

HASSENBROOK SCHOOL Specialist Technology College



GRIEVANCE PROCEDURES

Summary of Changes – April 2009

With effect from 1 April 2009, the Dispute Resolution Regulations are repealed and replaced by the ACAS Code of Practice on Disciplinary and Grievance Procedures.

1.1	Policy Statement	Slight update to wording. Reference to principles of ACAS Code
2.1	Scope	Reference to Collective Disputes procedures Ex-employees can no longer access this procedure
2.2		Removal of specific reference to grievances related to disciplinary processes
2.3		Removal of reference to ex-employees
3.	Roles & Responsibilities	Minor wording changes – responsibilities to assist in mediation and manage formal grievances
4.1.1. 4.1.3	Informal Procedure	Employee expected to seek to resolve informally first Support for informal resolution
4.2.1	Formal Procedure	Clarification for employees on the written grievance
4.2.2		Clarification that where the grievance is about another employee, the nature of the grievance will be shared with them at an informal meeting.
4.2.5		Reference to the use of mediation where application
4.2.6		Clarification of rights to be accompanied Removal of explicit timeframe
4.2.7		Removal of attendance by witnesses or complained about party at formal meeting. Removal of explicit timeframe.
4.2.9		Information about actions arising from upheld grievance.
4.3.1	Appeals	Removal of explicit timeframe.
4.4	Ex-employees	Section removed – subsequent sections re-numbered

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Grievance Procedure - A Model for Schools

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THE GRIEVANCE PROCEDURE

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Grievance Procedure

1. INTRODUCTION

This Procedure explains what staff should do if they have a grievance, including if they feel they are being bullied, harassed or victimised, and how the school will deal with such issues.

1.1. Policy Statement

The Governing Body:

- is committed to being a fair and equitable employer, as set out in the School's Equal Opportunities Policy, which asserts its commitment to an employment culture in which people can feel confident of being treated with fairness, dignity and tolerance, irrespective of their individual differences;
- will not tolerate harassment or bullying within the school community;
- expects the school to be an open environment and one in which everyone is able to challenge unreasonable behaviour;
- expects grievances to be dealt with sensitively, professionally, speedily and fairly.

1.1.1 This procedure accords with employment and education legislation and takes due account of the ACAS Code of Practice on Disciplinary Procedures April 2009. In essence the Code requires that:

- employees and employers to raise and deal with matters promptly and consistently
- necessary investigation is carried out
- employers inform employees and give them the opportunity to put their case before decisions are made
- employees are able to be accompanied at all formal meetings

1.2 Definitions

- A grievance may be defined as a complaint by an employee about action which his or her employer has taken, or is contemplating taking in relation to him or her. This will also cover the actions of a third party (e.g. a colleague) where the school would be vicariously liable for those actions.
- Harassment may be described as unwanted behaviour, practice or conduct which cause an individual to feel uncomfortable, distressed, stressed, alarmed, humiliated or frightened or affects their dignity or confidence.
- Bullying is an extreme form of harassment and will often involve persistent, maybe deliberate, harm, intimidation or humiliation. Bullying is often, although not always, related to the misuse or abuse of power or position.
- Victimisation may occur when a person is treated less favourably than another person because they have made, or supported, a complaint of harassment, bullying or discrimination.

Harassment and bullying take on many forms, are thereby difficult to define, and the definitions above are broad. Some examples are given at Appendix E.

2. SCOPE OF THE PROCEDURE

2.1 The procedure applies to all employees at the school and may be used by individual employees. Where a group of employees has a grievance this will be dealt with under the relevant collective disputes procedures.

The procedure is intended for matters affecting people personally. Concerns regarding the conduct of other staff should be reported to the line manager to deal with appropriately.

2.2 The procedure applies to:

- all complaints connected with an employee's employment, e.g. the nature or range of duties, conditions of service, working relationships, bias or unfair discrimination in employment decisions subject to 2.3 below.
- complaints of harassment, bullying and victimisation.

2.3 The procedure does not apply:

- in relation to issues which are outside the responsibility or control of the school Governing Body in its role as an employer e.g. income tax, application for the pension scheme, national security.
- to appeals against selection for redundancy – these should be dealt with through the schools Redundancy Procedure.
- to appeals against salary/pay/grading/performance management - these should be dealt with through the schools Pay & Performance Management Policy.
- to grievances concerning Health, Safety or Welfare – these should be dealt with by the Safety Co-ordinator in the first instance. Where there is a failure to resolve the matter, however, then such grievances can be considered under this procedure.
- Governing Body policy.
- protected disclosures within the Public Interest Disclosure Act 1998 (see School's Code of Conduct).

3. ROLES & RESPONSIBILITIES

It is in everyone's interest for there to be a working environment which encourages harmonious, respectful and dignified working relations and as with all matters of equal opportunities, the responsibility for preventing and dealing with harassment and bullying lie with the whole school community.

3.1 It is the responsibility of the Governing Body to:

- establish, maintain and monitor relevant policies and procedures;
- ensure that cases are dealt with effectively and fairly;
- set standards of behaviour and conduct which do not allow harassment, bullying or victimisation to occur;
- ensure appropriate action is taken where these standards are not met;

- ensure governors and staff have appropriate training;
- deal with appeals and to nominate a governor to deal with cases where a manager would be inappropriate.

- 3.2** It is the responsibility of the headteacher and other managers to:
- promote an open environment, free from harassment, in which everyone is treated fairly and reasonably;
 - provide appropriate induction and training;;
 - manage staff in a fair and professional way;
 - ensure all concerns are taken seriously;
 - provide mediation where appropriate and implement the formal grievance procedure in a timely and effective manner;
 - prevent victimisation.
- 3.3** It is the responsibility of all staff to:
- treat all members of the school community with fairness and respect and in accordance with school policies and procedures;
 - challenge and report instances of bullying or harassment or other unfair or unreasonable treatment, involving themselves and others.

Individual perpetrators, employers, and individual managers can all be liable for disciplinary action, and in some cases prosecution, where employees are harassed or bullied. Individual managers may be liable where they knew, or should have known, about any incident in areas under their control and took no action.

4. THE PROCEDURE

The procedure is summarised at Appendix A.

