MODEL SCHOOLS' ANTI-BULLYING, HARASSMENT AND DISCRIMINATION POLICY

(previously known as Dignity at Work policy)

This policy is applicable for Oxfordshire County Council (OCC) maintained schools. It is provided as advice for schools where the Governors are the employer. Academies may adapt this policy should they wish to.

This Oxfordshire model policy has been drawn up following consultation with the recognised trade unions and associations: ASCL, NEU, NAHT, NASUWT and Unison. Advice and support on the application of this policy is available from Educational Personnel Service (EPS) for maintained schools and HR.

1. PURPOSE

The Council and the School are committed to providing a safe, inclusive, healthy and productive working environment, free from harassment, bullying, victimisation and any behaviour that makes people feel excluded, offended, humiliated or intimidated. All staff should be treated with dignity and respect and be encouraged to meet their full potential.

This policy provides a framework for OCC maintained schools to help prevent bullying, harassment and discrimination and explains the procedure that should be followed by employees and the school leadership team when such incidents occur.

The Council and the School have a zero-tolerance approach to discrimination on the grounds of age, race, disability, sex, sexual orientation, gender identity, gender expression, religion or belief, marriage or civil partnership or pregnancy and maternity and expects all maintained schools, voluntary aided schools and academies to adapt zero tolerance approach to any form of discrimination.

Race means being part of a group of people who are identified by their nationality, citizenship, colour, national or ethnic origins.

A separate policy applies to bullying, harassment and discrimination that occurs from members of the public, clients or pupils as a result of an employee carrying out their role.

2. SCOPE

This policy applies to everyone working for the Council and School including all employees, Supply teachers, casual staff, any workers classed as agency staff and

consultants, whether working from Council premises, School premises or from other locations. It also covers work-related events or social functions.

2.1 Employee responsibilities

Every employee and worker must:

- uphold the Council's and School's values.
- treat colleagues, Councillors and pupils, and the School's partners with dignity and respect; be aware of the effect that their own behaviour can have on others.
- create a work environment where bullying, harassment and discrimination is not tolerated.
- support colleagues if they experience bullying, harassment or singling out.
- dress appropriately for the workplace.
- challenge inappropriate behaviour and if this is difficult speak their manager, Headteacher, Governing body, EPS or a union representative.
- set a positive example to others.
- be mindful of their language and attitude and think before making personal or general comments to or about others.
- co-operate with any investigation undertaken by the school or the Council regarding allegations of bullying and harassment.
- take personal responsibility for ensuring their knowledge and skills on equality and diversity issues are kept up to date.
- inform their manager if they suspect that unfair discrimination, harassment or victimisation is taking place within the school.

2.2 Policy Breach

The Council and School have a zero-tolerance policy towards bullying, harassment and discrimination. Where bullying, harassment or discrimination is found to have taken place, disciplinary action will be taken, the outcome of which may include dismissal or termination of contract. The model schools' Disciplinary policy cites harassment and other offences against human dignity such as assault and threatening behaviour at work as examples of behaviour which may constitute misconduct or gross misconduct.

All complaints of bullying, harassment and discrimination must be taken seriously and handled sensitively. Action will be taken to investigate and respond to allegations

Everyone should be able to work without the fear of receiving mischievous or malicious allegations and anyone found to be making a deliberately false or vexatious complaint will be subject to appropriate disciplinary action in relation to the allegations which could result in dismissal/contract termination.

3. THE LAW AND DEFINITIONS OF BULLYING, HARASSMENT AND DISCRIMINATON

Bullying and harassment are terms often used interchangeably and cover a range of behaviours that undermine the right of others to be treated with dignity. In the event of legal proceedings, the Council, School and individual employees or workers can be held liable for unlawful discrimination, harassment or bullying.

Bullying is*: 'offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient'.* Source: Advisory, Conciliation and Arbitration Service (ACAS)

Harassment is: *'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'*. Source: Equality Act 2010.

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, 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. This includes verbal, non-verbal or physical conduct including the behaviours set out in section 4 below.

There is also legal protection against harassment on the basis of an individual's membership or non-membership of a trade union.

Discrimination is: '*treating a person unfairly because of who they are or because they possess certain characteristics.'* (Source: EOC.org.uk).

There are nine protected characteristics stated in the Equality Act 2010: age; disability; race; religion & belief; gender reassignment; sex, sexual orientation, pregnancy and maternity and marriage and civil partnership. Although the legislation refers to gender reassignment, the Council recognises it is considered best practice to use the terms gender identity and gender expression.

