



Harassment & Bullying Policy

1. Introduction

- 1.1 Creative Education Trust is committed to providing a working environment free from harassment and bullying and ensuring all staff are treated, and treat others, with dignity and respect.
- 1.2 This policy covers harassment and bullying which may occur at work, or out of the workplace, such as on work related trips or events and social functions. It covers harassment and bullying by staff (which may include consultants, contractors and agency workers) and by third parties such as parents, suppliers or visitors to our premises.
- 1.3 This policy does not form part of any employee's contract of employment and the Trust may amend it at any time using the established processes of consultation with the recognised trade unions.

2. Purpose

- 2.1 The purpose of the policy is to set out the steps that should be followed when allegations of harassment or bullying are raised and to give confidence that these will be taken seriously by the Trust.

3. Scope

- 3.1 This policy covers all individuals working for the Trust, or at any of our premises irrespective of their status, level or grade. It therefore includes all employees, managers, apprentices, trustees, consultants, contractors, trainees, agency workers (collectively referred to as “workers or individuals” in this policy).
- 3.2 Whilst this document focuses on the process which will be followed where a complaint of harassment or bullying has been made against an employee of the Trust, the policy also provides reassurance that unacceptable or inappropriate behaviour demonstrated by members of the public, partners, contractors or service users will not be tolerated. In these circumstances it will be appropriate for the individual to notify their line manager, who will determine the appropriate course of action in conjunction with head office.

4. Equal Opportunities

- 4.1 Creative Education Trust are committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation including the requirement to make reasonable adjustments for employees with disabilities.

5. Definitions

- 5.1 The terms bullying and harassment are often used interchangeably. However, in the UK, under the Equality Act 2010, harassment is unlawful and has a specific meaning: *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.*
- 5.2 Bullying is not specifically defined in UK law but ACAS states that bullying may be characterised as: *Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, insult, intimidate, denigrate or injure the recipient.*
- 5.3 Harassment and bullying may be against one or more people and may involve single or repeated incidents across a wide spectrum of behaviour, ranging from extreme forms of intimidation, such as physical violence, to more subtle forms such as ignoring someone. It can occur without witnesses, in face-to-face interactions, as well as online. Examples include, but are not limited to:
- Unwanted physical contact
 - Unwelcome remarks about a person's age, dress, appearance, race or marital status, jokes at personal expense, offensive language, gossip, slander, sectarian songs, and letters
 - Posters, graffiti, obscene gestures, flags, bunting and emblems
 - Isolation or non-cooperation and exclusion from social activities
 - Coercion for sexual favours
 - Pressure to participate in political/religious groups
 - Personal intrusion from pestering, spying and stalking
 - Failure to safeguard confidential information
 - Shouting and bawling
 - Setting impossible deadlines
 - Persistent unwarranted criticism
 - Personal insults
- 5.4 The relevant protected characteristics defined in the Equality Act 2010 are Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual orientation.
- 5.5 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 the jokes create an offensive environment.

Third Party Harassment

- 5.6 All reasonable steps must be taken to prevent the harassment of an employee in the course of their employment, based on any of the protected characteristics (outlined within the Equality Act 2010), by third parties e.g. Parents, members of the local community or contractors.

- 5.7 Managers must treat any claims of third-party harassment seriously, maintaining a record of the complaint and discussing with the employee concerned what steps should be taken to prevent further harassment occurring. Employees who feel that they have been harassed by a third party should talk to their line manager in the first instance.
- 5.8 The Trust will use this process if the complaint relates to someone not employed directly by it, or when the Trust does not have the power to take any professional or disciplinary action against the person in question.
- 5.9 Where the decision has been reached for the complaint to be dealt with under this policy, the matter will be handled in line with the formal procedure – namely the requirement for a formal written complaint to be submitted and a formal investigation to commence. It may be appropriate to allow the complainant to be accompanied as part of any investigation interview.
- 5.10 If the allegation is found to be proven, the response from the Trust will depend on the relationship of the perpetrator to the Trust and the nature and severity of the incident.
- 5.11 By law, whether someone's behaviour counts as harassment depends on the circumstances of the situation, how the person receiving the unwanted behaviour views it and if the person receiving the behaviour is 'reasonable' to view it as they do.

