SW checked for updates- none December 2023

Policy – Acceptable Behaviour in the Workplace

This policy is written and recommended by Swindon Borough Council

1. **Policy statement**

Swindon Borough Council expects a high standard of behaviour of its Governors, Headteachers, staff and volunteers in carrying out their duties and responsibilities. To achieve this standard it is essential that all concerned work in a supportive environment, characterised by Acceptable Behaviour.

Whilst acknowledging that there are other forms of behaviour that might be regarded as unacceptable within the workplace (fraud, theft, violence, etc) and leave the perpetrator open to action under agreed Disciplinary procedure, this Acceptable Behaviour Policy is concerned with the way in which people interact with each other in the workplace.

Acceptable Behaviour promotes a working environment in which discrimination, harassment and bullying are regarded as Unacceptable behaviour. It is expected that all adults within the workplace will conduct themselves in a manner which is characterised by:

- Affording dignity, trust and respect to all within the workplace;
- Having awareness of the effects of our behaviour on others and avoiding making unreasonable and unmanageable demands of them;
- Communicating honestly and openly, clearly stating what we mean and what we expect of others;
- Providing honest feedback base on evidence;
- Being open to constructive criticism;
- Starting from the assumption that everyone is working to the best of their ability, taking account of their current stage of personal and professional development.

Unacceptable behaviour, for the purposes of this policy is defined as behaviour towards another individual in the workplace that constitutes discrimination, harassment, or bullying. Such behaviours are described in more detail below. Examples are given in the attached Appendix 1. Unacceptable behaviour can be perpetrated by anyone and can be directed at or adversely effect

all colleagues within the workplace. It should not be assumed that Unacceptable behaviour is limited to the behaviour of managers towards subordinates since unacceptable behaviour by a member of staff can also adversely effect supervisory or management staff.

As the Local Education Authority and as the employer of staff in Community and Voluntary Controlled schools, the Council seeks to promote equal opportunities, fully supports the rights and opportunities of all people to seek, obtain and hold employment without discrimination and recognises the fundamental right of all school staff to work in an environment free from Unaccepatable Behaviour. The Council encourages the governing bodies of Foundation and Voluntary Aided schools and Academies to adopt the principles and procedure set out in this document.

Discrimination can constitute a form of Unacceptable behaviour and an employer that permits it to occur may be in breach of its duties under Equalities Act 2010.

Under Health and Safety legislation an employer is required to take all reasonable steps to provide a safe and healthy work environment, which would include taking steps to prevent staff from being subjected to Unacceptable behaviour.

Finally, the legal duty of care towards employees and the implied contractual term of trust and confidence could be breached if Unacceptable behaviour is allowed to occur within the workplace.

The Council believes that it is an infringement of the rights of all staff not to be treated with dignity and respect and the Council's policy is, therefore, that Unacceptable behaviour will not be tolerated or condoned. All school staff are expected to comply with this policy. Governing bodies and headteachers should take appropriate measures by; for example, ensuring that all staff members are aware of the content of this policy and by ensuring it is enforced. Appropriate measures might include:

- Ensuring that the policy is drawn to the attention of all new and existing staff;
- Discussion in staff meetings of what constitutes acceptable and unacceptable behaviour;
- Requiring the headteacher to report to the governing body on steps taken to ensure compliance with this policy, including reporting action taken in all cases of non-compliance;
- Ensuring that staff have the opportunity to raise concerns in ways that avoid them feeling vulnerable to victimization.

The Council expects headteachers and senior staff to challenge an employee's unsatisfactory performance, attendance or conduct. Legitimate management action to deal with such issues will not be regarded as Unacceptable behaviour, so long as the manager behaves appropriately and reasonably, using the relevant agreed employment procedures in a professional and constructive manner aimed at bringing about an improvement.

