

# Bullying and harassment procedure

(To be used in conjunction with the B&H interactive tool)

Version Control	Changes Made	Author
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## Guiding principles

Cumbria county council believes that every employee has a right to be treated with dignity and respect whilst at work and strives to create a workplace environment free from bullying, harassment and victimisation. We believe that dignity at work is the responsibility of all to foster a culture of respect, fairness, and transparency within the workplace.

We have a zero-tolerance approach to bullying, harassment and victimisation and take every claim seriously. When allegations of misconduct are made, we will carry out a full investigation which could result in disciplinary action.

The council recognises that failing to address and manage bullying, harassment and victimisation of employees can result in tension and conflict. It can lead to stress, ill health and even resignation. We encourage anyone who feels they are a victim of, or witness to, bullying, harassment or victimisation, to raise concerns at the earliest opportunity. We are committed to providing strong support from the outset and throughout the process.

This guidance supports all employee's ability to address and manage instances of bullying, harassment and victimisation, directing them through the guidance. It also provides support, to rebuild working relationships ensuring no victimisation or retaliation occurs, taking forward lessons learnt.

## Definitions

### Bullying

Bullying occurs when a person or group of people are subject to unwanted behaviour that intends to or does violate a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.

### Harassment

Harassment is unwanted behaviour which you find offensive, or which makes you feel intimidated or humiliated. It can happen on its own or alongside other forms of discrimination, in connection with or because of age, race, sexual orientation, religion or belief, sex, gender reassignment. Harassment is unlawful under the Equality Act 2010.

### Victimisation

Victimisation occurs when a person is treated badly or subject to a detriment.

Victimisation can occur because they have or it is believed they have or are going to make a claim or complaint of discrimination, helped someone else make a claim by giving evidence or information, make an allegation that the Equality Act has been breached or do anything else in connection with the Equality Act. Victimisation is unlawful under the Equality Act 2010.

## Mediation and support

Mediation and support is available to anyone who is affected by potential bullying, harassment, or victimisation and as such flows in a circular motion around the outside of the procedure showing that it can be accessed at any point by either party. Support is available before any complaint is made and also inside and outside of the formal process. Please contact your HR professional to discuss further.

N.B Mediation and the support on offer is voluntary and nobody should be forced or compelled to engage in either.

## Representation

Throughout this procedure the complainant and the alleged bully / harasser have the right to be accompanied by a TU representative.

## Informal complaints process

1. Where an employee feels they have experienced bullying and harassment and hasn't / or doesn't feel able to tackle the situation themselves they raise it with their manager. The aim should be to try to resolve the situation informally.
2. The manager should hold separate preliminary meetings with both the employee and the alleged bully / harasser to establish the events that have taken place. This is an opportunity to share concerns and explore desired resolution for both parties.
3. The manager/ Headteacher/ Chair of Governors will be responsible for supporting any actions which may be necessary for the rebuilding of working relationships and should consider Appendix A 'Advice for resolving issues and rebuilding relationships'.
4. In some cases, it can be helpful to involve an independent third party or mediator, to help resolve problems by way of mediation; sometimes referred to as a facilitated discussion. Please seek advice from your HR professional to discuss how this can be arranged.

**If informal action does not result in the bullying behaviour ceasing, or if an employee wishes to make a formal complaint at the outset, then the formal complaints process should be followed. E.g., If informal action is deemed inappropriate given the nature of the complaint.**

## Formal bullying and harassment disciplinary process

1. Formal complaint made to an appropriate manager / headteacher / chair of governors.
2. The manager should hold preliminary meetings with both the, complainant and the alleged bully / harasser to establish the events that have taken place. Managers must be clear and specific when allegations are being made and should, throughout the disciplinary process, be consistent about the nature of the misconduct which is being investigated.
3. Where alleged misconduct, if established, would be regarded as gross misconduct, consideration must be given whether to suspend the employee from work on normal pay, in accordance with section 4 of the **disciplinary procedure**.
4. Impartial commissioning manager appointed, in consultation with all parties.

5. Disciplinary investigation commissioned by commissioning manager and investigating officer appointed in accordance with section 7 of **disciplinary procedure** 'Disciplinary Investigation'.
6. Completed investigation report sent to commissioning manager, complainant and alleged bully / harasser.
7. Formal disciplinary meeting arranged with all parties.
8. At the meeting the commissioning manager should explain the allegations against the alleged bully / harasser and go through the evidence that has been gathered. Both the complainant and the alleged bully / harasser should be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses.
9. Complainant or representative can present an impact statement - this can include desired resolution.
10. The meeting will adjourn, and a decision will be reached by the commissioning manager. If a decision cannot be reached immediately, the meeting will be reconvened as soon as possible. The Commissioning manager should refer to section 11 and 12 of the **disciplinary procedure** and seek advice from their HR Professional.
11. Following the adjournment, the employees will then be recalled separately and will be informed of the decision to uphold or not uphold the complaint.
12. Where, following a disciplinary meeting the Commissioning manager establishes that no misconduct has taken place; both employees will be informed that there is no case to answer and no disciplinary action to take.
  - a) Complainant will be advised at this stage of his/her right of appeal and the time limit for any such appeal. NB. This appeal is limited to procedural concerns only.
13. If misconduct is found to have occurred, the commissioning manager will inform the alleged bully / harasser of the disciplinary sanction to be imposed which could include dismissal. (Please refer to section 12 of the **disciplinary procedure** 'Disciplinary Penalties')
  - a) Bully / Harasser will be advised at this stage of his/her right of appeal and the time limit for any such appeal.