Victimisation

- 5.12 Victimisation is defined in the Equality Act 2010 as: *Subjecting an individual to a detriment because he/she does a protected act, or it is believed he/she has done or may do a protected act.*

A 'protected act' is:

- Bringing proceedings under the Equality Act 2010
- Giving evidence or information in connection with proceedings under the Act
- Doing any other thing for the purposes of or in connection with the Act
- Making an allegation that someone has breached the Act

Examples of unacceptable behaviour

- 5.13 Unacceptable behaviour in the Trust may include:
- Insulting someone verbally or through offensive behaviour
 - Physical or psychological threats
 - Spreading malicious rumours
 - Sharing information about an individual with others who do not need to know
 - Ridiculing or demeaning someone
 - Picking on someone or setting them up to fail
 - Exclusion
 - Misuse of power, such as overbearing supervision or deliberately undermining a competent worker
 - Unwelcome sexual advances, such as touching, standing too close, displaying offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
 - Making unfounded threats or comments about job security
 - Preventing an individual from progressing by intentionally blocking promotion or training opportunities

- Putting humiliating, offensive or threatening comments or photos on social media

This list is not intended to be exhaustive.

6. Reasonable management

- 6.1 The Trust differentiates between reasonable management, which is firm, supportive and fair, and behaviours associated with harassment, bullying or victimisation.
- 6.2 Legitimate, justifiable, appropriately conducted monitoring of a member of the Trust workforce's behaviour or job performance does not therefore constitute bullying, harassment, or victimisation.

7. Social Networking

- 7.1 The Trust acknowledges that most workers actively use social networking sites in either their private life or role at work; it is not acceptable to use social media sites to bully or to harass another member of the school community. Employees, who are in breach of this, may face disciplinary action. This section should be cross-referenced to the Trust's guidance on use of social media and IT User Security Policy.

8. Dealing with Bullying and Harassment informally

- 8.1 In some cases, it may be possible to rectify matters informally. Sometimes people are not aware that their behaviour is unwelcome, and an informal discussion can lead to greater understanding and an agreement that the behaviour will cease.
- 8.2 If the individual feels able, they should approach the person directly about their behaviour. This can be done either verbally or in writing depending on the approach that the employee feels most comfortable with. At this stage they should explain that the behaviour is unacceptable and ask the individual to stop. Alternatively, they may choose to do this with the support of Human Resources, their line manager, a trade union representative, or a colleague.
- 8.3 If the inappropriate behaviour is from the employee's line manager, they should approach a more senior manager to assist them in addressing the issue.
- 8.4 The informal procedure should not be used:
- To discourage workers from using formal procedures where they feel it is appropriate;
 - In circumstances where attempts to deal with the matter informally have proven to be unsuccessful; or
 - In more serious cases of harassment and bullying where an approach outside of the informal procedure is deemed to be appropriate.

9. Mediation

- 9.1 An option for resolving issues outside of the formal procedure is mediation. This is a completely voluntary and confidential form of dispute resolution, which involves an independent and impartial third party helping two or more workers to openly discuss

their concerns and agree a mutually acceptable solution. Mediation can be accessed through the regional Human Resources Business Partner.

- 9.2 Mediation is especially effective when used at the initial phase of any disagreement before conflict escalates in the workplace. Early intervention can reduce the chance of the working relationship breaking down irretrievably. This improves the likelihood of maintaining good and productive employment relations in the longer term.
- 9.3 Mediation is only effective where all parties agree to fully engage and participate in the process. Therefore, before mediation can go ahead consent is required from all parties concerned.
- 9.4 Any discussions which are held as part of the mediation process will be kept strictly confidential between the parties involved, unless issues such as a serious breach of misconduct, health and safety or statutory obligations are raised.
- 9.5 Following the conclusion of a mediation process, a mutual agreement will be drawn up between the parties which they will be asked to sign. All other written notes from the discussions will be destroyed. Mediation notes cannot be used as part of any future proceedings.
- 9.6 In circumstances where mediation is unable to resolve the issue it may be appropriate to progress matters via the formal procedure.