Discrimination is to show favour, prejudice or bias for or against a person on any arbitrary grounds, for example on the basis of race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age disability, religion, HIV status, conscience, beliefs, political persuasion. It can take the form of exclusion from recruitment, promotion or training opportunities, less favourable working conditions or terms of employment e.g. less overtime or shift work and even unlawful contract termination.

Annex A sets out the definitions of the different types of discrimination.

Victimisation is where an employee is subject to a detriment because they have brought proceedings, given evidence or information in connection with proceedings or made an allegation that another person has done something in breach of the Equality Act.

4. BEHAVIOURS THAT COULD BE REGARDED AS BULLYING, HARASSMENT OR DISCRIMINATION

Bullying, harassment and discrimination are not always verbal and face to face, but can involve written communications or visual images, embarrassing photographs or inappropriate comments aimed against a certain individual, group of individuals, and / or against the school or council, and sent by text, instant messaging, email or posts on social media (e.g. Facebook, Twitter, Instagram etc).

Bullying and harassment may involve single or repeated incidents, ranging from extreme forms of intimidating behaviour, such as physical violence, to more subtle forms such as ignoring someone. It can occur with or without witnesses. It can occur where someone is treated less favourably because they have refused to submit to certain behaviour in the past.

4.1 Examples of Unacceptable Behaviour

The following list includes examples of unacceptable behaviour from a worker or employee (including school leadership team), but is not exhaustive:

- personal insults to, or about, colleagues, customers or service users (particularly on the grounds of age, race, sex, disability, sexual orientation, gender identity, gender expression and religion or belief);
- physical aggression, violence or intimidation;
- practical jokes which embarrass or humiliate;
- engaging in banter or making jokes which are degrading or make people feel excluded, verbal abuse including personal insults, inappropriate stereotyping, offensive comments, taunts, threats, malicious gossip or innuendo;
- making racist comments or threats;
- making homophobic, biphobic or transphobic insults and threats;
- outing an individual as LGBT+ (Lesbian Gay Bisexual or Trans) without their consent;
- gossip or speculation about someone's sexual orientation, gender identity or gender expression;
- making unnecessary and/or degrading references to an individual's sexual orientation, disability or gender identity;
- repeatedly refusing to address a trans person by their name and correct gender pronoun;

- abuse of an individual's right to personal privacy, for example, intrusion into another employee's personal property or into their private life (this may also be a breach of the General Data Protection Regulations);
- deliberate isolation or non-cooperation and exclusion from normal social or professional contact in the workplace;
- sexual advances – assault, touching, standing too close, the display of offensive materials, making decisions on the basis of sexual advances being accepted or rejected;
- personal intrusion from pestering, spying and stalking
- Bullying, harassment, threatening behaviour or victimising an individual on the basis of their membership or non-membership of a Trade Union.

5. SCHOOL'S RESPONSIBLITIES

It is the responsibility of the school leadership team to behave in accordance with this policy and set an example to others.

The school leadership team must encourage an inclusive atmosphere whereby all staff feel able to talk to them about problems or concerns; where everyone is treated with dignity and respect and where any form of bullying, harassment or discrimination is not tolerated and dealt with promptly. The school leadership team must prevent harassment, bullying and discrimination wherever possible and take immediate action once it is identified. Speak to EPS or your HR provider for further guidance.

The school leadership team must also:

- provide a good example of appropriate behaviour.
- be alert to the possibility of bullying, harassment or discrimination.
- attend mandatory management training on equality and diversity.
- act promptly to correct behaviour which could cause offence or be seen to contravene this policy.
- make sure all new employees and workers are aware of the expected standards of behaviour and reinforce this at regular intervals e.g. at team meetings and one to ones.
- make sure new joiners and all staff undertake training related to equality and inclusion.
- record any incidents of harassment, bullying or discrimination and the outcomes of any action or investigations- speak to EPS / HR when issue is raised.
- treat all cases of harassment, bullying and discrimination sensitively and with appropriate confidentiality and seek advice from EPS / HR promptly and as necessary.

5.1 Legitimate Management Actions

Management at times are required to make unpopular decisions that affect people's jobs and ways of working and speak to employees or workers about their performance and expected standards. This does not constitute bullying, harassment or

discrimination. However, the school leadership team must carry out these functions fairly, consistently and in a professional manner.

In order to carry out a managerial role, it is necessary for managers to:

- issue instructions to employees/workers
- set work-related targets and objectives and monitor achievement
- set standards of required performance and monitor compliance with these
- address unacceptable performance or behaviour promptly and timely

Due to the serious effects of bullying, harassment and discrimination, management may need to continue with, or conduct, an investigation or disciplinary process even when an allegation is withdrawn by an employee/worker, OR the employee/worker declines to make a formal complaint. This would support the Council's zero tolerance towards any bullying, harassment or discrimination in the workplace.

