



HCAT

Sexual Harassment Policy

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HCAT Sexual Harassment Policy

1. Introduction

- 1.1 This Policy has been developed in consultation with Trade Unions and Professional Associations who are recognised by HCAT.
- 1.2 The purpose of this policy is to ensure that the Trust maintains a working environment for everyone where no form of sexual harassment is tolerated, and to help create a working environment where everyone is treated with dignity and respect.

2. Scope

- 2.1 This policy applies to all employees of HCAT (the Trust) including those employed by Academies within the Trust.
- 2.2 Any other persons working with our children and/or on Trust premises for example Local Committee Members, Trustees, agency staff, volunteers and contracted services, are also expected to adhere to this Policy.

3. Principles

- 3.1 This policy outlines HCAT's (the Trust) commitment to creating a safe and respectful workplace for all employees. Sexual harassment of any form is unacceptable and will not be tolerated.
- 3.2 No matter what an employee identifies as, they will receive the same level of support under this policy.
- 3.3 Employees will receive training on this policy and the recognising and preventing of sexual harassment as part of their induction process and annually as a refresher. Leaders and aspiring leaders will receive additional training and support to ensure a zero-tolerance approach to sexual harassment in the workplace.

4. Equality Act

- 4.1 With effect from October 2024, the Worker Protection (Amendment of Equality Act 2010) Act has placed a duty on employers not only to deal robustly with reports of sexual harassment but to also take "reasonable steps" to prevent it from happening in the workplace in the first place.
- 4.2 Sexual harassment is defined as unwanted conduct of a sexual nature which has the purpose or effect of violating someone's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. It is the effect that matters regardless of whether or not the effect was intended.
- 4.3 The preventative duty includes worker-on-worker harassment and harassment by third parties such as volunteers and contractors.

5. Examples of Sexual Harassment

- 5.1 Examples of sexual harassment may include, but are not limited to:
 - Sexual comments or jokes.
 - Displaying sexually graphic pictures, posters or photographs.
 - Suggestive looks, staring or leering.
 - Sending sexually explicit emails, or messages via text/social media.
 - Intrusive questions about a person's private life or sex life or a person discussing their own sex life.
 - Sexual posts or contact on social media.

- Spreading sexual rumours about a person.
- Unwelcome sexual advances such as touching, hugging, massaging or kissing, or requests for sexual favours.
- Verbal harassment, including comments about an individual's body or sexual activities.
- Any other conduct of a sexual nature that creates an intimidating, hostile, or offensive work environment.

5.2 An individual can experience unwanted conduct from someone of the same or different sex.

5.3 Sexual Interaction that is invited, mutual or consensual is not sexual harassment because it is not unwanted. However, sexual conduct that has been welcomed in the past can become unwanted in the future.

5.4 Concerns/issues pertaining to sexual harassment may be related to employee conduct that has occurred outside the workplace. This too will be dealt with in accordance with this procedure when raised by the employee.

6. Reporting Procedures

6.1 Employees are encouraged to report incidents of sexual harassment immediately. Reports can be made to:

- The CEO/Deputy CEO/Principal/Executive Leader/Head of School.
- The direct line manager or head of department.
- The Human Resources Department: HRWellbeing@hcacademytrust.education

6.2 All reports will be treated in the strictest of confidence and details will only be disclosed further should this be necessary for the purpose of further investigation and with the consent of the individual making the complaint.

7. Third Party Harassment

7.1 Employees wishing to lodge complaints about third parties i.e. those who are external to HCAT, should report their concerns to the Deputy Chief Executive Officer. Please refer to HCAT's website for all up to date contact information.

8. Non-Retaliation

8.1 Employees who report an incident of sexual harassment will be treated with respect, dignity and confidentiality. Retaliation against any employee for reporting a concern is strictly prohibited and will be dealt with in accordance with the appropriate procedure.

9. Informal Early Resolution

9.1 Early informal attempts to informally diffuse the situation may bring more lasting and beneficial results than using the formal steps below therefore employees who consider that the behaviour of someone else in the workplace is unacceptable to them are encouraged from the outset to try and resolve complaints in an informal manner, particularly where the recipient may be unaware that they have caused offence in the first place.

9.2 The complainant should be asked what they would like to happen as there are several informal approaches that can be taken, for example:

- Agreeing to keep an eye on the situation.
- Giving the employee advice on how to handle the situation themselves.
- Someone having a quiet word with the person the complaint is about.
- face-to-face discussion, if appropriate, with the person allegedly causing the sexual harassment and/or
- mediation; and/or

- counselling

9.3 What the complainant prefers should be taken into account, however, there may be some instances where what they would like to happen is not appropriate i.e. where the complaint is very serious and needs to be dealt with formally. Where this is the case, this should be discussed with the complainant and attempts to agree a mutually agreeable approach should be made. If there is any doubt, the complaint should be dealt with formally.

10. Face to Face Discussion

10.1 Sometimes employees are unsure as to whether or not the way they are being treated is acceptable. In this situation employees should consider talking over their concerns with their immediate line manager. If an employee feels they are unable to discuss their concerns with their line manager or if their line manager is the cause of the complaint, then the employee may wish to raise the issue at a higher level, and/or seek advice from Trust HR, or their Trade Union/Professional Association Representative. An employee can also email HR in confidence on HRWellbeing@hcacademytrust.education

10.2 If they feel able to do so, the complainant should meet with the person allegedly causing the sexual harassment (with support from Trust HR, their trade union representative or work-place colleague) to bring the unwanted behaviour to their attention and to ask for it to stop. This gives the person allegedly causing the sexual harassment an opportunity to change their behaviour. The conversation should be polite but direct and unambiguous and a record of the conversation should be kept (including date, time, concerns, who was present and any actions agreed as a result of the meeting) and this is shared with all parties involved.

11. Mediation

11.1 Mediation may also be appropriate at this stage provided that the complainant and the person allegedly causing the sexual harassment expresses a mutual desire to attempt it and the mediator believes that the situation lends itself to this process. Employees wishing to attempt this must discuss suitable mediators with Trust HR.

11.2 Mediation may be attempted at any stage of this process subject to agreement between the parties. However, if it is attempted, the formal process will be suspended pending the outcome of the mediation process. If the mediation process is unsuccessful, this policy will continue at the appropriate point.

11.3 The mediator is not empowered to make a decision about the conflict, their role is to facilitate the process and enable a dialogue to take place between the disputants. The aim of mediation is for the disputants to find a mutually acceptable agreement.

11.4 Mediation focuses on agreeing what will happen now, and in the future, rather than what has happened in the past with an emphasis on the disputants agreeing how they will behave towards each other in the future. This can be summarised for both parties in writing.

12. Counselling

12.1 A complaint of sexual harassment can cause fear, stress and anxiety for all those involved.

12.2 All employees are therefore encouraged to access the confidential and free counselling services that are on offer through the Trusts' providers of Wellbeing Services. Further information can be obtained from Trust HR.

12.3 If an informal solution is found, then the manager should do all that they reasonably can to manage the situation to ensure that the working relationships are back on track and do not deteriorate.

12.4 It is recognised that the informal suggestions above may not be appropriate for more serious complaints of sexual harassment; that some employees may not be comfortable having a direct conversation with the person(s) concerned or that the concerns continue despite an informal approach and/or mediation being attempted. In these circumstances, employees should use the formal steps below.

13. Formal Resolution

13.1 Employees who wish to raise complaints formally, or who are not satisfied with the outcomes of early informal resolution, should set them out in writing and should ensure that they are as detailed as possible. This should include:

- the name of the person(s) whose behaviour they believe to be unacceptable.
- the type of behaviour that is causing offence, with specific examples (including dates, times and location(s) as appropriate) and details of how this made them feel.
- the names of any employees who witnessed the incidents.
- any action that the complainant has already taken to deal with the concern (s) they are raising.
- any supporting evidence (e.g. statements from witnesses, photos, extracts from social media pages).
- if the complaint is the first action taken by the employee, they should also explain briefly why they did not attempt to resolve it informally.
- What resolution is being sought.

13.2 Employees should do all that they reasonably can to lodge a formal complaint within 3 months of the incident taking place. However, it is recognised that complaints of this nature may relate to cumulative actions taking place over a period of time. If this is the case, whilst these may be detailed in the complaint, the formal process may only be entered into if employees do all they reasonably can to lodge a formal complaint within 3 months of the latest incident or informal meeting from which the employee remained dissatisfied.