10. Duty of Care

- 10.1 There will be some instances where the seriousness of the complaint warrants some type of action by the line manager, despite the employee's wish to keep the matter confidential and to take no action or deal with the matter informally. Where such a case arises, the principal or senior manager should discuss the case with Human Resources before proceeding.
- 10.2 Examples serious enough to warrant management action without the employee's consent could include allegations of:
 - Threatening behaviour
 - Stalking, at work or outside working hours
 - Inappropriate, deliberate, physical contact
 - Verbal abuse, including the use of racist/ sexist language, etc
 - Persistent, harmful, bullying.
- 10.3 The senior manager must fully discuss the action which they propose to take with the complainant prior to progressing this further. The only exception to this is where the employee cannot be contacted due to absence. This discussion should be held sensitively particularly given the employee's feelings about the circumstances.

11. Considerations on receipt of harassment or bullying complaints

- 11.1 Where employees are working within close proximity to each other there are a number of areas which need to be considered on the receipt of a complaint of harassment and bullying. A risk assessment must be completed in all circumstances.

- 11.2 If the alleged bully/harasser is the employee's line manager, it will not normally be appropriate for them to continue to have line management responsibility during any investigation. Consideration should be given to alternative line management arrangements, and these should be communicated clearly to all those involved.
- 11.3 Suspension from work may be appropriate depending on the nature of the complaint and following advice from Human Resources. The suspension will be for no longer than is necessary to investigate the allegations. The Trust will confirm the arrangements to the suspended employee in writing. Suspension of this kind is not a disciplinary penalty or a detriment and does not imply that any decision has already been made about the allegations. Suspension would be on full pay. Where an individual is suspended the process will follow that set out in the Disciplinary Policy.

12. Complaints raised by a third party

- 12.1 In addition to deliberate harassment and bullying an employee's behaviour may intentionally or unintentionally cause offence to others. The Trust has a duty of care to deal with complaints of bullying and harassment even if the person complaining was not the person who the behaviour was directed towards. Allegations which are raised in this way will be dealt with in accordance with this procedure.

13. Formal procedure

- 13.1 Where a complaint is of a sufficiently serious nature or where informal resolution/mediation is unsuccessful or inappropriate the employee should put their complaint in writing to the designated person as outlined in the table below:

| Complaint against: | Write to: | Considered by: |
|---|--|--|
| A colleague or third party | Relevant member of the Leadership Team | Relevant member of the Leadership Team |
| Member of the Leadership Team | Headteacher or Principal | Headteacher or Principal |
| Headteacher or Principal or Head Office staff | Chief Executive | Chief Executive or a delegated Director |
| Chief Executive | Chair of the Audit and Risk Committee | Chair of the Audit and Risk Committee or other delegated non-executive |

The employee must give full details of the complaint and the resolution/outcome sought using the form at Appendix 1.

- 13.2 On receipt of a formal written complaint the designated person must notify Human Resources and an appropriately trained and impartial investigator should be appointed. In addition, they must also meet with the complainant where possible with 5 working days of being informed of the complaint to outline the steps to be taken, the

sources of support available to them and to provide the name of the investigating officer. In addition, the designated person must write to the employee to acknowledge receipt of their complaint.

- 13.3 Where the person who has been accused of harassment and bullying is an employee of Creative Education Trust, they will usually be informed by their line manager of the allegations and the procedure to be followed. Full details of the complaint may not be available at this stage, but the broad nature of the complaint will be communicated. It is important to note that at this stage the allegations are not treated as a disciplinary matter, rather as a complaint which needs to be fully investigated. The name of the harassment and bullying investigator will also be provided at this point.
- 13.4 In cases where the individual is external to the organisation appropriate Creative Education Trust policies and procedures will be invoked.

14. Investigation

- 14.1 The investigating officer will aim to complete their investigation within a 20 working day time frame. As part of this process, it will be appropriate to formally interview the employee who has made the complaint and the respondent to the complaint providing a minimum of five working days' notice and right to be accompanied by another employee of the Trust or trade union representative. It will also be appropriate to interview other relevant parties who may have witnessed the alleged incidences or who can provide background information. During the investigation, the respondent should provide names of witnesses if appropriate who they would like to be contacted during the investigation; these should be provided at the earliest possible opportunity.
- 14.2 On completion of the investigation, the investigating officer will be required to produce a report summarising their findings and making a recommendation in terms of next steps to the designated person as outlined in the table above.
- 14.3 The possible outcomes of harassment and bullying investigations for staff are as follows:

a) Insufficient evidence to suggest that there is a case to answer

If it is decided that there is not sufficient evidence that there is a case to answer, support will be provided for both parties, and consideration given to managing their ongoing working relationship. This may include avenues such as mediation and clear expectations for managing the working relationship going forward.

b) Evidence of unacceptable behaviour that may be dealt with informally

In some cases where harassment and/or bullying is substantiated, but does not warrant disciplinary action, it may still be possible to agree an acceptable resolution. For example, the manager may address the situation through supervisory processes including counselling, advice, instruction, training and/ or support. In such cases the manager must make it clear to the employee that their behaviour is unacceptable and that further similar instances may lead to disciplinary action. Mediation may also be appropriate in these circumstances.

