

Discrimination & Harassment Policy

Overley Hall School



Overley Hall
School

Approved by: Bev Doran

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Next review due 3rd March 2025

by:

Aims

Overley Hall School is committed to creating a working and learning environment where people can achieve their full potential free from any form of discrimination or harassment. Overley Hall aims to have an inclusive culture of equality, diversity and respect between individuals.

This Policy outlines the Schools' vision in creating and maintaining a healthy environment where its members are confident that any complaints raised by them in relation to any form of discrimination or harassment will be dealt with fairly, diligently and promptly. It is also committed to providing a supportive culture which encourages the reporting of such incidents/behaviour and early intervention.

Overley Hall School recognises the need to challenge any implied or explicit acceptance of discrimination or harassment to prevent escalation and is therefore dedicated to focusing on initiatives that will work to prevent such unacceptable behaviour arising. This includes working to improve the understanding of where discrimination and harassment may occur and measures to be taken if employees would like to raise concerns.

Appropriate steps will be taken to deal with behaviour, intentional or unintentional, that results in a breach of this Policy and the School's procedures make provision for the investigation of allegations made and for disciplinary action to be taken where allegations are upheld.

We are also committed to protecting and promoting freedom of speech within the law but recognise that there are instances where free speech may be limited by law where it is necessary to prevent crime, for national security purposes, public safety or to prevent unlawful discrimination or harassment.

This policy applies to all School employees (plus contractors), including those employed on a temporary basis, and the school will ensure that all employees are made aware of the policy and how to access a copy.

Appropriately qualified members of staff, such as managers, may be required to act as investigating officers or undertake another role as part of the harassment procedure. Resources will be made available centrally to enable such staff to receive training and to carry out their investigating duties.

In accordance with the Equality Act 2010 and the public sector equality duty to eliminate discrimination and advance equality of opportunity, monitoring of the procedure will be undertaken to collect information such as: the type and frequency of complaints arising; the proportion of complaints resolved satisfactorily; any problem areas to be addressed; and any additional training required.

The school strives for a workplace free of harassment and discrimination by:

- Raising awareness of the issues of harassment and discrimination and refusing to tolerate these behaviours
- Supporting employees who are harassed, or discriminated against
- Dealing with any issues through agreed processes when they are raised
- Ensuring that senior leaders demonstrate and uphold high standards of conduct

Legislation

This policy is based on the ACAS guidance '[Bullying and harassment at work: a guide for managers and employers](#)' (2014).

This policy follows the principles of the:

[Equality Act 2010](#)

[Protection from Harassment Act 1997](#) (which makes provision for protecting individuals from harassment and similar conduct)

[Employment Rights Act 1996](#) (which is particularly relevant if the school is considering a dismissal)

[Employment Relations Act 1999](#) (where a dispute progresses to an employment tribunal)

Where it becomes necessary to bar an individual from school premises, we will refer to the Department for Education's [guidance on controlling access to school premises](#).

This policy is designed to protect all employees, consultants, casual workers and agency workers from harassment and discrimination.

It does not form part of any employee's contract of employment and we may amend it at any time.

Definitions.

Harassment.

Harassment, as defined in the Equality Act (2010), is:

- Unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.
- The unwanted conduct may be physical, verbal or non-verbal. A single incident can amount to harassment.

The relevant protected characteristics defined in the Equality Act 2010 are:

- Age
- Disability
- Gender reassignment
- Race
- Religion or belief
- Sex
- Sexual orientation

The individual making the complaint does not need to be the intended target or possess the relevant characteristic themselves.

An individual may find the behaviour offensive even if it is not directed at them, or they may be:

- Associated with a person who has a protected characteristic
- Wrongly perceived to have a protected characteristic
- Treated as if they have a protected characteristic

Harassment can take many forms such as:

- the display or distribution of offensive material, graffiti or badges
- non-verbal abuse such as offensive gestures and body language
- inappropriate comments about someone's appearance
- intrusive questioning about someone's private life
- verbal abuse such as suggestive remarks, 'jokes' and name calling
- physical contact such as unnecessary touching
- offensive messages or materials received via email or online
- threatened or actual physical abuse or attack.

Harassment is unacceptable even if it does not fall within any of the defined categories above.

Discrimination

Discrimination is defined under The Equality Act (2010) and takes place when an individual or a group of people are treated less favourably than others based on a protected characteristic such as age, disability, gender reassignment, pregnancy and maternity (including treating a woman unfavourably because she is breastfeeding), race (including colour, nationality, ethnic and national origin), religion or belief, sex or sexual orientation and in relation to direct discrimination only, marriage and civil partnership.

Discrimination includes the following categories: direct discrimination (which includes discrimination by association and perception), indirect discrimination and discrimination arising out of a disability.