Action in accordance with the agreed Disciplinary procedure will be taken against any member of staff who, following investigation, has been found to have behaved unacceptably towards another

member of staff, a pupil or member of the public. In the most serious cases those behaving unacceptably towards another person in the workplace may be considered to have committed an act of gross misconduct that, if substantiated by an investigation carried out in accordance with the agreed Disciplinary procedure, may result in summary dismissal.

2. Unacceptable Behaviour: Harassment

The standard definition for harassment is unwanted conduct on the grounds of race, gender, sexual orientation etc. which has the purpose or effect of either violating the claimant's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them

The following are some examples of specific types of harassment, but it should be noted that this policy applies to all forms of harassment

2.1 Sexual Harassment

Sexual harassment means unwanted conduct of a sexual nature or conduct based on sex detrimentally affecting the dignity of staff. Sexual harassment normally refers to behaviour that is unsolicited, unreciprocated, and which can cause humiliation, offend, cause distress, interfere with job performance, create an unpleasant working environment, emphasises a member of staff's sexuality over their roles as an employee and fails to respect the rights of others.

The following are examples of sexual harassment that would constitute Unacceptable behaviour within this policy

- Inappropriate comments about dress or appearance
- Unwanted physical contact
- Sexual assault
- Unwelcome sexual advances, propositions or pressure for sexual activity
- Continued suggestions for social activity outside the workplace after it has been made clear that such suggestions are unwelcome
- Sexually suggestive remarks or gestures
- The display of sexually suggestive pictures, objects or written materials
- Conduct that denigrates or ridicules or is intimidatory or physically abusive to a member of staff because of his or her sex
- Suggestions that a member of staff's rejection of sexual advances will adversely affect their employment prospects or conditions of service

Sexual harassment may be experienced by both men and women but evidence suggests that women are most likely to be affected. Harassment may be a major barrier to women fulfilling their full potential at work.

2.2 Racial Harassment

Racial harassment is an act that by relating to the subject's race, colour, ethnic origin or religion causes a person to feel intimidated, humiliated, ridiculed, undermined or otherwise detrimentally effected.

The following are examples of racial harassment that would constitute Unacceptable behaviour within this policy

- Ridiculing an individual because of cultural differences
- Written abuse and the display of offensive material
- Embarrassing or derogatory remarks, racist jokes and name-calling
- Deliberate physical and/or verbal abuse
- Differential treatment, e.g. unfair allocation of work

2.3 **Disability harassment**

Disability harassment is any act relating to the subject's disability that is intended to cause a disabled person a detriment. Disability may not be seen or obvious and it is essential that everyone is aware of the fact that they will not know or need to know an individual's specific disabilities.

The following are examples of behaviour towards disabled people that would constitute Unacceptable behaviour within this policy:

- staring and/or uninvited touching
- speaking to others rather than to the disabled person directly
- asking intimate questions about a person's impairment
- making assumptions about disabled people
- physical abuse, intimidation or name calling
- questioning a disabled person's work capacity and/or ability
- making assumptions or speculating about someone's impairment
- unwarranted differential treatment
- ridiculing an individual because of a disability

2.4 **Other forms of Unacceptable behaviour**

Bullying in the workplace may be defined as persistent, offensive, abusive, intimidating, malicious or insulting behaviour, abuse of power or unfair penal sanctions, which makes the recipient feel upset, threatened humiliated or vulnerable, which undermines their self-confidence and which may cause them to suffer stress. Such behaviour is not limited to behaviour by managers towards subordinates; it can also be perpetrated by members of staff towards colleagues and managers.

Examples of bullying may include:

- Open bullying such as displays of rage at staff in front of colleagues, pupils or other people, name-calling, persistent unjustified criticism and public humiliation.

- Unseen bullying such as setting objectives with unreasonable deadlines, unreasonably removing areas of responsibility and inflicting menial tasks instead, constantly changing working patterns without justification, deliberately ignoring or excluding an individual or talking only to a third party to isolate another, unreasonably or unpleasantly challenging or refusing to comply with reasonable management direction or requests.

