Carwarden House School

STAFF ANTI-BULLYING & HARASSMENT POLICY

Version number	Date of change	Overview of change
2.0	23.10.2024	Changes made in line with the duty to prevent sexual harassment effective from 26.10.2024 and the EHRC's Sexual Harassment and Harassment at Work Guidance. Changes have been made to sections Introduction, Legislative Framework, What is Bullying, Harassment and Victimisation (with new subsections added regarding Sexual Harassment, Third Party Harassment, and Victimisation), and Informal Procedure. Additional sections have been added titled Our Workplace, Anonymous Reporting, What to do if you Witness Harassment or Victimisation and Further Support. Section titled Protection from Victimisation has been removed.
1.0	06.02.2024	Inserted expanded description within the sections titled 'Direct Discrimination', 'Indirect Discrimination', and 'Victimisation'. Inserted additional groups monitored as part of the Equal Opportunities Monitoring, listed under the section titled 'Recruitment and Selection'

Reviewed by Headteacher: February 2025 (bi-annually)
Adopted by Trustees (as employees): March 2025
Review date: January 2027

Introduction

Carwarden House School (Iris Academy Trust) - referred to as “us” or “we”- is committed to ensuring all staff are treated, and treat others with dignity and respect, free from bullying, harassment, including sexual harassment, and victimisation. For the purposes of this policy references to “harassment” shall be deemed to include sexual harassment.

This policy covers bullying, harassment, sexual harassment, and victimisation which occurs both in and out of the workplace, including:

- in any work situation;
- during any situation related to work such as at a social event with colleagues, work trips, school visits etc;
- against a colleague or other person connected to the employer outside of a work situation, including on social media; or
- against anyone outside of a work situation where the incident is relevant to their suitability to carry out the role

It covers bullying, harassment and sexual harassment by staff and also third parties such as students, parents, suppliers, governors or visitors to the school. It also sets out what victimisation is.

Staff must treat colleagues and others with dignity and respect and should always consider whether their words or conduct could be offensive. Even unintentional harassment or bullying is unacceptable. We will not tolerate any form of bullying, harassment, sexual harassment or victimisation.

We take allegations of harassment (including sexual harassment), bullying and victimisation seriously and will address them promptly and confidentially where possible. Harassment, bullying or victimisation by an employee will be treated as misconduct under our Disciplinary Policy and Procedure. In some cases, it may amount to gross misconduct leading to summary dismissal.

The policy applies to every individual working for the school irrespective of their status, level or grade. It, therefore, includes the Headteacher, members of the Senior Leadership Team, Trustees / directors, teachers, all support staff, consultants, contractors, trainees, volunteers, home-workers, part-time or fixed-term employees, casual and agency staff (collectively referred to as “you” or “Staff” in this policy).

This policy does not form part of individuals’ terms and conditions of employment and is not intended to have contractual effect. It does, however, reflect our current practices and all Staff are required to familiarise themselves with it and to comply with its contents. We reserve the right to amend this Policy at any time or to depart from it where it is considered appropriate.

This policy should be read in conjunction with our Equal Opportunities, Diversity & Inclusion Policy, Grievance Policy and Procedure, Disciplinary Policy and Procedure and Staff Code of Conduct. Breach of this policy will be dealt with under our Disciplinary Policy and Procedure and, in serious cases, may amount to gross misconduct leading to summary dismissal. Sexual harassment, harassment and victimisation are also unlawful under the Equality Act 2010 and could result in legal action being brought against the perpetrator individually.

Legislative Framework

The Equality Act 2010 prohibits harassment related to sex, sexual orientation, gender reassignment, race (which includes colour, nationality, ethnic or national origin), religion or belief, disability or age.

It also places a duty on employers to take reasonable steps to prevent sexual and other forms of harassment of their workers in the course of their employment. We take action to prevent harassment from occurring and have clear reporting procedures for our staff to make a complaint about harassment. If you have been harassed, or you have witnessed harassment, we encourage you to tell us so that we can deal with the matter swiftly.

The Protection from Harassment Act 1997 also makes it unlawful to pursue a course of conduct which you know or ought to know would be harassment, which includes causing someone alarm or distress.

Under the Health and Safety at Work Act 1974, we have a duty to provide our Staff with a safe place and system of work.