Direct discrimination occurs where an individual is treated less favourably because of one of the protected characteristic(s). In order for someone to show that they have been directly discriminated against, they must compare what has happened to them

to the treatment a person without their protected characteristic is receiving or has received. If there is no comparator, it can still be considered direct discrimination if an individual can show that another individual who did not have their protected characteristic would have been treated better in similar circumstances.

Discrimination by association (other than pregnancy and maternity) refers to a situation where an individual is discriminated against because of the protected characteristic of another individual(s), with whom they are associated.

Discrimination by perception (other than pregnancy and maternity) is discrimination against an individual because he or she is wrongly perceived to have a certain protected characteristic.

In relation to pregnancy and maternity, it is discriminatory to treat an individual (including a student) unfavourably because of their pregnancy and any related illness or because an individual is seeking to take, taking or taken maternity leave/pay during what is known as 'the protected period.' This protected period begins from the start of pregnancy and ends when maternity leave ends or an individual returns to work after giving birth. If an individual is not an employee or worker, the protected period ends two weeks after a child is born.

Indirect discrimination occurs where an individual is disadvantaged by an unjustified provision, criterion or practice that puts an individual with a particular protected characteristic at a disadvantage compared with others who do not share that characteristic. Any individual claiming indirect discrimination must be able to show that they have been disadvantaged personally or that they will be disadvantaged and it cannot be shown that there is a good reason for applying that specific provision, criterion or practice. For the avoidance of doubt, a provision, criterion or practice can include but is not limited to School policies, ways in which access to any benefit, service or facility is provided and one off decisions.

Discrimination arising out of a disability which occurs when a disabled individual is treated unfavourably because of something connected with their disability and there is no justification for this treatment. The Equality Act 2010 protects a person from being treated badly because of something connected to their disability, such as needing time off for medical appointments. It will not apply if the individual alleged to have committed discrimination arising from disability did not know or could not have reasonably be expected to know that the individual making the allegation had a disability.

In the Equality Act 2010, disability means a physical or a mental condition which has a substantial and long-term impact on an individual's ability to do normal day to day activities. Discrimination arising from disability will occur if the following three conditions are met:

- A disabled individual is treated unfavourably, and are therefore at a disadvantage, even if this was not the intention, and
- this treatment is because of something connected with the disability (which could be the result, effect or outcome of that disability) and
- the treatment cannot be justified by showing that it is 'a proportionate means of achieving a legitimate aim'

It is not unlawful discrimination to treat a disabled person more favourably than a non-disabled person if they require it.

Under the Equality Act 2010, an employer has certain duties to make 'reasonable adjustments'. This is to ensure that a disabled person is not put at a substantial disadvantage by the employment/study arrangements or by any physical feature of the workplace or learning environment. There is a responsibility to make sure that disabled people can access jobs, education and services as easily as non-disabled people. This is known as the 'duty to make reasonable adjustments'. What is reasonable will depend on several factors.

Unacceptable behaviour in this school may include:

- ✿ jokes, offensive remarks or intimate questions conveyed orally or in writing directly to a person or about a person to a third party
- ✿ producing, sending or displaying inappropriate and/or offensive images or other material to, or about, a person or group
- ✿ insulting, abusive, embarrassing or patronising behaviour or comments, humiliating and/or demeaning criticism
- ✿ abuse, threats or intimidation towards a person or group
- ✿ damaging, defacing or removing a person's or group's property
- ✿ breaching a person's confidentiality by disclosing their sensitive personal information
- ✿ less favourable treatment by excluding a person from a benefit or opportunity that is open to others
- ✿ isolation from normal work or study place conversations or social events
- ✿ unwanted physical conduct as such touching, staring at or hitting a person
- ✿ sexually assaulting or making sexual advances towards another person
- ✿ being part and contributing to a workplace or study environment where a culture which tolerates harassment and bullying persists, i.e. in telling racist/religious jokes
- ✿ persistently overloading an individual with work that the individual cannot reasonably be expected to complete
- ✿ assumptions regarding the individual's inability to learn
- ✿ offensive remarks
- ✿ exclusion on the basis of age
- ✿ failure to make reasonable adjustments
- ✿ discussion of the effects of a disability on an individual's personal life
- ✿ inappropriate questions about the impact of someone's disability
- ✿ insulting remarks relating to gender re-assignment
- ✿ asking inappropriate questions in relation to an individual's gender re-assignment
- ✿ making jokes, insinuations, humiliating comments or racially oriented remarks

- ✿ racial stereotyping - assuming that all people of a particular race have the same characteristics
- ✿ unacceptable terminology - derogatory terms that refer to somebody's race are clearly unacceptable and discriminatory.
- ✿ ridiculing their religious beliefs/practices
- ✿ an individual is discriminated against because a family member is transgender
- ✿ an individual is discriminated against because they are perceived to be of a certain religion
- ✿ a dress code is imposed which in appearance applies to everyone, but which may discriminate against certain individuals who follow a particular religion
- ✿ an employee with cancer is prevented from receiving a bonus because of time they have taken time off to receive treatment

This list is not intended to be exhaustive.