13.3 It is recognised that, due to extreme circumstances, an employee may not be able to lodge a formal complaint within 3 months of the incident taking place. These circumstances will be taken into consideration on a case-by-case basis.

13.4 The formal complaint should be sent to the relevant line manager. If the complaint is about the (Executive) Principal/Headteacher/Head of School it should be passed to the Chief Executive Officer. If the complaint is against the CEO, it should be passed to the Chair of Trustees. Please refer to HCAT's website for all up to date contact details.

13.5 Complaints made by the CEO or Executive Leader/Headteacher/Head of School (for example against director(s)/governor(s) or against the CEO should be passed to the Chair of Trustees.

13.6 In some circumstances it may be necessary to separate the employees involved whilst a full investigation takes place. Any temporary move should be done fairly and explained to both parties.

13.7 In extreme cases, it may be determined on the balance of evidence initially available regarding the person allegedly causing the sexual harassment that the issue needs to be dealt with immediately in accordance with the disciplinary procedure without recourse to this procedure. **This may lead to formal disciplinary action being taken up to and including dismissal. In some cases, it may be necessary to report the matter to the police for them to investigate first. Advice should be sought from Trust HR.**

13.8 The person in receipt of the formal complaint above should:

- Acknowledge the complaint in writing within five working days (and refer to the date of receipt), unless there are exceptional circumstances in which case the response will be made as soon as reasonably practicable.

- Arrange for the complaint to be investigated promptly. Subject to advice from HR, the investigating officer may be an independent investigator external to HCAT or a suitably trained member of the senior leadership team from across HCAT.
- Liaise with Trust HR who will support the investigator throughout this formal process.
- Send a letter to the employees concerned (including witnesses) to confirm that they will be contacted by the named investigator and invited to an investigation meeting where they can be accompanied by a Trade Union representative or workplace colleague who is not already involved in the case.

14. Possible Outcomes

14.1 Whatever the outcome of the investigation, the Investigator should meet with the person allegedly causing the sexual harassment and the complainant individually to discuss the findings.

14.2 The complainant will be entitled to see a full copy of the investigation report and supporting evidence.

14.3 The outcome and the next steps are entirely the decision of the Investigator and will be based on the facts presented in the report and advice from HR. The following are the next steps that the investigator can determine to be appropriate:

- **Informal conversation** – to be carried out as per section 10.
- **Mediation** – to be carried out as per section 11.
- **Redeployment** - If the working relationship is deemed untenable between employees who have been involved in a complaint of sexual harassment and all steps have been exhausted, then redeployment of either employee, irrespective of their status/seniority may be considered.
- **Disciplinary Action** – if, after a full and thorough investigation, the evidence collated by the investigator indicates that there is a case to answer for disciplinary action against the person allegedly causing the unacceptable treatment or behaviour, these findings should be discussed with Trust HR and next steps agreed (including setting up a disciplinary hearing). It is good practice for the Investigating Officer to keep the complainant and the person allegedly causing the sexual harassment updated so as to avoid any surprises.

15. Appeals

15.1 If the complainant is dissatisfied with the outcome of the investigation into their formal complaint, they have the right of appeal against that decision. However, this will usually only be exercised if the complainant has been informed that there is no case to answer, that the complaint was only partially upheld or that the investigation process under the Disciplinary Procedure has been mismanaged.

15.2 The appeal should be made in writing to the Chief Executive Officer (or Chair of Trustees where applicable) within 10 working days of receiving formal written notification of the outcome.

15.3 The appeal must be heard by an impartial panel of three Local Committee Members/Trustees who have had no involvement in the matter to date.

15.4 The appeal letter must clearly set out the complainant's specific concerns and the basis for those concerns. The letter should be accompanied by any additional evidence to be presented in support of the appeal. If the complainant does not wish to provide any supporting evidence, they must confirm this in their letter of appeal and they may not be able to use at any appeal hearing, any evidence not previously provided. The complainant should also name any witnesses they wish to call and indicate whether they will be accompanied by a union representative or fellow-employee and the name of that person.

15.5 The Investigating Officer will arrange the appeal as quickly as possible. The Investigating Officer should make every effort to agree a date with the employee's representative if they are already involved in the case, before sending out the formal invite letter and supporting paperwork to the relevant parties.

