



Tudor Grange Academies Trust

## **Bullying and Harassment Policy and Procedure**

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Oct 2019	1.0	
29.09.21	1.1	Biennial review Para 2.3 – update to refer to ‘categories’ rather than ‘protected characteristics of the Equality Act 2010.’
11.09.23	1.1	Biennial review – no change to content
13.06.24	1.2	Updated to reflect statutory changes. <ul style="list-style-type: none"> <li>• Update to paragraphs: 1.2, 1.4, 4.1, 5.2, 5.3, 6.13</li> <li>• New paragraphs: 4.5, 5.4</li> </ul>

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### 1 Introduction

- 1.1 Tudor Grange Academies Trust (TGAT) seeks to ensure that all staff are treated and treat others with dignity and respect, free from bullying and harassment. Staff should always consider whether their words or conduct could be offensive. Even unintentional bullying and harassment is unacceptable.
- 1.2 We will take allegations bullying and harassment seriously and address them promptly and confidentially where possible. All employees, governors and volunteers must comply with this policy and take appropriate measures to ensure that such conduct does not occur. Harassment, sexual harassment, bullying and victimisation and retaliation against an employee will not be tolerated. Bullying and harassment by an employee will be treated as misconduct under our Disciplinary Procedure. In some cases it may amount to gross misconduct leading to summary dismissal.
- 1.3 This policy covers bullying and harassment which occurs both in and out of the workplace, such as on school visits, or at events, or work-related social functions and on social networking sites. It covers bullying and harassment by staff, governors and volunteers and also by third parties such as suppliers or visitors to our academies, which includes parents.
- 1.4 This policy does not form part of any employee’s contract of employment and we may amend elements of this procedure, including varying any time limits, as appropriate in any case.

## **2 What is harassment?**

- 2.1 Harassment is any unwanted physical, verbal or non-verbal conduct which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. A single incident can amount to harassment.
- 2.2 It also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.
- 2.3 Unlawful harassment may involve conduct of a sexual nature (sexual harassment), or it may be related to age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race (including, colour, nationality, ethnic or national origin), religion or belief, sex or sexual orientation. Harassment is unacceptable even if it does not fall within any of these categories.
- 2.4 Harassment may include, for example:
- unwanted physical conduct or "horseplay", including touching, pinching, pushing, grabbing, brushing past someone, invading their personal space, and more serious forms of physical or sexual assault;
  - unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless), and suggestions that sexual favours may further a career or that a refusal may hinder it;
  - continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;
  - sending or displaying material that is pornographic or that some people may find offensive (including e-mails, text messages, video clips and images sent by mobile phone or posted on the internet);
  - offensive or intimidating comments or gestures, or insensitive jokes or pranks;
  - mocking, mimicking or belittling a person's disability;
  - racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
  - outing or threatening to out someone as gay or lesbian or transgender; or
  - ignoring or shunning someone, for example, by deliberately excluding them from a conversation or a workplace social activity.
- 2.5 A person may be harassed even if they were not the intended "target". For example, a person may be harassed by racist jokes about a different ethnic group if they create an offensive environment for him or her.

## **3 What is bullying?**

- 3.1 Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined or threatened. Power does not always mean being in a position of authority, but can include both personal strength and the power to coerce through fear or intimidation.
- 3.2 Bullying can take the form of physical, verbal and non-verbal conduct. Bullying may include, by way of example:
- shouting at, being sarcastic towards, ridiculing or demeaning others;
  - physical or psychological threats;
  - overbearing and intimidating levels of supervision;
  - inappropriate and/or derogatory remarks about someone's performance;
  - abuse of authority or power by those in positions of seniority; or
  - deliberately excluding someone from meetings or communications without good reason.

- 3.3 Legitimate, reasonable and constructive criticism of a worker's performance or behaviour, or reasonable instructions given to employees in the course of their employment, will not amount to bullying on their own.

#### **4 What the law says**

- 4.1 The Equality Act 2010 prohibits harassment related to age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race (which includes colour, nationality, ethnic or national origin), religion or belief, sex or sexual orientation. Employers are meant to take reasonable steps to prevent it. Third party harassment was removed from the Act. However, it is still possible for an employer to be liable for direct and indirect discrimination involving third party harassment where they treat someone less favourably because of a protected characteristic e.g. failing to take preventative action because of an employee's gender. In addition, an employee could rely on the implied clause of trust and confidence in their employment contract when they are considering their employer's action to a response.
- 4.2 The Protection from Harassment Act 1997 also makes it unlawful to pursue a course of conduct which you know or ought to know would be harassment, which includes causing someone alarm or distress.
- 4.3 Under the Health and Safety at Work etc Act 1974 staff are entitled to a safe place and system of work.
- 4.4 Individual members of staff may in some cases be legally liable for harassment of colleagues or third parties and may be ordered to pay compensation by a court or employment tribunal.
- 4.5 Schools within the public sector must comply with the Public Sector Equality Duty (PSED).

