



# Protection from Harassment at Work Policy

## 1. Aims of the policy

- To fulfil the Academy's legal obligation to create and maintain a work environment free from bullying and harassment;
- To explain bullying and harassment in the workplace;
- To explain the actions to be taken; and
- To set out the various responsibilities.

## 2. Definition of Harassment

- 2.1 The Protection from Harassment Act 1997 does not define 'harassment', but says that a person must not pursue a course of conduct which amounts to harassment of another, which he/she knows, or ought to know, amounts to harassment of another if a reasonable person in possession of the same information would think the course of conduct would amount to harassment.'
- 2.2 The generally accepted explanation of 'harassment or bullying in the workplace is the ACAS guidance 'Bullying and Harassment at Work'. ACAS says that 'in general terms harassment is unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion and belief, sexual orientation, nationality, or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable by the recipient.
- 2.3 However, the High Court in 2001 held that the alleged bullying 'is not to be judged solely by the subjective perception of the victim, but involves an objective assessment of the observed behaviour taken in conjunction with any apparent vulnerability in the target of the behaviour complained of.'

## 3. Cyber Bullying

- 3.1 There has been an increase nationally in the negative use of the internet, mobile phones and other emerging technologies. 'Cyberbullying' is 'the use of information communications technology (ICT) deliberately to upset someone else.' (*DCSF Guidance on Cyberbullying: A whole school community issue*)
- 3.2 Oasis Community Learning considers cyberbullying to be misconduct, and in the case of **student** misconduct expects the Academy to deal with the issue under the Academy's 'Student Behaviour Policy', and in the case of **staff** misconduct expects the Academy to deal with the issue under the 'Staff Conduct Policy'.

## 4. Fear of Violence

- 4.1 The Protection against Harassment Act also protects employees from conduct that causes him/her to fear on **at least two occasions** that violence will be used against him/her, where the person causing the fear ought to know that his/her course of conduct will cause the fear.

This is a criminal offence, which the Academy would have to report to the police.

- 4.2 It is a defence for the person charged to show that the course of action:
- was pursued for the purposes of preventing or detecting a crime;
  - was pursued under a rule of law, or to comply with any condition or requirement imposed by any person under any enactment; or
  - the pursuit of his course of conduct was reasonable for the protection of him/herself or for the protection of his/her property.

## **5. Responses**

### **5.1 By the employee:**

ACAS says that employees can consider a number of options, including seeking union advice or advice from the staff representative, or from the Citizens Advice Bureau, or the ACAS Helpline (08457 47 47 47).

The employee, however, is encouraged to discuss the complaint in the first instance with a representative of the employer. Contact your Regional HR Manager.

### **5.2 By Oasis Community Learning and the Academy:**

Oasis Community Learning and the Academy Council are determined to eliminate bullying and harassment at work. All employees have a right to work in an environment free from bullying and harassment.

Oasis Community Learning recognises that bullying and harassment constitute misconduct. In certain cases where the level of harassment is seen as extreme it may be dealt with as gross misconduct, which may lead to summary dismissal (see the Oasis Community Learning policy on Staff Conduct).

- 5.3 Oasis Community Learning recognises that there is a level of extreme behaviour which people will in general agree is bullying or harassment, but acknowledges that there are grey areas. What one person might consider bullying or harassment another might regard as firm management.

- 5.4 Oasis Community Learning and the Academy Council consider the following to be unacceptable:

- spreading malicious rumours;
- insulting someone, particularly on the grounds of sex, race, disability, sexual orientation, religion or belief;
- copying memos criticising a colleague to others who do not need to know;
- ridiculing or demeaning another person;
- victimising or excluding (sending to Coventry);
- unfair treatment;
- overbearing supervision;
- other misuse of power;
- unwelcome sexual advances;
- gratuitous comments about job insecurity;
- deliberate undermining of a competent person by overloading and/or constant criticism; and

- deliberately blocking another's promotion or professional development opportunities.

The above list is not exclusive.

