Willow Vale
School

Disciplinary Procedure

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Be Safe – Be Kind - Belong

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1. Standards of Behaviour

1.1 The school expect all employees, Governors and volunteers to treat each other with respect and dignity at all times.

1.2 The school will not tolerate inappropriate behaviour of any kind, which is based on personal characteristics, whether or not those characteristics are protected under the law.

1.3 This Code applies to all school employees and Governors and covers their working relationships with each other, parents, carers and children, members of the public, and representatives of agencies, contractors and partner organisations.

Bullying, harassment, victimisation or discrimination may occur in person, in writing, electronically, through social media, messaging platforms, email, websites, filming, recording or any other online medium. Allegations of online bullying or harassment will be treated as seriously as conduct occurring in the workplace. This Code applies to all working arrangements and work-related activities, including digital and online environments.

1.4 Employees have a right to complain if they feel they have suffered a detriment as a result of bullying, harassment, discrimination or victimisation, without fear of ridicule or reprisal. For definitions of what constitutes bullying, harassment, discrimination and victimisation, please refer to Definitions in Appendix 1 at the bottom of this document.

The Grievance Resolution Procedure provides the mechanism for employees to raise concerns relating to bullying, harassment, discrimination, victimisation, inappropriate conduct, including online conduct, and failures by the school to address behaviour by third parties. Complaints will be addressed promptly, fairly and confidentially with the aim of achieving early resolution where possible.

1.5 The school will take appropriate action, which may include dismissal, where a complaint is proven.

1.6 A complaint found to have been malicious or frivolous could itself provide grounds for disciplinary action against the complainant.

2. Responsibilities

2.1 Employees

All employees have a responsibility to help create and maintain a work environment free of any form of bullying, harassment, victimisation and discrimination by:

- being aware of how their own behaviour may affect others and changing it, if necessary;

- treating colleagues with dignity and respect and being aware that individuals can still cause offence even if they are "only joking";
- taking a stand if they think inappropriate jokes or comments are being made;
- making it clear to others when they find behaviour of others unacceptable, unless it should be obvious in advance that this would be the case;
- intervening, if possible, to stop bullying, harassment, victimisation and discrimination and giving support to recipients;
- making it clear that they find harassment and bullying unacceptable;
- reporting harassment or bullying to their Manager or an appropriate Governor and supporting the school in the investigation of complaints; and
- if a complaint of bullying, harassment, victimisation and discrimination is made, not prejudging or victimising the complainant(s) or subject(s) of the complaint.

2.2 **Management**

Managers have specific additional responsibilities to take steps to prevent any form of bullying, harassment, victimisation and discrimination from occurring by:

- setting a good example by their own behaviour;
- build a culture of respect and inclusion;
- creating a supportive working environment, where any jokes, remarks or banter that might cause offence to another employee on any grounds is not permitted;
- implement preventative measures such as regular training and clear communication of this policy;
- properly briefing all their employees as to the types of conduct and speech that might cause offence to others and make it clear that such behaviour is unacceptable;
- encouraging employees to report incidents; and
- ensure that there are clear processes in place for raising complaints.

Managers must intervene to stop bullying, harassment, victimisation and discrimination and deal with any complaint about bullying, harassment victimisation or discrimination, seriously, objectively, expeditiously and confidentially and provide appropriate support to both parties.

Where allegations of bullying, harassment, discrimination or victimisation are raised, consideration should be given to appropriate support measures for all employees involved, including the complainant and the person who is the subject of the complaint. Support may include welfare meetings, occupational health referrals, risk assessments, temporary workplace adjustments or other reasonable support arrangements.

Managers should implement preventative measures such as regular training, clear communication of expected standards of behaviour and proactive monitoring of workplace culture to reduce the risk of bullying, harassment, discrimination and victimisation occurring.

Managers must seek advice on the procedure to be followed, maintain appropriate confidentiality insofar as is legitimately possible and ensure that, after a complaint has been resolved, there are no further problems of bullying, harassment, victimisation or discrimination. Managers must record all decisions and advice given.

2.3 **Governors**

Governors have a responsibility to be assured the school has taken reasonable measures to prevent any form of bullying, harassment, victimisation and discrimination from occurring by:

- Ensuring staff training, including induction, is effective and creates a positive culture where expectations of professional conduct are clearly communicated.
- Through anonymised reporting data any worrying trends are identified and remedial actions are in place to prevent any form of bullying, harassment, victimisation and discrimination from occurring.

