



# OWLS Academy Trust

## Dignity at Work Policy

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Policy developed by



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This policy applies to all staff employed by the OWLS Academy Trust, and also to students on placements at any school in the Trust, trainees, voluntary and casual workers and those on supported employment schemes (hereafter referred to as “staff”). Throughout this policy, unless indicated otherwise, all references to ‘Head Teacher’ include the Executive Head Teacher.



## Introduction & Purpose

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The OWLS Academy Trust is committed to promoting an environment where staff can work without fear of being intimidated, harassed, victimised or bullied (hereafter referred to as “harassment/bullying”).

All staff employed by the Trust have a responsibility to treat colleagues with dignity and respect, irrespective of: sex; race; nationality; ethnic or national origin; marital status; age; disability; sexual orientation; political or religious belief; membership (or non-membership) of a trade union; real or suspected HIV/AIDS; their state of physical/mental health or perceived state of physical/mental health; appearance; unrelated criminal conviction; etc<sup>1</sup>.

The local governing body of each school within the trust will address and endeavour to eliminate harassment/bullying at work by:

- Promoting a positive working environment where everyone treats each other with respect;
- Ensuring allegations of harassment/bullying are fully investigated in a sympathetic and positive manner;
- Use of appropriate procedure(s), such as disciplinary;
- Providing access to confidential support and counselling services.

The purpose of this policy and procedure is to enable any member of staff who believes they are subject to harassment/bullying to have their concerns addressed.

The Trust, via the local governing body, is committed to investigate any incident or behaviour which is deemed unacceptable by the recipient, whether explicitly stated within the definitions contained within this policy and procedure or not.



## Key Principles

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The Academy Trust is committed to providing staff a working environment that is free from all forms of harassment and bullying. They fully support the rights of all people to be treated with dignity and respect at work: the Local Governing Bodies will take appropriate steps to achieve this.

The school’s commitment to equality of opportunity will be observed at all times during the operation of this procedure. This will ensure that all staff are treated fairly and without discrimination.

It is the responsibility of the Head Teacher to ensure that reasonable adjustments are made to the operation of the procedure for staff with a disability, for example adjustments to timescales or specialist assistance at meetings.

It is important that any concern raised by staff is dealt with promptly and sensitively. Every effort will be made to resolve issues as quickly and informally as practicable. Recourse to the latter stages of this procedure should be seen as a last resort.

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<sup>1</sup> Note: this list is not exhaustive

It is the perception of the recipient as to whether any incident or behaviour can be viewed as harassment/bullying.

Harassment/bullying can also occur as a result of perceptions of third parties who are not necessarily the direct victim of such behaviour but who may overhear or see something that makes them feel uncomfortable. Perception is the process of interpreting information that individuals gather about other people through listening, talking, observing and general interactions. Complaints made by third parties should be dealt with in accordance with this procedure.

Harassment/bullying can lead to fear, stress and anxiety and may be unlawful. The Academy Trust is committed to referring such cases to the appropriate authorities.

Any Head Teacher who fails to take steps to prevent harassment/bullying and who fails to investigate complaints may be held liable for any unlawful actions. This could mean that the School may be liable to prosecution, as will the member of staff who has committed the act of harassment/bullying.

Complaints will be assumed to have been made in good faith. Any vexatious or malicious complaints without a genuine basis will be treated as a serious issue and may be referred for consideration under the Disciplinary Procedure. Whilst such cases may be considered to be gross misconduct, staff should be reassured that disciplinary action would not apply simply because the complaint is not upheld: There would need to be strong evidence that a complaint was vexatious or malicious.

Appropriate action will be taken against a member of staff found to have harassed or bullied others, or who have been victimising/retaliating against a member of staff for bringing a complaint of harassment/bullying.

Any allegations of harassment/bullying will remain confidential. Any breach of confidentiality may result in disciplinary proceedings being used to deal with the breach.

Employees will have the right to be accompanied by a Trade Union Representative or a work colleague during any investigatory meeting into allegations of harassment/bullying, and any subsequent disciplinary or appeal hearings.

