



# **DIGNITY AT WORK POLICY AND PROCEDURE**

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**Author/owner: Board of Trustees**

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**NB.** 'Trustees' means the Directors referred to in the Trust's Articles of Association

## History of most recent policy changes

Version	Date	Page	Change	Origin of Change e.g. TU request, Change in legislation
V1.0	October 2020		New policy introduced for the Tarka Learning Partnership Central Trust Team and Schools within the Trust	Policy in line with the Equality Act to prevent discrimination, bullying and harassment

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## 1.0 Policy Statement

The Tarka Learning Partnership has a duty to provide a working environment that promotes dignity amongst the whole staff team and is free from any form of harassment, intimidation or bullying (including cyber-bullying). The Trust aims to have an environment in which it is confident in resolving any issues of harassment or bullying without fear of ridicule or reprisal.

Employees and those working on behalf of the Tarka Learning Partnership have the right to be treated with dignity and respect and to work in a harmonious and supportive working environment. The Tarka Learning Partnership, therefore, seeks to create conditions in which all employees, agency personnel, contractors, customers and third parties are treated fairly; where diversity and equality is valued.

The Trust will not tolerate discrimination, bullying and harassment of any kind regardless of the seniority of those involved. Neither will the Tarka Learning Partnership condone harassment or intimidation of, or by employees when dealing with third parties, e.g. parents/customers/contractors/visitors/agency personnel.

All allegations of discrimination, bullying, harassment and victimisation will be investigated and, if appropriate, disciplinary action will be taken. If proven discrimination, bullying or harassment could constitute gross misconduct leading to dismissal without notice.

The Tarka Learning Partnership will take all reasonable practical steps to resolve complaints of discrimination, harassment, bullying or victimisation fairly, quickly and discreetly.

The Trust recognises that it has an equal duty of care to both, the employee making the complaint and the alleged harasser.

## 2.0 Scope

This policy covers the unwanted behaviours of and by employees, agency staff, volunteers, contractors and anyone else engaged to work at schools, whether by direct contract or otherwise. If the complainant or alleged harasser is not employed by the Tarka Learning Partnership, for example, a volunteer or if the worker's contract is with an agency, this policy will apply with any necessary modifications such as the Trust could not dismiss, but would expect to refer the matter to the agency where investigation and appropriate action can be taken.

The application of this policy and the standards of behaviour set out also extend to any work-related setting outside of the workplace, e.g. business trips and work-related social events.

The policy does not cover bullying and harassment by educational visitors, parents, suppliers, vendors or other visitors and, in these cases, employees should report such behaviour to their Head Teacher who will take appropriate action.

## 3.0 Definitions

### 3.1 Discrimination

The contribution of all individuals should be valued and respected. All aspects of employment practice, such as recruitment and selection, performance management and promotion shall be based on assessment of the

individual's capabilities against criteria that are relevant to the work they are required to undertake. Basing judgements on characteristics or status unrelated to the individual's ability to perform their work amounts to unfair discrimination and is unacceptable and, potentially, illegal.

### 3.1.1 Direct discrimination

Direct discrimination occurs where a person is treated less favourably on grounds of a protected characteristic compared to how another person is treated, or would have been treated, in circumstances which were the same or hardly any different.

Protected characteristics are;

- Age
- Disability
- Gender
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sexual orientation

### 3.1.2 Indirect discrimination

Indirect discrimination will occur where a provision, criterion or practice is applied to everyone, which puts people in a particular group (with a characteristic) at a particular disadvantage and it cannot be shown that the particular provision, etc., is a proportionate means of achieving a legitimate aim.

## 3.2 Bullying

Bullying at work involves single or repeated negative action(s) and practice(s) that are directed at one or more workers. The behaviours are unwelcomed to the victim and undertaken in circumstances where the victim has difficulty in defending themselves. The behaviours may be carried out as a deliberate act or unconsciously. Bullying is offensive, intimidating; malicious or insulting behaviour, an abuse or misuse of power, which is meant to humiliate, injure or control the person subjected to it.

Bullying can result from misuse of any form of individual power such as physical strength, personality or age, or collective power through strength of numbers. Bullying is where someone or a group of people in a position of strength, authority or responsibility abuses their individual power by using intimidating insulting or malicious behaviour. Collective bullying will be treated as victimisation and may be considered gross misconduct.

Bullying is persistent, destructive behaviour that has a detrimental impact on a person's confidence and self-esteem. Bullying can be colleague to colleague, employee to manager, as well as from manager to more junior members of staff (including temporary, agency staff and contractor staff).

### 3.3 Harassment

Harassment is unwanted conduct that relates to a personal or protected characteristic. This conduct has the effect or purpose of violating a person's dignity or creating an intimidating, hostile, degrading humiliating or offensive environment.

It is not the intention of the perpetrator that is key to deciding whether bullying or harassment has taken place. The defining principle is whether the behaviour was unacceptable by reasonable, professional standards of behaviour and is disadvantageous or unwelcome to the person/people subjected to it. However, the alleged harasser's intention is relevant to understanding the impact of their behaviour and in choosing the most effective way to try to resolve the situation.

Something intended as a 'joke' may offend another person and different people find different things acceptable. Employees have the right to decide what behaviour is acceptable to them and to have their feelings respected by others. Behaviour which any reasonable person would realise as likely to offend will be harassment without the recipient having to make clear in advance that behaviour of that type is not acceptable to them.

It may not be so clear in advance that some other forms of behaviour would be unwelcome to, or could offend, a particular person, e.g. certain 'banter' or flirting. In these situations, first time conduct which unintentionally causes offence will not be harassment but it will become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to them.

A single incident can be considered harassment if it is sufficiently serious.

The following are examples of harassment and bullying, but this list is by no means exhaustive: -

- Unwanted Physical Conduct

Unnecessary touching, patting or pinching or brushing against another employee's body, insulting or abusive behaviour or gestures.

- Unwanted Verbal Conduct

Unwelcome advances, patronising titles or nicknames, propositions or remarks, innuendoes, lewd comments, jokes, banter or abusive language, which refers to a person's or a group's gender, colour, race, religion, ethnic or national origins, age, disability or sexual preference, appearance etc. This includes repeated suggestions for unwanted social activities inside or outside the workplace. Including mobile telephone calls.

- Unwanted Non-Verbal Conduct

Such as referring to an individual's characteristics or private life, making abusive or offensive gestures, leering, whistling, the display of photographic or suggestive literature, pictures or films/videos or inappropriate use of software, or network systems, including E-mail and the Inter/ Intranet.

- Third Party Harassment

This is where a third party subjects an employee, contractor or agency staff to unwanted conduct. A third party may include a parent, supplier, vendor or visitor.

The School or Tarka Learning Partnership may be liable if it fails to take steps as would be reasonably practicable to prevent harassment taking place against its employees.

The School or Trust will be liable only if it knows that a third party (not necessarily the same one) has subjected the individual to harassment on at least two other occasions. There is no time limitation on when the previous incidents should have occurred.

Employees are encouraged to report any such incidents to their manager or the Head Teacher.

The Dignity at Work Policy does not cover third party harassment, as it is not within the scope of this policy to take action against third parties.

### 3.4 Victimization

When a person is treated less favourably than another because he or she has brought a complaint either in relation to themselves or a colleague, given evidence or complained about the behaviour of someone, this constitutes victimisation and will not be tolerated.

Victimization is unacceptable behaviour and may be considered gross misconduct within the disciplinary procedure that could result in the dismissal of the perpetrator.

## **4.0 Responsibilities**

### 4.1 Employer's Responsibilities

The Tarka Learning Partnership has a duty to protect employees from discrimination, harassment, bullying or victimisation whilst at work. This also extends to circumstances where attendance is away from the normal workplace but is connected with the employee's job – including off site training sessions, travel on Tarka Learning Partnership business, social events and educational visits.

Harassment and Bullying can result in an employee suffering stress, which could result in damage to their health. Health and Safety legislation places a duty of care to provide a safe working environment for all employees.

### 4.2 Employee's Responsibilities

To treat each other with dignity and respect and uphold the Tarka Learning Partnership's Values.

Ensuring workplaces are free from discrimination, harassment, bullying and victimisation and not to behave in a manner that could have a detrimental impact on another's ability, well-being and confidence to carry out their work. All employees have a personal responsibility to create a working environment that is free from harassment and bullying.

#### 4.3 Manager's / Head Teacher's Responsibilities

Ensuring the policy is implemented and observed. This includes taking action by informally counselling any employee/ volunteer/ contractor/ agency personnel who is observed to be adopting behaviour that runs contrary to this policy.

Communicating the policy to employees.

Ensuring that once a complaint of discrimination, harassment, bullying or victimisation is known, appropriate action is taken to resolve the issue as soon as possible.

Investigating (except where the complaint is against them or where they declare an interest when the investigation should move to the Chair of the Local Governing Body and the Chief Executive Officer of the Tarka Learning Partnership) any complaints of discrimination, harassment, bullying and victimisation and monitoring the situation, after it has been dealt with, to ensure there is no repetition.

Practice zero tolerance of discrimination, harassment, bullying and victimisation behaviour through their own leadership and behaviour.

#### 4.4 HR Leader's Responsibilities

Providing advice, guidance and technical support on the operation of this policy and procedure.

Facilitating objective and impartial mediation between complainant and the alleged harasser where this is considered an effective means of resolving the complaint using professional mediators as necessary.

To provide continued confidential support and guidance throughout the process to both parties.

#### 4.5 Trustees'/Governors' Responsibilities

To ensure the promotion, communication, implementation and monitoring of the policy and procedure.

To require all trustees, governors, managers and employees, to maintain high standards in their professional relationships and treat all with dignity and respect.

In the event of an allegation of discrimination, harassment, bullying or victimisation against a Head Teacher, the Chair of the Local Governing Body shall inform and liaise with Chief Executive Officer of the Tarka Learning Partnership. An allegation concerning a Head Teacher should be made in writing and addressed to the Chair of the local Governing Body.

Where possible, the matter shall initially be addressed through the informal process using mediation. This may involve a nominated Governor to facilitate an informal mediation meeting with the parties concerned.

Where the informal stage does not resolve the matter, the Chair of Governors (\*or a nominated Governor) with support from the Tarka Learning Partnership HR Leader will consider;

- a) The use of a formal mediation meeting provided that it is agreed with all parties involved to be an acceptable form of action. In these circumstances the nominated Governor shall arrange for the meeting to be set up as soon as possible and normally within ten working days.

- b) When an investigation is to be undertaken, the Deputy Chief Executive Officer of the Tarka Learning Partnership will act as the Investigating Officer.
- c) Whether the working arrangements need to be altered and/or the Head Teacher needs to be suspended from work to enable the investigation to be undertaken or to provide for a cooling off period.

The Investigating Officer shall present their report to the Chair of Governors (\*or the nominated Governor) with a copy to the complainant and the Head Teacher.

The Chair of Governors (or nominated Governor) in consultation with the HR Leader shall then determine the most appropriate course of action to take.

The Chair of Governors (\*or the nominated Governor) supported by HR, shall inform and explain to all parties concerned the outcome of the investigation and the next stage of the procedure to be followed.

*\* The Chair of Governors may feel that it is appropriate to nominate a Governor (e.g. Chair of a Committee) to manage the implementation of the process. This will enable the Chair of Governors to be in a position to respond to any issues arising from the procedure (appeals or disciplinary action).*

## 5.0 Procedure

All complaints and reported incidences of discrimination, harassment, bullying and victimisation will be taken seriously and will be investigated thoroughly and promptly. The Tarka Learning Partnership expects all complaints to be made in good faith. The validity of a claim will not be brought into question unless upon investigation the complaint is believed to be malicious.

Complaints should be made as soon as possible after the incident(s) and must be resolved, informally or formally, as soon as possible.

The following approach should be used when a complaint has been raised; confidentiality is essential in these cases and must be maintained by everyone concerned at all times. The parties concerned may be represented by a Trade Union representative or work colleague at any stage in the investigation. If the employee is absent due to sickness it may still be possible to investigate the complaint to ensure a timely conclusion. Occupational Health advice may be sought.

Once a complaint has been made, the Manager or Head Teacher will arrange a discussion with the complainant to see if they wish to pursue an informal solution or request a formal investigation. Following the meeting the Manager or Head Teacher will confirm the approach agreed at the meeting to the individual in writing.

Wherever possible, the complaint should be resolved informally, and, in most situations, informal processes can find a solution that is acceptable to all parties. However, it is recognised that in certain situations the Manager or Head Teacher may consider the complaint sufficiently serious to proceed under the formal procedure. This may also be appropriate where a previous attempt at informal resolution has proved unsuccessful.

## 5.1 Informal Procedure

Following discussion with the complainant and assuming that they wish to seek to resolve the matter informally, the following approaches are examples of how a complaint may be progressed:

- Wherever possible, a complainant who believes they have been the subject of discrimination, harassment, bullying or victimisation should tell the person responsible that they find their behaviour offensive and ask them to stop. The behaviours that are considered offensive should be described and specified (times, frequency). They may wish to ask a Trade Union representative or work colleague to be present at any discussion.
- The complainant may prefer to write an account of the behaviours they have experienced which could be shared with the person responsible in advance of a meeting. The complainant should retain a copy of this letter. It may be useful to describe the alternative appropriate behaviours.
- The complainant may wish to take part in a mediated discussion with the person they feel is responsible. In this situation both parties need to be willing to work to resolve the situation swiftly and positively. The Manager or Head Teacher, other senior person or HR representative, or other appropriately trained mediator may act as an independent mediator and will try to identify a practical solution or acceptable compromise. The outcome of the mediation will be owned by both parties and will not involve penalties such as warnings, transfers or disciplinary action.

## 5.2 Formal Procedure

A formal process will be appropriate where the incident that brought about the complaint is considered very serious by the complainant and/or Manager or Head Teacher, or where informal routes have been unsuccessful.

Formal action should commence with the following steps:

1. The complainant must submit the complaint in writing to their Manager or Head Teacher, unless their complaint is against the manager, in which case it should be addressed to the next level of management or Head Teacher.
2. The letter should outline the reasons for the complaint by describing what happened, where and when, it happened, how it affected them, any witnesses and any steps already taken to resolve the matter. If at all possible, an indication should be given of the type of resolution the complainant is looking for if the complaint is founded.
3. The Manager or Head Teacher, senior member of staff or Governors has a duty to investigate the matter.

## 5.3 Investigating formal complaints

The investigation is a fact-finding exercise under this policy and is not part of the disciplinary or grievance procedure. Both the complainant and the alleged harasser shall be informed in writing that an investigation is to be conducted and the nature of the allegations stated. They will also be reminded of their rights to be accompanied by a trade union representative or work colleague and that they may wish to submit a written statement to the Investigating Officer.

The alleged harasser/complainant shall be made aware that the investigation might lead to disciplinary action being taken.

The Manager or Head Teacher, with guidance from the HR Leader, will appoint an Investigating Officer. The person appointed to undertake the investigation would maintain neutrality and confidentiality throughout. The Investigating Officer shall receive guidance and support from the HR Leader where appropriate.

If the complaint concerns the behaviour of the individual's manager, the matter may be raised with the manager at the next level of seniority.

Depending upon the nature of the allegations, consideration will need to be given to:

- Working arrangements to ensure the complainant and alleged harasser work apart whilst a complaint is under investigation.
- The alleged harasser being suspended from work to enable an investigation to be undertaken.
- In a serious case the alleged harasser may be suspended in accordance with the Disciplinary Procedure.

The Investigating Officer shall interview the complainant and the written complaint will form the basis of the discussion. The purpose of the meeting is to establish the complainant's point of view, the reason for citing the incidents, including dates and times, and possible solutions to the matter. A statement will need to be produced, signed and dated.

The Investigating Officer shall interview the alleged harasser, making them aware of the allegations made. A statement will need to be produced which will need to be signed and dated. A written report will be produced by the investigating officer and may include any written statements submitted by the complainant or the alleged harasser.

If there are witnesses, they shall also be interviewed regarding the matter and written statements taken, signed and dated by them.

Employees who are required to be interviewed will be informed in writing (at least 48 hours in advance) of times, dates and venues. A recognised Trade Union representative or work colleague can be present at an interview if desired. The interviews are a fact-finding exercise, not formal hearings.

The Investigating Officer should aim to conclude the investigation and produce a summary report within twenty working days of the investigation commencing. If there are delays, or the nature of the complaint means that the investigation cannot be completed within this timescale, it is important that the Manager and Head Teacher, complainant and alleged harasser are kept informed.

