

Bullying and Harassment – Staff

1 Introduction

- 1.1** The Heart of Mercia Multi Academy Trust (HoM) and its constituent academies aim to create a working environment that respects the dignity and rights of all employees, and where individuals have the opportunity to realise their full potential. The aim of the Trust’s policy is to support this ethos and to strive to prevent harassment and bullying from occurring.

Guidance from ACAS has been considered when writing this policy. For more details see <https://www.acas.org.uk/bullying-at-work>

2 Our commitment

- 2.1** The Trust will not tolerate any form of harassment or bullying and is committed to ensuring that employees are able to work confidently and without fear of harassment, bullying or victimisation. Therefore, if a complaint is made to the Trust or one of its academies, it will be investigated promptly, and appropriate action will be taken in line with the Trust’s policy. Where an employee is found to have committed a serious act of bullying or harassment, this will be dealt with under the HoM Staff Disciplinary policy and may be viewed as gross misconduct, which could result in summary dismissal. Where an employee reports an incident of harassment or bullying by a third party, the Trust will take appropriate action.
- 2.2** In order to meet our commitments, the Trust undertakes to publicise its policy fully and to ensure that employees understand their rights and responsibilities. All employees will be made aware of how to access the policy, either via the Trust portal, academy portals or in hard copy. In addition, the Trust will make contractors, and secondees aware of its policy.

3 Legislation

Bullying and harassment is behaviour that makes someone feel intimidated or offended. Harassment is unlawful under the Equality Act 2010. Bullying itself is not against the law; however, it is important to emphasise that the Trust will not tolerate such behaviour against an employee.

4 Background

Where harassment and bullying occur, they cause serious repercussions for the employer and employees. They can affect people’s health, work performance and the success of

the Trust. Bullying, as a cause of stress at work, should be regarded as a workplace health and safety hazard.

5 Definition of bullying and harassment

5.1 Harassment

Harassment occurs when an individual is subjected to unwanted conduct which has the purpose (intentional) or effect (unintentional) of:

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

Moreover, harassment is unlawful when it is on the grounds of sex, gender reassignment, sexual orientation, marriage/civil partnership, race, ethnic or national origin, sexual orientation, age, religion/belief, or for a reason relating to a person's disability. It is also unlawful to subject an individual to sexual harassment, or to harassment on the grounds of that individual's membership or non-membership of a union. The Trust will not tolerate harassment or bullying in any form.

It is the individual's perception of whether the conduct in question was unacceptable that is important in determining whether harassment occurred. Where the conduct in question is found to have been unintentional, it will be viewed as having the effect of harassment if this could be regarded as a reasonable conclusion when taking into account all the circumstances, including the complainant's perception.

5.2 Bullying

Bullying, although not defined legally, is described as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate, or injure the recipient.

5.3 Examples of forms of harassment and bullying

Harassment and bullying can take many forms. Examples of unacceptable behaviour include:

- Offensive songs, remarks, jokes, emails, or gestures
- Display of offensive posters, publications, and graffiti
- Unwanted physical contact or advances
- Offensive remarks about a person's dress or appearance,
- Offensive remarks about a person's race, gender, marital status, disability, religion or belief, sexual orientation, gender identity or age
- Shouting, abusive or intimidating language
- Spreading malicious rumours, allegations, or gossip
- Excluding, marginalising, or ignoring someone

- Intrusion by pestering, spying, or stalking.
- Copying content that is critical about someone to others who do not need to know.
- Deliberately undermining a competent worker by overloading, taking credit for his/her work or constant criticism
- Removing areas of responsibility and imposing menial tasks
- Cyber-bullying: that is, the sending or posting of harmful, cruel, or offensive text or images by email, internet, social networking websites or other digital communication devices.

The above list is intended to give a clear impression of the types of behaviour that the Trust considers to be unacceptable; however, it only contains examples and is not exhaustive.

- 5.3.1.** The Trust will not tolerate acts of harassment or bullying during work, including at work-related functions, such as conferences or at social gatherings clearly linked to or organised by the Trust or its academies, such as after-work drinks.
- 5.3.2.** It is accepted that vigorous academic debate and occasional raised voice or argument of itself may not necessarily constitute harassment or bullying.
- 5.3.3.** Bullying must be distinguished from the right of, and obligation placed on managers to exercise proper supervision of employees in the course of their duties, which may include legitimate, constructive, and fair criticism of an employee's performance or behaviour at work. Managers will exercise this supervision in a fair, constructive, consistent, and reasonable manner that does not compromise the employee's dignity. Similarly, reasonable (but perhaps unpopular) requests by a manager of his/her employees in the normal course of their duties will not be viewed as acts of harassment or bullying.

6 Responsibilities

6.1 Trustees and Governors in HoM Academies

Trustees and Governors are responsible for ensuring that:

- As employers, Trustees and Governors are responsible for preventing bullying and harassment and are liable for any harassment suffered by their employees;
- They are familiar with the harassment and bullying policy;
- Training on the Trust's policy features as part of the Trust and its academies operational policies stemming from strategic plans;
- They are aware of the Trust's legal responsibilities as an employer in relation to harassment and bullying;
- They receive and respond to any monitoring information collated as part of the reviews of the policy; and
- The Trust and its academies meet public sector equality duties.

6.2 Managers

Managers are responsible for ensuring that:

- Senior postholders of the Trust, members of academy senior leadership teams and middle managers, are responsible for taking the lead in creating a positive, open culture that challenges inappropriate behaviour on the part of managers, employees, or learners;
- They are familiar with the harassment and bullying policy, and that it is followed correctly;
- They are aware of the Trust's legal responsibilities as an employer in relation to harassment and bullying;
- Monitoring in relation to the policy (see Section 11) is carried out and the policy is reviewed accordingly; and
- Appropriate training and development is provided to support managers' and employees' understanding of the harassment and bullying policy.

6.3 Employees

Employees are responsible for ensuring that:

- They familiarise themselves with the harassment and bullying policy;
- Their behaviour supports a positive work environment free from harassment and bullying; and
- They participate in an investigation when asked by an investigating officer, where the employee has observed or has evidence that another employee is being harassed or bullied.

7 Training

In order to support the Trust's aim of preventing harassment and bullying, awareness training will be provided to all staff. The Trust will also provide specific training to managers in the correct operation of the harassment and bullying policy.

8 Support Available

The Trust recognises the sensitive nature of harassment and bullying. Employees who believe they are being harassed or bullied may wish to discuss their particular situation in confidence before deciding what action to take. Employees are encouraged to discuss workplace problems openly and informally with their line manager. However, the Trust recognises that this may not always be appropriate and provides the following support:

- Employees can discuss the situation with the next level manager or with a member of the HR department in their academy;
- Employees can obtain support from their trade union representative.
- Trust academies may provide a free specialist counselling service. Contact the Personnel section at the relevant HoM academy for any details.

- Employees can seek further advice by contacting ACAS: Telephone: 0300 123 1100

Confidentiality will be maintained as far as possible. However, if an employee decides not to take any action to deal with the problem and the circumstances described are very serious, the Trust reserves the right to investigate the situation in accordance with its duty of care to ensure the safety of all employees who may be affected by the alleged behaviour.

Part 2: Guidelines on the procedure for dealing with complaints of harassment or bullying.

9 Procedure for dealing with complaints of harassment or bullying

9.1 Introduction

If an employee wishes to make a complaint of harassment or bullying, the matter should be raised as a grievance in accordance with the Trust's grievance procedures. The procedure should aim to investigate such grievances to establish whether or not harassment or bullying has occurred and make recommendations for action where necessary. Such action could include disciplinary action, in which case the Trust or the relevant HoM academy will refer to the relevant stage of the Trust's disciplinary procedure.

9.2 Confidentiality

Grievances about bullying and harassment should be dealt with in a confidential manner to respect the privacy of all parties and to ensure the matter is dealt with sensitively and effectively. Any breach of confidentiality may result in disciplinary action against those concerned.

Where a formal grievance is raised under the grievance procedure, it should be made clear to all involved that any documentary evidence or subsequent statement taken during the investigation may form part of evidence in any disciplinary proceedings. In the event that disciplinary procedures are invoked, the investigation report, together with any witness statements, should be made available to the alleged harasser prior to any disciplinary hearing in accordance with Trust procedures.

9.3 Keeping records of incidents

It is helpful for anyone who believes they have been subjected to harassment or bullying to make a note of the details of the incidents as soon afterwards as possible, as memories

can fade. For example: dates; times; places; the name of the person involved; what actually happened; how the person felt at the time; the names of any witnesses; action taken at the time and whether the incident was reported to management.

9.4 Stage 1 – Informal Resolution

In most cases it is preferable to deal with grievances informally in accordance with the informal stage of the Trust's grievance procedure. 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. Solutions can be reached quickly with minimum risks of embarrassment, suffering, disruption to work and working relationships.

In many cases it will be sufficient for the complainant to raise the problem with the alleged harasser as soon after the incident as possible, stating clearly that the behaviour is unacceptable. A note should be made of the action taken (refer to paragraph 9.3).

If the complainant does not feel able to do this alone, he/she could seek support from a colleague, union representative, line manager, or appropriate member of the HR department. Where both parties agree, the Trust may consider addressing the unacceptable behaviour through a recognised mediator.

If the matter is very serious, the employee feels the matter has not been resolved at this stage, or in other circumstances where the employee does not wish to raise the matter informally, the employee may proceed to the formal stage of the Trust's bullying and harassment procedure (Stage 2).

9.5 Stage 2 – Formal

The employee must outline his/her allegations of bullying/harassment in writing, giving full details of the incidents and any action taken to date.

The investigation of the formal allegations should be conducted in a sensitive manner and without undue delay. It is recommended that no more than 28 days should elapse from the Trust or one of its constituent academies' receipt of an employee's written grievance to the resolution of the formal procedure; unless a different timescale is agreed by both parties. The Trust and its academies will endeavour to adhere to this recommended

timescale wherever possible. It is also regrettably inevitable that delays may occur should school/college holidays take place during the procedure.

- 9.5.1.** The allegation should be submitted in writing to the Principal/Head of the appropriate academy or if it pertains to a senior post holder of the Trust, the Chief Executive. If the allegation is about the Chief Executive, it should be given to the Clerk to the Trust.
- 9.5.2.** The Principal/Head/Chief Executive/Clerk to the Trust should appoint an appropriate manager to investigate the grievance (the Investigating Officer). The investigation should be conducted in an impartial and objective manner. The Investigating Officer should not be involved with the case in any way.
- 9.5.3.** In cases which appear to involve serious misconduct, and there is reason to separate the parties, the Trust or an academy of the Trust may consider temporarily relocating either party during the investigation; a complainant should only be relocated with his/her/their agreement. Alternatively, a short period of suspension of the alleged harasser may need to be considered while the investigation is carried out. Suspension should be with pay.
- 9.5.4.** The Investigating Officer must, as soon as possible and in any event within five working days, invite the complainant to a grievance hearing to investigate his/her complaint. The complainant has the right to be accompanied at this meeting by a work colleague or trade union representative. In exceptional circumstances, the Trust may allow a companion who is neither a workplace colleague nor trade union representative to accompany an employee (see Appendix 1). Any such exception must be approved in advance of the meeting by the Investigating Officer.

At the meeting, the complainant will have the opportunity to fully explain what has happened and the Investigating Officer will have the opportunity to ask any questions and discuss any points that require further discussion.

- 9.5.5.** The Investigating Officer should also invite the alleged harasser to an investigation meeting where he/she will have the opportunity to respond to the grievance and the allegations against him/her. Prior to this meeting the alleged harasser should be provided with a copy of the written grievance. The alleged harasser should be given the opportunity to be accompanied at this meeting by a work colleague or trade union representative. In exceptional circumstances, the Trust may allow a companion who is neither a workplace colleague nor trade union representative to accompany an employee

(see Appendix 1). Any such exception must be approved in advance of the meeting by the Investigating Officer.

Five working days' notice of this meeting should be given.

9.5.6. The Investigating Officer should meet with any witnesses cited by either the complainant or the alleged harasser. Notes of these meetings should be taken, and the Investigating Officer may take statements from the individuals.

9.5.7. Where there is conflicting evidence the Investigating Officer may wish to meet with any of the parties again to clarify and complete the investigation.

9.5.8. The Investigating Officer should assess the evidence and author a report summarising the findings of the investigation. The Investigating Officer's decision in relation to the allegations should be communicated in writing to the complainant and the alleged harasser without undue delay, explaining the outcome of the grievance and the reasons.

9.5.9. The report will state whether harassment or bullying occurred and will outline any recommendations for action. For example:

- Harassment or bullying did not occur – no or limited action required. In such circumstances the Investigating Officer may, if necessary, recommend steps to improve the working relationship between the parties following the complaint.
- Harassment or bullying did occur – recommendations for action short of disciplinary action. It may be concluded in light of the facts that disciplinary action is unnecessary. In such circumstances the Investigating Officer may recommend other appropriate action to address the behaviour, such as:
 - training/coaching/mentoring;
 - re-arrangement of working conditions;
 - redeployment of one or both parties on a temporary or permanent basis on terms and conditions that are no less favourable than existing terms and conditions of employment; and/or
 - monitoring of the situation.
- Harassment or bullying did occur – disciplinary action required. In such circumstances the alleged harasser will be asked to attend a disciplinary hearing (refer to the appropriate HoM disciplinary policy).

