

Policy document control box	
Policy title	<b>Bullying and Harassment Policy (Staff)</b>
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Version	1.02
RBNch approving body	RBNch Trustees
Date of meeting when version approved	March 2021
Date of next review	March 2024
Signed by Headteacher	<i>H Jolly</i>
Date signed	15/03/2021
Signed by Chair of Trustees	<i>D Kelly</i>
Date signed	18/03/2021

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## **1. Purpose**

- 1.1. RBNch seeks to ensure that all staff members are treated and treat others with dignity and respect, free from harassment and bullying. Staff should always consider whether their words or conduct could be offensive. Even unintentional harassment or bullying is unacceptable.
- 1.2. RBNch will take allegations of harassment or bullying seriously and address them promptly and confidentially, where possible. All staff, trustees and volunteers must comply with this policy and take appropriate measures to ensure that such inappropriate conduct does not occur. Harassment or bullying by a staff member will be treated as misconduct under our disciplinary procedure. In some cases, it may amount to gross misconduct leading to summary dismissal.

## **2. Scope**

- 2.1. This policy applies to all staff members, trustees and volunteers employed or appointed by RBNch.

## **3. Policy statement**

- 3.1. This policy covers harassment or bullying which occurs both in and out of the workplace, such as on school visits, at events, work-related social functions or on social networking sites. It covers bullying and harassment against staff, trustees and volunteers and also by third parties such as suppliers or visitors to our School, which includes parents.
- 3.2. Where the complaint relates primarily to a matter covered by another policy, for example, grievance, pay, probation or whistleblowing, then the matter will be dealt with in accordance with the relevant policy, if more appropriate. Matters will not be dealt with under both this policy and the grievance policy.
- 3.3. This policy does not form part of any staff member's contract of employment and it may be amended at any time. Elements of this procedure, including any time limits, may be varied as appropriate in any case.

## **4. What is harassment?**

- 4.1. 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.
- 4.2. It also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.
- 4.3. 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.
- 4.4. 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.
- Ignoring or shunning someone, for example, by deliberately excluding them from a conversation or a workplace social activity.

4.5. 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. When deciding whether or not conduct has the effect of harassment, the perception of the other person, the circumstances of the case, and whether or not it is reasonable for the conduct to have that effect, must all be taken into account.

## 5. What is bullying?

- 5.1. 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.
- 5.2. 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
  - Deliberately excluding someone from meetings or communications without good reason
- 5.3. Legitimate, reasonable and constructive criticism of a worker's performance or behaviour, or reasonable instructions given to staff in the course of their employment, will not amount to bullying on their own.

## **6. What the law says**

- 6.1. 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.
- 6.2. 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.
- 6.3. Under the Health and Safety at Work Act 1974 staff are entitled to a safe place and system of work.
- 6.4. Individual staff members 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.

## **7. Informal process**

- 7.1. If you are being bullied or harassed, you must attempt to manage the situation informally if this is 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 this includes 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 discuss your complaint with the “perpetrator” as early as possible, to reduce worry for you and possibly for the other person. You should explain clearly to them that their behaviour is not welcome or makes you feel uncomfortable.
- 7.2. 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, Head of Centre, or union representative.
- 7.3. If the behaviour continues after raising it with the perpetrator, the staff member should raise the matter with their Head of Centre or another appropriate senior colleague orally or in writing.
- 7.4. The Head of Centre/senior colleague will then arrange to meet with both parties, either individually or together, and seek to address the concerns by considering options with those involved. These options may include mediation or moving to the formal stage of the procedure.
- 7.5. 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.

## **8. Formal procedure**

- 8.1. 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 harassment or bullying, 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. You can use the Notification of Grievance Form (Appendix A

of the grievance procedure) to state the grounds of your complaint and the remedy that is being sought, if helpful.