Harassment or discrimination may occur:

- ✿ Face to face
- ✿ Through written communications
- ✿ Using visual images (for example, pictures of a sexual nature or embarrassing photographs of colleagues)
- ✿ Via email
- ✿ Via phone
- ✿ Via automatic supervision methods, such as computer recording of downtime from work, or recording of telephone conversations, if these are not universally applied to all workers

This list is not intended to be exhaustive.

Reasonable management

The school differentiates between reasonable management, which is firm and fair, and behaviours associated with harassment or discrimination.

Legitimate, justifiable, appropriately conducted monitoring of a member of staff's behaviour or job performance does not therefore constitute harassment or discrimination.

Role & responsibilities

The Support and Scrutiny Board

The Support and Scrutiny Board:

- Ensures complaints and allegations are handled according to agreed procedures
- Holds the headteacher to account for the implementation of this policy
- Ensures that this policy is periodically reviewed and kept up to date
- Deals with complaints raised by or about the headteacher

The headteacher

The headteacher:

- Works to ensure that the working environment is free from harassment, bullying and victimisation
- Works to check that complaints and allegations are handled according to agreed procedures.

All staff

- Treat colleagues with dignity and respect
- Contribute to maintaining an environment free from harassment, bullying and victimisation
- Support colleagues who experience unacceptable behaviour and who are considering making a complaint, or have made a complaint
- Report any occurrence of unacceptable behaviour and offer supporting evidence in any investigation where appropriate

What to do if you're being harassed or discriminated against.

If you are being harassed or discriminated by a colleague, external stakeholder or pupil, speak to your line manager. They can provide confidential advice and assistance in resolving the issue.

If your line manager is the subject of your complaint, speak to the Head Teacher

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Consider whether you feel able to raise the issue informally with the person responsible. Your line manager (or the Headteacher if your complaint is about your line manager) can support you with this.

If you do raise the issue with the individual, you should explain clearly that their behaviour is not welcome or makes you feel uncomfortable. It may be that they are not aware of the effect of their actions.

Raising the matter informally will involve a discussion of the events, with the intention of reaching an agreement that the behaviour will cease with immediate effect.

If you feel uncomfortable raising the matter with the individual informally, or you have tried to do so without a successful resolution, the school will decide whether your complaint should be dealt with formally under this policy or under the school's grievance procedures. It is for the school to determine the appropriate procedure, based on the facts of the case.

If the complaint is dealt with under this policy, the school will follow the procedure set out below.

If the complaint is dealt with under the school's grievance procedures, you should refer to those.

Formal procedure for managing complaints

How complaints will be dealt with will depend, in part, on whether the alleged perpetrator is a colleague, a contractor or a pupil. Each option is covered below.

For all allegations of staff members being harassed or discriminated against, consideration will be given to involving other agencies as necessary.

Where a complaint has been raised and is being investigated under this procedure, the school will consider requests from the complainant to change their working arrangements or duties in order to avoid or minimise contact with the alleged perpetrator until a successful resolution and an agreed outcome are reached.

Alleged harassment or discrimination by colleagues

Submitting a formal complaint

Where the decision has been reached for the complaint to be dealt with under this policy, the complainant should submit their complaint in writing to their line manager. If the complaint relates to their line manager, it should be sent to the Lynn Thompson (Bursar).

The written complaint should set out the nature of the complaint with reference to specific incidents where possible, including times, dates and witnesses. It is important that it contains sufficient detail to enable the nature of the complaint to be determined.

Formal investigation

Once a written complaint is received, an investigating officer will be appointed to carry out an investigation into the complaint. This will be an independent individual with no prior knowledge of the complaint.

Both the complainant and the subject of the complaint should be advised that a formal complaint has been made and that an investigation will take place.

An interview will usually be arranged with the complainant within one week of receipt of the complaint. The subject of the complaint will then be interviewed and will be allowed the opportunity to respond to the complaint. There is no entitlement for the subject of the complaint to see the written complaint, but they should be provided with information as to the nature of it.

Both the complainant and the subject of the complaint may be accompanied at any stage of the formal procedure by either a colleague, a trade union official (if they are a member), a trade union representative (if they are a member) who has been certified by their union as competent to accompany a worker, or a friend.

If any other witnesses are deemed pertinent to the investigation, the investigating officer will arrange to speak with them and will review relevant information and documentation.

The investigating officer will consider all information and evidence gathered over the course of their investigation and will produce a written report detailing their findings and recommendations about action to be taken upon the conclusion of the investigation. Expert support may be purchased from outside consultants when deemed necessary.

Action following the investigation

If the investigating officer upholds the complaint against the employee, possible outcomes may be:

- Disciplinary action
- Mediation
- Mandatory training

If the investigating officer does not uphold the complaint, possible outcomes may be:

- No action

- Mediation
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Alleged harassment or Discrimination by a stakeholder

Where the decision has been reached for the complaint to be dealt with under this policy, the matter will be handled in line with the above outlined formal procedure – namely the requirement for a formal written complaint to be submitted and a formal investigation to commence. It may be appropriate to allow the stakeholder to be accompanied as part of any investigation interview.

If the allegation is found to be justified, the response from the school will depend on the relationship of the perpetrator to the school and the nature and severity of the incident.

The school will take proportionate action in consultation with the individual who made the complaint. This may involve:

- Mediation
- Putting up signs setting out acceptable and unacceptable behaviour
- A verbal warning
- A written warning

If these approaches are not effective in preventing issues, or for very severe cases, the school will consider further action. This may involve a meeting to discuss a ban from the school site. If the perpetrator is a contractor, this may involve a meeting to discuss the termination of the contract between them and the school.

In the case of a ban, the individual will be informed in writing that they are banned from the premises, subject to review. At this stage, other agencies such as the local authority may be involved. Where appropriate, the school will have regard to the Department for Education's guidance on controlling access to school premises (see section 2 of this policy).

If the individual is a parent of a pupil at the school, where appropriate the arrangements for pupils being delivered to and collected from the school will be clarified.

Alleged harassment or discrimination by pupils

With the demographic of our learners it is important that the 'intent' of any alleged harassment or discrimination is considered before any formal process is followed. Our learners may require support during the whole of the process and afterwards.

Where the decision has been reached for the complaint to be dealt with under this policy, the matter will be handled in line with the above outlined formal procedure – namely the requirement for a formal written complaint to be submitted and a formal investigation to commence. It will be appropriate to allow the pupil to be accompanied by an appropriate adult as part of any investigation interview.

If the allegation is found to be justified, the school will then refer to the behaviour policy, and may issue a disciplinary sanction against the pupil in accordance with that policy (up to and including permanent exclusion where appropriate) with reference to the safeguarding policy if appropriate to the pupil's circumstances.

Where the pupil remains at the school, the school will also take responsibility for educating the pupil about appropriate behaviour and will liaise with the individual who raised the allegation about alternative working arrangements (temporary or permanent) if they teach the pupil.

Continued working relationships

If it is decided that there is no case to answer, support will be provided for both parties and consideration given to managing their ongoing working relationship.

We will also consider whether there is evidence that the complaint has been malicious. If there is evidence to suggest that the complaint was malicious, this will be investigated and dealt with under our disciplinary procedures.

Whatever the outcome, we will consider how to support the individuals involved to maintain an ongoing working relationship.

Appeals

If the complainant is not satisfied, they should write to the Chair of the Support and Scrutiny Board within 10 working days of being informed of the outcome of the procedure.

An appeal hearing will then be arranged within a reasonable period of time, and will be dealt with by an appropriate level of senior management who have had no prior involvement with the complaint and/or investigations

The complainant may be accompanied at the hearing by either a colleague, a trade union official, a trade union representative (if they are a member) who has been certified by their union as competent to accompany a worker, or a friend.

The appeal outcome will be confirmed in writing within 5 working days of the hearing. An outcome may dismiss the appeal and confirm the original decision or may uphold the appeal and overturn the original decision.

Confidentiality

The school will respect confidentiality for both the person making the allegation and the subject of it. Details of the investigation and the names of the victim and

perpetrator will only be disclosed when necessary (for example, when it is necessary to give details to properly investigate the matters raised).

Information about a complaint by or about an employee may be placed on the employee's personnel file, along with a record of the outcome and of any notes or other documents compiled during the process.

A complaint about a pupil may be stored on their educational record.

Information will be processed in line with data protection law. It will be kept securely, only for as long as necessary and in line with data protection law, our privacy notices and record retention schedule.

Further information

An employee can seek out further information on harassment and discrimination from:

- His or her line manager
- His or her trade union representative

Monitoring

Overley Hall School will compile anonymous information about the number, nature and outcomes of, discrimination and harassment cases each academic year, with a view to keeping the HR Management Board updated. The Policy will also be reviewed annually to monitor its effectiveness unless legislative changes require this to be done sooner.

Links with other policies.

This policy is linked to the following policies:

- Staff grievance procedures
- Staff disciplinary procedures

- Staff code of conduct
- Behaviour policy
- Safeguarding policy