4.1 Informal Stage

- 4.1.1 Grievances are best resolved informally and it is expected that employees will discuss his/her concerns with their line manager or the other employee as appropriate, as soon as an issue occurs with a view to amicably settling the matter without recourse to the formal procedure. If an employee feels anxious about this process, s/he might seek support from their union, a friend or colleague.
- 4.1.2 It is advisable for employees to keep details of all incidents and issues, including any informal discussions. It is recognised that it may be the cumulative effect of another's conduct or behaviour which constitutes a grievance rather than a single incident.
- 4.1.3 Individuals may seek support from their line manager or another manager to facilitate discussions with a view to resolving the grievance informally.

Some additional guidance to help employees manage the informal stage is at appendix F.

4.1.4 Bullying and Harassment

All issues of bullying and harassment, whoever the perpetrator, must be reported. This does not prevent the matter being dealt with informally but enables the school to fulfil its responsibilities to eliminate inappropriate conduct.

- 4.1.5 Where the action/conduct complained of is founded and does not cease or is sufficiently serious as to potentially constitute misconduct, the manager should implement the school's disciplinary procedure.

4.2 Formal Stage

- 4.2.1 If the conduct which gave rise to the complaint continues after informal resolution or the matter could not be resolved through informal action, employees should raise the matter formally and promptly under the school's grievance procedure.

Employees should not allow matters to go unresolved and should progress to the formal stage as soon as possible after informal discussions.

At this stage the employee must put their concerns in writing to their line manager or another manager where their line manager is the subject of the grievance. Form GR1 (see Appendix B) may be used for this purpose.

In the letter, the employee should

- be clear that they are raising a grievance
- provide concise and factual information about the nature of their grievance
- avoid language which may be considered insulting or abusive
- indicate the redress s/he seeks

If an employee needs help writing their grievance s/he should seek advice from a friend, colleague or representative.

- 4.2.2 Where the grievance relates to another employee, the nature of the grievance will be discussed with them.
- 4.2.3 Where a grievance is against an employee's line manager, the grievance should be raised with a more senior manager or a Governor nominated specifically for this purpose.

If the grievance is against a Headteacher, the member of staff should raise the matter with the Chair of Governors or a Governor nominated specifically for this purpose.

- 4.2.4 If a headteacher has a grievance, the procedure should be followed, except that the formal stage will be heard by a nominated Governor/Panel of Governors.
- 4.2.5 Initial discussions

On receiving a written grievance the manager will make such enquiries as are necessary to gather relevant information to reasonably consider the grievance. This may involve discussion with witnesses, and where applicable, the person against whom a grievance has been raised. Any such discussions will not be in the context of a formal meeting, but consideration will be given accepting any request for these employees to be accompanied by a friend or trade union representative at any such meeting.

Any relevant information gathered during this enquiry stage will be considered at any formal grievance meeting.

Where appropriate and where both parties agree, a joint discussion with all parties may take place at this stage with a view to resolving the grievance.

This stage should be completed as quickly as possibly (see 4.2.6).

4.2.6 The formal meeting

Where it is not possible to resolve the matter under 4.2.5, the manager will invite the employee to at least one formal meeting at a reasonable time and place at which the grievance can be discussed. This meeting will be arranged as soon as practicable.

At least 5 working days notice will be given of the meeting. The employee has the right to be accompanied at this meeting by a representative, friend or colleague and must make his/her own arrangements for this.

Such representatives should make themselves available to accompany the employee concerned within a reasonable period of time. If however, the employee's chosen companion is not available, for a reason that was not reasonably unforeseeable, at the time proposed for any meeting or hearing, one alternative date will be set, normally no later than five working days from the original date.

4.2.7 The purpose of the meeting is for the employee to set out the basis of his/her grievance and the remedy s/he is seeking and for the manager to consider and respond to these matters.

The manager may adjourn the meeting for the minimum period necessary, to allow further investigation or to seek further information.

4.2.8 The decision of the manager, and the reasons for it, will be confirmed in writing within 5 working days of the meeting. Form GR2 may be used for this purpose (see Appendix C). The employee will be informed of their right of appeal.

Clearly, the desired outcome of the implementation of the procedure is that the behaviour or conduct complained of ceases. However, whatever stage the procedure reaches, and without presupposing the outcome of any formal proceedings, there may be a range of possible remedies where a complaint is upheld, including:

- Formal apology
- Training
- Mediation
- Counselling
- Changes to work methods/styles
- Redeployment within the school
- Formal disciplinary action against the perpetrator

4.2.9 Employees raising a grievance should be aware that where their grievance is upheld, the need for confidentiality may mean that they are not given details about any action taken, especially where this involves action involving another person.

4.3 Appeal Stage

- 4.3.1 If the employee wishes to appeal s/he must confirm this intention in writing to the Chair of Governors within five working days of receipt of the written notification to the employee of the outcome of the formal stage, clearly stating the grounds upon which the appeal is made. This may be done on Form GR2. The Chair of Governors will convene an Appeals Panel as soon as practicable.
- 4.3.2 The appellant will be given at least five working days' notice of the appeal meeting in writing. The employee should take all reasonable steps to attend this meeting and again has the right to be accompanied. . If however, the employee's chosen companion is not available, for a reason that was not reasonably unforeseeable, at the time proposed for any meeting or hearing, one alternative date will be set, normally no later than five working days from the original date.
- 4.3.3 The Appeal Panel will be provided with minutes of the original meeting and any papers/information gathered by the manager who dealt with the formal stage.
- 4.3.4 The Chairman of the Appeals Panel will advise the employee in writing of the outcome of the appeal as soon as possible and in any event within 5 working days of the hearing. Form GR3 (Appendix D) may be used for this purpose.
- 4.3.5 There is no further internal appeal after the Appeal Panel has reached and notified a decision.

4.4 Witnessing bullying or harassment

All employees have a responsibility to challenge harassment and bullying, even where they themselves are not directly involved. Witnesses will need to make a judgement about how to deal with the matter, which could be in one of the ways listed below. In all cases however, particularly where the issue is related to race or ethnicity, the incident must be reported to an appropriate manager.

- If appropriate and where the employee feels confident to do so, s/he could approach the perpetrator directly and challenge their behaviour.
- Where there is an appropriate relationship with the victim, the matter may be discussed with them. The witness should explain what has been observed, that something felt uncomfortable about it and discuss their perceptions with them. Where appropriate, the witness should refer the victim to this procedure and encourage them to follow it.
- Report the matter to an appropriate manager to deal with.