- 8.2. As a general principle, the decision about whether to progress a complaint is up to you. However, RBNch has a duty to protect all staff, trustees, and volunteers and may pursue the matter independently if, in all the circumstances, they consider it appropriate to do so.
- 8.3. Where the grievance procedure is invoked as a result of a complaint about bullying or harassment, a manager (usually the Head of Centre, unless the complaint is against them or where they have involvement in the complaint) must be designated to investigate the complaint in a timely, sensitive, impartial and confidential manner.
- 8.4. The Head of Centre, (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.
- 8.5. Where your complaint is about a staff member, RBNch may consider suspending the staff member on full pay or making other temporary changes to working arrangements pending the outcome of the investigation, if circumstances require. A suspension risk assessment should be completed in all cases. The investigating officer will also meet with the alleged harasser or bully who may also be accompanied by a companion 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.
- 8.6. Where your complaint is about someone other than a staff member, such as a contractor or visitor, RBNch 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, RBNch will attempt to discuss the matter with the third party.
- 8.7. RBNch will also seriously consider any request that you make for changes to your own working arrangements during the investigation.
- 8.8. 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.
- 8.9. 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 RBNch's disciplinary procedure.
- 8.10. The main purpose of the investigation is to establish whether the act/s under investigation amounted to harassment and/or bullying. 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 harassment or bullying 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. The investigating officer may also choose to make recommendations as to how the matter may be resolved.
- 8.11. At the end of the investigation, the investigating officer will submit a report to a nominated trustee to consider the complaint. Within 10 working days, the nominated trustee will write to you to invite you to a formal meeting to discuss the complaint. The nominated trustee may be accompanied by another staff member, trustee or an HR Adviser.
- 8.12. A staff member may bring a companion to the meeting (a colleague or a trade union representative). The staff member must advise the chair of trustees who their chosen companion is, at least 24h before the meeting.
- 8.13. At the meeting, the companion may make representations and ask questions, but should not answer questions on the staff member's behalf.
- 8.14. If a staff member's chosen companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards, the staff member will normally be required to find an alternative companion.
- 8.15. The investigating officer will attend to present the findings of their investigation and you will be provided with a copy of the report at least five working days before the meeting.
- 8.16. At the meeting, you will be given a reasonable opportunity to raise points about any information collected in the investigation.
- 8.17. Following the meeting, the nominated trustee will consider the investigation report and all information presented in the meeting and decide whether:
- They consider that harassment or bullying has occurred, in which case the matter may 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, change in duties or reporting structure are required. Any changes should not be at the detriment to any parties concerned.
- 8.18. You will receive a letter confirming the nominated trustee's decision in writing within 10 working days of the meeting. A copy of the letter and the investigation report will also be given to the alleged harasser.
- 8.19. Following a formal bullying or harassment complaint, either party may be concerned about working with the other again. Due regard to such views should be taken into account when offering counselling or mediation. A

transfer of one or both parties to another section or department may be appropriate in some cases and where feasible.

8.20. If the staff member raising the grievance is not satisfied with the outcome then the staff member may appeal in accordance with the paragraph below.

## **9. Appealing a Formal Decision**

- 9.1. If the grievance has not been resolved to the staff member's satisfaction they may appeal in writing, to the Chair of Trustees, setting out the grounds of their appeal, within 10 working days of receiving the written confirmation of the original decision. The staff member must detail how they consider the grievance procedure has not been correctly applied, and/or how the outcome was not reasonable or proportionate.
- 9.2. The appeal will normally be heard as soon as possible after receipt of the appeal letter, by an Appeal Committee of one or more Trustees, convened by the Chair of Trustees.
- 9.3. The Appeal Committee may have an HR adviser attend the meeting who may also be involved in its private deliberations. The HR adviser, who should not have had any previous involvement in dealing with the grievance, shall not have a vote in the decision of the Appeal Committee.
- 9.4. The Appeal Committee will confirm its final decision in writing, as soon as reasonably possible after the appeal meeting. This is the end of the procedure and there is no further right of appeal.

## **10. Reporting a concern**

- 10.1. All staff, trustees and volunteers must comply with this policy and take appropriate measures to ensure that such inappropriate conduct does not occur. If a person witnesses bullying or harassment, they should raise the concern with their Head of Centre or another appropriate senior colleague orally or in writing.
- 10.2. RBNch will support the witness in raising genuine concerns, informally or formally.

## **11. Protection and support for those involved**

- 11.1. Staff 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.
- 11.2. If you believe you have suffered any such treatment you should inform your Head of Centre or another senior manager. If the matter is not remedied you should raise it formally using this procedure.
- 11.3. 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.



## **12. Confidentiality and data protection**

- 12.1. 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.
- 12.2. Information about a complaint by or about a staff member may be placed on the staff member'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 our Data Protection Policy.
- 12.3. Breach of confidentiality may give rise to disciplinary action under our disciplinary procedure.

## **13. Responsibilities (compliance, monitoring and review)**

- 13.1. The Board of Trustees has overall responsibility for the effective operation of this policy but has delegated day-to-day responsibility for overseeing its implementation to the Head of Centre and Senior Leadership Team.
- 13.2. 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.
- 13.3. Staff should disclose any instances of harassment or bullying of which they become aware to the Head of Centre.
- 13.4. Questions about this policy and requests for training or information on dealing with bullying or harassment should be directed to the Head of Centre.

## **14. Records management**

- 14.1. The Head of Centre is responsible for the safekeeping of this policy. This policy will be available for all staff on the staff drive.
- 14.2. Following a formal investigation under this policy, the Head of Centre and investigator involved should consider whether this policy has been effective in addressing the issues and make any necessary improvements
- 14.3. The Head of Centre has responsibility for ensuring that any person who may be involved with investigations or administrative tasks carried out under this policy receive regular and appropriate training to assist them with these duties.

## **15. Related legislation and documents**

### External Documents

- 15.1 The Equality Act 2010
- 15.2 The Protection from Harassment Act 1997
- 15.3 Health and Safety at Work Act 1974

## **Other RBNch policies to be read in conjunction with this one**

- 16.1 Staff Code of Conduct
- 16.2 Grievance policy