Employees may also be vulnerable to Unacceptable behaviour at work relating to their actual or perceived **sexual orientation or sexuality.** Such behaviour would be likely to constitute unlawful discrimination or harassment under the Equalities Act 2010.

Employees may also be vulnerable to Unacceptable behaviour at work relating to their **religious beliefs or age**. Such behaviour would be likely to constitute unlawful discrimination or harassment under the Equalities Act 2010.

Employees have legal protection from discriminatory treatment on basis of their membership, or not, of a trade union and associated activities. Such treatment would constitute Unacceptable behaviour.

Unacceptable behaviour can arise simply from employees being unwilling to behave in an acceptable way towards another or others at work for reasons of personal dislike. Whatever the motivation, unacceptable behaviour as broadly defined within this policy should not be condoned or tolerated.

The examples given above are not exhaustive. The Council may from time to time specify further examples of conduct that will be regarded as Unacceptable behaviour and leave the perpetrator open to possible action under the agreed Disciplinary procedure.

Victimisation is a distinct form of Unacceptable behaviour covered by this policy. Victimisation is behaviour in breach of specific provisions of employment legislation that make it unlawful to treat a person less favourably because they have initiated, or given evidence or information in connection with, a complaint of unlawful treatment. Victimisation of an employee because they have made a complaint, initiated a grievance under the agreed Grievance procedure, or given evidence or information in relation to a complaint or grievance may be considered an act of gross misconduct that, if substantiated by an investigation carried out in accordance with the agreed Disciplinary procedure, may result in summary dismissal.

3. Duty of governing bodies, headteachers and managers

Staff are sometimes reluctant to complain of Unacceptable behaviour because of:

- retaliation or public humiliation

- not being believed or taken seriously
- what other people may think
- a complaint not being handled in a sensitive and confidential manner or that no action will be taken regarding the complaint
- being discriminated against in employment
- the person involved in the harassment is their line manager.

Governing bodies, headteachers and managers must take steps to stop Unacceptable behaviour that they suspect to exist in their areas of responsibility. Failing to do so could be a breach of the duty of care towards employees.

4. Duty of all members of staff

All members of staff should take all reasonable steps, by behaving courteously and professionally towards others at all times, to ensure their conduct does not cause offence or make others feel bullied, harassed or intimidated. They must discourage all forms of Unacceptable behaviour and support colleagues who may be victims of such treatment.

School staff should report any suspected incidents of Unacceptable behaviour by or towards others in the workplace to their line manager or to the headteacher.

5. Complaints: procedure and support

Complaints of Unacceptable behaviour should be investigated expeditiously and with sensitivity in a confidential manner and with due regard to the rights of all parties concerned. Every effort will be taken to ensure that staff will be protected against victimisation or retaliation for bringing a complaint of Unacceptable behaviour or for assisting an investigation. Any evidence of victimisation will result in a thorough investigation and, possibly, serious disciplinary action. In cases involving alleged Unacceptable behaviour both the complainant and the respondent may seek support from a trade union representative or colleague and have a right to representation if the formal disciplinary or grievance procedures have been invoked.

Initially and where practicable the complainant should tell the alleged harasser or bully to stop and make it clear that their behaviour is unwelcome. The alleged harasser or bully may be genuinely unaware of the effect of their behaviour. A member of staff may wish to discuss their concerns with:

a) their trade union representative, or

b) HR from the Schools HR team, or

c) Care First.

All of these people will, in the first instance, provide help and advice in complete confidence without obligation to take a complaint further. In circumstances where it is inappropriate or

staff feel unable themselves to approach the alleged harasser, they may seek assistance and advice from their trade union representative.