4.5 Bullying and harassment by adults other than employees

If an employee experiences bullying and harassment by adults other than members of staff e.g. parents/carers, governors, hirers, they should discuss this with their line manager before taking any action. It could be that there is a background or particular circumstances that will best dictate how the matter should be approached (see Guidance).

After discussion, the line manager will either deal with the matter, or agree with the employee that s/he will address the matter directly themselves.

The concerns and action taken should be put in writing. Racist incidents should be recorded immediately in accordance with the school's race equality policy.

If dissatisfied with the way the complaint has been dealt with, the employee may pursue the matter under the school's Grievance Procedure.

4.6 Bullying and harassment by pupils

An employee harassed or bullied by a pupil should challenge the behaviour/conduct immediately and deal with it in accordance with the school's behaviour management policy and other relevant procedures.

Racist incidents should be recorded immediately in accordance with the school's race equality policy and all incidents should be reported to the line manager/the Headteacher/other appropriate person.

If dissatisfied with the way the complaint has been dealt with, the employee may pursue the matter under the school's Grievance Procedure.

4.7 Support for employees following bullying and harassment

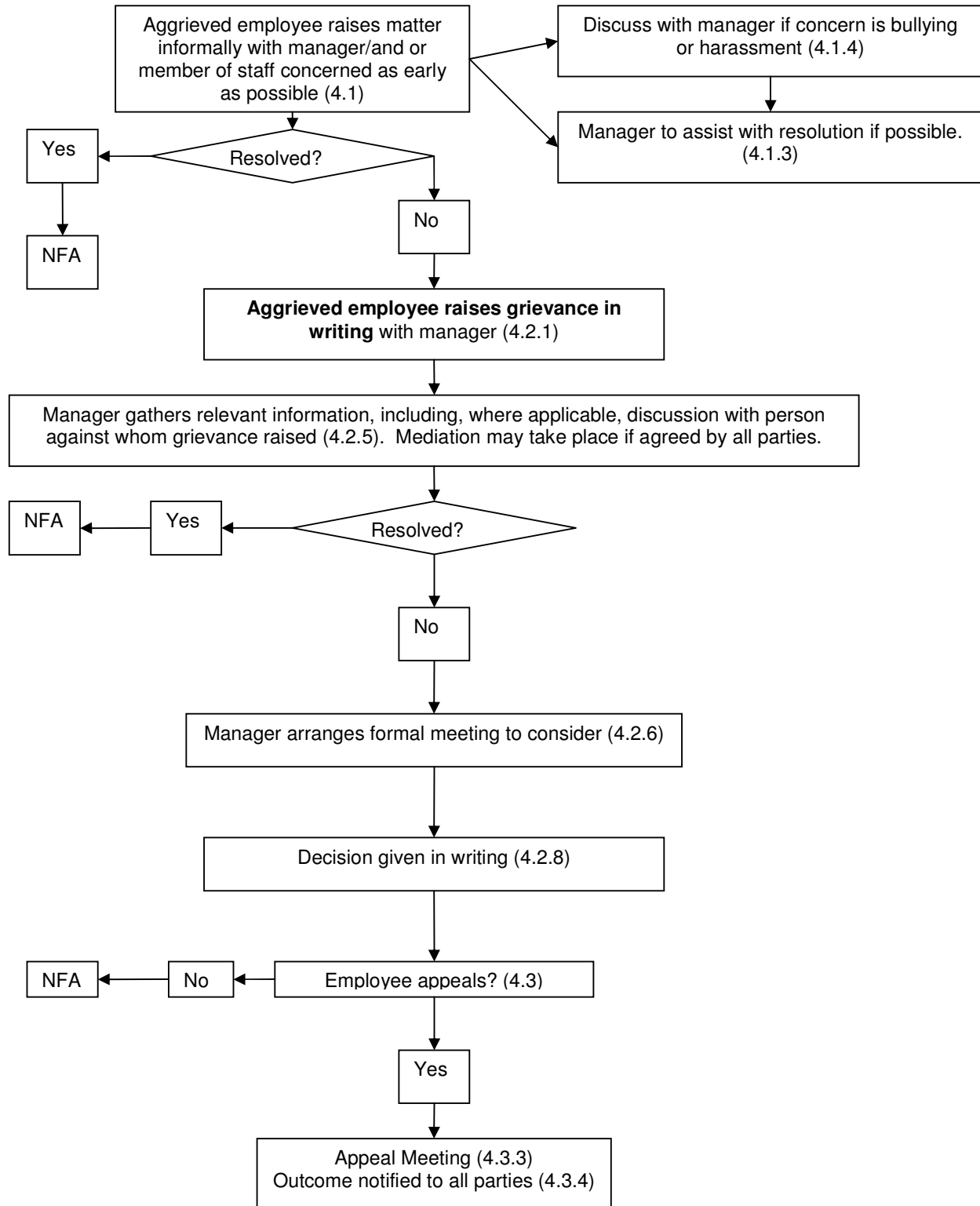
Employers are obliged to protect their staff from inappropriate conduct and where it does occur, should offer and provide where needed, support to victims (and where appropriate perpetrators).

4.8 Monitoring and reporting

In accordance with its race equality policy, the school will record all racial incidents; produce a report for governors and parents on the number, nature and action taken and will report the pattern and frequency of incidents to the Local Authority.

APPENDIX A

THE GRIEVANCE PROCEDURE AT A GLANCE
 (brackets refer to relevant paragraph of the Procedure)



APPENDIX B

GRIEVANCE FORM GR1
(To be completed by aggrieved employee)

If your grievance has not been resolved informally, you may move to the formal stage by setting out your grievance in writing you line manager or another manager/nominated Governor. If you are a Headteacher or the grievance is against the Headteacher, this form should be sent to the Chair of Governors. You may use this form.

A. THE GRIEVANCE

Employee's name

Date

B. Please state nature of the grievance (continue on separate sheet if necessary)
Please be concise and factual and avoid inflammatory or insulting language.

.....
.....
.....
.....
.....
.....

C. What attempts have you made to resolve this informally?

.....
.....

D. What redress do you seek?

.....
.....
.....