In circumstances where harassment and/or bullying has not been proven and an informal outcome is recommended, managers must ensure that the employee against who the allegation has been made is not treated detrimentally. Additionally, the Trust will not tolerate any retaliation against, or victimisation of, any employee involved in bringing a complaint of harassment under this procedure. This will constitute a disciplinary offence, which may, in appropriate circumstances, lead to dismissal.

c) Disciplinary Procedure

Where an investigation concludes that there is sufficient evidence of unacceptable conduct, and an acceptable resolution cannot be reached or supervisory processes are inappropriate, the matter will be dealt with in accordance with the Trust’s disciplinary procedure. Information and evidence collected as part of the harassment and/or bullying investigation will be used in respect of the disciplinary process and further investigation may not be necessary. As part of this process and dependent on the outcome, consideration will be given to rebuilding working relationships within the team and any support that may be required as part of this process.

15. Malicious complaints

- 15.1 It is fully expected that employees will act responsibly regarding this issue. False accusations can have a serious effect. Therefore, should an investigation show that a false accusation has been made in bad faith, appropriate action, including the use of the disciplinary procedure, may follow.

16. Appeal

- 16.1 Appeals against bullying and harassment complaint decisions will usually be considered by the panel in relation to one or more of the following grounds:
 - (i) Procedural irregularities prejudiced the outcome decision.
 - (ii) The evidence does not support the decision, or was misinterpreted, or disregarded, or relevant evidence was not taken into account. Any new evidence to be considered must be included.
 - (iii) The proposed action is inappropriate given the circumstances of the case.
- 16.2 Appeal hearings will be convened as soon as is reasonably practicable and the employee will be given five working days’ notice of the time and place of the appeal hearing. The letter will inform the employee of their right to be accompanied at the appeal hearing by a trade union representative or work colleague.
- 16.3 The appeal will be considered by a senior manager who has not previously been involved in the case, which will focus on specific grounds identified in the letter of appeal and will not be a re-hearing. The appeal level is set out below:

| Complaint considered by: | Appeal considered by: |
|---|--|
| Member of the Leadership Team | Headteacher or Principal and a member of the HR team |
| Headteacher or Principal or for Head Office staff | Chief Executive or delegated to a Director not previously involved and a member of the HR team |

| | |
|--------------------------|--|
| Non – executive Director | Chairman of the Board and a member of the HR team |
| Chief Executive | Chair of the Audit and Risk Committee or another designated non-executive an a member of the HR team |

16.4 The panel may invite advisers (for example a representative from Human Resources) as appropriate. For all meetings, a note taker will attend to take minutes of proceedings.

16.5 The Chair of the panel will communicate the decision, which will be final, in writing to the employee within five working days of the appeal hearing.

17. Confidentiality

17.1 Confidentiality is an important part of this policy and related procedures. Everyone involved in the operation of the policy, whether making a complaint or involved in any investigation, is responsible for observing the 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.

18. Record Keeping

18.1 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.

18.2 The Trust will maintain records of investigations into alleged incidents of harassment or bullying, the outcome of the investigation and any disciplinary action taken. These records will be maintained in confidence and in line with the provisions of the Data Protection Policy.

18.3 Where records indicate that there are repeated patterns of bullying or harassment these may be referred to collectively even though each incident alone may not be sufficient to warrant formal action. It would not generally be acceptable to link allegations that occur more than 12 months apart.

19. Review of the Policy

19.1 This policy will be reviewed every three years in consultation with the recognised trade unions.

Appendix 1 – Harassment and Bullying Complaint Form

Name:

School:

Job Title:

Who is the subject of your complaint?

What is your complaint?

What action has been taken so far, who has considered it and what was the result?

What is the outcome that you require to resolve your complaint?

Signed:

Date: