PDET

Anti-Bullying and Harassment Policy

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1. Introduction

Peterborough Diocese Education Trust (PDET) is committed to the flourishing of all, working together as one, through the affirmation of God's love within a distinctly Christian ethos. It recognises that humanity is co-humanity,' inextricably linked with others. Therefore, the Trust aims for each of its academies to provide a culture:

- with a core focus on relationships
- where the practice of forgiveness and reconciliation is central; and
- where upholding dignity and showing respect to all is fundamental.

in order to enable all people to live well together.

2. Policy Statement

The Trust aims to create a safe working environment where individuals are treated with dignity and respect and is opposed to bullying, harassment, discrimination, or victimisation of any kind.

The Trust will take all complaints made under this policy seriously and as far as possible, will maintain confidentiality at all stages of the procedure. Every employee must comply with this policy and any employee who feels they have been bullied, harassed, discriminated against, or victimised or who witnesses the same at work, may use it to try to resolve the issue.

The Trust Board, Central Executive and Headteacher are responsible for

- implementing this policy
- bringing it to the attention of employees and
- seeking to eliminate any forms of bullying, harassment, victimisation, or discrimination of which they become aware.

In certain circumstances it may be appropriate to consider mediation to resolve an issue and this may be considered at any point in the process.

3. Scope

The policy applies to all employees within the Trust. This policy does not form part of any contract of employment and the Board of Directors may wish to amend it at any time with consultation with appropriate representatives of recognised trade unions.

4. Definitions

Bullying - is characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate, or injure the recipient. Bullying does not necessarily relate to a Protected Characteristic.

Discrimination – is unfavourable treatment, or being subject to a disadvantage, related to a Protected Characteristic.

Discrimination can be direct or indirect:

- Direct discrimination is less favourable treatment because of a protected characteristic that the employee has or a protected characteristic that someone associated with the employee has.
- Indirect discrimination is when there is a practice, policy or criteria which applies to all employees in the same way, however, is more beneficial for some more than others. It has the effect of putting those with protected characteristics at a disadvantage and there is no reasonable justification for it.

Harassment - is defined as any unwanted and uninvited conduct or behaviour relating to a protected characteristic that has the purpose or effect of violating an employee's dignity or creating an intimidating, hostile, degrading, humiliating or offensive working environment for the recipient(s).

Harassment can take many forms, such as bullying or offensive, hostile, ridiculing or demeaning behaviour. Any of these may be linked to an employee, by reference to their age, gender, gender identity; sexuality, disability, race, religion, or belief or by their association with people with those 'protected characteristics.'

Hate Incident - is any incident, which may or may not constitute a criminal offence, which is perceived by the victim or any other person, as being motivated by prejudice or hate.

Hate Crime – is any hate incident which constitutes a criminal offence, perceived by the victim or any other person, as being motivated by prejudice or hate.

Victimisation - is subjecting a person to a detriment because they have, (or is going to, or is believed to have or be going to), in good faith:

- brought proceedings under the Equality Act 2010
- given evidence or information in connection with proceedings under the Act
- done anything for the purposes of or in connection with the Act
- or made any allegations that another person had contravened the Act.

Definitions of Protected Characteristics

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

A definition of these protected characteristics can be found at:
http://www.legislation.gov.uk/ukpga/2010/15/contents

Further information on the Trust's approach to Equality and Diversity can be found in the Trusts Equality in Employment Policy.

5. Legal background

Employers have a duty to protect their employees against bullying, harassment, discrimination, and victimisation.

Harassment, discrimination, and victimisation are unlawful under the Equality Act 2010. Claims under this legislation may be brought against the alleged perpetrator and against their employer at an Employment Tribunal. An employer is liable for the discriminatory acts of employees acting in the course of their employment, whether or not the acts are done with the employer's knowledge or approval, unless the employer is able to show that they took all reasonable practical steps to prevent employees carrying out unlawful discrimination.

Additionally, harassment can be a crime (under the Criminal Justice and Public Order Act 1994, the Protection from Harassment Act 1997; and Section 18 of the Public Order Act 1986) and therefore subject to criminal prosecution.