The school is committed to dealing with incidents of bullying, harassment, victimisation and discrimination where the alleged perpetrator is a Governor of the school. Incidents involving Governors should be reported to the Head Teacher, Chair of Governors or the Chair of the Personnel Committee. It is also recommended that schools adopt the National Governors Association "Code of Conduct for School Governing Boards" which is available on the NGA website www.nga.org.uk.

2.4 **Recording**

The Health and Safety Executive "Violence at Work Guidelines" recognise that "violence includes any incident in which a person is abused, threatened or assaulted in circumstances that relate to their work".

Any violent incident involving an employee and a service user, or a member of the public should be dealt with in accordance with Health and Safety guidelines. For recording and reporting incidents go to the EEC live site. Further advice in relation to reporting incidents can also be sought by the Schools Health and Safety Advisor.

The school will maintain appropriate records of bullying, harassment, discrimination and victimisation complaints. Anonymised trend data may be reviewed periodically by senior leaders and Governors to identify patterns, workforce risks and areas requiring preventative action.

3. **Sexual Harassment**

The Worker Protection (Amendment of Equality Act 2010) Act 2023 inserts a new duty on employers to take reasonable steps to prevent sexual harassment in the workplace into the Equality Act 2010. The school is committed to providing a safe and respectful environment for everyone. As such, any form of sexual harassment will not be tolerated and will be addressed promptly and effectively.

Sexual Harassment occurs when a person engages in any unwanted verbal, non-verbal or physical conduct of a sexual nature which has the purpose or effect of:

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

It can be sexual harassment if the behaviour has any one of these effects, even if it was not intended or was intended to have one of these effects, even if it did not have that effect.

The person engaging in unwelcome behaviour does not have to intend to be sexually harassing the other person for the behaviour to be considered sexual harassment. Regardless of what was intended, sexual harassment is defined by the nature and the impact of the behaviour, not the intention behind it.

A person may be sexually harassed even if they were not the intended target. For example, a person may be sexually harassed by pornographic images displayed on a colleague's computer in the workplace.

Sexual harassment can be a one-off incident or an ongoing pattern of behaviour. It can happen in person on-line, e.g. e-mail, social media or any messaging tool.

Conduct of a sexual nature can include:

- unwelcome sexual remarks about someone's body, clothing or appearance;
- asking questions about someone's sex life;
- making sexual comments or jokes about someone's sexual orientation or gender reassignment;
- unwelcome sexual advances, touching, pinching, grabbing, pushing, forms of sexual assault;
- persistent suggestions to meet up socially after a person has made clear that they do not welcome such suggestions;
- leering, whistling or making sexually suggestive gestures;
- gossip and speculation about someone's sexual orientation or transgender status, including spreading malicious rumours;
- displaying pornographic photographs or drawings or sending e-mails with material of a sexual nature or using social networking sites.

Sexual harassment within the scope of this policy can take place at any time and anywhere. It can happen at any location, including outside of the workplace or work time. It could include interactions with colleagues at social events or via personal social media accounts. There may also be occasions where incidents outside of a work situation bring into question an employee's suitability to carry out their role.

Third-party sexual harassment occurs where a person is sexually harassed by someone who does not work for, and who is not an agent of, the same employer, but with whom they have come into contact during the course of their employment. Third-party harassment could include, for example, unwelcome sexual advances from anyone visiting the school premises.

Third party harassment can result in legal liability and will not be tolerated. The law requires employers to take reasonable steps to prevent sexual harassment by third parties. Although an employee cannot bring a claim for third-party harassment alone, it can still result in legal liability for an employer when raised in other types of claims. All employees are encouraged to report any third-party harassment they are a victim of, or witness, in accordance with this policy.

The school will take active steps to try to prevent third party sexual harassment of employees. This may include warning notices to third parties or recorded messages at the beginning of telephone calls.

Employees may raise concerns where they experience bullying, harassment, intimidation, abuse, discrimination or victimisation from pupils, parents/carers, governors, trustees, contractors, visitors or other third parties. The school will take reasonable and proportionate steps to protect staff and respond appropriately to incidents of this nature.

If any third-party harassment of staff occurs, the school will take steps to remedy any complaints and to prevent it happening again. These may include warning the harasser about their behaviour, banning them from school premises, reporting any criminal acts to the Police, and sharing information with other agencies as appropriate.

Proven allegations of sexual harassment (including victimisation) against third parties by employees may result in disciplinary action up to and including dismissal for gross misconduct.

Schools are responsible for identifying and mitigating risks to their employees within their schools. Assessment of risk could involve the use of employee surveys, looking at complaint records or exit interviews. Schools should consider the risk from all sources, including third parties, eg external visitors to the school. On EEC there are a number of risk assessment templates regarding sexual harassment such as Security and Violence – Violence to Staff and Special Needs – Inappropriate Sexual Behaviour. For further advice or information regarding risk assessments please see Health and Safety.

It is the responsibility of the school to ensure that regular training sessions take place for all staff and that records are kept to identify staff members that have attended the training, especially in schools that have a high staff turnover. Training resources for Governors and staff can be found on the HR Advisory Service page on the SSE website.

Sexual harassment is against the law and will not be tolerated. Anyone who feels that they have been or are being sexually harassed should report this matter to their Headteacher (if concerns are against the Headteacher this should be reported to the Chair of Governors or Line Manager) either informally or formally through the grievance process whereupon the matter will be investigated swiftly and impartially. If a staff member reasonably believes that disclosing the sexual harassment is in the public interest (for example where the sexual harassment relates to several individuals), they should report it under the whistleblowing procedure. Proven allegations of sexual harassment (including victimisation) by employees may result in disciplinary action up to and including dismissal for gross misconduct.

The Employment Rights Act 2025 amends the Employment Rights Act 1996 so that whistleblowing protections now specifically apply to disclosures relating to sexual harassment: a disclosure about sexual harassment is explicitly defined as a protected disclosure in cases where the disclosure is reasonably believed by the person making it to be in the public interest. (This means that those who make disclosures related to sexual harassment that they reasonably believe to be in the public interest are protected from detriment (adverse treatment) or unfair dismissal if either result from them having made the disclosure.)

Schools should keep records of all claims of sexual harassment to evidence that reasonable steps have been taken to prevent sexual harassment of employees in the course of the employment.

Appendix 1

Equality Definitions

1. Definition of Bullying

Bullying implies a relationship where:

- the bully has some influence or advantage that is used improperly over an individual; and
- the recipient is at a disadvantage; and
- the behaviour is unwarranted and unwelcome to the recipient.

This influence or advantage normally arises from:

- status (from someone in a position of authority or power to make decisions, such as a Manager or Supervisor) or
- social power (from peer pressure).

It may therefore be:

- by one individual against another individual or group of individuals, through one behavioural act or a series of acts over a period of time;
- by one group of individuals against one individual or another group of individuals.

Individual acts may not separately amount to bullying but a series of individual acts perpetrated by different people may together amount to collective bullying.

Bullying may be face-to-face, in written communications, by email, social networking sites or telephone.

It will normally be characterised as:

- offensive, intimidating, malicious, insulting or humiliating behaviour.

and it will normally be accompanied by:

- an intention to undermine, humiliate, denigrate or injure the recipient.

and this will normally have a detrimental effect on:

- their competence and capability and may have an adverse effect on their health.

Differences between firm management and bullying behaviour when tackling poorly performing teams (Source: CIPD)

Addressing poor performance in teams	Examples of firm management	Examples of bullying
Identifying the performance issue	Involves looking at all the potential reasons for poor performance e.g. people, systems, training and equipment	No attempt to identify the nature or source of the poor performance
Seeking the views of the team or individual to identify the cause of the unacceptable level of performance	The team takes part in looking for the source of the problems in performance and helps the Manager to identify solutions for the whole team	No discussion of the cause of the performance deficit, or opportunities for the team members to discuss their difficulties
Agreeing new standards of performance with all team members	Involves setting and agreeing standards of performance and behaviours for each team member and the Manager	Imposing new standards without team discussion on appropriate standards of performance or behaviour
Agreeing the method and timing of monitoring/auditing team performance	Wherever possible the team or team member takes part in the monitoring process. The outcome of the monitoring is openly discussed	Without agreeing standards, the monitoring can occur at any time and can involve areas that are unexpected by team members
Failure to achieve the standards of performance is dealt with as a performance-improvement issue	Opportunities are taken to identify individuals who are struggling, and support is provided. Where individuals are unwilling to comply with the agreed performance, improvement process, disciplinary actions may be taken	Individuals who fail to achieve the standards of performance are put under pressure to conform. This may include ridicule, criticism, shouting, withholding of benefits, demotion, teasing or sarcasm
Recognising positive contributions	Recognises and rewards improvements in performance, attitudes and behaviours	With no monitoring, it is impossible to recognise where there have been positive contributions. Rewards and recognition are therefore arbitrary and open to acts of favouritism

2. Legal Definitions of Prohibited Conduct

2.1 **Harassment**

Harassment is defined as unwanted conduct related to one or more of the relevant protected characteristics which has the purpose **or** effect of violating the dignity of another person or creating for that person an intimidating, hostile, degrading, humiliating or offensive environment.

Unwanted conduct means conduct that is unwelcome or uninvited.

Unwanted conduct can include any kind of behaviour, including spoken or written words in emails or on social networking sites, abuse, imagery, graffiti, physical gestures, facial expressions, mimicry, jokes, pranks, acts affecting a person's surroundings or other physical behaviour.

Conduct will be related to a protected characteristic if the person experiencing harassment has the protected characteristic or if there is any connection with the characteristic.

Harassment occurs even if the person harassed does not have the characteristic: a person might be perceived wrongly to have the characteristic or be harassed because of their association with someone who has the characteristic.

The unwanted conduct does **not** have to be **directed** at a person: it is enough that the conduct creates an intimidating, hostile, degrading, humiliating or offensive environment for that person.

Irrespective of the effect on a person, unwanted conduct amounts to harassment if the person is committing the unwanted conduct with the purpose of violating the dignity of the other person or creating for them an intimidating, hostile, degrading humiliating or offensive environment.

Alternatively, conduct which has the purpose of being friendly could amount to harassment if the effect on the person experiencing the conduct is one of violating the dignity of that person or creating for that person an intimidating, hostile, degrading humiliating or offensive environment.

In deciding whether conduct had that effect, each of the following must be taken into account:

- the perception of the complainant;
- the other circumstances of the case;
  (e.g. circumstances of the person experiencing the conduct, their health including mental health, mental capacity, cultural norms, previous experience of harassment, differences in age, status, impact of the conduct, whether the perpetrator of the alleged harassment was exercising their rights under the Human Rights Act 1998.)
- whether it is reasonable for the conduct to have that effect.

Less favourable treatment for rejecting or submitting to unwanted conduct

Harassment also occurs when a person is treated less favourably because they have submitted to (or rejected):

(a) unwanted conduct related to sex or gender re-assignment; or
(b) conduct of a sexual nature.

The less favourable treatment under this type of harassment may be perpetrated by the same person who committed the original unwanted conduct, or by another person.

2.2 **Direct Discrimination**

The law protects against discrimination on the following grounds:

- Age*
- Disability***
- Gender reassignment
- Marriage and civil partnership**
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation.

These are described as '**protected characteristics**'.

Direct discrimination occurs when one person treats, or would treat, another less favourably than others and the treatment is 'because of' a protected characteristic.

A person is treated less favourably when they are put at a disadvantage compared to others. It is enough that the person can reasonably say they would have preferred not to be treated differently from the way another person was, or would have been, treated. This could involve being denied a choice or excluded from an opportunity.

It does not matter that the less favourable treatment is unintentional.

*Less favourable treatment of a person because of their **age** is not direct discrimination provided that it can be shown that the less favourable treatment is a proportionate means of achieving a legitimate aim.

Where the protected characteristic in question is **marriage or civil partnership in employment, direct discrimination is limited to less favourable treatment because a person is married or a civil partner. Single people and people in relationships outside of marriage or civil partnership (whether or not they are cohabiting) are not protected.

***Discrimination arising from **disability** is different. Treatment of a disabled person amounts to discrimination arising from disability if:

- an employer treats the disabled person unfavourably;
- this treatment is because of something arising in consequence of the disabled person's disability; and
- the employer cannot show that this treatment is a proportionate means of achieving a legitimate aim.

The consequences of a disability include anything which is the result, effect or outcome of a person's disability. Such consequences may include: inability to walk unaided; need for regular rest breaks; restricted diet; slow typing speeds; difficulties in using public transport; regular hospital appointments; need for specialist equipment; need for quiet working environment.

Discrimination by association
It is direct discrimination if an employer treats a worker less favourably because of the worker's association with another person who has a protected characteristic; however, this does not apply to marriage and civil partnership or pregnancy and maternity. In the case of pregnancy and maternity, a worker treated less favourably because of association with a pregnant woman, or a woman who has recently given birth, may have a claim for sex discrimination.

Discrimination by association can occur in various ways, where the worker has a relationship with a parent, child, partner, friend or carer of a person with a protected characteristic. The association with the other person need not be a permanent one.

Discrimination arising from disability only requires the disabled person to show they have experienced unfavourable treatment because of something connected with their disability. If the employer can show that they did not know and could not reasonably have been expected to know that the disabled person had the disability, it will not be discrimination arising from disability.

Discrimination by perception
It is also direct discrimination if an employer treats a worker less favourably because the employer mistakenly thinks that the worker has a protected characteristic. However, this does not apply to pregnancy and maternity or marriage and civil partnership.

Breastfeeding
Discrimination against a woman because she is breastfeeding is deemed to be a case of sex discrimination.

2.3 **Indirect Discrimination**

Indirect discrimination occurs when a provision, criterion or practice that applies in the same way for everybody has an effect which particularly disadvantages people who share a protected characteristic. This kind of discrimination is unlawful unless the employer can show that it is justified i.e. a proportionate means of achieving a legitimate aim.

Indirect discrimination is unlawful whether it is intentional or not and whatever the motivation. This applies to all protected characteristics apart from pregnancy and maternity. In these cases, indirect sex discrimination may apply.

In terms of employment, provisions, criteria and practices will include policies, rules, arrangements qualifications, proposals and one-off or discretionary decisions.

A disadvantage has to be something a reasonable person would complain about so an unjustified sense of grievance would not qualify. It must include some damage or loss, although this does not have to be quantifiable. A disadvantage could include, for example, denial of an opportunity, denial of choice, rejection or exclusion.

The disadvantage may be linked to a protected characteristic but there is no need to demonstrate a causal link between the two. However, it is not enough that the provision, criterion or practice puts or would put a group of people with a protected characteristic at a particular disadvantage. It must also have, or be capable of having, that effect on the individual concerned.

When the protected characteristic is **disability**, indirect discrimination occurs when a disabled person is disadvantaged by a provision, criterion or practice which:

- is (or would be) also applied to everyone; and
- puts (or would put) people who have the disabled person's disability at a disadvantage when compared to non-disabled people.

The only question is whether the unfavourable treatment the particular disabled person experiences is because of something arising in consequence of their disability.

The consequences of a disability include anything which is the result, effect or outcome of a person's disability. Such consequences may include; inability to walk unaided; need for regular rest breaks; restricted diet; slow typing speeds; difficulties in using public transport; regular hospital appointments; need for specialist equipment; need for quiet working environment.

2.4 **Victimisation**

Occurs when an individual employee (A) subjects another employee (B) to detrimental treatment because B has committed a protected act or may commit a protected act in the future.

A protected act is any of the following:

- Bringing proceedings under the Equality Act.
- Giving evidence or information in connection with proceedings under the Act.
- Doing anything related to the provisions of the Act.
- Making an allegation that another person has breached the Act.
- Making or seeking a 'relevant pay disclosure' to or from a colleague including a former colleague).

A worker does not need to have a particular protected characteristic in order to be protected against victimization under the Equality Act. Generally, detrimental treatment is anything which the individual concerned might reasonably consider changed their position for the worse or put them at a disadvantage. This could include being rejected for promotion, denied an opportunity to represent the organisation at external events, excluded from opportunities to train, or overlooked in the allocation of discretionary bonuses or performance-related awards. There is no need to demonstrate physical or economic consequences. However, an unjustified sense of grievance alone would not be enough to establish detriment.

Detrimental treatment amounts to victimisation if a 'protected act' is one of the reasons for the treatment, but it need not be the only reason.