E. I agree that the above accurately reflects my grievance.

Signed signed by the aggrieved

APPENDIX C

**GRIEVANCE FORM GR2
(FORMAL MEETING)**

(To be completed by the manager and copied to employee and the person against whom the grievance is being brought)

A. FORMAL MEETING

Date

Those present:
.....
.....
.....
.....

B. OUTCOME OF MEETING

Was the grievance resolved?

Give details

.....
.....
.....
.....
.....
.....

The following must be completed by the aggrieved employee

Please indicate whether you accept this decision or wish to make an appeal to the Appeal Panel of the school Governing Body *(please ✓ as appropriate)*

I accept the decision

I wish to appeal against the decision. Please give reasons below

.....
.....
.....

..... Signed Date

Please return this form to your manager/nominated officer. If you are appealing you must also send a copy to the Chair of Governors **within 5 days of receiving this notification.**

APPENDIX D

**GRIEVANCE FORM GR3
(APPEAL HEARING)**

(To be completed by the Chairman of the Appeal Panel and sent to both parties to the grievance)

A. APPEAL HEARING

Date

Those involved:

.....

.....

.....

.....

B. OUTCOME

.....

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.....

.....

.....

.....

.....

.....

.....

_____ Signed Chairman of Appeal Panel

_____ Date

APPENDIX E

TOWARDS A DEFINITION OF HARASSMENT AND BULLYING

- I** Harassment and bullying are often based on prejudice but may equally arise from ignorance or intolerance. They can take many forms, from overt physical or verbal abuse to more subtle psychological ill-treatment such as ostracism. The effects of bullying and harassment on an individual's mental and physical wellbeing, and ultimately on their performance are often profound. Bullying and harassment have emerged as significant factors in workplace stress and organisational efficiency.
- II** Harassment and bullying by their very nature are 'experiential', which means that the same behaviour may be interpreted in different ways by different people. It may also be that the same behaviour, practised by different people, will be interpreted quite differently. For example, what is acceptable from a close friend or colleague, may not be acceptable from another person.
- III** It is also important to remember that at times we all feel harassed in its colloquial sense i.e. hassled, for example by pressures at work or outside or perhaps because we are unwell or unable to cope for other reasons. It is therefore appropriate to examine our feelings and perceptions carefully to distinguish between genuine and intentional harassment by others and those issues which relate to personal or professional management of time, workload, etc. In the latter case there are other procedures and processes in place to support staff and employees should discuss these concerns with their line manager.
- IV** Harassment and bullying take on many forms and are thereby relatively difficult to define. However, harassment is defined in terms of how it makes the recipient feel and common sense should be used by all to avoid situations which could lead to accusations of harassment.

Broad definitions and some examples are given below. These are not intended to be exhaustive.

V **Origins of harassment and bullying**

Sexual and Racial harassment are perhaps the most common, widely acknowledged and legislated against forms, but harassment and bullying occur for innumerable reasons, for example:

- Gender, sex, sexual orientation, marital or parental status;
- Race, ethnic origin, nationality, skin colour;
- Religion, political convictions etc.;
- Disability, sensory impairment, learning difficulties, intellect, education;
- Physical appearance, e.g. size/weight;
- Health, hygiene, HIV/AIDS;
- Trade union or other organisation activity/membership;
- Criminal record;
- Age (or youth);
- Addiction (drugs, smoking, alcohol);
- Social or work position/status.

VI Examples of harassment and bullying

- Physical contact ranging from touching to physical assault.
- Visual displays e.g. sexually explicit posters, graffiti, emblems or obscene gestures.
- Verbal and written e.g. offensive language or jokes, gossip, slander, sectarian songs, letters, emails etc. ridiculing, name-calling/insults, lewd remarks, sexual innuendo, unjust or public criticism, destructive sarcasm, shouting.
- Isolation or non-co-operation at work, ostracism, removing responsibilities, withholding information.
- Intrusions e.g. spying, pestering, following, constant observation, staring/leering.
- Coercion e.g. pressure to participate, keep quiet, support.
- Pressure e.g. impossible deadlines, constantly changing work demands/expectations, pressure to return from sick leave, blackmail.

APPENDIX F

RESOLVING GRIEVANCES INFORMALLY

Whether you are the victim or a witness, it is recognised that you may be uncertain or apprehensive about how to deal with an incident and may tell yourself that you have imagined it or that the harasser did not mean it. You may feel that it would be disproportionate to pursue the matter and not want to get the other person into trouble or you may feel scared about the consequences of raising the matter. Alternatively, you may feel harassed but be unsure about the cause of those feelings.

Seeking support

As a first step, you might find it helpful to talk to someone you trust about your situation. An objective perspective may:

- help to clarify your perceptions and/or the root of your feelings;
- help you to identify any personal issues which need to be addressed;
- enable you to articulate your concerns, feelings etc.;
- give you confidence to deal with the matter;
- provide the support you need to move forward.

You must report incidents of bullying and harassment to your manager.

Irrespective of whether the matter can be resolved formally or moves to the formal stage you can ask your manager for support which may include:

- Counselling.
- A period of leave of absence without detriment.
- Additional management support for a period.
- Assignment of a mentor.
- Assertiveness training.

Approaching the perpetrator

Speak to the person calmly and make it clear that the conduct complained of is unwelcome and unacceptable. Tell them precisely what was offensive/upsetting and that you want it to stop. Alternatively put it in writing and keep a copy.

If you feel anxious about doing this on your own ask a friend or trade union representative to accompany you: after all it may be advisable to have a witness. It is worth noting that in 70% of cases where harassers are asked to stop, they do so.

Some timescales are included in the procedure, but in any case, all incidents should be dealt with without undue delay.

Keeping records

It is important to keep notes of incidents and action you take. You should record:

- the nature of the concern, including how it affected you;
- dates and times of incidents;
- any witnesses;
- any discussions you have with the perpetrator to try to resolve the issue;
- any discussions you have with managers;
- any written communications you send.

HASSENBROOK SCHOOL Specialist Technology College



GRIEVANCE PROCEDURE MANAGERS' NOTES OF GUIDANCE

Summary of Changes – April 2009

With effect from 1 April 2009, the Dispute Resolution Regulations are repealed and replaced by the ACAS Code of Practice on Disciplinary and Grievance Procedures.

1.3.1	Recognising grievances	Need for formal grievance to be in writing
2.3.1	Disciplinary matters	Dealing with grievances raised during a disciplinary process
4.4.1	The formal stage	Amended wording
Annex 1	Hearing Procedure	Revised procedure

GRIEVANCE PROCEDURE - MANAGERS' GUIDANCE

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Managers' Guidance

1. INTRODUCTION

This section provides additional guidance for managers on how to deal with grievances, bullying, harassment and victimisation, including strategies to avoid them. It does not constitute part of the Grievance Procedure.

The governing body has asserted its commitment to an employment culture in which people can feel confident of being treated with fairness, dignity and tolerance, irrespective of their individual differences.

Annex III details effective management strategies to identify and combat harassment, bullying and victimisation

1.1 Legal duty

1.1.1 Grievances

All employers are required by law to establish procedures whereby staff may seek redress of any grievance relating to their employment. Employers are obliged under employment law to inform all employees:

- of the person to whom the employee can apply for the purpose of seeking redress of any grievance relating to their employment;
- of the manner in which any such application should be made;
- of the steps consequent upon such an application or refer to a document which explains these steps.

This is achieved through the contract of employment and by alerting staff to this Grievance Procedure.

1.1.2 Bullying & harassment

Employers in general and individual managers have a duty of care to their employees to protect them from harassment and bullying at work. This is an implied term in all contracts of employment. It includes a duty to take every reasonable step to protect staff from inappropriate behaviour or conduct by parents, pupils, visitors, governors and other users of the premises as well as by other employees.

In addition as detailed in Annex IV, bullying, harassment and victimisation are illegal on a number of grounds (e.g. disability, age, sex, race) and staff are protected by other overarching legislation (e.g. Human rights Act, Protection from Harassment Act). Any employer who fails to take sufficient steps to protect employees against the detrimental effects of bullying and harassment could face claims for compensation or, in certain cases, criminal prosecution.

1.1.3 Victimisation

This may occur when a person is treated less favourably than another person because they have made, or supported, a complaint of harassment, bullying or discrimination.

The Sex Discrimination Act 1975, Race Relations Act 1976 and the Disability Discrimination Act 1995, provide legal protection from victimisation.

However, the school views victimisation of any sort extremely seriously and victimisation of aggrieved employees may constitute a serious disciplinary offence and is in many cases illegal.

For example, it would be totally inappropriate to transfer an aggrieved member of staff to another post within the school, solely on the grounds that a grievance has been raised.

1.2 Avoiding grievances, bullying and harassment

- 1.2.1 Fairness and civility towards/between employees are important factors in management's effort to avoid disputes. Resentment because of the lack of these considerations can be an underlying cause of grievances.
- 1.2.2 Prior consultation over changes in working methods, procedures and processes can ease through many difficult decisions without a grievance being raised. Above all good communication between all staff is the best way of reducing the chance of grievances arising.
- 1.2.3 The key to eradicating and preventing harassment and bullying, is to raise awareness of what they are and to create an environment where people feel confident to challenge inappropriate or unacceptable behaviour. Ideally the challenge should come at the first occurrence and the culture of the organisation needs to encourage this. Annex III provides some guidance for managers on recognising and avoiding bullying and harassment.

1.3 Recognising grievances

- 1.3.1 In law, a formal grievance must be in writing and must explicitly state that it is a grievance. However, it need not be submitted on the form contained in this procedure. A written grievance should trigger the formal stage of the procedure (see paragraph 4.2 of the Procedure).
- 1.3.2 Complaints or concerns may also be raised verbally by employees, and although this would not constitute a formal grievance within the law, managers should take the matter seriously and seek to address the concerns and resolve the matter informally not least to avoid any escalation of the problem. This is particularly important in cases of bullying or harassment where the employer is likely to be held liable for any harm done to employees unless they can demonstrate that all reasonable steps were taken to prevent the behaviour and to resolve matters at the earliest possible stage.

1.4. Recognising bullying and harassment

1.4.1 Appendix E of the Procedure gives examples of what might constitute bullying and harassment. While some forms of harassment and bullying may be quite overt e.g. verbal abuse, offensive behaviour, these are probably less common. Most harassment and bullying are subtle or hidden and often very hard to see from the outside. Annex III of this Guidance gives some examples of:

- ways in which symptoms may manifest themselves;
- why victims may be reluctant to come forward;
- how managers can lead by example.

By being aware of the particular behaviour of some harassers and bullies and of the reasons that individuals may be reluctant to acknowledge, admit or confront harassment and bullying, managers are better able to create a culture in which staff are empowered.

1.4.2 Discrimination

It can be difficult to draw a line between discrimination and harassment/bullying. Discrimination is treating someone in a particular and usually detrimental way because of their sex, race etc. whereas sexual or racial etc. harassment is more direct and personally targeted. For example a woman may be *discriminated against* by not being given a promotion because her manager has certain prejudices about her perceived abilities because she is 'not male', whereas she may be *harassed* if her manager consistently makes remarks about her abilities in relation to her sex.

Complaints of either type by employees may be dealt with through the grievance procedure. However, other complaints of discrimination may come from those not employed (e.g. through the recruitment process) and these will be dealt with as complaints through the School's Complaints Procedure. The Schools' Equal Opportunities Policy should make this clear.

1.5 Reasonable Adjustments

Assistance should be offered to any employee who has difficulty raising their grievance in writing due to a disability or due to language barriers (i.e. where English is not their first language). The school has a legal requirement under the Disability Discrimination Act 1995 to make reasonable adjustments which may include assisting employees to formulate a written grievance if they are unable to do so themselves due to their disability.

2. SCOPE OF THE PROCEDURE

2.1 Trade Union representatives

All grievances should be treated consistently, irrespective of whether the employee is a Trade Union/Professional Association member or not. However, where the aggrieved employee and/or the person against whom the grievance is raised is a Trade Union official from a recognised union, a senior representative

of that trade union should be informed prior to any formal action being taken under this procedure.

2.2 Pay and Performance Management

The raising of concerns about Pay and Performance Management are excluded from the grievance procedure. Where such concerns are grievances, the Pay & Performance Management Policy make provisions for such concerns to be dealt in compliance with the statutory grievance procedure.