This procedure takes account of the ACAS Code of Practice on Disciplinary and Grievance Procedures.

6. Hate Crimes or Incidents

When a complaint of bullying or harassment is made, it is possible that a Hate Crime or Hate Incident (*see definitions above*) may have occurred. All academies have a duty to record and monitor all hate incidents and to report this information to the Local Authority using the systems provided. Employees should therefore report all possible Hate Crimes / Incidents to the Headteacher, who has overall responsibility for reporting to the Local Authority.

Employees can also report hate incidents themselves, to the Local Authority and / or the Police. For more information, visit http://report-it.org.uk/report_a_hate_crime.

7. Informal Action

Informal action is an option available to employees who feel that they have been the subject of any form of bullying, harassment, discrimination, or victimisation, or have witnessed it. In the first instance, it is best to try to resolve matters informally, if this is possible, as it is likely to produce solutions that are speedy, effective and restore positive relations in the workplace.

If the employee feels able to, they should tell the individual that their conduct is unwanted and / or offensive and must stop.

Alternatively, they can raise their concern informally with their manager to try to achieve an informal solution. Where the issue relates to a parent, volunteer or contractor, the employee should also raise this with their line manager, so that appropriate action can be considered and reasonable practicable steps can be taken to prevent the unwanted conduct.

The employee should complete a Reporting Bullying / Harassment Form.

The manager will talk to the employee in private to understand what has happened from the employee's perspective.

The manager will undertake sufficient enquiries to assess whether the complaint can be dealt with informally, and should make appropriate notes relating to those enquiries.

If the manager considers that the matter cannot be dealt with informally, an investigation will commence under the formal procedure.

If the manager becomes aware of a serious complaint that warrants disciplinary action, and / or possible criminal proceedings, the Trust may need to take formal action even though the complainant may not prefer this approach. Further advice can be obtained from the Trust's HR Team. Wherever possible, the employee's preference in this respect will be followed and confidentiality maintained.

8. Formal Action

Formal action is an option available for employees who feel that they have been the subject of bullying, harassment, discrimination, or victimisation, or have witnessed it. Employees should not be discouraged from taking formal action where this is their preferred option, or where an informal approach has failed.

To raise a formal complaint the employee must register this, in writing, clearly setting out the nature of the unwanted conduct and identifying the alleged perpetrator(s). This must normally be raised within 3 months of the event and will constitute Stage 1 of the procedure.

The employee should complete a Reporting Bullying / Harassment Form. This will assist the employee in taking formal action and enable the manager to identify and monitor cases.

In the first instance, a formal complaint should be raised with the Headteacher / line manager. The Headteacher / line manager will normally manage the complaint at Stage 1 (but may appoint another member of staff or independent person.)

If the complaint concerns the Headteacher, the employee will raise this with the Chief Executive. A Director will normally manage the complaint at Stage 1 (but may appoint another Director / member of Central Executive team / CEO or independent person).

As a general rule, the decision whether to progress a complaint is up to the employee. However, the Trust have a duty to protect all staff and may decide to pursue the matter independently if they consider it appropriate to do so.

If the alleged perpetrator is a director, the complaint should be sent to the Chair of the Directors. If the complaint concerns the Chair of Directors, it can be sent instead to The PDET Members. Complaints against directors will be managed by a panel of one or more directors / or members who are not the alleged perpetrator(s).

If the alleged perpetrator is a governor, the complaint should be sent to the Chair of Governors. If the complaint concerns the Chair of Governors/Directors, it can be sent instead to the Central Executive team or CEO. Complaints against governors/directors will be managed by a panel of one or more directors / or members of the central executive team who are not the alleged perpetrator(s). *See also section 11*.

9. Relocation or Suspension

Relocation or suspension of an alleged perpetrator should not normally be necessary and should only be considered as a last resort after taking HR advice. Suspension or relocation may be appropriate

where there is a reasonable belief that:

- the allegation is so serious that, if proven, it is likely to amount to gross misconduct
- staff are at risk
- the employee needs protection
- the Trust's reputation may otherwise suffer unduly or
- the presence of the employee may impede the investigation.