#### **5 Informal procedure**

- 5.1 If you are being bullied or harassed, you should attempt to manage the situation informally if this is at all possible. The objective of an informal approach is to resolve the difficulty with the minimum of conflict. Every member of the school community has personal rights and these include being made aware that their attention or behaviour is perceived by another as bullying or harassing. It is possible that the "perpetrator" simply does not realise the effect of their behaviour on the recipient. You should explain clearly to them that their behaviour is not welcome or makes you feel uncomfortable.
- 5.2 If you would find it too difficult or embarrassing to speak directly with the other person, then you should attempt to communicate through a third party, for example, a work colleague, line manager/supervisor, or union representative. They could support you in a number of ways for example by providing you with advice on how to approach the issue directly with the alleged harasser, or support you in raising the issue with the alleged harasser by accompanying you in any discussion or helping you to set out your thoughts in writing, or raise the matter informally with the harasser on your behalf. Support could extend to helping you to obtain advice on or assistance in dealing with issues relating to particular protected characteristics or helping you to obtain counselling.
- 5.3 Witnesses to harassment or victimisation can also take steps to address it. This may include:
- the witness intervening where the witness feels able to do so
  - the witness asking the employee subjected to the harassment if they would like the witness to report it or support them in reporting it

- the witness reporting the incident where the witness feels that there may be a continuing risk if they do not report it, and
- requiring witnesses to cooperate in an investigation.

5.4 If informal steps have not been successful or are not possible or appropriate due to the seriousness of the allegations, you should follow the formal procedure set out below.

## **6 Formal procedure**

- 6.1 This process follows our Grievance Procedure which cannot be used in addition to, or substitution of it for the same complaint.
- 6.2 Your written complaint should set out full details of the conduct in question, including the name of the harasser or bully, the nature of the bullying and harassment, the date(s) and time(s) at which it occurred, the names of any witnesses and any action that has been taken so far to attempt to stop it from occurring.
- 6.3 As a general principle, the decision whether to progress a complaint is up to you. However, we have a duty to protect all staff and may pursue the matter independently if, in all the circumstances, we consider it appropriate to do so.
- 6.4 Where our Grievance Procedure is invoked as a result of a complaint about bullying or harassment, a manager (usually your direct line manager, unless the complaint is against him/her or where he/she has involvement in the complaint) must be designated to investigate the complaint in a timely, sensitive, impartial and confidential manner.
- 6.5 The manager, (the Investigation Officer for these purposes), will arrange a meeting with you, usually within a week of receiving your complaint, so that you can give your account of events. You have the right to be accompanied by a colleague or trade union representative of your choice, who must respect the confidentiality of the investigation. There may be further meetings with you as appropriate throughout the investigation.
- 6.6 Where your complaint is about an employee, we may consider suspending him or her on full pay or making other temporary changes to working arrangements pending the outcome of the investigation, if circumstances require. The Investigating Officer will also meet with the alleged harasser or bully who may also be accompanied by a work colleague or trade union representative of their choice to hear their account of events. They have a right to be told the full details of the allegations against them, so that they can respond.
- 6.7 Where your complaint is about someone other than an employee, such as a contractor or visitor, we will consider what action may be appropriate to protect you and anyone involved pending the outcome of the investigation, bearing in mind the reasonable needs of the school and the rights of that person. Where appropriate, we will attempt to discuss the matter with the third party.
- 6.8 We will also seriously consider any request that you make for changes to your own working arrangements during the investigation.
- 6.9 It is likely to be necessary to interview witnesses to any of the incidents mentioned in your complaint. If so, the importance of confidentiality will be emphasised to them.
- 6.10 Any staff member who deliberately provides false information or otherwise acts in bad faith as part of an investigation may be subject to action under our Disciplinary Procedure.
- 6.11 The main purpose of the investigation is to establish whether the act(s) under investigation amounted to bullying and/or harassment. The Investigation Report should include;
- the terms of reference of the report;

- the complainant's account of the incident(s) and the effects;
- a response from the person identified by the complainant;
- evidence from staff in the same work area or any other relevant areas where incidents of bullying or harassment may have occurred;
- a conclusion as to whether or not there is a case to answer in respect of the allegations made and whether the matter should be referred to a disciplinary hearing. The report should identify whether it appears that the complainant has suffered any detriment e.g. deterioration of work performance or health, lack of career development, denial of opportunities etc.