2.3 Disciplinary matters (see 2.2 and 2.3 of the procedure)

- 2.3.1 An employee may raise a grievance in the course of the disciplinary procedure, related to the case. This may be because s/he feels that the action it is not being taken on conduct or capability grounds or for some other reason because of a personality clash with the line manager, rather than his or her ability to do the job.
- 2.3.2 In such cases, where the written grievance is submitted prior to the appeal hearing, the grievance should be dealt with as part of the formal disciplinary hearing process at either the first hearing or appeal hearing stage. The onus is on the manager to ensure that the matters raised in the grievance are appropriately dealt with through the disciplinary procedure and that any decision is fair and free of any taint of unlawful discrimination.
- 2.3.3 In certain circumstances, where the grievance is raised during or after the appeal, it may be necessary to suspend the disciplinary procedure until the grievance is considered under the school's Grievance Procedure.
- 2.3.4 Conversely, it is possible for a grievance to lead to disciplinary proceedings if matters arise during the course of the hearing which warrants such action.

3. ROLES & RESPONSIBILITIES

- 3.1 The informal and first formal stage of any grievance should normally be dealt with by the employees direct line manager unless:
- the grievance concerns the line manager or is against a manager more senior than the aggrieved persons line manager, in which case another manager or nominated governor should manage the case;
 - the grievance concerns the headteacher in which case a nominated governors should manage the case.
- 3.2 Any governor(s) nominated to manage the informal or formal stage of a grievance will not then be able to hear any subsequent appeal.
- 3.3 Although staff Governors are not specifically precluded from involvement in hearing grievances, caution should be exercised in this respect and regard given to individual working relationships within the school.

4. THE PROCEDURE

4.1 Grievance handling

- 4.1.1 Grievances should be dealt with on a systematic yet flexible basis and in a manner appropriate to the employee's work situation. The style of grievance handling will depend on the issues raised. In some cases, reconciliation may be appropriate; in others a corrective/problem-solving approach may be more suitable.
- 4.1.2 Those responsible for dealing with grievances should bear in mind that the procedure is aimed at achieving a satisfactory solution, where any inappropriate action ceases, and differences are resolved. There are a range of possible outcomes including:
- Formal apology
 - Training
 - Mediation
 - Counselling
 - Changes to work methods/styles

However, in some cases e.g. where any employee has been bullied or harassed, the school may need to take disciplinary action against the perpetrator(s). Where the perpetrator is not an employee, the school must take appropriate action to deal with the matter e.g. by seeking legal advice, implementing pupil behaviour management policies.

In all cases where some basis to the complaint is founded the following must be made clear to the perpetrator:

- why their behaviour is unacceptable and give them any appropriate advice and guidance (e.g. to revisit the relevant policies, arrange training);
- instruct them to desist in their behaviour/conduct;
- explain the consequences of not altering their behaviour/conduct;
- outline any remedy that is required (e.g. formal apology);
- counsel against victimising the complainant;
- advise them that the situation will be monitored.

4.2 Timescales

Certain time limits are contained within the procedure and these reinforce the need to deal with grievances as quickly as possible so that the employee is able to return to full concentration of their work duties. The overriding requirement is to deal with matters in reasonable timescale - without undue delay. The longer the process takes the less likely it is that the matter will be satisfactorily resolved. Documentation of grievances should always give precise dates of every action.

4.3 Informal stage

Employee should be encouraged to resolve grievances themselves through discuss with the individual(s) concerned. However, managers should, where made aware of concerns, seek to facilitate resolution between the parties.

4.4 The formal stage

- 4.4.1 Each case will differ and a certain amount of flexibility is required. In essence however, where informal resolution has been unsuccessful there must be a formal meeting to consider the employee's grievance and a subsequent appeal if requested.

4.5 Withdrawal of a grievance

If an employee withdraws their grievance at any stage of the procedure, the reasons should be clarified and fully recorded.

4.6 Reports by third parties

Where harassment, bullying or victimisation are reported by a third party, the procedures is very similar. Managers should take the following steps:

- elicit details from the witness, preferably in writing;
- be supportive and encouraging to the witness and ensure that they receive feedback as appropriate;
- ensure that the witness is aware that they should report any victimisation;
- speak to the alleged victim to establish their perception of the reported matter and establish, where appropriate, whether there is a history or any other relevant background;
- where the alleged victim supports the report, explain the harassment and bullying procedure and where appropriate encourage and support them to approach the perpetrator directly;
- otherwise the manager should deal with the matter in accordance with the procedure;
- where the alleged victim disagrees with the perceptions of the witness, and unless the witness evidence is compelling on its own, it will be difficult to pursue the matter. Records should be kept and the situation monitored.

4.7 Bullying and harassment by adults other than employees

While employers do not have the same 'control' over other adults, as they do over employees, there are a range of strategies that can be employed to protect staff from inappropriate and unacceptable conduct and behaviour by them. These include:

- communicating the schools equalities policies to parents and others connected with the school or who use the premises;
- raising awareness of equalities issues in all activities;
- informal discussion and advice to adults about their behaviour/conduct by the headteacher;
- formal correspondence from the governing body;
- legal mechanisms e.g. to control parents' access on the premises;
- not making the school available for hire or other use, to groups or individuals who do not subscribe to the schools ethos and policies in terms of equalities.

4.8 Bullying and harassment by pupils

The school has in place policies and procedures for dealing with pupil behaviour and misconduct and these should be used to their full effect where pupils harass or bully staff, in the same way as when they act inappropriately against other pupils.

4.9 Support for employees

Employers are obliged to protect their staff from inappropriate conduct and where it does occur, should offer and provide where needed, support to victims (and where appropriate perpetrators). Support may take the form of:

- Counselling
- A period of leave of absence
- Additional management support for a period
- Assignment of a mentor
- Training e.g. assertiveness

5. RECORD KEEPING

It is important in the interests of both the school and the employee to keep written records throughout the grievance process.

5.1 Grievance records should include:

- the nature of the grievances;
- notes of any informal meetings or action;
- a copy of the written grievance;
- the employer's response;
- action taken;
- reasons for actions taken;
- whether there was an appeal and if so its outcome.

5.2 Records of incidents of harassment, bullying or victimisation should include

- date of complaint;
- name of complainant (and if different, victim) and perpetrator;
- details including times of incident(s);
- nature of complaint;
- names of any witnesses;
- details of action taken;
- feedback and follow up.

5.3 Records will be treated as confidential and kept in accordance with the Data Protection Act 1998.

5.4 Copies of relevant meeting records will be given to the aggrieved employee and the person against whom the grievance is raised, including any formal minutes that may have been taken. In certain circumstances (i.e. to protect a witness) it may be appropriate for the manager to withhold some of that information where a third person is referred to.

6. MONITORING AND EVALUATING

- 6.1 Monitoring of the harassment and bullying procedures is essential to ensure consistency, fairness and effectiveness of operation and to identify further action in this area which might be needed by the school.
- 6.2 However, this alone will not necessarily identify the extent of harassment and bullying. Other ways in which incidents or patterns might be identified include the following.
- Monitoring the application of other policies and procedures – inconsistent application by a particular manager or against an individual may be an indication of harassment or bullying.
 - Monitoring sickness levels and conducting return to work interviews – harassment is only one possible cause but remains a potential source of data.
 - Exit interviews – people may be more willing and likely to admit that they have been harassed or bullied after they have left and their perceived (or real) fear of reprisals has gone.
 - Appraisal/Performance Management – this is the key management tool for identifying a whole range of issues from ambitions, to training needs and sources of discontent. It is an opportunity for manager and employee to discuss the whole range of employment issues informally and privately – discuss how to move forward. The manager is afforded the opportunity, if concerns of harassment and bullying are raised to support the employee and where appropriate to deal with it through the appropriate procedures.
 - General management – managers who interact regularly and informally with their staff will notice changes in demeanour, behaviour e.g. in meetings etc. which could be an indication of harassment or bullying. Such day to day contact with staff will also give managers a better chance of identifying harassers and bullies for themselves.

ANNEX I

PROCEDURE FOR GRIEVANCE HEARING/APPEAL

Present: Headteacher/Grievance Panel Appeals Panel, notetaker & HR Advisor (if required)
Aggrieved Member of Staff and his/her representative

1. Aggrieved member of staff presents his/her grievance.
2. Headteacher/Panel asks questions of aggrieved member of staff.
3. Headteacher/Panel considers information in private and may report verbally to the employee.

***Final decision:**

The Headteacher/Chairman of the Appeals Panel will confirm the final decision in writing to both parties within 5 working days of the hearing.

There is no further internal appeal after the final decision of an Appeals Panel.

ANNEX II

INVITATION TO GRIEVANCE APPEAL/HEARING – AGGRIEVED MEMBER OF STAFF

Dear

Formal Grievance Appeal/Hearing

I am writing following receipt of your intention to progress your grievance to the formal/appeal stage of the School's grievance procedure.

Accordingly, you are invited to attend a grievance appeal/meeting on (*date & time*) at (*location*). The meeting will be with head/a nominated Governor/panel of Governors who will be advised by a Senior HR Consultant from Essex County Council.

You have the right to be accompanied at this hearing by a trade union representative or some other person. If you wish to submit any further written documentation please let me have this at least 3 working days before the hearing.

I should be grateful if you would confirm by (*date – 3 days before hearing/appeal*) that you will attend this hearing, and, if you wish to be accompanied, the name and status of your representative.

Yours sincerely

Chair of (Appeals) Meeting/Clerk

ANNEX III

EFFECTIVE MANAGEMENT STRATEGIES TO IDENTIFY AND COMBAT HARASSMENT, BULLYING AND VICTIMISATION

- A Managers have particular responsibilities. In addition to dealing with incidents as described in the Procedure, managers also have a responsibility to:
- identify inappropriate behaviours and conduct;
 - lead by example;
 - monitor and evaluate;
 - take disciplinary action in the event of Victimisation.

B Identifying inappropriate behaviours and conduct

While some forms of harassment and bullying may be quite overt e.g. verbal abuse, offensive behaviour, these are probably less common. Most harassment and bullying are subtle or hidden and often very hard to see from the outside. However, there are a number of ways in which they may manifest, thereby enabling managers to identify a problem.

- C The following symptoms and consequences related to individuals or the organisation may result from harassment or bullying, although it is accepted that they may also have other causes e.g.
- lack of/disturbed sleep;
 - increased sickness or absence levels;
 - loss/reduction in confidence and/or motivation;
 - withdrawal or avoidance of certain situations/people;
 - increased levels of stress and/or depression/anxiety;
 - low morale and confidence in management;
 - mirroring the behaviour/acting aggressively;
 - reduction in efficiency and effectiveness;
 - increased staff turnover;
 - loss of training, development or promotion opportunities.

B **Victims of harassment and bullying may be reluctant to speak out because:**

- Although not exclusively, harassers and bullies will prey on those who are less able or willing to 'answer back' and it is perhaps not surprising therefore that victims of harassment and bullying will often be reticent about their treatment.
- Some forms of harassment are so extreme that no matter how 'strong' the victims, they feel too embarrassed or scared to speak out. This is common in cases of physical sexual harassment or bullying by senior members of staff where people may fear for the security of their jobs.
- It is very difficult to challenge unacceptable behaviour, even where you are not the victim. For example, a manager continually criticises staff at meetings. It takes considerable strength to stand up and say that you do not

think that the behaviour is acceptable and to explain how it makes you or others feel.

- There can often be a collective acceptance or tolerance of an individual's behaviour. For example, a long standing male member of staff constantly comments on the outfits of his female colleagues. This makes them feel uncomfortable but it's "not too bad". He has been there a long time, and has always been the same so everyone just makes a joke of it or ignores it, talks about him behind his back and warns new members of staff to "watch out for John". It is neither acceptable for existing staff nor for new staff coming in to be 'expected' to put up with it.
- Harassment and bullying are not always recognised for what they are. What is perfectly acceptable to some may be offensive or upsetting to others. For example, most people might laugh at the 'Irish jokes' regularly told in the staff-room, genuinely finding them funny. But what about the one member of staff who doesn't think they are funny and leaves the room. He or she may find the jokes offensive and feel isolated or humiliated by the depiction of what may be members of their own country of origin. The rest of the staff may not even notice or feel that it inconsequential, but at best they are guilty of ignorance about what constitutes harassment and bullying and at worst they are part of the harassment.

C. Leading by example

By being aware of the particular behaviour of some harassers and bullies and of the reasons that individuals may be reluctant to acknowledge, admit or confront harassment and bullying, managers are better able to create a culture in which staff are empowered.