In some circumstances, the alleged perpetrator may be relocated to another role where they will not be in contact with the complainant. The complainant will not be moved to a different role unless they specifically request this.

If relocation is not possible or appropriate, the alleged perpetrator may be suspended from duty on full pay during an investigation. Suspension is a precautionary measure designed to protect the interests of all parties, and to allow a thorough investigation into the allegation(s) to be undertaken.

Only the Headteacher, Central Executive or Trust Board, as appropriate, can suspend an employee. Only the, Headteacher, Central Executive or Trust Board, as appropriate, can lift a suspension.

10. Stage 1

The Stage 1 Manager must ensure that the alleged perpetrator is given details of the complaint, in writing. They must also ensure the alleged perpetrator receives support at the point when the complaint is made.

Stage 1 should be:

- Handled objectively and with due respect for the rights of both the complainant and the alleged perpetrator, who will both be entitled to be accompanied by either a work colleague or a trade union representative, at formal meetings to discuss the complaint.
- Completed within 2 calendar months unless there are exceptional circumstances, in which case the employees should be notified of any new timescales.

The Stage 1 Manager will:

- Inform the HR Representative of the complaint and seek advice on whether similar issues have been raised before, how they have been resolved, and any follow-up action that has been necessary, to allow for consistency of treatment
- Consider whether to offer independent mediation
- Consider whether to arrange work so that contact between the parties is minimised or eliminated. (This should be done in a way that does not prejudge the investigation into the complaint)
- Acknowledge receipt of the complaint and arrange a meeting with the complainant normally within 7 calendar days; ensuring that the complainant is advised of their right to be accompanied by either a work colleague or a trade union representative at the meeting
- Arrange for someone who is not involved in the case to take accurate notes of the meeting
- Consider whether any reasonable adjustments are necessary to enable a person who is disabled to participate in the Stage 1 meeting.

The meeting with the Complainant

Stage 1 Manager will:

- Make introductions as necessary
- Invite the complainant to explain the issue and how they perceive that this might be resolved
- Sum up the main points
- Adjourn the meeting prior to taking any decisions, in order to reflect and consider all the points raised
- Advise the complainant of the action they propose to take and the timescale.

The Stage 1 Manager will then undertake any such actions and meetings as necessary to complete their investigation. This will normally include a formal meeting with the alleged perpetrator and any relevant witnesses.

At the conclusion of the investigation, the Stage 1 Manager will:

- Decide if standards for future conduct need to be set, which could involve training
- Decide if use of the disciplinary procedure is required in respect of the alleged perpetrator
- Consider whether any action needs to be taken in order to repair or build working relationships (for example, mediation)
- Inform the complainant as to whether the complaint has been upheld, this may be orally initially, but must be followed up in writing within 7 calendar days
- Confirm the complainant's right of appeal against the outcome of Stage 1, if they consider that their complaint has not been satisfactorily resolved at Stage 1
- Inform the alleged perpetrator of any action that will be taken as a result.

11. Stage 2 – Appeal Stage

The complainant's appeal will be heard by a committee - see table below for guidance on selecting the appropriate person(s). The appeal must be lodged with the Headteacher / CEO / Board of Directors in writing, within 7 calendar days of receipt of the written outcome of Stage 1.

Complainant	**Appeal**
Member of staff (other than those referenced below)	Any of the following – HT decides in consultation with HR Manager: • A Committee consisting of the Chair of Governors plus Governors from either the Academy or other Academies in the Trust • Member of CET including CEO
Headteacher / Executive Head (HT)	Any of the following – CEO decides: • Committee consisting of one or more Directors • Members of CET including CEO
Central Team (excluding HR Manager /CET)	Any of the following – CEO decides: • CEO • Member of CET • Committee consisting of one or more Directors
CET (but not CEO) / HR Manager	Committee consisting of one or more Directors
CEO	Committee consisting of one or more Directors

Note 1: Different people will be used at each stage of the process and will not involve anyone who was a witness to the allegation. ***Note 2: A Committee may be a single individual or any number of individuals as per the table above***
Acronyms: • CEO – Chief Executive Officer • CET – Central Executive Team • HR – Human Resources • HT – Headteacher

This will constitute a **final appeal**.