5.2 Unacceptable Behaviour by Managers

In addition to the examples of unacceptable behaviour outlined in section 4.1 of this policy, the following are examples of unacceptable behaviour which could be carried out by a headteacher or any member of the school leadership team, or anyone with direct line management or supervisory responsibility: (the list is not exhaustive)

- humiliation, for example reprimanding an employee/worker in front of others;
- singling out an employee/worker, for example for unjustified criticism;
- intimidation, for example aggressive behaviour or threats directed at an employee/worker;
- persistently placing excessive demands on employees/workers, setting unrealistic work targets or objectives without good reason or forcing
- asking employees/workers to perform inappropriate tasks which are outside the remit of the job, for example personal errands, instructing a staff to do work that is not in their skills set i.e., setting them up to fail;
- deliberately undermining an employee / worker or subjecting them to constant criticism;
- preventing individuals progressing by intentionally blocking promotion or training opportunities;
- making threats or comments about job security without foundation;
- disclosing an employee's or workers' personal information, sexual orientation or trans status without their consent;
- assigning employees/workers different tasks based on their protected characteristic.
- Unconscious bias towards staff with protected characteristics and creating unreasonable conditions that compel them to resign or asking staff to resign if you cannot accommodate their request.

6. RAISING A CONCERN

It is hoped that most issues and concerns can be resolved at an informal stage. However, this is not always possible, so a formal approach is also outlined in this policy.

6.1 Informal approach

Sometimes people make genuine mistakes and/or might not be aware that their behaviour is unwelcome or offensive. In the first instance, if the employee/worker feels able to speak to the individual(s) at the time of the incident they should make it clear that they find their behaviour offensive and unwelcome and ask for it to stop.

Letting the individual(s) know their behaviour is unwelcome or offensive, either directly or with the help of a third party, will not only give them the opportunity to stop but to become more aware of any unconscious bias or prejudices they may have.

If the employee/worker finds it difficult to speak to the individual(s) directly, they could approach them in conjunction with the support of their line manager, HR, or a trade union representative. The employee/worker may find it helpful to keep a diary of all incidents, a record of dates and times and the names of any witnesses etc. in order to facilitate early discussions.

Where the complaint is about the employee's/workers' manager / Headteacher or the employee/worker does not believe it is appropriate for the manager / Headteacher to deal with the complaint, then the matter should be raised to the Chair of Governor or through their union representative. They can seek advice from HR to get help and support.

At any part of the informal approach, an employee/worker can speak confidentially to their union representative, HR provider / EPS (for school leadership team) about their concerns.

In some cases, the offensive behaviour or comments may not be directed personally to an employee or worker, but they may still find them offensive. For example, they may overhear a team member make derogatory or discriminatory comments to or about someone else. In such instances, the employee should speak to the individual(s) if they feel able to or raise their concern with their line manager.

6.2 Mediation

In some cases, a trained, impartial mediator may be able to help parties talk through the issues and agree a way of resolving the matter and restoring working relations. This can help avoid the need for further formal processes.

Mediators do not make judgments or determine outcomes - they ask questions that help uncover underlying problems, assist the parties to understand each other's point of view and help them look at options for resolving their dispute.

Mediators can be accessed by contacting the Employee Assistance Programme (for maintained schools) or you may speak to EPS / local HR provider for options available.

7. FORMAL APPROACH

Should the informal approach fail to stop the harassment, bullying or discrimination, or if you believe the situation is still unresolved, OR so serious as to warrant immediate formal action, an employee/worker can make a formal complaint using the school's formal grievance procedure.

Employees/workers should complete the grievance form and indicate whether the complaint is regarding bullying or harassment or discrimination in relation to a protected characteristic. It may be that more than one breach of policy is relevant. The form and any supporting information and evidence should be returned to the line manager or union representative or HR / EPS. This written statement will form the basis of the formal grievance meeting and any investigations and will only be shared with relevant parties.

Where the complaint is about the line manager of the employee/worker OR the employee/worker does not believe it is appropriate for the line manager to deal with the complaint, then the grievance form should be returned directly to EPS or union representative.

In all the above matters, further help and guidance can also be sought from a trade union representative or EPS / HR provider.

8. CONFIDENTIALITY

Complaints must be treated confidentially and not discussed with anyone who is not involved in the procedures. Steps should be taken to ensure confidentiality and fairness to all parties. No-one will be victimised as a result of making a complaint or being subject to a complaint of bullying, harassment or discrimination. Any employee who fails to adhere to confidentiality or who victimises another individual will be subject to disciplinary procedures.