6.12 At the end of the investigation, the Investigating Officer will submit their Investigation Report to a senior manager nominated to consider the complaint. The senior manager will arrange a meeting with you in order to discuss the outcome and what action, if any, should be taken. You have the right to bring a colleague or a trade union representative to the meeting. A copy of the Investigation Report and the senior manager's findings will be given to you and to the alleged harasser or bully.

6.13 The appointed senior manager will consider the Investigation Report and decide whether:

- he or she considers that bullying and harassment has occurred, in which case the matter will be dealt with as a case of possible misconduct or gross misconduct under our Disciplinary Procedure;
- They consider that harassment or bullying has occurred but the evidence shows that it was inadvertent or unintentional, in which case the "perpetrator" shall be offered support and training to allow them the opportunity to modify their behaviour.
- less formal action is appropriate but some form of mediation or counselling is required for one or both parties;
- any short-term or long-term relocation or change in duties or reporting structure is required.

6.14 If you remain dissatisfied with the outcome, then you may appeal in line with the procedure detailed in our Grievance Procedure.

## **7 Protection and support for those involved**

7.1 Employees who make complaints, or who participate in good faith in any investigation conducted under this policy, must not suffer any form of retaliation or victimisation as a result.

7.2 If you believe you have suffered any such treatment you should inform your line manager or other senior manager. If the matter is not remedied, you should raise it formally using this procedure.

7.3 Anyone found to have retaliated against or victimised someone for making a complaint or assisting in good faith with an investigation under this procedure will be subject to disciplinary action under our Disciplinary Procedure.

## **8 Confidentiality and data protection**

8.1 Confidentiality is an important part of the procedures provided under this policy. Everyone involved in the operation of the policy, whether making a complaint or involved in any investigation, is responsible for observing the high level of confidentiality that is required. Details of the investigation and the names of the person making the complaint and the person accused must only be disclosed on a "need to know" basis.

8.2 Information about a complaint by or about an employee may be placed on the employee's personnel file, along with a record of the outcome and of any notes or other documents

compiled during the process. These will be processed in accordance with the Data Protection Policy.

- 8.3 Breach of confidentiality may give rise to disciplinary action under our Disciplinary Procedure.

## **9 Who is responsible for this Policy?**

- 9.1 TGAT has overall responsibility for the effective operation of this Policy but has delegated day-to-day responsibility for overseeing its implementation to Principals.
- 9.2 All managers have a specific responsibility to operate within the boundaries of this policy, ensure that all staff understand the standards of behaviour expected of them and to take action when behaviour falls below its requirements.
- 9.3 Staff should disclose any instances of bullying and harassment of which they become aware to their line manager or the Principal.
- 9.4 Questions about this policy and requests for information on dealing with bullying or harassment should be directed to the Executive HR Director.

## **10 Monitoring and review**

The Trust Board will review this Policy regularly, and following a formal investigation under this Policy, the senior manager and the Investigating Officer involved should consider whether this Policy has been effective in addressing the issues and report any problems or suggestions for improvement to the Executive HR Director.

## Grievance Form

## Employee's Notification of Grievance

This form should be used to submit a grievance in accordance with Stage 2 of the formal Grievance Procedure.

Send the completed Employee's Notification of Grievance Form to your line manager. If your grievance relates to your line manager, send it to the Principal. If your grievance relates to your Principal then send it to an Executive Principal or the CEO. You are advised to keep a copy. Please be aware that the information will, in normal circumstances, be shared with any person/s complained about. Please think carefully about what you write.

1. Name: \_\_\_\_\_

Post held: \_\_\_\_\_

2. Describe briefly:

2.1. The nature of your grievance. Please include all relevant facts, dates and names of people involved and any witnesses. (continue on a separate page if necessary).
2.2. When did you first raise your grievance, and with whom? Is this a one-off issue or part of a chain of events?
2.3. What action has been taken on your grievance at the informal stage (Stage 1)?
2.4. What steps or action do you want to be taken as a remedy for your grievance?



3. If you are member, have you informed your trade union or professional association representative? YES/NO
- If yes: do you wish the representative to receive correspondence? YES/NO
- If yes: please identify the representative and provide email and postal addresses and telephone number. YES/NO

Printed Name: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: