect for the contribution made by all colleagues;
- co-operation;
- honest and open communications;

- evidence based feedback arrangements;
- mutual trust and confidence;
- personal self-awareness and an understanding amongst members of staff of the impact of their language and behaviour on colleagues.

The Governing Body expects all its members of staff to contribute to the attainment of these standards in the interests of delivering a high quality education service to the school and the community in Cornwall.

Having described the features of effective workplace communications we recognise that the behaviour of individuals in the workplace can vary from day to day. Colleagues may appear occasionally impatient, pre-occupied or fail to show the courtesy to others that would normally be the case. This policy is not intended to deal with occasional minor lapses of good manners, courtesy or respect.

Similarly, Headteachers, other managers and the Governing Body have specific responsibilities to direct the work of individuals and to manage their performance. By issuing instructions, providing critical feedback to allow a member of staff to improve their performance, taking action to control absence or to deal with misconduct, managers are exercising their legitimate responsibilities, even where a member of staff feels that the action is unjustified or unfair. This policy is not intended to deal with a member of staff's concerns in this regard, which will normally be addressed through the School's Disciplinary Procedure, the School's Capability Procedure, the School's Whole School Attendance Policy or the School's Grievance Procedure.

4.2 Unacceptable behaviour – bullying and harassment

Unacceptable behaviour in the context of the Dignity at Work Policy can generally be described as bullying or harassing language and behaviour that is unwanted and which a person finds intimidating, upsetting, embarrassing, humiliating or offensive.

This language or behaviour may be being exhibited by an individual consciously or unconsciously, ie they may or may not be intending to bully/harass. However, the intention or non-intention to bully/harass should not be the determining factor in assessing whether or not someone has been exposed to bullying/harassment – it is the deed itself and the impact on the recipient that determines this.

More specific information concerning bullying and harassment is given below.

4.2.1 Bullying

Bullying is the use of language or behaviour either publicly or in private which has the effect of threatening, humiliating, undermining or demeaning the recipient. Typically it consists of a series of incidents which may be trivial in themselves but have a cumulative effect on the recipient. It may arise between individual colleagues, between a group of employees and a colleague or between a manager and a subordinate.

Bullying differs from harassment in that the focus is less likely to be on a specific feature of an individual, such as gender, race or disability, than on the competence, or alleged lack of competence, of the person being bullied.

Specific examples of bullying behaviour include:

- exclusion or victimisation of an individual;
- unfairly withholding information that has an impact on a person's performance;
- constant changing of work deadlines or work guidelines to specifically undermine an individual's effectiveness;
- repeated accusation of making errors without justification;
- humiliating someone in front of others;
- deliberately ignoring opinions/views of an individual;
- removing areas of responsibility without justification;
- verbal, physical threats or intimidation;
- copying memos that are critical about someone to others who do not need to know;
- overbearing supervision/excessive monitoring or work without justification;
- deliberately undermining a competent worker by overloading them;
- preventing individuals progressing by intentionally blocking promotion or training opportunities.

This is not an exhaustive list.

4.2.2 Harassment

Harassment in general terms is unwanted conduct affecting the dignity of men and women in the workplace and includes any verbal or physical abuse, unwanted behaviour or advances. This would also include any form of non-verbal harassment such as harassment via e-mail. The actions or comments are viewed as demeaning and unacceptable to the recipient. Some forms of harassment can also have a specific meaning under existing legislation (eg sex, race and disability) and can amount to unlawful discrimination under the appropriate legislation.

Harassment can be on the grounds of a variety of attributes including sex, race, disability, religion, sexual orientation, age, social background, political belief and trade union membership. Specific examples of what could be viewed as harassment in relation to these attributes include:

- demeaning/offensive remarks;
- displaying offensive/explicit material;
- inappropriate/abusive language;
- inappropriate stereotyping resulting in employment opportunities not being afforded to an individual;
- exclusion from workplace talk/activities;
- offensive jokes;
- innuendos and teasing

This is not an exhaustive list.

5 ADVICE AND SUPPORT

Any member of staff who believes they are experiencing bullying or harassment may seek advice and support through various options. This includes established channels to seek advice and support (eg through their line manager or trade union representative).

Members of staff may also choose to seek professional support through the Council's Occupational Health Unit or the confidential arrangements that the Council has with 'Relate'. This allows

members of staff to discuss problems with a qualified counsellor. This service may also be helpful to members of staff against whom an allegation of bullying or harassment has been made.

Other assistance is available through contacting helplines that have been established by external organisations/charities, such as The Andrea Adams Trust.

Seeking advice and support through any of the channels described above enables members of staff to discuss problems in confidence, to help them decide if they are experiencing bullying/harassment and to discuss any possible strategies to cope with what they are experiencing (for example, approaching a bully/harasser to inform them that their behaviour/language is upsetting, keeping a diary of incidents and confiding in another party for support or information as to how to make a complaint).

Specific contact details are listed below:

Internal:

- Personnel Services – members of staff wishing to contact a personnel representative should contact CYPF Personnel.
- Headteacher/Line Manager/Governor;
- Colleague;
- Trade Union Representative;
- Occupational Health – members of staff can contact Occupational Health through the general contact line on extension 3138.

External:

- Relate (Tel: 01726 74007, quoting reference 'REL') is a national charity that provides counselling services to individuals. The Council has engaged Relate to provide such services free to all members of staff.
- National Workplace Bullying Advice Line (Tel: 01235 212286) is a confidential helpline dedicated to offering support and advice to individuals who believe they are being bullied at work.
- Andrea Adams Trust Helpline (Tel: 01237 704900) is a confidential helpline run by the UK charity dedicated to tackling workplace bullying.
- Supportline (Tel: 020 8554 9004) offer confidential emotional support to any individual on any issue.
- Commission for Racial Equality, London & South England (Tel: 020 7939 0000) is a publicly funded non-governmental body set up to tackle racial discrimination and promote equality.
- Equal Opportunities Commission (Tel: 0845 601 5901) is a leading agency established to eliminate sex discrimination.
- Disability Rights Commission (Tel: 08457 622 633) is an independent body set up to secure civil rights for disabled people.
- Terence Higgins Trust (Tel: 0845 1221 200) provides advice and guidance concerning gay/lesbian issues and HIV awareness.
- Samaritans, Truro (Tel: 01872 277277)
- NAHT Stress Counselling Helpline (Tel 08705 234569)
- NAHT Legal Helpline (Tel 08705 234500)
- Teacherline (Tel: 08000 562561) provides counselling support and advice for all teachers.

6 PROCEDURES

The following procedures have been developed to supplement the Dignity at Work Policy by dealing with occasions where bullying or harassment may be occurring and to resolve complaints carefully and sensitively by:

- clarifying how complaints should be made and resolved;
- ensuring complaints are dealt with promptly, fairly and consistently;
- protecting the rights of the complainant and alleged bully/harasser.

Members of staff are strongly advised to keep a written record of any incident including date, time and place the incident occurred, a full description of what happened and name(s), if known, of the alleged bully/harasser and any witnesses.

Where an individual believes that they have been harassed or bullied, there are different procedural options open to them. Members of staff may seek advice from any of the contacts listed above before beginning any of the following procedural options.

6.1 Informal procedure

Members of staff have the option to make use of an informal procedure in the first instance.

The advantage of using an informal procedure is that it allows for speedy, confidential and effective resolution of problems, causing the minimum of disruption, which may assist in the process of resuming satisfactory working relationships through dialogue and raising levels of understanding.

6.1.1 Option 1 – personal action

It is recognised that most recipients of bullying/harassment simply want the bullying/harassment to stop. In some cases it may be possible and sufficient for a complainant to attempt to resolve matters informally by explaining to the bully/harasser that their behaviour is unwelcome, that it offends them or makes them uncomfortable, is interfering with their work and to ask for it to stop.

A complainant may feel that they are able to meet with the alleged bully/harasser in which case they should explain at the outset that they wish to try and resolve the situation within the informal procedure of this Policy. It should be noted that the meeting itself, conversations, allegations and resolutions are confidential and all parties to the meeting must agree this. Under this option no record will be placed on any personal file but the individuals involved should keep a personal record and they may refer to this in any subsequent action.

There may be some situations where a member of staff may prefer to telephone or write to the alleged bully/harasser in the first instance. Any initial contact should then be followed up by a face to face meeting, as outlined above, in order to try and resolve the situation through the informal process.

6.1.2 Option 2 – complainant approaches a colleague or trade union representative or raises the problem with their line manager, a senior manager or Governor

In circumstances where an member of staff feels that it is too difficult or embarrassing for them to approach an individual on their own behalf, an alternative informal approach would be to seek support from, or for an initial approach to be made by a colleague or trade union representative.

Any face to face meeting in such circumstances should be undertaken as outlined previously. Again, under this option no record will be placed on any personal file but the individuals involved should keep a personal record and they may refer to this in any subsequent action.

Members of staff can also choose to raise the complaint with their line manager, Headteacher or senior manager with the aim of reaching an informal resolution. In instances where the alleged bully/harasser is the member of staff's line manager the member of staff has the option to approach the Headteacher or other senior manager as part of the informal procedure. Where the alleged bully/harasser is the Headteacher or a Governor, the member of staff has the option to approach the Chair of Governors or another member of the Governing Body.

In such a situation, after discussing the issue with the complainant, the manager/Headteacher/Governor will ask to meet with the alleged bully/harasser on an informal basis with the aim of explaining that from the perspective of the complainant there is a problem. It must be clear that there is no assumption of bullying/harassment at this stage and that the meeting is part of an investigation. The alleged bully/harasser's version of events will be listened to and the aim is to resolve the situation and resume working relationships as soon as possible.

The manager/Headteacher/Governor should record both discussions and provide feedback to the complainant if appropriate. It may be possible to effect a joint meeting with both parties to promote the re-establishment of good working relationships but both parties must be willing to participate in this process in order for it to be meaningful.

Whilst it is important to retain a record of what is said, no information will be placed on the personal file of either individual. It could, however, be referred to in any subsequent formal action or should further incidents occur.

The manager/Headteacher/Governor should ensure that they have an informal follow up meeting after the original meeting to check that the member of staff does not experience any victimisation in respect of making a complaint informally.

6.2 Formal procedure

If a situation remains unresolved after the informal procedure has been exhausted or where the bullying/harassment is of a serious nature and the complainant does not wish to make use of the informal procedure, it may be necessary to move to the formal procedure.

The formal procedure under this policy has been formulated specifically to deal with instances of bullying or harassment and is, in effect, a detailed substitute for the Model Grievance Procedure in such circumstances. The general principles of the formal procedure are:

- there will be a prompt, thorough, impartial investigation with due regard to the rights of both the complainant and the alleged bully/harasser;
- both parties and any witnesses have the right to be represented and accompanied by a trade union representative throughout the formal procedure;
- parties and witnesses who are not members of a trade union have the right to be represented and accompanied by a colleague throughout the formal procedure;
- the alleged bully/harasser will be provided with clear details of the complaint and will be given the opportunity and time to respond at all stages;
- there will be no victimisation of any party to the investigations.

6.2.1 How a complaint should be made

Complainants should make a formal complaint using the form attached as Appendix 2. This form should be submitted to their line manager, Headteacher, a member of the senior management team, or a member of the Governing Body. Complainants can also give a copy of the complaint form to their trade union representative.

In instances where the line manager is the alleged bully/harasser or is a principal witness to the events described in the form, it may be necessary to submit the complaint to the next level of management. In instances where the Headteacher or a Governor is the alleged bully/harasser or a principal witness, it will be necessary to submit the complaint to the Chair of Governors, or another member of the Governing Body.

The form should detail the allegation, confirming dates and details of the incident(s), witnesses and any attempts to resolve the situation if relevant.

Formal complaints should be raised within 4 school weeks of the event or series of events that has resulted in the complaint being made or as soon as is reasonably practicable thereafter.

6.2.2 Process once a complaint has been received

If a manager (other than the Headteacher) or Governor receives the complaint, they should refer the issue to the Headteacher, who will liaise with a member of the CYPF Personnel Team, and arrange for a thorough, confidential investigation to be carried out as soon as possible by an appropriate Investigating Officer. Ideally the investigation should be undertaken by an individual who does not have line management responsibility for either the complainant or the alleged bully/harasser. The Investigating Officer should also be at the same grade or above that of the alleged bully/harasser.

Where the Headteacher is the alleged bully/harasser, the Chair of Governors will liaise with a member of the CYPF Personnel Team and arrange for the investigation to take place.

Where a Governor is the alleged bully/harasser, the matter should be referred to the Governor Services Team.

The Investigating Officer should arrange a meeting with the member of staff making the complaint to commence the investigation as soon as reasonably practicable. Even if the first meeting is of an exploratory nature, it should normally take place within one school week of the complaint being received. When necessary, any further meetings will be arranged within one calendar week of the previous one.

The alleged bully/harasser will be informed that a complaint has been received and of the precise nature of the complaint.

At the outset of the investigatory process, consideration should also be given as to whether it is appropriate for both parties to continue working in their roles. There are a number of different options that may be appropriate to specific circumstances. For instance, where practicable, if it is felt that the parties involved should not work together during the period of an investigation, efforts could be made to relocate one or both parties in such a way that they continue to do their job and remain an effective part of the school.

In some circumstances (eg in the instance of a serious allegation which could constitute gross misconduct or where continued presence at work could inhibit proper investigations) the alleged bully/harasser may be suspended from work on full pay at any time before or during any preliminary investigation. Such suspension will follow the same procedure as detailed in the School's Disciplinary Procedure. In such circumstances, the procedure followed from this point will be the School's Disciplinary Procedure.

In other circumstances, the Investigating Officer should undertake the preliminary investigation including separate interviews with the complainant, alleged bully/harasser and any witnesses (plus any representatives) to determine:

- whether the allegation is founded and if there is a case to answer;
- whether the matter can be dealt with through mediation or conciliation.

Following the investigation, the Investigating Officer should report their findings in a written report to the Headteacher, or Chair of Governors, within one school week of the conclusion of meetings or as soon as is reasonably practicable. The report should detail the nature of the complaint, provide witness statements as appropriate and detail the conclusions and recommendations of the Investigating Officer.

The Headteacher, or Chair of Governors, will then decide on appropriate action based on the circumstances of the case as presented in the report. The Headteacher, or Chair of Governors, should notify both the complainant and the alleged bully/harasser of the outcome of the investigation within one school week of receiving the report or as soon as is reasonably practicable.

6.2.3 Possible outcomes

If the preliminary investigation shows the allegations to be unfounded, both parties should be provided with feedback. A review of future working arrangements may be required together with the provision of appropriate support mechanisms such as counselling or stress management training. In these circumstances the relevant manager should also ensure that the support mechanisms are relevant and working and that there has been no victimisation as a result of raising a complaint;

- If the complainant is dissatisfied following a decision that the allegation is unfounded they may take the matter forward as detailed in the School's Grievance Procedure, dependant on which stage of the School's Grievance Procedure is appropriate to the circumstances;
- The outcome could be that the allegation is founded but does not merit disciplinary action or can be resolved informally. In such circumstances an undertaking should be obtained from the alleged bully/harasser that the unwelcome behaviour will stop and any support mechanisms put in place to ensure that the bullying/harassment does not happen again;

Should the outcome be that the allegation is founded and disciplinary action is recommended, a hearing may be arranged under the School's Disciplinary Procedure. From this point forward the matter should be taken forward in accordance within that procedure;

If the preliminary investigation shows that the allegations are malicious/ill-intentioned or vexatious, complainants will be subject to disciplinary action.

A formal hearing will be convened at the appropriate stage of the School's Disciplinary Procedure, determined according to the nature and extent of any previous action and the seriousness of the concerns.

Possible outcomes of a Disciplinary Hearing concerning a Dignity at Work issue include:

- resolution, eg conciliation;
- oral, written or final written warning;
- dismissal;
- counselling for the alleged bully/harasser or complainant;
- confirmation of the alleged bully/harasser's innocence;
- no further action.

A member of staff disciplined on the grounds of bullying or harassment has the right to appeal against a disciplinary sanction.

The member of staff should appeal as per the appeals procedure detailed in the current School's Disciplinary Procedure.

The complainant should be informed of the outcome of the disciplinary hearing and any subsequent appeal hearing on the following basis:

- no disciplinary sanction was imposed;
- disciplinary action (level unspecified) was taken;
- other formal action has been taken (e.g. member of staff is required to attend awareness training);
- member of staff has been dismissed.

The Headteacher, or Chair of Governors, should ensure that no victimisation occurs for those making a complaint or assisting in an investigation. Retaliation against a member of staff for complaining about or assisting in an investigation of bullying or harassment is a disciplinary matter and will be dealt with under the School's Disciplinary Procedure. In proven instances of bullying and harassment, therefore, the Headteacher, or Chair of Governors, should ensure that they check that the bullying/harassment has stopped and there has been no victimisation of the members of staff concerned.

6.3 Bullying/harassment of a Governor by member of staff/another Governor

A Governor should consider making use of the informal process outlined in 6.1 in the first instance.

If a situation remains unresolved after the informal procedure has been exhausted or where the bullying/harassment is of a serious nature and the Governor does not wish to make use of the informal procedure, it may be necessary to move to the formal procedure.

The Governor should make a formal complaint using the form attached as Appendix 2 and submit it to the Chair of Governors. Where the alleged bully/harasser is the Chair of Governors, the complainant should submit the complaint to the Governor Services Team.

Where the alleged bully/harasser is a member of staff, other than the Headteacher, the Chair of Governors will refer the matter to the Headteacher who will follow the procedure at set out in 6.2.2 onwards.

Where the alleged bully/harasser is the Headteacher, the Chair of Governors will appoint an appropriate Investigating Officer to conduct a local investigation as outlined in 6.2.2.

Where the alleged bully/harasser is another Governor, the Chair of Governors or Governor Services Team, will appoint an appropriate Investigating Officer to conduct a local investigation as outlined in 6.2.2. Following the investigation, the Investigating Officer will report their findings to the Chair of Governors and/or the Governor Services Team. The Governor Services Team will advise on further action. Each case will need to be considered individually.

7 COMPLAINTS OF BULLYING OR HARASSMENT MADE BY COLLEAGUES AND NOT BY THE INDIVIDUAL BEING HARASSED

Members of staff have a responsibility to support colleagues who are being harassed or bullied and bring incidents to the attention of line management or their trade union representative.

There may be occasions where a colleague of a member of staff being harassed or bullied feels that they should approach line management but the member of staff does not wish them to do so. On these occasions colleagues should seek advice from the Headteacher, a member of the SMT, a member of the Governing Body or their trade union representative (or if none of these are appropriate, CYPF Personnel) in the first instance. The colleague will be advised in terms of making the member of staff aware of options open to them in relation to this policy/procedure. It may also be considered necessary to make an approach to the relevant line manager/senior manager in order to make them aware of the general issue (not specific details) and for relevant action to be taken (eg general awareness raising). The only exception to this will be in instances where the allegation presents an unacceptable risk to the member of staff or other members of staff where action will have to be taken because of the duty of care to protect members of staff.

There may also be occasions where a colleague witnesses others exhibiting potential bullying or harassment behaviour against a member of staff but the member of staff themselves is not aware of it (eg, making racist/sexist remarks about an member of staff who does not actually hear the remark). In such instances, colleagues may not wish to approach the member of staff due to embarrassment or feeling awkward. Again, colleagues should seek advice from the Headteacher, a member of the SMT, a member of the Governing Body or their trade union representative (or if none of these are appropriate, CYPF Personnel) in such circumstances and a decision will be taken concerning any action to be taken. The member of staff against whom the behaviour is being exhibited will be informed of the issue only where the behaviour represents a threat to them (eg, remarks being made indicating that the intention is to in some way harm the member of staff).

