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| <b>Staffordshire University Academies Trust</b> |  | <b>Trust Policy Document</b>              |  |   |   |  |
| Approved by:                                    | Trust Board                                  | Issue date:                               | Jan 2021                                   | Review date:  | Jan 2023                                    |  |
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## SUAT Harassment and Bullying at Work Policy

### Policy

The aim of Staffordshire University Academies Trust (SUAT) is to have procedures in place to ensure that bullying and harassment can be eliminated from the workplace. This statement and the procedures that follow have been previously agreed with the trade unions recognised by Staffordshire County Council for collective bargaining purposes.

**This policy will be applied to complaints from any person employed by SUAT.**

### Policy Statement

Harassment and bullying remain significant workplace issues despite increasing awareness of the problem. There are many typical harassment and bullying behaviours which can manifest in the workplace, from unwanted physical contact and unwelcome remarks to shouting and persistent unwarranted criticism. Research shows that employees who are the recipients of these behaviours are more likely to be depressed and anxious, less satisfied with their work, have a low opinion of their managers, and want to leave the organisation.

Harassment and bullying both detract from everyone's right to fair and considerate treatment at work. Whatever form they take, therefore, harassment and bullying are unacceptable, and where SUAT, or one of its academies, is satisfied that either have occurred it will take appropriate and proportionate disciplinary action against the person(s) responsible. Especially serious instances of harassment and bullying, if proven, may be regarded as gross misconduct justifying summary dismissal. SUAT will always ensure that formal complaints of harassment and bullying are investigated. SUAT requires all persons concerned to co-operate fully with such investigations, in the knowledge that any victimisation or recrimination that results will not be tolerated and that any such victimising acts may be treated as gross misconduct.

Employees can expect all leaders and managers, and their own Trade Union representative, to respond sympathetically and take any complaint seriously with the appropriate level of support and confidentiality. Any SUAT employee who feels they have been either harassed or bullied is encouraged to complain. SUAT and the Unions would recommend, in less extreme cases, that if the complaint can be tackled informally it should be. Our experience shows that a formal investigation of the type described below is not always the best way of solving the problem or the best route to rebuilding relationships that have broken down. **Many staff who feel they have been subjected to either harassment or bullying want one thing above anything else: for it to stop.** Therefore, if they are sufficiently confident to do this, employees are encouraged to tackle the problem informally; that is, by telling the person(s) concerned that their behaviour is unacceptable and asking them to stop. SUAT has access to people who are trained to assist, and a network of officers with mediation skills who, if they consent, can help the parties rebuild a damaged relationship.

However, if this fails there are a number of options to consider:

- see someone who you feel comfortable with to discuss the problem, perhaps your line manager or someone employed in the central SUAT team of staff
- talk to your trade union or staff representative

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- keep a diary of all incidents, record: dates, times, witnesses etc
- keep any relevant letter, emails, notes etc.

If the harassment or bullying is perceived to be racist in any way, a complaint will be investigated using the outlined procedure. Additionally, however, a complainant must fill in a Racist Incidents Reporting Form. Copies of this form are available from SUAT Head Office.

All completed Racist Incidents Reporting forms should be sent to:

CEO  
Staffordshire University Academies Trust  
Kern House  
Stone Business Park  
Brooms Road  
Stone  
Staffordshire  
ST15 0TL

If the racist incident involves the CEO then send the form to the Chief Operating Officer at the same address.

## Definitions

All forms of harassment and bullying at work are unacceptable. Everyone has the right to be managed properly.

## What are bullying and harassment?

These terms are used interchangeably by most people, and many definitions include bullying as a form of harassment.

Bullying itself is not against the law, but harassment is.

Bullying and harassment means any unwanted behaviour that makes someone feel intimidated, degraded, humiliated or offended. It is not necessarily always obvious or apparent to others, and may happen in the workplace without an employer's awareness.

Bullying or harassment can be between two individuals or it may involve groups of people. It might be obvious or it might be insidious. It may be persistent or an isolated incident. It can also occur in written communications, by phone or through email, not just face-to-face.

There is no legal definition of bullying. ACAS, however, defines workplace bullying as "offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the person being bullied". The Health and Safety Executive emphasises this is a pattern of behaviour rather than isolated instances, happening "repeatedly and persistently over time".

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There is also the concept of “harassment” which, unlike bullying, is defined in the Equality Act 2010.

## 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.

Often such behaviour is related to the recipient’s:

- Race, colour, nationality, ethnic origin, religion
- Gender or sexual orientation
- Religious or political beliefs
- Disability
- Affiliations, including trade union affiliations

Harassment can take many forms, including:

- Inappropriate physical contact
- Verbal abuse and obscene gestures
- Isolation by colleagues
- Undermining a person’s values, opinions and self esteem
- Displays of offensive material
- Unwanted advances
- Overzealous scrutiny of someone’s work, timekeeping etc
- Homophobic / transphobic comments

Some actions may be unlawful harassment under the Equality Act. In order to count as unlawful harassment under the Equality Act the harassment must be related to one of the following things:

- age
- disability
- gender reassignment
- race
- religion or belief
- sex
- sexual orientation.

The Equality Act calls these things **protected characteristics**. The Equality Act 2010 uses a single definition of harassment to cover the relevant protected characteristics. Employees can complain of behaviour that they find offensive even if it is not directed at them. In addition, the complainant need not possess the relevant characteristic themselves and can be because of their association with a person who has a protected characteristic, or because they are wrongly perceived to have one, or are treated as if they do. Harassment applies to all protected characteristics except for pregnancy and maternity where any unfavourable treatment may be considered discrimination, and marriage and civil partnership where there is no significant evidence that it is needed.

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## BULLYING

Bullying may be 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 includes:

- offensive, intimidating, malicious, or insulting behaviour;
- abuse of authority which violates the dignity of an individual or a group of people;
- creating a hostile environment against an individual;
- the undermining, humiliation or injury of an individual.

The bullying does not need to relate to a protected characteristic but unless it does, or is of a sexual nature, it is not prohibited by the Equality Act 2010.

### Rights and Duties

All employees of SUAT have a part to play in eliminating harassment and bullying at work; and are expected to fully co-operate with an investigation.

All levels of leadership and management have a duty to:

- Take care in how they deal with employees in relation to work requirements
- Promote and operate the policy and assist in any way an investigation into a complaint.
- Create a working environment, which is free from harassment or bullying.

Employees who make a complaint have a right to have it investigated, and to seek assistance from managers, colleagues or trade unions in so doing.

Employees have a right to protection from any form of victimisation or retribution when they make a complaint. Equally though, employees must not make malicious complaints (for example, falsification of information) nor should they delay in making a formal complaint without good reason. Employees need to be aware that making malicious complaints may lead to disciplinary action being taken.

Employees who are complained against are entitled to details of the complaint. If disciplinary proceedings are later deemed appropriate, they are also entitled to the opportunity to defend themselves against, and respond to, any complaint. In doing this, they should expect the support of managers, colleagues and trade unions.

### Investigation of Complaints

The purpose of an investigation is to decide whether, based on the information available, it is possible to conclude that either harassment or bullying has occurred. The investigation will be conducted fairly and to the extent that it is possible, confidentially. Throughout the process, the aim will be to balance the rights of complainants against the rights of alleged harassers. Both parties involved in a complaint are encouraged to seek support from their trade union or other representative throughout the process.

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Employees who wish to formally complain of harassment or bullying must do so in writing to the Academy Principal, or if they prefer to the Chair of the Local Academy Council, providing their name, address, workplace, and brief details of their complaint. Their Trade Union representative can submit this on behalf of any employee. Employees will not have to vouch for the fact that they have tried informal means before their complaint can be acted upon.

Upon receipt of a formal complaint the Academy Principal or the Chair of the Local Academy Council will notify their HR provider who will usually provide the Investigating Officer, and is fully cognisant of SUAT procedures and processes, for the complaint to be investigated.

If the alleged bully / harasser is an Academy Principal the CEO should be informed. If the alleged harasser is the CEO or the COO then the Chair of the Trust Board should be informed, via the Trust's Head Office. The complainant and the alleged bully / harasser will be notified of the investigation before the investigation starts. In the case of a complaint against the CEO or the COO, SUAT will commission an Investigating Officer from its current HR provider.

The complainant and the alleged harasser each have a right to ask that a particular Investigating Officer be excluded from conducting an investigation. The complainant or the alleged bully / harasser would need to write to the CEO / Academy Principal / Chair of the Trust Board giving full details of their reasons. The CEO / Academy Principal / Chair of the Trust Board will decide whether or not to agree to the request.

The normal sequence of events in an investigation will be:

- Interview(s) with complainant(s)
- Interview(s) with witnesses identified by complainant(s)
- Interview(s) with alleged bully / harasser(s)
- Interview(s) with witnesses identified by alleged bully / harasser(s)
- Any notes taken will be agreed with the person being interviewed.
- Written report by investigating officer containing findings, recommendations etc submitted to relevant Principal or CEO.
- All employees involved in an investigation have a right to be represented by a trade union representative or other representative through all stages of the investigation process. Copies of the findings, recommendations etc will be supplied to both parties and their respective representatives at the same time as the report is sent to the Academy Principal, the CEO or the Chair of the Trust Board

Witness statements will remain confidential for the attention of the CEO / Academy Principal / Chair of the Trust Board solely unless the disciplinary process is invoked.

### Timescales

It is in every one's interest that an investigation is completed as quickly as possible. It is equally important that an investigation is thorough. All employees involved in an investigation should help achieve these objectives by making themselves available for interview readily and by co-operating fully with the investigating officer. This will involve supplying statements when requested.

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The Investigating Officer will inform both parties at the beginning of an investigation of the anticipated timescale for completing it, and will consult with both parties in the event that this timescale needs to be extended.

Both parties will have 15 working days to make representations in writing to the relevant person upon receipt of the investigating officer's report. Applications to extend the time period for representations can be made to the Deciding Manager. The Deciding Manager can seek clarification about any aspect of the report from the Investigating officer during this period.

When the representation period has finished, the CEO / Academy Principal / Chair of the Trust Board can, if need be, take a further 10 working days to consider what action (if any) they propose to take in response to the report and any representations.

### Outcome of Investigation

The Deciding Manager is solely responsible for deciding what course of action will be taken as a result of an investigation into a complaint of harassment or bullying but will act within the aims of this policy. The Deciding Manager will inform the parties of the decision about the report findings and recommendations. If the Deciding Manager decides that action is necessary, then a formal hearing under the disciplinary procedure is required and this must be set up immediately. At this point the SUAT disciplinary procedure will be followed and the full report including previously confidential annexes will be released to both parties.

Either party to an investigation may seek a review of the investigation if in their opinion the complaint has not been dealt with in accordance with this policy and its procedures. The reasons for requesting a review should be made in writing to the CEO within 4 weeks of being informed of the Deciding Manager's decision. If the CEO is the Deciding Manager, then the request for a review should be submitted to the Chair of the Trust Board. There is no further right of appeal beyond the CEO / Chair of the Trust Board, although the employee has a statutory right to complain to an Employment Tribunal.

All investigation reports will be retained by SUAT for a period of one year from the completion date of the investigation. Retention of reports beyond this period will be subject to an annual review and will depend on factors such as whether the complaint was upheld or not, whether disciplinary action was taken or not, and whether in the individual circumstances of the case further retention can be justified. Access to the report will be restricted to SUAT HR for use in the event of a further complaint involving the same parties, or in the event of proceedings before an Employment Tribunal.

### What legal claims do you have?

If the mutual trust and confidence has broken with your employer due to bullying at work, then you can resign and claim constructive dismissal. This is on the basis that your employer has fundamentally breached your contract making your ongoing position untenable. You would need two years' service to qualify in bringing a claim.

If you have experienced harassment in relation to a protected characteristic (for example, disability), you can similarly bring a claim for constructive dismissal. You can also claim damages for harassment under the Equality Act. In both cases, it is recommended that you lodge a grievance

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before resigning, and failure to do so in a constructive dismissal claim could reduce any damages you are awarded at tribunal by up to 25%.

A tribunal claim for harassment must be brought within three months (less one day) of the last discriminatory act. You need to **notify Acas under their early conciliation process within this timeframe**. For constructive dismissal claims, the deadline is three months less one day from your last date of employment (this is usually the last date that you have been paid). To make a claim of constructive unfair dismissal you need to have worked for your employer for 24 months.

### Monitoring

The CEO or COO are responsible for informing the Trust Board as to the outcome of all formal complaints received at Trust Board level under this policy and procedure. The CEO or COO will be responsible in respect of any reviews carried out under the review procedure set out above.

### Publicity

Copies of this policy and these procedures will be made available to SUAT employees by each Academy, visible on the Academy and SUAT websites and will be supplied to employees and recognised trade union reps on request.