Harassment/bullying will usually occur in the workplace, but work-related incidents outside the workplace will also fall within the remit of this policy (e.g. school related functions held outside of normal working hours, either on or off the school's premises).

As well as recourse to this policy and procedure, staff who feel they are being harassed/bullied can seek confidential advice and support from one or more of the following sources:

- The Head Teacher or Deputy Head Teacher;
- Their trade union representative;
- The Leicestershire County Council Employee Welfare Service (0116 305 7504 / 6178)

Head Teachers should be responsive and supportive to staff who complain of harassment / bullying. They should provide clear advice on the procedure to be followed and the types and sources of support that are available. The Head Teacher will maintain a suitable level of confidentiality and take appropriate action to ensure that there are no further problems of any victimisation after a complaint has been addressed. Failure to respond appropriately compounds the behaviour and therefore action may be taken by the Local Governing Body against them if they fail to do so.



## Definitions

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### Harassment

Harassment is unwanted conduct that intentionally or unintentionally violates a person’s dignity or creates an intimidating, hostile, degrading or offensive working environment for them. See Appendix A for further details on forms of harassment.

### Bullying

Bullying at work is repeated abuse or harassment that destroys self-confidence and creates harmful stress. It usually involves an abuse of power: for example, a manager may bully a subordinate or a group may bully an individual. Equally a manager can also be bullied. See Appendix A for further details on forms of bullying.

### Firm, Fair Management

It is important to differentiate between management and bullying/harassing behaviour.

Head Teachers are responsible for ensuring that staff who report to them perform to an acceptable standard within a performance management framework. Legitimate, justifiable, appropriately conducted monitoring of a member of staff’s behaviour or job performance does not therefore constitute bullying/harassment.

Carrying out these functions in a fair, firm and consistent manner does not constitute an act of bullying/harassment, although it is recognised that some staff may feel stressed or anxious while the procedures are ongoing. It is in the interests of the Academy Trust that Head Teachers should be able to carry out their duties without threat of ill-intentioned, malicious or vexatious complaints.

Further detail and examples of firm, fair management are included in Appendix B.



## Roles and Responsibilities

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Local Governing Body	<ul style="list-style-type: none"> <li>• Ensures all complaints are dealt with efficiently and effectively and in accordance with this procedure;</li> <li>• In the case of complaints raised against the Head Teacher, undertakes the Head Teacher role in respect of following this procedure.</li> </ul>
Head Teacher	<ul style="list-style-type: none"> <li>• Ensures that the working environment is free from harassment/bullying or intimidation of any nature;</li> <li>• Should be vigilant in respect of the identification and elimination of harassment/ bullying at work;</li> <li>• Ensure implementation of and adherence to this policy.</li> </ul>
Staff	<ul style="list-style-type: none"> <li>• Help create an environment that is free from harassment/bullying by treating colleagues with dignity and respect;</li> <li>• Can do much to discourage harassment/bullying by making it clear that they find such behaviour unacceptable and by supporting colleagues who experience such treatment and who are considering making a complaint;</li> <li>• Are encouraged to report if they witness incidents of harassment/bullying and to offer supporting evidence in any investigation.</li> </ul>

HR Services	<ul style="list-style-type: none"> <li>• Advise and support the Head Teacher in the application of this policy/procedure and any other HR policies/procedures that may be implemented as an outcome of an investigation.</li> </ul>
An investigator	<ul style="list-style-type: none"> <li>• Must be impartial;</li> <li>• Investigates the issues raised, interviews witnesses as appropriate, establishes the facts and makes recommendations;</li> <li>• May, in certain cases, be sourced via contracted out services, if appropriate.</li> </ul>
A trade union or other representative	<ul style="list-style-type: none"> <li>• May accompany a member of staff at an investigatory meeting or hearing;</li> <li>• Where invited by a member of staff, attends any meetings/hearings to support the staff member but should not answer any questions asked of the staff member in these situations, unless agreed by all parties.</li> </ul>



## Procedure – Stage 1

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A two-tier procedure will be followed. This comprises an informal stage (stage 1) and then, if this proves insufficient or the allegation is of a serious nature, a formal stage.