9.6 Stage 3 – Appeal

If dissatisfied with the decision in relation to his/her grievance at Stage 2, the complainant has the right to appeal against the decision by following the appeals procedure in the Trust's grievance procedure.

9.7 Records of complaints

The Trust and its academies will keep a confidential record of complaints and investigations, which will include the names of the people involved, dates, the nature of the incident(s), the action taken, and any follow-up and monitoring information. The Trust will keep such records for 6 years from the end of employment. Where a complaint was unsubstantiated, this will be clearly stated in the Trust or HoM academy's record. All sensitive information will be treated confidentially and in compliance with the requirements of the [Data Protection Act 2018](#).

9.8 Allegations against students

Where the allegation is that a student has harassed or bullied an employee, the same procedure applies as set out in Section 9.5. If the allegation is upheld, the Trust and/or its academies should take appropriate action and may refer to the student disciplinary procedure.

9.9 Malicious allegations and false statements

Unfounded allegations of harassment and/or bullying for malicious reasons will not be tolerated by the Trust. Any such cases will be investigated and dealt with under the HoM disciplinary procedures and may be serious enough to constitute gross misconduct, which may result in summary dismissal. Where a student makes an unfounded allegation of harassment and/or bullying for malicious reasons, this will be dealt with under the student disciplinary procedure and may result in the expulsion of that student.

Where a witness is found to have deliberately misled an investigation, this will be treated as a serious disciplinary offence.

9.10 Complaints against Senior post holders of the Trust

Where the complaint is against a senior post holder of the Trust, the same steps as set out in section 9 should be taken to investigate the matter.

The Trust will appoint an appropriate Investigating Officer to investigate the complaint. This may be another senior post holder of the Trust, a senior manager from the relevant academy, or an external investigator, depending on the circumstances.

If the complaint is upheld and disciplinary action may be required, the matter must be referred to the Trust Board who should follow the HoM Senior Post Holders Disciplinary policy.

10 Victimisation

Employees are protected from victimisation as a result of bringing a complaint under the harassment and bullying policy. If an employee feels that he/she has been victimised following a complaint of harassment or bullying, he/she should raise a grievance under the HoM Staff Grievance policy. Where it is found that victimisation has occurred, this will be treated as a disciplinary offence and may be serious enough to constitute gross misconduct.

11 Review and Monitoring

It will be the responsibility of the senior management team to review and monitor the progress of the harassment and bullying policy on a regular basis, using information such as the number of harassment complaints raised, employee attitude surveys, training feedback, the views of recognised union representatives in academies of the Trust and comments made in return-to-work and exit interviews. The Trust Executive will then recommend changes where necessary.

12 General

The harassment and bullying policy should not be read in isolation but cross-referenced with all relevant Trust employment policies.

13 Equality Impact

The Trust's responsibilities towards promoting equality, diversity and inclusion have been considered when drafting this policy.

Policy document

Date of review	Date agreed	LGBs	MAT Board	Review date	Comments
March 2024	March 2024	Summer 2024	April 2024	March 2025	

Appendix 1

THE RIGHT TO BE ACCOMPANIED AND THE ROLE OF THE COMPANION

(1) The right to be accompanied.

Employees of the Heart of Mercia Multi Academy Trust (HoM) have the right to be accompanied by a colleague or a trade union representative.

The Trust also recognises its legal obligations under the Equality Act 2010 and will make reasonable adjustments here for disabled employees of the Trust.

In exceptional circumstances, the Trust may allow a companion who is neither a workplace colleague nor trade union representative to accompany an employee. Any such exception must be approved in advance of the meeting by:

- the Investigating officer for an investigative interview.

As the statutory right to be accompanied does not extend to legal representatives, friends, or family members, any decision to allow this remains at the discretion of the Trust.

If a HoM employee would like someone other than a trade union representative or workplace colleague to accompany them, they should make a request to the Trust in writing, explaining why this person is suitable and why it is reasonable for that person to accompany them. Please address any such request to the Heart of Mercia Trust HR Director at anna.meade@heartofmerciamultiacademytrust.org.uk

The person accompanying an employee is known as a companion.

If a HoM employee makes a request to be accompanied, he or she should do so reasonably. For example:

- it may not be reasonable to choose a companion who is in geographically remote location when a suitable person is available at the place of work.
- It would also not be reasonable to choose a companion whose presence would prejudice the process or who has a conflict of interest.

If the employee's chosen companion cannot attend on the date proposed, the employee can propose an alternative time and date, so long as it is reasonable and is no more than five working days later than the date originally proposed by the Trust.