15.6 The employee may suggest an alternative time and date as long as it is reasonable and is not more than 5 working days after the original date. The appeal panel, giving reasons, may reject the suggestion if it is unreasonable and may proceed to hear the case in the absence of the employee or the employee's representative. The appeal panel may also defer the date of the hearing to reach mutual agreement on a particular date.

15.7 10-working days' notice of the appeal hearing will be given in writing to all participants and the complainant will receive a full copy of the investigation report and appendices.

15.8 Present at the appeal hearing will be the appeal panel advised by an internal or external HR colleague not previously involved in the case, the complainant, the Investigating Officer and the complainant's representative.

15.9 The process to be followed at the appeal can be found in **Appendix 1**

15.10 The appeal panel may:

- dismiss/reject the employee's appeal (so that the original outcome stands); or
- uphold/accept the employee's appeal and determine what further action should be taken. This may include requesting the Investigating Officer to re-open the investigation on the basis that it has been mismanaged. In these circumstances, it will usually be appropriate for a new and impartial Investigating Officer to be commissioned.

15.11 The appeal committee may announce the decision orally to the parties or may notify the employee of the decision within 5 working days of the hearing. There is no further stage of internal appeal.

16. Malicious Allegations

16.1 The fact that an allegation has not been substantiated following a formal investigation does not mean that it should be considered as malicious. No action will be taken against any employee who makes an allegation in good faith, reasonably believing it to be true, even if the outcome is that there is no case to answer.

16.2 There may be exceptional cases which lead the Investigating Officer to believe that the complainant has acted maliciously. In these circumstances, a new investigation will be conducted under the Disciplinary Procedure against the original complainant by a new Investigating Officer who has not had any involvement in the case who will be given sight of all evidence collated under this procedure to support their process.

16.3 Following this process, the investigator may conclude that there is no case to answer or that the matter should continue to be dealt with as a disciplinary matter in accordance with the Trusts' Disciplinary Procedure.

17. Monitoring and Review

17.1 The Equality Act 2010 requires public bodies, in carrying out their functions, to have due regard to the following:

- to eliminate discrimination and other conduct that is prohibited by the Act
- to advance equality of opportunity between people who share a protected characteristic and people who do not share it
- to foster good relations across all characteristics - between people who share a protected characteristic and people who do not share it.

17.2 In the development of this policy due regard has been given to *achieving these objectives*.

17.3 This procedure will be reviewed to respond to any changes in the employment legislation, and at least every three years, in conjunction with the Trust's recognised trade unions.

18. Support

18.1 Specialist help and support is available for anyone affected by sexual harassment, some external sources are listed below

[Help after rape and sexual assault - NHS](#)

[www.rapecrisis.org.uk](#)

[www.survivorsuk.org](#)

[www.galop.org.uk](#)

[www.victimsupport.org.uk](#)

[www.samaritans.org](#)

19. Appendix 1 – Process to be Followed at a Formal Appeal Hearing

- i) The person(s) appointed to hear the appeal will perform introductions, clarify roles, and outline the procedure that will be followed.
- ii) The employee/ or representative will present their case making reference to any supporting evidence and calling witnesses should this be required.
- iii) Management may question the employee and/or their representative and any witnesses.
- iv) The person(s) hearing the case (including the HR Advisor to the panel) may question the employee and/or their representative and any witnesses.
- v) Management shall respond to the employee's case making reference to any supporting evidence and calling witnesses.
- vi) The employee and/or representative may question management and any witnesses.
- vii) The person(s) hearing the case (including the Advisor) may question management and any witnesses.
- viii) Prior to the summing up either side shall have a right to request an adjournment of the proceedings.
- ix) The employee/or representative will summarise their case.
- x) Management will summarise their case.
- xi) Once the appeal hearing is complete, both parties will then withdraw. If further information is required on the evidence presented, both sides must be recalled to allow clarification to be sought. A decision shall then be reached by the person(s) hearing the appeal (and not the Advisor), based on an unbiased consideration of the evidence as to whether there is reasonable belief the appeal is proven.
- xii) Both parties shall be recalled and the outcome of the appeal hearing conveyed and recorded. This will be confirmed in writing, normally within 5 working days. In exceptional circumstances it may be necessary for the outcome to be communicated after the appeal. All parties will be advised of any changes to the method of communication and extension to timescales at the closure of the appeal.