Wherever possible, staff who feel that they have been the subject of harassment/bullying will be supported in trying to resolve the problem informally. This can often be done effectively by the individual raising the issue directly with the person who is creating the problem, either orally or in writing. If this is not appropriate or it would be difficult or embarrassing to pursue the complaint (e.g. the harasser/bully is their direct line manager), the member of staff may seek support from:

- A member of the Local Governing Body (if the Head teacher is the alleged harasser/bully);
- The Head Teacher;
- Another member of the senior leadership team;
- A trade union representative; or
- A colleague, who may make the initial approach if requested.

It may be agreed that the nature of the complaint is such that the involvement of a third party (e.g. a member of the Employee Welfare Service in terms of counselling/support, or another manager or external advisor with counselling/mediation skills) might assist in resolving the matter. The use of a third party to help mediate or facilitate a solution is dependent on the agreement of all persons affected by the complaint. Such mediation/facilitation should then be conducted over an agreed timescale, after which the situation will be reviewed and a decision made as to whether the matter is now resolved.

How an individual raises the subject with the alleged harasser/bully depends on themselves and their situation. It can be done face-to-face, by letter or with support from one of the sources listed above, but the harasser/bully needs to be informed that their conduct is unwelcome, offensive and/or affecting the member of staff's ability to undertake their work.

If the member of staff feels able, often the quickest and most effective means of dealing with an issue is to raise the matter informally with the person(s) concerned, explaining that they find their behaviour offensive and unacceptable.

If the above preliminary measures prove ineffective, or the member of staff feels them to be inappropriate, or serious harassment/bullying is perceived to have occurred, then the member of staff should be supported and encouraged to take formal action. However, it is recognised that this requires courage and determination and, despite the support offered, staff have the right not to pursue their complaint formally

if they so wish. Nevertheless, under its duty of care obligations, the school may investigate the situation and take appropriate formal action.



## **Procedure - Stage 2 (where a case is not resolved at stage 1)**

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### **Invoking Stage 2**

A complaint should be made in writing to the Head Teacher or, in the case of service providers (e.g. agency staff), to the line manager responsible for the individual. The complaint will need to detail the basis upon which the alleged harassment/bullying has taken place and the reasonable outcome/resolution that the member of staff wishes to see to resolve the issue.

In cases where the Head Teacher invokes stage 2 of the procedure, the complaint should be sent to the Chair of Governors in the first instance. In the case of allegations made by the Head Teacher against the Chair of Governors, the complaint should be submitted to the Vice Chair. A representative from LCC HR Services and/or Governor Development Services may be invited to provide support and advice with a view to early resolution of the situation.

Normally, the letter will be acknowledged within 5 working days of receipt. Consideration will be given to members of staff who are employed to work on a term-time only basis. At the same time as acknowledging the complaint the member of staff should be notified, where possible, of the name of the person nominated to investigate the complaint.

At the same time, the alleged harasser/bully will be informed of the nature of the complaint lodged against them, advised that an investigation will take place the outcome of which may result in disciplinary procedures being put into practice, and advised of any immediate action to be taken (e.g. suspension). Further information about suspension from duty can be found in the Disciplinary Policy and Procedure.

Where suspension is not invoked, consideration will be given as to whether any working arrangements affecting the two parties involved need altering during the course of the investigation (e.g. if either part is the immediate supervisor of the other).

The Chair of Governors is ultimately responsible for invoking the formal stage of the Dignity at Work policy and procedure.

The Head Teacher will normally conduct the investigation, unless it is deemed inappropriate or they are involved in any way. The person appointed to conduct the investigation is hereafter referred to as the "investigator".

### **Investigation**

An investigation will be necessary in order to establish the facts. The intention is for the investigation to commence within 5 working days of the complaint being received, where reasonably practicable to do so, and to be completed as swiftly as possible. The investigator may seek advice from LCC HR Services at any point prior to and during the investigation.