**Please note the complainant will not be told the actual outcome/sanction of any disciplinary action.**

## Appeals

Please refer to section 14 of the **disciplinary procedure** for further information on appeal hearing and Appendix 4 for staffing committee following decision to dismiss.

## Suspension

After the preliminary meeting where alleged misconduct, if established, would be regarded as gross misconduct, consideration must be given, whether to suspend the employee from work on normal pay.

When suspending an employee, he/she should be given the opportunity to be accompanied by a trade union representative or work colleague at all meetings.

Suspension, in itself is a neutral act and a precautionary measure and not a form of disciplinary action and will only apply when other alternatives have been considered.

Details of the reason for suspension must be given to the employee as soon as possible. It may be necessary to seek advice from your Directorate HR Team/School HR provider/Diocesan Officer on the appropriate course of action.

Suspension should be kept under strict review and regular oversight provided to the relevant policy guardian; a minimum of every 21 days is recommended.

## Meeting Arrangements

Commissioning manager should notify each employee in writing of the details of the time and venue of the meeting.

The notification to the alleged bully/harasser should contain sufficient information about the alleged misconduct and its possible consequences to enable the employee to prepare to answer the case at a disciplinary meeting.

Either employee can request a postponement within five days of the original date if their chosen representative cannot attend.

Copies of any relevant information and witness statements should be made available both parties at least 5 working days prior to the disciplinary meeting, or sooner if possible

Arrange a notetaker for the meeting, this must be someone who is not involved in the case.

Both parties should submit any relevant papers and witness statements at least 5 working days in advance of the meeting, together with the names of any additional witnesses they wish to attend the meeting.

Requests for witness attendance should be sent to the commissioning manager.

Arrange for an additional room's to be available for both parties and their representative and for any witnesses.

Given the sensitive nature of the complaint, the complainant must be given the opportunity to present their statement without the alleged bully/harasser present. (Consideration can be given to this being done virtually).

Witnesses should be brought into the hearing individually and not present their statements in the presence of other witnesses.

If the either party concerned is a trade union representative, commissioning manager should discuss the case with a trade union full-time official.

## Timescales

Task / Action	Timescale
Informal preliminary meeting	To be held within 5 days of issue being raised where possible.
Formal complaint	Should be acknowledged within 5 working days
Suspension	Details of the reason for suspension must be provided as soon as possible and must be kept under strict review.
Investigation and report.	To be completed within 28 days where possible. Any potential delays should be discussed with all parties.
Meeting following receipt of completed investigating officers report	To be arranged within 10 working days to allow time to organise witnesses and prepare case.
Disciplinary hearing / outcome (If applicable)	To be arranged as soon as possible following conclusion of bullying and harassment procedure.
Appeals	To be sent in writing within 5 days of receiving outcome.

## Next Steps

Following the conclusion of the informal or formal process the commissioning manager should meet with all parties to discuss learning points and next steps to rebuild working relationships. A clear and agreed action plan should be put in place with all parties for the rebuilding of working relationships and mediation reconsidered, if appropriate. Support can be found within Appendix A 'Advice for resolving issues and rebuilding relationships', and also via your HR Professional or trade union.

## Appendix A.

### Advice for resolving issues and rebuilding relationships

Managing and resolving conflict requires the ability to quickly reduce stress and bring emotions into balance. The process can be as positive as possible by sticking to the following guidelines:

- **Acknowledge that a difficult situation exists.** Honesty and clear communication play an important role in the resolution process. Acquaint yourself with what's happening and be open about the problem.
- **Listen for what is felt as well as said.** When we listen we connect more deeply to our own needs and emotions, and to those of other people. Listening also strengthens us, informs us, and makes it easier for others to hear us when it's our turn to speak.
- **Make conflict resolution the priority rather than winning or "being right."** Maintaining and strengthening the relationship, rather than "winning" the argument, should always be your first priority. Be respectful of the other person and his or her viewpoint.

- **Let individuals express their feelings.** Some feelings of anger and/or hurt usually accompany conflict situations. Before any kind of problem-solving can take place, these emotions should be expressed and acknowledged.
- **Define the problem.** What is the stated problem? What is the negative impact on the work or relationships? Are differing personality styles part of the problem? Meet with employees separately at first and question them about the situation.
- **Focus on the present.** If you're holding on to grudges based on past resentments, your ability to see the reality of the current situation will be impaired. Rather than looking to the past and assigning blame, focus on what you can do in the here-and-now to solve the problem.
- **Be willing to forgive.** Resolving conflict is impossible if you're unwilling or unable to forgive. Resolution lies in releasing the urge to punish, which can never compensate for our losses and only adds to our injury by further depleting and draining our lives.
- **Know when to let something go.** If you can't come to an agreement, agree to disagree. It takes two people to keep an argument going. If a conflict is going nowhere, you can choose to disengage and move on.
- **Determine underlying need.** The goal of conflict resolution is not to decide which person is right or wrong; the goal is to reach a solution that everyone can live with. Looking first for needs, rather than solutions, is a powerful tool for generating win/win options. To discover needs, you must try to find out why people want the solutions they initially proposed. Once you understand the advantages their solutions have for them, you have discovered their needs.
- **Find common areas of agreement, no matter how small:**
  - Agree on the problem
  - Agree on the procedure to follow
  - Agree on worst fears
  - Agree on some small change to give an experience of success
- **Find solutions to satisfy needs:**
  - Problem-solve by generating multiple alternatives
  - Ask both parties to come up with solutions and discuss their merits
  - Determine which actions will be taken
  - Make sure involved parties buy into actions. (Total silence may be a sign of passive resistance.) Be sure you get real agreement from everyone.
- **Determine follow-up you will take to monitor actions.** You may want to schedule follow-up meetings, initially weekly to determine how the parties are doing.