On receipt of a formal Stage 2 appeal, the Appeal Committee Chair will:

- Notify their HR representative and seek appropriate guidance
- Acknowledge receipt of the appeal and arrange an appeal meeting with the complainant normally within 7 calendar days; ensuring that the complainant is advised of their right to be accompanied by either a work colleague or a trade union representative at the meeting
- Confirm that this stage constitutes the final stage of the Procedure
- Arrange for the Stage 1 Manager to attend
- Arrange for someone who is not involved in the case to take accurate notes of the meeting
- Consider whether any reasonable adjustments are necessary to enable a person who is disabled to participate in the appeal meeting
- Make arrangements to ensure that all relevant documents are available to all parties.

The Appeal Meeting

The Chair of the Committee will:

- Make introductions as necessary
- Invite the complainant to explain the reasons for their appeal
- Invite the Stage 1 Manager to explain the reasons for their original decision
- Sum up the main points
- Adjourn the meeting prior to taking any decisions, in order to reflect and consider all the points raised
- Advise the complainant of the decision, any action they propose to take and the time- scales for this. This outcome can be oral and then confirmed in writing, within 7 calendar days. If it is not possible to respond within these periods (for example, if the appeal Committee needs to carry out any further investigation), the complainant must be told why and when to expect a reply
- Confirm that the decision is final.

12. Handling complaints under this policy – Practical Points

Complaints about the Academy Governance Committee (AGC) or Trust Board

If a complaint appears to be against the whole AGC or Trust Board, the complainant will be asked to clarify exactly who the alleged perpetrators are and their specific actions. This should normally allow Governors / Directors to be identified who are not directly involved and who may therefore consider the complaint at Stage 1 and / or Stage 2 if required.

Use of Independent / External Investigators

It is acceptable to appoint an independent person to carry out the investigation at Stage 1 and make recommendations. However, if this person is external to the Trust, then the CET / Trust Board will be required to approve those recommendations before they are implemented.

Timescales

All complaints under this policy should be handled in a timely manner without any unreasonable delays. The timescales within this policy are recommended timescales only. If it is not possible to respond within these timescales, the parties involved must be told why and when a resolution or outcome can be expected.

Record keeping

A written record must be kept of any issue or case that is dealt with, whether informal or formal. This will normally include completion of the Reporting Bullying / Harassment Form and any action taken. This should be retained on file.

All records will be kept confidential and on a 'need to know' basis by all parties.

If an employee attends a formal meeting, they should be given a copy of the notes of that meeting and the opportunity to provide annotations to those notes.

If annotated notes are provided, these will be appended to the original notes so that the original document remains unaltered.

Right to be accompanied and role of the companion

The employee can be accompanied at **formal** meetings by either a work colleague or a trade union representative.

If an employee chooses to be accompanied, the companion is allowed to address the meeting in order to put forward the employee's case, sum up the case, respond on the employee's behalf to any view expressed at the meeting, and confer with the employee during the meeting. It is good practice to allow the companion to participate as fully as possible in the meeting, including asking the witnesses questions. However, the companion may not answer questions on behalf of the employee, address the meeting if the employee indicates that they do not wish the companion to do so, or conduct themselves in a way that prevents the manager from explaining their case.

There may also be circumstances where it would be beneficial, to all parties, for the employee to be accompanied at the informal stage, to enable the issues to be addressed and resolved. Requests to be accompanied at this stage of the process need to be considered on a case-by-case basis.

Support; Conciliation and Mediation

Where an employee finds it difficult to raise the issue directly with the individual who they feel is the perpetrator, they may find it helpful to talk over their experience with someone not connected with the issue. The line manager should seek advice from HR who will be able to advise on who this might be and can advise on the process so that appropriate action can be considered and taken.

Additional support may also be available from:

- a trade union representative.

The employee should also be made aware of any support available to them through confidential counselling services, for example:

- The Employee Assistance programme (counselling for employees). Call free on 08000 305182 or visit www.healthassuredeap.com, using the username PDET and password PDET; and
- The Education Support Partnership - https://www.educationsupportpartnership.org.uk/ , telephone 08000 562561.

Depending upon the nature of the issue and where the circumstances allow, the line manager may decide to discuss the complaint with both parties and to conciliate and mediate to attempt to resolve the issue.

In some cases, an independent mediator can help to try to resolve the issue. This is a voluntary process, agreed by both parties where an independent mediator helps two or more people in dispute to attempt to reach an agreement. The agreement comes from those in dispute, not from the mediator. Mediation can be used at any stage of the process. This will mean that any formal procedures are halted whilst the mediation route is pursued.

If conciliation or mediation is unsuccessful, the process will revert to the stage reached prior to the conciliation or mediation.

Arranging Meetings

Meetings should be planned to ensure that timings and locations are reasonable to both parties. All meetings should be held without unreasonable delay whilst allowing the employee reasonable time to prepare their case.

In the event that the employee falls ill or other circumstances beyond the employee's control prevent them from attending the meeting, then an alternative date should be arranged, preferably within 7 calendar days of the postponed meeting.

Sickness Absence during the Process

If the employee is signed off by their GP at the start of, or at any stage during the Procedure, an Occupational Health referral should be made immediately. This will include seeking an opinion on the employee's fitness to attend meetings and whether any reasonable adjustments should be made to facilitate this. If the medical opinion is that the employee is fit to attend meetings, the process will go ahead as planned.

Where the medical opinion is that the employee is not fit to attend a meeting, a subsequent meeting will proceed in the absence of the employee, or with a trade union representative attending on the employee's behalf.

Further advice can be obtained from an HR Representative.

Overlap with Disciplinary Cases

Dependent upon the circumstances, where an employee raises a complaint under this policy during a disciplinary process, the complaint may be considered as part of the disciplinary process or both the processes may run concurrently or, in exceptional circumstances the disciplinary process may be temporarily suspended to allow the complaint to be dealt with separately.

Abuse of this Procedure

Employees who abuse this procedure by making unfounded complaints or operating the procedure vexatiously may be subject to disciplinary action.

Complaints Under this Policy Resulting in Disciplinary Action

If the employee's complaint results in disciplinary proceedings against another employee, this will be handled in accordance with the Disciplinary Procedure. There may be no need for further investigation, so the case may proceed to a disciplinary hearing. The employee who raised the complaint has no right to influence or be informed of the outcome of disciplinary proceedings. However, the employee who raised the complaint may be called as a witness to any disciplinary hearing which may subsequently occur or may be asked to provide evidence in another way if this is more appropriate to the circumstances.

Trade Union officials

Where allegations under this policy are made against an employee who is an official representative of a recognised trade union the normal Procedure should be followed. However, the matter should be discussed at an early stage with an official employed by the trade union**,** after gaining the employee's agreement.

Complaints in Other Formats

Some complaints may not always be submitted on the standard Reporting Bullying / Harassment Form and may be submitted in a different format, for example, an email or a letter. These complaints still need to be dealt with and the line manager should speak to an HR Representative if further guidance is required.

Issues of bullying, harassment, discrimination, or victimisation may be identified by the Headteacher, CET or Trust Board without a complaint being raised (e.g., through exit interviews, employee surveys and appraisals). In these cases, the formal procedure can be instigated without a formal complaint being made.

13. Complaints from employees who leave the Trust part way through the process

If a complaint is being progressed and the employee leaves before it can be resolved, this procedure should still be followed where practicably possible, in order to try and resolve the issue. Further advice can be obtained from an HR Representative.

14. Data Protection

The Trust processes personal data collected during both informal complaints and the formal procedure in accordance with its Data Protection Policy. A written record of meetings conducted under this procedure may also be made, either by the person holding the meeting or by an additional person arranged by the Trust to take notes.

Data collected as part of informal complaints and the formal procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of responding to the complaints or conducting the procedure. Records are retained and destroyed in accordance with the Trust's Records Retention Policy.

Inappropriate access or disclosure of employee data constitutes a data breach and must be reported in accordance with the Trust's Data Protection Policy immediately. It may also constitute a disciplinary offence, which may be dealt with under the Trusts Procedure.