Allegations of harassment/bullying are extremely sensitive and care should be taken to ensure that the complainant and the alleged harasser/bully are supported throughout the investigation.

Throughout the investigation the investigator should arrange for notes to be taken at all investigatory meetings. These notes should be agreed by all parties.

The investigator should meet with the member of staff who has raised the formal complaint as soon as possible and in any event no later than 10 working days from receipt of the complaint.

The complainant will have the right to be accompanied at any meetings by a trade union representative or work colleague. The main purpose of the meeting is to explore the full details regarding the allegations made and the reasonableness of their expected outcome.

The alleged harasser/bully will be invited to attend a formal investigatory meeting in order to clarify any issues and put forward their version of events. They will have the right to be accompanied by a trade union representative or work colleague.

The investigator should handle the matter promptly and gather all relevant facts before memories fade. Statements should be obtained from any witnesses as soon as possible and witnesses should have the opportunity to correct their statements, which must be signed and dated.

The investigation must be seen to be objective and independent. The investigator should consider all the information before reaching their recommendation. Having gathered all the evidence the investigator should review whether, on the balance of probabilities, the conduct being complained of is capable of being categorised as offensive, inappropriate and/or unprofessional.

The investigator will conclude one of the following outcomes:

- a) There is no case to answer;
- b) The behaviour was not appropriate but not sufficiently serious to warrant formal disciplinary action and is felt to be capable of resolving informally. This may include an apology, reassurance of no repeated harassment and guidance/mediation/training/counselling as appropriate. If, subsequently, this does not achieve resolution then the matter will be presented to a formal disciplinary meeting; or
- c) The case should proceed to a formal disciplinary hearing.

(NB: Where the investigation has been delegated to someone other than the Head Teacher or Chair of Governors then the Investigator will present their report to the Head Teacher/Chair of Governors with recommendations for the Head Teacher/Chair to conclude this stage)

The Head Teacher (or Chair of Governors in the case of complaints made by and against Head Teachers) should meet with the member of staff and the alleged harasser/bully separately to provide them with a summary of the findings and recommendations and inform them of their decision. This should then be confirmed in writing to both parties within 5 working days.

It is not expected that everything will be “back to normal” straight away. The damage to relationships and feelings is often long-term and deep, and may take time to mend. However, it will be agreed with the complainant and the alleged harasser/bully how they are going to work together. The overriding concern is that all staff have a right to a safe working environment. It may be beneficial to all concerned for trade union representatives to be involved in these discussions. The same principle is true if the allegation is not upheld.

### **Right of Appeal for Complainant**

In the case of 7.2.9 (a) and (b) above, the complainant has the right to appeal against the decision if they feel their complaint has not been dealt with satisfactorily (i.e. they are able to demonstrate that there are procedural flaws in relation to the investigation which would have affected the decision and outcome).

The appeal must be submitted in writing and sent to the member of staff who made the decision regarding the investigation outcome within 10 working days of the date of the outcome letter.

The appeal will be heard by a panel of three governors: the Chair (normally the chair of governors if not involved previously, or another person appointed on their behalf) and two other panel members. An LCC HR Advisor may be invited to attend to advise the panel. It is important to note that panel members should not have previously been involved in any part of the investigation.

### **Disciplinary Hearing**

(To be used in cases where this is recommended following the investigation stage)

If a decision is taken to move forward to disciplinary action, then all hearings and appeals concerning complaints of harassment/bullying will be convened under the Disciplinary Policy and Procedure, commencing at the formal hearing stage.



## **Harassment, Intimidation & Bullying of Employees by Third Parties**

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The Academy Trust and Governors acknowledge that school-based staff may suffer harassment / bullying in a variety of forms from school users, for instance: pupils; parents/carers; etc, and recognise that they have a duty of care to seek to prevent this from happening to staff in the course of their employment.