8 BULLYING/HARASSMENT BY PUPILS/PARENTS/THE PUBLIC

Members of staff, and members of the Governing Body, may encounter bullying or harassment by pupils/parents/the public in the course of their work. Anyone experiencing such behaviour can expect the active support of the Governing Body, Headteacher or appropriate senior member of staff to address the situation.

The Governing Body is committed to protecting members of staff whilst at work and to that end must seek to identify potential areas where members of staff may be vulnerable and to reduce the associated risks. Failure to do so could constitute a failure in the Governing Body's duty of care to members of staff.

The School should have clearly laid out and well publicised procedures to deal effectively with such situations. It may be appropriate for the Governing Body to take account of any local policy on violent, threatening or abusive behaviour from pupils/parents/the public, such as the Behaviour Support Plan, the school's assault procedure and DfES guidelines.

Members of staff complaining of bullying or harassment by pupils/parents/the public should report the matter to the Headteacher. What action is taken will be a matter of management discretion. The complainant's perception of what has occurred will be taken fully into account when reaching a decision.

Members of the Governing Body who feel they are experiencing bullying or harassment by pupils/parents/the public should report the matter to the Chair of Governors.

9 BULLYING OF PUPILS/PARENTS/THE PUBLIC BY MEMBERS OF STAFF

Bullying/harassment of pupils/parents/the public by members of staff will be dealt with under the School's Disciplinary Procedure.

10 BULLYING/HARASSMENT OUTSIDE OF WORK

Where bullying/harassment takes place outside of working hours but is in some way linked to a working relationship, members of staff and the Governing Body are still entitled to raise the issue and make use of the informal or formal procedure of this policy.

11 CRIMINAL OFFENCES

If a criminal offence such as harassing phone calls, physical assault or indecent exposure takes place in the workplace, nothing in this policy is intended to prevent or dissuade an individual from contacting the police.

12 ANONYMOUS ALLEGATIONS

This policy and procedure encourages members of staff to put their name to complaints. Anonymous allegations are difficult to substantiate/prove and will only be investigated further where there is a serious allegation which is linked to the categories listed in relation to the Whistleblowing Procedure. If there is insufficient evidence to proceed the allegation will not be investigated.

APPENDIX 1 – LEGAL FRAMEWORK OF BULLYING AND HARASSMENT

Whilst there is currently no specific legislation which deals with bullying and harassment at work, failure to deal with incidents of bullying and harassment at work may expose the Council to a number of legal consequences. A summary of existing legislation related to bullying and harassment is detailed below, along with reference to potential legislation specific to bullying/harassment cases currently being proposed through the Dignity at Work Bill.

A. Existing/future legislation/quasi-legislation

Existing

The relevant statutes or regulations which can be used in relation to bullying/harassment at work are detailed below. It should be noted, however, that there is currently no specific legislation in the UK to deal with bullying or harassment at work. Therefore to get legal protection or redress individuals must look to parts of employment related law that may be relevant or to the general law.

(i) Health and Safety at Work Act (1974) and the Management of Health at Work Regulations 1999

This legislation places a duty of care on employers for the health and safety of their employees, and requires employers to conduct assessments of potential risks to employees and take appropriate remedial action. Employers are also responsible for the actions of their members of staff and this may extend to acts by people over whom the employer has no direct control (eg contractors). The Act does not specifically mention bullying but concentrates on the 'health, safety and welfare' of all employees.

(ii) Employment Rights Act (1996)

This legislation gives employees the right to access an employment tribunal where they believe they have been 'constructively dismissed' ie where an employee resigns in the face of an employers' breach of contract. This may apply, for example, where an organisation has failed to take appropriate action to deal with a complaint of bullying or harassment or where an employer has failed to protect the health and safety of an employee.

(iii) Sex Discrimination Act (1975), Race Relations Act (1976) and the Disability Discrimination Act (1995)

These Acts make bullying or harassment unlawful where there is an element of discrimination (sex/race/disability). In such cases, an employer can be held liable even when it is unaware that such incidents have taken place.