The report shall outline how the investigation was undertaken, the facts and information obtained, and the recommendation(s) based upon the findings.

#### 5.4 Courses of action after the investigation

The Investigating Officer should discuss the report with the Manager / Head Teacher. The Tarka Learning Partnership HR Leader shall also be involved.

The appropriate course of action will depend on the findings of the investigation;

- If there is no evidence of discrimination, harassment, bullying or malicious intent towards the complainant, consideration will be given to helping both parties to resume working together or advice given to how working relationships should be managed in the future. Mediation may be appropriate if both parties agree to it.
- If evidence is found of discrimination, harassment, bullying or victimisation – the appropriate Manager / Head Teacher will confirm that further action shall be taken in accordance with the Tarka Learning Partnership Disciplinary Policy and Procedure.
- If there is evidence of a malicious allegation, the Manager / Head Teacher will instigate action under the Tarka Learning Partnership Disciplinary Policy and Procedure.

Both parties will be informed within 5 working days of the summary report being completed and the decision made.

The Manager / Head Teacher shall meet with the complainant to discuss the findings of the investigation and the planned course of action and confirm this to the individual in writing after the meeting. The letter shall confirm that where the complainant is dissatisfied with the outcome of the investigation, they may proceed to the appeal stage. The appeal request should detail the pertinent facts of the case and the reasons for the dissatisfaction with the decision. A similar meeting shall also be held with the individual accused of bullying/ harassment.

## 5.5 Appeal

- 1 The complainant, having attended the meeting with the Manager / Head Teacher, if dissatisfied with the outcome of the investigation, may appeal to the Head Teacher or Chair of the local Governing Body. The appeal and grounds of appeal shall be made, in writing, to the Head Teacher or Chair of the local Governing Body within five working days of being informed of the outcome of the investigation.
- 2 The Chair of the local Governing Body shall convene a panel of Governors (normally three Governors) to hear the appeal. The Chair of the Appeal Panel shall advise the complainant in writing of the panel, the time, date and venue for the Hearing. This hearing shall where possible be convened within fifteen working days of receipt of the notification of appeal.
- 3 The purpose of the appeal hearing is to review the process and establish the reasonableness of the Manager's / Head Teacher's decision. It is not a further investigation and therefore, it would not normally be appropriate for witnesses to be called unless the Appeal Panel accepts that there is justification to do so.
- 4 If the complainant or Manager / Head Teacher cannot attend on the proposed date, a second date should be offered. If either cannot attend the second date, the appeal may be heard in their absence. In such cases, the Manager / Head Teacher or the complainant will submit their case in writing.
- 5 All documentation submitted for the appeal should be circulated to all those attending no less than five working days before the appeal date.
- 6 The format of the hearing is:
  - i) Introductions and documentation checking
  - ii) The Manager / Head Teacher (who decided the outcome following the investigation) shall outline the details of the case, the investigation undertaken and explain the reason for the decision

- iii) The complainant (or their representative) and the panel shall have the opportunity to question the Manager / Head Teacher
- iv) The complainant (or their representative) shall outline the grounds of the appeal
- v) The Manager / Head Teacher and the panel shall have the opportunity to question the complainant and/or their representative.
- vi) Both parties shall have the opportunity to sum up
- vii) Both parties shall withdraw whilst the Appeal panel considers its decision
- viii) On reconvening the meeting, the Chair of the panel shall inform both parties of the decision;
  - The appeal is not upheld
  - The appeal is upheld

In circumstances where the panel feels that the investigation was flawed to the extent to necessitate a reinvestigation, it will be necessary to appoint a new Investigating Officer.

The decision of the Appeal Panel shall be confirmed in writing within five working days of the appeal.

7 The decision of the Panel of the Governing Body is final.

## 6.0 Support

Victims of discrimination, harassment, bullying and victimisation will be provided with support and this may be provided by a manager, a personal supporter (work colleague), Occupational Health and counselling where appropriate.

Where there is a fear of further bullying while a situation is investigated, other options may need to be considered e.g. one or both parties moved to another work area or in extreme circumstances leave with pay may be considered.

Individuals who are accused of bullying/harassment can be unaware of the impact of their behaviour and actions. An accused person will be provided with the same level of care and support as a person who makes the accusations. This would normally include the support of a manager, work colleague, Occupational Health and counselling where appropriate.