The governors will provide support for any member of staff who is the victim of such behaviour in the course of the employment and will arrange to investigate any complaint of harassment made by staff against school users and take appropriate action.

The governors' response to harassment/bullying of staff by other school users may be restricted by the lack of applicable sanctions of by statutory duties to provide services. Within these restrictions, however, the following principles will be observed:

- a) Any member of staff who has been subjected to such behaviour will be dealt with sympathetically and supportively by senior staff and will be offered suitable counselling.
- b) The head teacher will deal with explicitly with perpetrators of bullying/harassment with a view to withdrawing the services of the school if their behaviour is not moderated. If the case involves provision of a statutory service then other measures, including substitution of staff, may be considered as a last resort.
- c) The head teacher will not automatically respond by removing the member of staff from the area of work where the harassment/bullying occurred: to do so is likely to undermine the staff and give the perpetrator the impression that their actions are acceptable. Only where the member of staff has requested such action or has asked not to deal with the individual service user again and the school provides a statutory service to the user will substitution of staff be considered.
- d) Not every case can be covered by these provisions and the Head Teacher will apply discretion as appropriate to the circumstances. In such cases advice may be sought from HR Services.
- e) The school disciplinary procedures will not be invoked against staff who refuse to deal with individual service users of the school because of harassment/bullying, but every effort will be made to resolve the issue as soon as practicably possible.



## Appendix A: Forms of Harassment / Bullying

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### Bullying

Forms of bullying may include:

- Spreading malicious rumours;
- Cyber bullying (via and form of ICT including postings on social networking sites, internet, e-mail, text communications, etc);
- Persistent and inappropriate criticism;
- Setting unachievable deadlines or unequal workloads;
- Excessive supervision;
- Exclusion or victimisation.

There are also less obvious examples of bullying behaviour, such as:

- Supplying incorrect information or unreasonably withholding relevant information, such as information without which a member of staff may not be able to undertake their job;
- Belittling a person in front of colleagues;
- Blocking applications for promotion, holidays or training

People who are bullied may find they are:

- Constantly criticised and subjected to destructive criticism;
- Subjected to nit-picking and trivial fault finding;
- Undermined, especially in front of others, overruled, ignored, side-lined, marginalised, ostracised;
- Isolated and excluded from what is happening;
- Singled out and treated differently;
- Belittled, degraded, demeaned, ridiculed, patronised, subject to disparaging remarks;
- Regularly the target of offensive language, personal remarks, or inappropriate bad language;
- Threatened/victimised through cyberspace, including receiving various communiqué via the internet, email and/or mobile phones;
- Threatened, shouted at, humiliated;
- Set unrealistic goals and deadlines which are unachievable or are changed without notice;
- Have their responsibility increased but their authority removed;
- Denied information or knowledge necessary for undertaking work and achieving objectives;
- Either excessively and/or persistently over-loaded with work, or have their work taken away unreasonably.

### Harassment

Forms of harassment may include

- Physical contact, ranging from touching to serious assault;
- Verbal and written harassment through offensive gossip, language, slander, letters, including postings on social network sites, internet, email, text communications, etc;
- Visual display of posters, obscene gestures;
- Intrusion by pestering, spying, following, etc.

It is the impact of the behaviour on the recipient which is important and, if the recipient feels that they have been harassed, the complaint must be taken seriously and investigated.

Harassment is normally characterised by more than one incident of unacceptable behaviour: one minor incident will not usually constitute harassment; however a series of incidents (particularly where a member of staff has expressed a dislike of such behaviour and has asked for it to stop) or just one incident if it is sufficiently serious (e.g. threatened or actual violence or threats of dismissal) may constitute harassment.

Harassment is not only inappropriate behaviour – it may also be unlawful and criminal prosecution can result.

Acts of harassment usually centre on unwanted, offensive and intrusive behaviour with a sexual, racial or physical component. It can take many forms, occur on a variety of grounds and may be directed at one person or a group of people. The intention of the perpetrator is irrelevant; it is the impact upon the individual which determines whether harassment has taken place.