9. BULLYING, HARASSMENT OR DISCRIMINATION BY MEMBERS OF THE PUBLIC, CLIENTS OR PUPILS

The Council and the school have a duty to protect the health, safety and welfare of their employees/workers and will not tolerate bullying, harassment or discrimination towards employees or workers from members of the public, clients or pupils.

Employees/workers must speak to their line manager immediately if they experience offensive or unwelcome behaviour from a member of the public, clients or pupils, as a result of carrying out their role on behalf of the school.

All incidents will be investigated in line with the councils Zero Tolerance: Violent, Abusive and Threatening Behaviour policy. Advice can also be sought from EPS or the Schools Health and Safety Team.

Managers must ensure that the incident has been reported on the Health and Safety online system.

10. BULLYING, HARASSMENT AND DISCRIMINATION - TRADE UNION OFFICIALS OR REPRESENTATIVES

Trade unions recognised by the Council and the School take bullying, harassment and discrimination seriously. An employee/worker who is being bullied or harassed by a trade union official should bring this to the attention of an appropriate officer in the local Oxfordshire branch and notify the council's HR team by contacting the HR Advice Helpdesk.

11. BULLYING, HARASSMENT, OR DISCRIMINATION BY GOVERNORS

The Governors are expected to treat employers and all staff with dignity and respect. Anyone with a complaint of bullying, harassment or discrimination against a Councillor should discuss this with their line manager and contact the council's HR Business Partner for Children's services.

12. SUPPORT FOR EMPLOYEES

Allegations of bullying, harassment or discrimination can be upsetting for all parties and management have a responsibility for making sure everyone receives appropriate support.

Guidance and counselling can be offered by the Employee Assistance Programme to people whose behaviour is unacceptable, as well as those affected by the unacceptable behaviour.

Employees/workers who are a member of a trade union may wish to contact their representative for support or seek advice from the organisations in paragraph 12.1.

12.1 Other Sources of Information and advice

- ACAS (Advisory, Conciliation and Arbitration Service) www.acas.org.uk
- Equal Opportunities Commission https://www.eoc.org.uk/
- Equality and Human Rights Commission: www.equalityhumanrights.com
- Stonewall: www.stonewall.org.uk

13. EQUALITY MONITORING AND ACCESSIBILITY

If any aspect of this procedure causes difficulty on account of any disability that you or your companion/representative may have, or if you need assistance because English is not your first language, you should raise this with your manager or EPS / HR provider.

The Council and the School confidentially monitors complaints of bullying, harassment and discrimination to ensure this policy is operated fairly and consistently.

Data is also used from staff surveys to gauge whether bullying, harassment or discrimination is prevalent and whether respondents feel it is dealt with appropriately. Individuals are not identified through this monitoring.

EQUALITY & DIVERSITY IMPACT MEASURE

This policy has been subject to an Equality Impact Assessment in accordance with the Council's Equality, Diversity and Inclusion Framework and is not considered to unduly impact upon any protected group. The Council will regularly monitor and review the impact of this procedure.

VARIATION OF PROCEDURES	
This procedure is not contractual, and it may be varied by the Council from time to time. Examples of variation include the need to comply with new legislation or best practice guidance. Should the Council decide not to apply the procedure, either in its entirety or in part, that will not amount to a breach of contract. Changes to the procedure will be made in line with the relevant consultation process and through raising employee awareness.	
VERSION CONTROL	
Date approved and published:	November 2021 (Version 1.0)
Date to review policy:	November 2023 (unless subject to legislative change)

Annex A - Definitions of unlawful discrimination

Direct discrimination occurs when a person treats another less favourably than they treat or would treat others because of a protected characteristic. For example, in recruitment, promotion or advancement decisions, access to training, selection for redundancy.

This includes discrimination by **perception** when an individual is treated less favourably because others mistakenly think they possess one of the protected characteristics.

It also includes **'Associative'** discrimination where someone is treated less favourably because they associate with another person who possesses one of the protected characteristics.

Indirect discrimination may occur when a working condition, practice or rule is applied which puts workers sharing a protected characteristic at a disadvantage. This will be unlawful, unless objectively justified which means that the reason for the working condition, practice or rule is legitimate and it has been applied in a proportionate way.

Positive action

Positive action is not the same as positive discrimination which is unlawful.

Positive action is permitted under the law, allowing employers to take certain steps to improve work opportunities for people who share a protected characteristic.

The council monitors the composition of the local labour market and our workforce, and where there is evidence for the need to improve equality of opportunity for certain groups sharing a protected characteristic, we may decide to take positive steps to address this in accordance with the law.