- 5.5 In addition, Oasis Community Learning considers any behaviour that is not directed at an individual but is a general culture, which, for example, tolerates homophobic or religious jokes, is also unacceptable.
- 5.6 Oasis Community Learning and the Council wish to sustain an Academy ethos that does not contain such behaviour. All staff are expected to contribute to this aim.
- 5.7 Oasis Community Learning and the Academy's legal responsibility to combat harassment does not extend beyond the Academy's premises, except where off-site activities are official Academy activities, where Academy staff have authority as Academy employees, or where the harassment or bullying which starts off-site is continued on Academy premises, or has a negative effect on the work of the Academy. Oasis Community Learning reserves the right to determine whether to take up any such issue with an Academy employee.

## **6. Dealing with Complaints**

- 6.1 Members of staff who feel harassed or bullied (victims) should, wherever possible, first confront the 'bully' and explain that their conduct is unacceptable and unwanted.
- 6.2 If the bullying persists the victim should report the matter with evidence to the Principal under the Academy's grievance procedure. Complainants are advised to keep a confidential diary of events – such evidence will support the integrity of the complaint.
- 6.3 The Principal will arrange for the matter to be investigated by a member of the management team, or, if necessary, by an outside investigator. The Principal will determine whether to take the matter forward informally or formally. The timings for action are contained in the Oasis Community Learning Staff Conduct policy.
- 6.4 The complainant will be afforded protection against repercussions.
- 6.5 If the complainant is not satisfied with the action taken it is open to him/her to appeal to the Academy Council.
- 6.6 The complainant also has the right to take legal action against the 'bully'. Oasis Community Learning employees are advised to seek union or legal advice before embarking on legal action.

## **7. False or Malicious Complaints**

7.1 All complaints will be taken seriously, but if it is discovered that the complaint was false or malicious the Principal must consider whether to take disciplinary action against the complainant. The Principal is authorised to take advice on this.

7.2 The options under the disciplinary action open to the Principal would include gross misconduct with instant dismissal without notice.

## **8. Right to be accompanied**

8.1 At any hearing the parties may be accompanied by union representatives or a representative from the Academy staff.

## **9. Right of Appeal**

9.1 If the parties are not satisfied with the outcome of the procedures, the Chair of the Council or an appropriate Council Committee will hear an appeal on receipt of a written statement.

## **10. Responsibilities:**

10.1 **Oasis Community Learning** is responsible for making and reviewing of the generic policy, and for providing guidance where appropriate.

10.2 **The Academy Council** is responsible for

- making and maintaining the Academy's policy which will take account of the Oasis Community Learning policy;
- ensuring that cases brought to the attention of the Academy are dealt with expeditiously;
- ensuring that there is a system for appropriate investigation of complaints;
- setting up a panel to hear any appeals;
- ensuring that there is a positive programme of education against harassment in the Academy;
- receiving reports from the Principal on the implementation of the policy; and
- providing support and appropriate training opportunities.

10.3 **The Principal** is responsible for:

- complying with and implementing the policy;
- informing the staff of the policy and any changes;
- following up any complaints of harassment appropriately;
- appointing an investigator where relevant;
- arranging any training and support identified as necessary for staff who may be required to deal with bullying and harassment;
- arranging training and support for any other staff as appropriate; and
- reporting as required to the Council.

10.4 **Teaching and Support staff** are responsible for following the policy and understanding their responsibilities to their colleagues.

10.5 **The Clerk to the Governors** is responsible for receiving the written statement of complaint and making all arrangements for the appeal to be heard.

10.6 **Complainants** are responsible for:

- reporting complaints to the Principal;
- participating in the Academy's investigations;
- determining whether to appeal against any decision by the Principal; and
- if not satisfied with the decision, making a complaint to the Academy Council.

## 11. Equal Opportunities

11.1 This policy contributes directly to the academy's anti-discrimination aims; and

11.2 In implementing the policy account will be taken of the Academy's equal opportunities policies.

## 12. Monitoring and Review

12.1 The Principal will report any cases to the Council, and will make a report on the working of the policy as required by the Council;

12.2 The Council will report any cases to Oasis Community Learning and will review the policy every two years; and

12.3 Oasis Community Learning will review the policy as necessary.

Signed: \_\_\_\_\_  
Chair of Academy Council

Date: \_\_\_\_\_