The following list provides some examples of harassment or discriminatory behaviour:

### Sexual Harassment

- Unwanted non-accidental physical contact ranging from unnecessary touching, patting or brushing against a colleague's body, to assault and coercing sexual relations;
- Unwelcome sexual advances, propositions or pressure for sexual activity, continued suggestions for social activity within or outside the workplace, after it has been made clear that such suggestions are unwelcome;
- Offensive flirting
- The display of pornographic or sexually suggestive pictures, objects or written materials;
- Leering, whistling or making sexually suggestive comments or gestures, innuendoes or lewd comments;
- Conduct that denigrates, ridicules or intimidates, or is physically abusive because of his/her sex, such as derogatory or degrading abuse;
- Insults which are gender related and offensive comments about appearance or dress.

### Racial Harassment

Conduct that denigrates or ridicules a colleague because of his/her race, such as derogatory remarks, graffiti, jokes. Such conduct can be verbal or physical, e.g:

- The display or sending of offensive letters or publications;
- Threatening behaviour;
- Being "frozen out" of conversations;
- Jostling or assault, or other non-accidental physical contact;
- Derogatory nicknames or racial name calling or jokes.

### Disability Harassment

- Mimicking the effect of a disability or speech impairment;
- Ostracising, "freezing out", ignoring and staring;
- Making fun of a disability;
- Use of inappropriate terms;
- Inappropriate personal questions / comments about a disability;
- Belittling or patronising comments / nicknames;
- Moving a wheelchair without the user's agreement;
- Practical jokes (e.g. hiding a disability aid)
- Touching a visibly impaired person, to annoy

### Homophobic Harassment

Conduct which denigrates or ridicules a colleague because of his/her actual or presumed sexuality, such as derogatory remarks, graffiti, jokes. Such conduct can be verbal or physical, e.g:

- The display or sending of offensive letters or publications;
- Threatening behaviour;
- Being “frozen out” of conversations;
- Jostling or assault, or other non-accidental physical contact;
- Derogatory nicknames or homophobic name calling or jokes;
- Intrusive or inappropriate comments about someone’s personal life or family circumstances.

### Age Harassment

- Ridiculing or demanding behaviour focused towards people because of their age.

### Religious Harassment

- Behaviour which fails to acknowledge the rights or needs of people with different beliefs or practices

### Victimisation

- Where a person is treated less favourably than other people because, for example, that person has brought proceedings, given evidence, or complained about the behaviour of someone who has been harassing or discriminating against them.

### Aids / HIV

- Harassment, ridicule or exclusion of people, due to their real or suspected infection with Aids / HIV

**The above lists are not exhaustive. People can be harassed and/or bullied for many reasons and the actions listed must be viewed in terms of the distress they cause; it is the perception of the recipient that determines if an action can be viewed as harassment/bullying.**



## Appendix B: Examples of Firm, Fair Management of People

Because of the differences in perception it is not always easy to differentiate between firm, fair management and harassment/bullying.

It is accepted that the examples below represent extremes of behaviour. In practice, things will not be so clear and perpetrators may display characteristics which fall somewhere in the middle. The following are examples, but are not exhaustive:

<b>Firm, Fair Management</b>	<b>Bullying / Harassing Management</b>
Consistent and fair	Aggressive, inconsistent and unfair
Leads by example	Dominates, sets a poor example
Decisive	Random, impulsive
Has a good appreciation of short, medium and long term needs and goals	Is rigidly short-term, often no more than 24 hours
Learns from experience and applies knowledge, gains from experience to improve business, communication and interpersonal skills	Cannot apply knowledge gained from experience except by being devious, manipulative and how to evade accountability
Allows and trusts people to get on with the job	Constantly interfering, dictating and controlling
Shares information freely	Withholds information, releases selectively
Only addresses genuine performance and behaviour issues which can be evidenced	Makes false claims about alleged under-performance and focuses on the person, not behaviour or performance
Listens, coaches	Instructs
Acknowledges failings and any mistakes	Denies failings, always blames others