Managers should never shy away from exercising their managerial duties, but it is important to recognise that because of their 'authoritative' position they are certainly more likely to be perceived as harassers and bullies; are perhaps more likely to inadvertently harass others and are best placed to harass and bully by design.

The following table details styles, behaviours and actions that are likely to give rise to accusations of harassment or bullying and ways of avoiding misunderstanding and misinterpretation.

<p>Forming special relationships or singling out individuals on a regular basis for praise or the 'best' jobs, courses etc. Favouritism may lead others to feel excluded or ignored.</p>	<p>All staff at different times form close working relationships with individuals e.g. due to circumstances or compatibility and team working is key to the success of schools. However, managers must ensure that they retain a distance in their relationships. Managers need to allocate work or development according to school and individual needs in accordance with relevant policies and procedures. All staff are encouraged by appropriate recognition of their achievements.</p>
<p>Manifesting one's own stress/pressure etc. Pressure can make</p>	<p>Managers, like all staff, are subject to pressure both within and outside of work and they should</p>

anyone feel threatened or inadequate and it is all too easy to 'take it out' on others.	ensure that they employ appropriate strategies to manage these, as they would advise their staff to do.
Expectation within the culture to act in an authoritarian way.	Staff in schools generally work as a team in a co-operative way. However, where an unnecessarily directional and status driven structure exists, all managers should work together to examine the effects of this on the workforce and where necessary make appropriate changes.
Perception that punishment is more effective than reward – management style.	It is generally easier to identify when things have gone wrong or are not to the required standard than to celebrate achievement and success. Generally staff respond better to positive and constructive feedback, accompanied by support and encouragement than to criticism and punitive measures.
Inconsistency.	Inconsistency generates confusion and loss of confidence. As well as treating staff in an equitable manner, managers should endeavour to adopt a consistent style in all aspects of their work.
Time management and consideration of others.	Managers need to be conscious of work-life balance issues and not arrange meetings with individuals at inappropriate times. Managers should also be aware of location and timing of meetings to both consider individual confidentiality but also to avoid staff feeling isolated or uncomfortable.
Threaten/inappropriate use of procedures e.g. discipline, capability.	It is essential to deal with all issues of poor performance and misconduct promptly and fairly. If the issues are isolated or minor they are best dealt with informally and at the first occurrence with appropriate use of training and support mechanisms. Poor performers in particular, rarely improve as a result of punitive action alone. Moreover, the longer issues are left untackled in the right way, the more frustrated and less objective managers can become.
Short staffed – a 'need' to know when someone who is off sick/maternity is coming back	Employees may, from time to time be off sick, on maternity or other leave and are entitled to be so. Such absences however, do raise logistical issues for managers and these can become difficult when the duration or timescale for return is uncertain. However, there are clear guidelines and policies governing contact with sick and pregnant employees which should be followed and in particular, these staff should not be pressurised during their absence.

ANNEX IV

THE LEGAL FRAMEWORK

Bullying and harassment at work are illegal on a number of grounds. Any employer who fails to take sufficient steps to protect employees against the detrimental effects of bullying and harassment could face claims for compensation or, in certain cases, criminal prosecution.

Common Law

Employers can be sued for damages under common law where an employee suffers personal injury because of bullying or harassment by any member of staff, unless they can satisfy the court that the individual acted “outside the course of [his] employment”. An employer may be directly vicariously liable for harassment of staff by non-employees/pupils where it fails to take action in the light of the harassment/bullying or fails to support the employee.

Criminal Justice and Public Order Act 1994

The Act makes intentional harassment in the workplace a criminal offence punishable by law where the perpetrator in speech, writing, sign or other visible representation, uses threatening, abusive or insulting language or behaviour, or disorderly behaviour so that the other person feels harassment, alarm or distress.

Disability Discrimination Act 1995 (and as amended)

The Act provides protection where harassment and bullying can be shown to cause a detriment. This Act also provides protection from victimisation whereby a person discriminates against a disabled person if s/he treats him/her less favourably than he treats another because he/she has brought proceedings under the Act or given evidence in connection with such proceedings.

Employment Rights Act 1996

Under the Act an employee may claim constructive dismissal to an employment tribunal where he/she considers that the harassment or bullying has left him/her no alternative but to leave the organisation. Employees must have resigned in order to make such a claim. An employee may also claim unfair dismissal if he/she is dismissed because he/she asserted a statutory right to make a complaint under legislation.

Equalities Bill 2002

The Bill defines harassment and victimisation and makes them unlawful in relation to colour, race, nationality, ethnicity, religion or belief; sex, sexual orientation or gender reassignment; marital or family status; age and disability. At present harassment has been linked to the Race and Sex Discrimination Acts through case law.

Health & Safety at Work Act 1974

The Act places a duty on all employers to ensure the health (including mental health), safety and welfare of all employees and to create safe and healthy working systems. Breaches of the Act are a criminal offence and may provide evidence in personal injury (e.g. stress) claims.

Human Rights Act 1998

The Act confers a number of rights such as respect for family and home life and protection from degrading treatment and discrimination.

Management of Health & Safety at Work Regulations 1999

The Regulations oblige employers to carry out an assessment of the risks to the health (including mental health) and safety of employees and to take preventative and protective measures to address the risks identified.

Protection from Harassment Act 1997

This Act makes provision for protecting people from harassment and similar conduct. A person must not pursue a course of conduct, which amounts, to harassment and to which he knows or ought to know amounts to harassment. A person who pursues a course of conduct in breach of this prohibition commits a criminal offence. This Act also provides a civil remedy for victims of harassment where damages may be awarded for (among other things) any anxiety caused by the harassment and any financial loss as a result of the harassment.

Race Discrimination Act 1976 – Race Relations (Amendment) Act 2000 (and as amended)

Racial harassment or bullying may constitute unlawful race discrimination under the Act. Employees can claim victimisation if they are treated less favourably because they have asserted a right to racial equality under the Acts.

Sex Discrimination Act 1975 (and as amended)

Sexual harassment or bullying may constitute unlawful sex discrimination under the Act. Employees can claim victimisation if they are treated less favourably because they have asserted a right to sexual equality under the Act.

NB claims for constructive dismissal and/or discrimination must be made within 3 months of the detrimental act. A minimum of one year's service is required to claim unfair dismissal. Employees should seek advice from their trade union/professional association.

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