Individual members of Staff may in some cases be legally liable for harassment, sexual harassment or victimisation of colleagues or third parties and may be ordered to pay compensation by a court or employment tribunal. In some cases, it can also amount to a criminal offence.

This policy confirms our commitment to identifying and eliminating harassment, sexual harassment, intimidation, bullying and victimisation within the work environment.

Our Workplace

We expect you to treat people with respect and dignity in all communications you have with them, whether face-to-face, over the phone or in writing.

We will assess the risk of harassment in the workplace and keep our risk assessment under regular review. We encourage you to come forward with any areas in which you believe harassment protection could be improved. Please let your Line Manager know.

You are encouraged to report any harassment you are a victim of, or witness, in accordance with this Policy.

We have clear and universal standards of workplace conduct, which include:

- bad and/or offensive language or gestures of any nature should not be used in the workplace, whether directed at a particular person or not.
- inappropriate images or other content must not be viewed or shared at work.
- you should always think before making a joke in the workplace – could anyone be upset or offended by what you say?
- you should never invade colleagues' personal space.
- you should not exclude colleagues unfairly from discussions or events.
- you should not use crude humour.
- you should not use an aggressive tone or aggressive language when speaking with colleagues.
- you should not be physically aggressive towards colleagues.
- you should not make sexually suggestive comments.
- you should not mock, mimic or belittle colleagues in relation to any protected characteristic or otherwise.
- you should not gossip about your colleagues.

Our standards of workplace conduct and zero tolerance of harassment in the workplace apply equally:

- at work; or
- during any situation related to work such as at a social event with colleagues; or
- against a colleague or other person connected to the school outside of a work situation, including on social media; or
- against anyone outside of a work situation where the incident is relevant to your suitability to carry out your role.

What is Bullying, Harassment and Victimisation

It is our policy that the bullying, harassment and victimisation of any of our Staff is unacceptable behaviour. Anyone employee found to be in breach of this policy will be liable to disciplinary action, which could result in dismissal without notice.

1. Bullying

Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined and threatened. Power does not always mean being in a position of authority but can include both personal strength and the power to coerce through fear or intimidation.

Bullying can take the form of physical, verbal and non-verbal conduct. Behaviour that is considered bullying by one person may be considered firm management by another. Most people will agree on extreme cases of bullying and harassment, but it is sometimes the 'grey' areas that cause most problems. Bullying may include (this is not an exhaustive list):

- shouting at, being sarcastic towards, ridiculing or demeaning others, picking on them or setting them up to fail;
- physical or psychological threats;
- overbearing and intimidating levels of supervision;
- inappropriate and/or derogatory remarks about someone's performance;
- abuse/misuse of authority or power by those in positions of seniority;
- deliberately excluding someone from meetings or communications without good reason;
- spreading malicious rumours, or insulting someone;
- copying memos that are critical about someone to others who do not need to know;
- unfair treatment;
- making threats or comments about job security without foundation;
- deliberately undermining a competent worker by overloading and constant criticism;
- preventing individuals progressing by intentionally blocking promotion or training opportunities; and
- "upward bullying" e.g. someone at the same or a more junior level showing continued disrespect, refusing to complete tasks, spreading rumours, constantly undermining someone's authority, or doing things to make the person seem unskilled or unable to do their job properly.

Bullying does not include legitimate, reasonable and constructive criticism of a worker's performance or behaviour or reasonable instructions given to workers in the course of their employment.

It could involve a pattern of behaviour or a one-off incident. It could happen face-to-face, online, by phone or in writing. It can be verbal and non-verbal. It is not always obvious to others. Any member of Staff who genuinely believes that they are being bullied should not hesitate to use the procedures set out below.

2. Harassment

When bullying or unwanted behaviour is about certain protected characteristics under discrimination law, then we refer to it as 'harassment'.

Harassment is any unwanted physical, verbal or non-verbal conduct which has the purpose or effect of violating the recipient's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. A single incident can amount to harassment. It also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past. For example, it will be harassment for a manager whose repeated advances to a more junior employee have been consistently rebuffed subsequently to give that employee a poor performance review because they rejected the manager's advances.

Harassment can occur if the conduct “relates to” a protected characteristic. This is very wide and therefore covers harassment:

- based on a perception of another person, for example, that the victim is gay, or is disabled, whether or not this perception is correct and even if the perpetrator knows that their perception is, in fact, wrong; and
- that occurs because the victim is associated with another person, for example, someone who is harassed because they care for a disabled person, or who is harassed because they are friends with a transsexual person or a white worker who sees a black colleague being subjected to racially abusive language which also causes an offensive environment for them.

The unwanted nature of the conduct distinguishes harassment from friendly behaviour that is welcome and mutual. Staff must always consider whether their words or conduct may be considered offensive.

Harassment can occur whether or not it is intended to be offensive, as it is the effect on the victim, which is important, not whether or not the perpetrator intended to harass them. Harassment or bullying is unacceptable even if it is unintentional.

Even if you did not intend to harass someone, if your behaviour has this effect on someone else, then you may be found to have harassed them. They may only be a bystander to behaviour you directed at someone else, but they may still have been harassed.

Behaviour can still be harassment even if the person being harassed does not complain or ask for it to stop.

The protected characteristics which apply are:

1. age;
2. disability;
3. gender reassignment;
4. race (including colour, nationality and ethnic or national origin);
5. religion or belief;
6. sex; or
7. sexual orientation.

Harassment may include (this is not an exhaustive list):

- unwanted physical conduct or “horseplay”, including touching, pinching, pushing, grabbing, brushing past someone, invading their personal space, and more serious forms of physical or sexual assault;
- continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;
- sending or displaying material that some people may find offensive or insensitive (including e-mails, text messages, video clips and images sent by mobile telephone, posted on social media or posted on the internet);

- offensive or intimidating comments, language or gestures, including shouting or behaving in an intimidating manner or insensitive jokes or pranks or banter; mocking, mimicking or belittling a person's disability;
- racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
- outing or threatening to out someone as gay or lesbian; or
- ignoring or shunning someone, for example, by deliberately excluding them from a conversation or a workplace activity. A person may be harassed even if they were not the intended "target". For example, a person may be harassed by racist jokes about a different ethnic group if they create an offensive environment for them.

a. Sexual harassment

Sexual Harassment is also recognised in discrimination law as something separate to sex (i.e. female or male) harassment. Sexual harassment occurs when someone is subjected to unwanted conduct of a sexual nature or when a person is treated less favourably because they have accepted or rejected unwanted conduct of a sexual nature. The conduct need not be sexually motivated; it only needs to be sexual in nature.

Sexual interaction that is invited, mutual or consensual is not sexual harassment (because it is not unwanted), but situations change and sexual conduct that has been consensual in the past may become unwanted.

A person can experience unwanted conduct from someone of the same or a different sex.

Examples of sexual harassment may include:

- sexual comments or jokes;
- suggestive looks, staring or leering;
- propositions and sexual advances;
- making promises in return for sexual favours;
- sexual gestures;
- intrusive questions about a person's private or sex life or a person discussing their own sex life;
- sexual posts or contact on social media or online;
- spreading sexual rumours about a person;
- sending sexually explicit emails or text message;
- unwelcome touching, hugging, massaging or kissing;
- suggestive behaviour or suggestions that sexual favours may further a career or that a refusal may hinder it;
- sending or displaying sexually graphic pictures, posters or photos (including by way of e-mail, text messages, video clips and images sent by mobile telephone or posted on the internet).

b. Third-party harassment

We want to create a workplace which is free of harassment. This objective extends beyond acts of harassment by those working for us to harassment by third parties such as visitors, parents, carers, suppliers, contractors, friends and family of colleagues and members of the public. We will not tolerate any form of harassment, including sexual harassment, by any third party. The law requires employers to take steps to prevent sexual harassment by third parties and we are committed to doing so, along with other types of harassment.

The law does not provide a mechanism for individuals to bring a claim of third-party harassment alone. However, failure for an employer to take reasonable steps to prevent third-party harassment may result in legal liability in other types of claim.

You are encouraged to report any third-party harassment you are a victim of, or witness, in accordance with this Policy.

We will take active steps to prevent third-party harassment of staff. Action may include:

1. making it clear to third parties who work with us that sexual harassment of our staff is unacceptable and we have a zero tolerance policy in relation to third-party sexual harassment, e.g. by issuing notices at the entrances to our premises, or in recorded messages at the beginning of telephone calls, and issuing a copy of our policy to our suppliers/contractors;
2. provide regular training for managers and staff to raise awareness of rights related to **sexual harassment** and of this policy;
3. provide specific training for managers to support them in dealing with complaints;
4. take steps to minimise occasions where staff work alone;
5. where possible, ensure that lone workers have additional support;
6. carry out a risk assessment when planning events attended by third-parties

We will assess the risk of third-party harassment in the workplace and undertake to keep our risk assessment under regular review. We encourage you to come forward with any areas in which you believe our third-party harassment protection could be improved. Please let the Headteacher know.

If a complaint of third-party harassment is received, we will seek to investigate the allegation and may:

- warn the third party about their behaviour;
- ban them from our premises;
- report any alleged criminal acts to the police

3. Victimisation

We will take all reasonable steps to ensure that any member of Staff who makes a complaint or who participates in any investigation conducted under this policy in good faith will be protected from any form of intimidation or victimisation as a result of their involvement.

Victimisation is treating someone less favourably than others because they have in good faith, complained (whether formally or otherwise) that someone has been bullying or harassing them or another member of Staff, or have supported someone to make a complaint or given evidence or information in relation to a complaint. This could include:

- failing to consider someone for promotion because they have previously made a complaint of harassment;
- dismissing someone because they accompanied a colleague to a meeting about a harassment complaint;
- excluding someone from work meetings or increasing their workload because they made a complaint or gave evidence as a witness for another employee as part of an employment tribunal claim about harassment.

Provided that a member of Staff acts in good faith, i.e. that they genuinely believes that what they are saying is true (even if it is not later upheld), they have the right not to be victimised for making a complaint or doing anything in relation to a complaint of bullying or harassment and we will take appropriate action to deal with any alleged victimisation which may include disciplinary action against anyone found to have victimised that member of Staff, which could result in dismissal for gross misconduct.

Any member of Staff who considers that they have been subjected to any such intimidation or victimisation should follow the procedure set out in this policy.

Any member of Staff who is, after investigation, found to have provided false information or to have acted in bad faith / with malice will be subject to disciplinary action under our Disciplinary Policy and Procedure.

Harassment and Bullying Procedure

Due to the seriousness with which we view harassment, bullying and victimisation, informal and formal reporting procedures are set out below.

All allegations of harassment, bullying and/or victimisation will be dealt with seriously, promptly and in confidence. Employees who feel they have been subject to such acts must not hesitate in using this procedure nor fear victimisation. Retaliation against an employee who brings a complaint of harassment and/or bullying is a serious disciplinary offence which may constitute gross misconduct and could result in dismissal.

1. Informal Procedure

If you believe you are being bullied, harassed or victimised, you could initially consider raising the problem informally with the person responsible, if you feel able to do so and consider it appropriate. You should explain clearly to them that their behaviour is not welcome or makes you uncomfortable. You should make it clear to them that you want the behaviour to stop. If this is too difficult or embarrassing to do on your own, you should speak to your line manager, who can provide confidential advice and assistance in resolving the issue formally or informally.

If you are in any doubt as to whether an incident or series of incidents may amount to bullying, harassment or victimisation within the scope of this policy, then in the first instance you should approach either your line manager or member of SLT confidentially, on an informal basis, for advice. They will listen to you and help you resolve the issue informally in a way you are comfortable with or be able to advise you as to whether the complaint necessitates further action.

If informal steps have not been successful or are not possible or appropriate, or you wish to escalate the matter to a more formal procedure (which can be done at any time), you should follow the formal procedure set out below.

2. Formal Procedure

If you wish to make a formal complaint about bullying, harassment or victimisation, you should submit it in writing (email) to a member of the SLT, whose role is to achieve a solution wherever possible and to respect the confidentiality of all concerned. If the matter concerns the Headteacher, you should refer it to the Chair of Trustees.

Your written complaint should set out full details of the conduct in question. These details should include:

- the name of the harasser or bully;
- the nature of the harassment, bullying or victimisation;
- the date(s) and time(s) when the harassment, bullying or victimisation occurred;
- the names of any witnesses; and
- any action taken so far to attempt to stop the harassment, bullying or victimisation.

As a general principle, the decision whether to progress a complaint rests with you. However, we have a duty to protect all of our Staff and may be obliged to pursue a complaint independently if, in all the circumstances, it is considered appropriate to do so.

Consideration will be given to whether the alleged harasser or bully should be redeployed temporarily or suspended on full pay or whether reporting lines or other managerial arrangements need reasonably to be adjusted pending an investigation into your written grounds of complaint and the outcome of the grievance hearing. If the alleged harasser or bully is a student, then consideration may be given to whether arrangements can be made to minimise your contact with the individual pending an investigation.

Further information is set out in our Grievance Policy and Procedure.

What to do if You Witness Harassment or Victimisation

If you witness bullying, harassment or victimisation, you are encouraged to take appropriate action to address it. You should not take any action that may put you at risk of harassment or other harm. If you feel able, you should intervene to prevent the matter continuing. If you are not able to do this, your action may include offering support to the victim and encouraging them to report the incident or reporting the incident yourself in line with the above process.

Witnesses will not be subject to a detriment for providing information by us, and we will take steps to prevent any such witness being subjected to a detriment by any other worker.

What happens if I am accused of Bullying and Harassment?

If someone approaches you informally about your behaviour, do not dismiss the complaint out of hand because you consider that you were only joking or because you think the complainant is being too sensitive.

You should remember that different people find different things acceptable, and perceptions can differ significantly from individual to individual. It is possible that you may have offended someone without intending to do so. If this is the case, the person concerned may be content with an explanation, an apology from you and an assurance that you will be careful in the future not to behave in a way that you know might cause offence. Provided that you do not repeat the behaviour, which causes offence, this may well be the end of the matter.

Where a colleague has attempted to address the matter with you informally, appropriately and in good faith, any failure on your part to respond in kind or to take proactive steps to prevent future occurrences will be taken into account should disciplinary proceedings subsequently be instigated against you.

You are reminded that taking the time to listen and communicate constructively with colleagues at an early stage may prevent matters from escalating to the level where formal grievance and disciplinary procedure may need to be instigated. It is therefore in both party's clear interests to seek to resolve the matter amicably, cooperatively and constructively.

If a formal complaint is made about you, this will be fully investigated and we may bring disciplinary proceedings if appropriate. Complaints of bullying, harassment or victimisation will often be allegations of gross misconduct, which if proved could lead to summary dismissal (termination of your employment with us without notice). You may be suspended on full pay during the investigation and (if a disciplinary hearing is to be called) until disciplinary proceedings have been concluded. Aggravating factors will be taken into account in determining any sanction, including abuse of power over a more junior colleague.

Members of Staff should refer to our Disciplinary Policy and Procedure for further information.

We will treat complaints of bullying and harassment sensitively and will endeavour to maintain confidentiality as far as reasonably practicable whilst discharging its duties under this policy.

As above, allegations which prove to be made in bad faith or maliciously will be treated as potential disciplinary offences in themselves under our Disciplinary Policy and Procedure.

Disciplinary outcomes will usually be kept confidential. However, in exceptional cases, the outcome of the hearing may be disclosed to the complainant, a third party and/or agency where we believe there is a lawful basis to do so, such as to safeguard any individuals at risk or if there is a substantial public interest to do so.

Confidentiality

Confidentiality is an important part of the procedures provided under this policy. Every member of Staff involved in the operation of the policy, whether making a complaint or involved in any investigation, is responsible for observing the high level of confidentiality that is required. Confidentiality will be maintained during any investigation process as far as is possible to protect those involved.

Breach of confidentiality will be treated as a serious disciplinary offence and may give rise to disciplinary action under our Disciplinary Policy and Procedure.

We may place information and documents about a complaint raised by or about you on your personnel file. These will be processed in accordance with our Data Protection Policy.

Further Support

If you require further advice or support, you can contact:

1. Our Employee Assistance Programme (EAP), a confidential 24-hour telephone counselling service, which can be accessed on **0800 028 5747**
2. Education Support, which can be accessed on **08000 562 561**
3. Your trade union where you are member;
4. the Equality Advisory and Support Service available HERE;
5. Rights of Women in England and Wales, available HERE.

Monitoring and Review

This policy will be reviewed at least bi-annually and its effectiveness monitored which may result in changes being made to the policy or our processes. You will be informed of any changes to the policy no later than one month from the date those changes are intended to take effect.

We will monitor the treatment and outcomes of any complaints of bullying, harassment or victimisation we receive to make sure that they are properly investigated and resolved, those who report or act as witnesses are not victimised, repeat offenders are dealt with appropriately, cultural clashes are identified, and workforce training is targeted where needed.