Alternatively staff may raise their concerns directly with their manager or the headteacher* who will arrange to discuss the concerns fully with the employee and may respond by proposing informal action to address the employee's concerns. In more serious cases the manager or headteacher* may propose responding to the concerns by initiating a formal investigation. The decision to progress the matter as a formal complaint should normally lie with the employee who considers he or she has been subjected to Unacceptable behaviour. However, management has the right to initiate a formal investigation where it appears that the behaviour complained of is so serious that it cannot be left unaddressed, even if the victim is unwilling to make a formal complaint.

If the initial response does not result in the unacceptable behaviour ceasing, in more serious cases, or if the member of staff wishes to make a formal complaint immediately, they should make a formal complaint to the headteacher* under the provisions of this procedure. A written acknowledgement of the complaint will be made by the headteacher* within 3 working days of receipt. The headteacher* will arrange to discuss the complaint with the employee prior to initiating a formal investigation to ensure that he/she has a clear understanding of the nature of the complaint and confirm that the matter warrants a formal investigation and the employee wishes such an investigation to proceed. The employee may wish to be accompanied by a trade union representative or colleague during such a discussion.

A formal investigation will involve the following stages:

a) The headteacher* will delegate to a suitably experienced senior member of staff the role of investigating officer with the task of investigating into the complaint.

b) Depending upon the nature, seriousness and circumstances surrounding the complaint, the headteacher* may decide to:-

i) suspend the party against whom the complaint is made on full pay until the necessary investigations have been carried out

ii) allow the person who has made the complaint time off on full pay should this be considered necessary

iii) make arrangements, if possible, to minimise the extent to which the parties come into contact whilst undertaking their duties

c) The investigating officer should consider the need to take advice from the Schools HR team on the conduct of the investigation.

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* *where the headteacher is the alleged perpetrator of Unacceptable behaviour the employee may raise their concern with the Chair of Governors who will seek advice from the Schools HR team. Managers must report any allegations of Unacceptable behaviour by the headteacher to the Chair of Governors*

d) The investigating officer should complete the investigation into the complaint within 10 working days, which should include interviewing all those concerned separately. In more complex cases, additional time must be allowed to complete the investigation. Whilst there is no right to be accompanied during an investigative interview, a request from the complainant or respondent to be accompanied at such interviews by a trade union or other representative will not be refused unless it gives rise to unacceptable delay in conducting the investigation.

e) After concluding the investigation, the investigating officer will report in writing to the headteacher (or Chair of Governors where the person against whom the allegations are made is the headteacher). After considering the report of the investigating officer, the headteacher (or Chair of Governors) will determine on one of the following courses of action:-

i) not to uphold the complaint where it is shown not to be founded

or

ii) to uphold the complaint and implement a course of action short of disciplinary action which will prevent further Unacceptable behaviour taking place.

or

iii) to uphold the complaint and deal with the perpetrator under the agreed Disciplinary Procedure by convening a disciplinary hearing. Such a hearing will be conducted by the headteacher or a Staffing Panel of governors as appropriate in view of the seriousness of the alleged misconduct (disciplinary hearings dealing with alleged misconduct by the headteacher will always be conducted by a Staffing Panel of governors).

f) The outcome of the complaint should be communicated to both parties in writing. The complainant may at this stage, if dissatisfied with the response of the headteacher (or Chair of Governors when the case involves allegations against the headteacher), ask for the matter to be referred to an Appeals Panel for further consideration. The decision of the Appeals Panel will be final within this procedure.

6. Disciplinary action following a complaint of Unacceptable Behaviour

Any disciplinary hearing arising from an investigation into a complaint of Unacceptable behaviour will be conducted in line with the agreed Disciplinary Procedure. A headteacher (Staffing Panel) conducting a disciplinary hearing may be accompanied throughout by a member of the Schools HR team who will be present in an advisory capacity.

At a disciplinary hearing the complainant and the investigating officer will be called as witnesses in the case against the alleged harasser or bully.