(iv) Protection from Harassment Act (1997)

This piece of legislation was developed to cover 'stalking' cases and enables employees to take a civil case where they believe a colleague's conduct amounts to harassment. It also introduced a further criminal offence of putting a person in fear of violence.

(v) Public Interest Disclosure Act (1998)

This legislation was developed to protect 'whistleblowers'. Where any employee is dismissed because they have made a 'protected disclosure' (eg including health and safety) the dismissal will be deemed to be unfair. To be a 'protected disclosure' it must include one or more the following factors - be a criminal offence; incorporate a failure to comply with a legal obligation; involve a miscarriage of justice; involve danger to the health and safety of an individual; involve damage to the environment; involve deliberate concealment of information.

(vi) Criminal Justice and Public Order Act 1995

This Act makes it a criminal offence to use threatening, abusive or insulting words or to display behaviour intended to cause harassment, alarm or distress ('intentional harassment') whether in the workplace or elsewhere.

(vii) Rehabilitation of Offenders Act 1974

This legislation essentially considers detrimental treatment of employees with spent convictions as similar to the 'discrimination' provision provided under the SDA (1975), RRA (1976) and DDA (1995).

(viii) Council of European Communities Directive 89/391 (1989)

This contains the basic provisions for health and safety at work and makes employers responsible for ensuring employees do not suffer harm through work, including as a result of bullying. Member States have all implemented this Directive through legislation and some have developed guidance on preventing bullying.

(ix) EC Recommendation and Code of Practice on Protecting the Dignity of Men and Women at Work (1991)

Although not legally binding, national courts should take into consideration this recommendation, including a requirement of member states to create a climate at work in which men and women respect one another's dignity.

Future

(i) ARTICLE 13 of the Treaty of Amsterdam

Under Article 13 (Employment Directive), it is planned to develop a statutory definition of harassment that will make it unlawful to subject another person to harassment on the grounds of sexual orientation, race, religion, belief or disability, by engaging in unwanted conduct which has the purpose of

- violating a person's dignity
- creating an intimidating, hostile, degrading, humiliating or offensive environment for a person.

Conduct will be deemed to be harassment if having regard to all the circumstances, including in particular the perception of the person claiming harassment, it can be reasonably considered as having that effect.

Legislation in respect of the Employment Directive for religion/belief and sexual orientation is required by December 2003 and for disability and age by December 2006.

B. Potential legislation

Dignity at Work Bill, UK

Further legislation may be introduced in the UK specifically to deal with bullying/harassment at work. The Dignity at Work Bill received its third unopposed reading in the House of Lords in May 2002. Its aim is to counteract bullying at work and to enshrine good practice into law - to prevent bullying and, where it happens, to provide redress. The following are the key elements that were incorporated in the Bill:

- Clause 1 confers a right to dignity at work on all employees and covers harassment and bullying that would constitute a breach of that right;
- Clause 2 protects an employee if they bring proceedings under the Act;
- Clause 3 gives rights to contract workers;
- Clause 4 allows complaints by employees who believe their right to dignity at work has been breached to be presented to an employment tribunal;
- Clause 5 provides for an employers' defence against such claims;
- Clause 6 allows for compensatory payment by the respondent if the tribunal has found a case proven.

Those presenting the Bill stress that the existing legislation does not cover bullying and harassment at work appropriately with the result that in many cases employees are unable to prove that they have been bullied/harassed, eg:

- the SDA and RRA focus on discrimination and do not adequately cover bullying or harassment. The weakness in such cases is that in most cases of bullying it cannot be shown to amount to sexual or racial harassment, therefore, the legislation is not effective;
- Health and Safety legislation is felt to be too vague in relation to bullying cases;
- In many cases employees have to resort to resigning and claiming breach of contract under the heading of constructive dismissal which does not appear to be a wholly appropriate way for such cases to be dealt with.

The next step in progressing the Bill is to have it properly considered in the House of Commons. To date, there has been no further progress in this area.