At the end of a disciplinary hearing, having heard all evidence and representations, the headteacher (or Staffing Panel) will, in the absence of the parties to the complaint, determine whether there is evidence of Unacceptable behaviour amounting to misconduct and, if so, what disciplinary action is to be taken. Once a decision has been reached the parties to the complaint will be recalled and the decision will be made known. The outcome will be communicated in writing to the person against whom the allegations were made within 5 working days of the disciplinary hearing.

7. Governors and members of the public

In the case of a complaint of unacceptable behaviour by a member of the Governing Body the headteacher will investigate and submit a report to the Chair of Governors with a recommendation concerning action. The headteacher can obtain guidance on possible sanctions against governors from the SBC Governor Support Team.

Allegations of unacceptable behaviour towards school staff by members of the public should be reported to the headteacher (Chair of Governors when the complaint is made against the headteacher) who will consult with Schools HR team before deciding an appropriate course of action, which may involve initiating criminal proceedings.

This policy is not intended to cover unacceptable behaviour by pupils towards employees. School management should, however, recognize that this can arise and take steps within the school's behaviour policies to limit its extent and impact.

Appropriate action will be taken against any member of staff who is found to have behaved unacceptably towards a member of the public. Complaints received by members of the public will be dealt with as potential disciplinary issues.

8. Training

The Schools HR team can provide awareness training on the Acceptable Behaviour Policy for schools as well as providing advice and support to investigating officers on the procedures to be followed when dealing with complaints of discrimination, harassment and bullying.

The Schools HR Team can provide workplace mediation is to help restore and maintain the employment relationship between work colleagues. Mediation can complement the Council's formal arrangements for dealing with workplace issues such as harassment, discrimination, victimisation and bullying. It can offer early assistance before problems escalate and help staff consider the available options to resolve the situation.

Mediation is a confidential and voluntary process in which a neutral person helps employees in dispute explore and understand their differences so that they can find their own solution. Please contact the Schools HR Consultancy team.

9. Appeals against disciplinary action for Unacceptable Behaviour

When a written warning or more serious disciplinary action is taken against an employee for

Acceptable Behaviour	**Unacceptable Behaviour**
Explain the basis for an instruction	Asking someone to carry out an instruction in a belittling way
Explaining the reason for a deadline or target and discussing it; trying to agree a reasonable basis for proceeding	Continually setting unreasonable deadlines without discussing the difficulties of meeting them or setting unattainable targets
Discussing privately what went wrong and how to prevent it from happening again	Shouting or swearing at someone when something goes wrong or humiliating someone in front of others
Assuming people can do the work required, unless there are legitimate reasons for doubting this, requiring greater monitoring	Excessively supervising/ monitoring someone when the circumstances don't justify it. Eroding someone's job by removing responsibilities or autonomy
Inviting comments and participation from all those you think may have an interest, even if you cannot act upon everything	Cold-shouldering someone to exclude them from an activity, meeting or communications or withholding information or resources required to do the job
Using email sensibly and communicating email requests reasonably	Unnecessarily bombarding someone with emails, copying e-mails about personal matters to unnecessary recipients or being brusque or offensive in emails
Discussing and publicising contributions with all those involved	Not giving individuals appropriate credit for their contribution to e.g. papers, reports or other literature
Praising people for their positive contributions or talking to them privately about any issues of concern	Publicly casting aspersions on a person's personal or professional standing, through jokes, innuendo or malicious gossip
Communicating with people privately, in a professional manner, as soon as a problem occurs. Being openly committed to fair appraisal and career development philosophies	Making physical or verbal threats, which may include the use of intimidating body language or swearing, to block a person's career development or to threaten a person with redundancy/dismissal if performance levels are not improved

Unacceptable behaviour he/she will be notified of the right of appeal. Appeals will be managed under the agreed Appeals procedure. The outcome of an appeal conducted under the agreed Appeals procedure is final within the Council's procedures.

Appendix 1

Examples of Acceptable and Unacceptable Behaviour

(Acknowledgement and thanks to Robert le Kyng Primary School Governing Body for these examples)