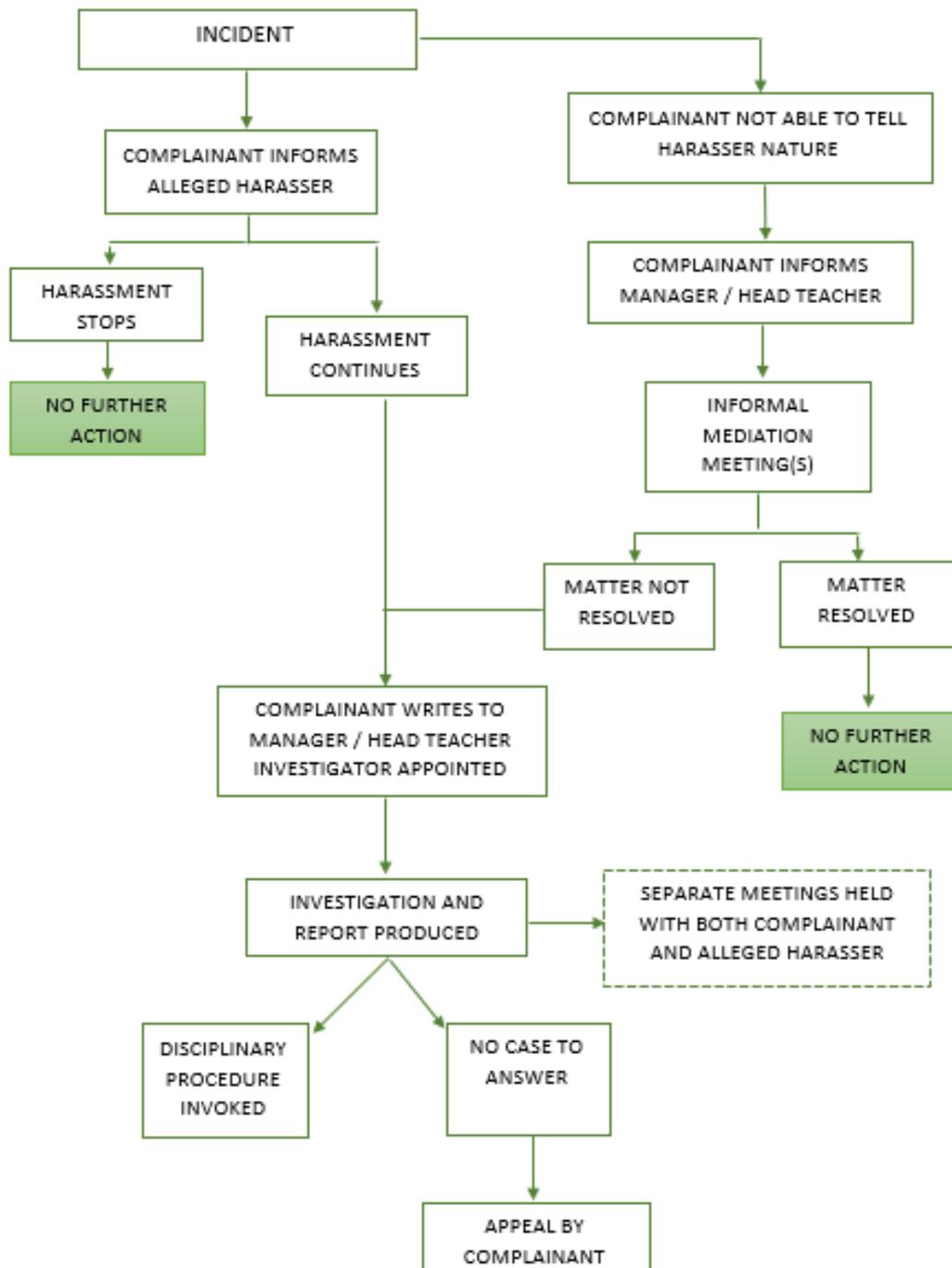
## 7.0 Data Protection/Record Keeping/Confidentiality

The Tarka Learning Partnership/school processes personal data collected during the investigation stage and any subsequent stages of the formal Dignity at Work processes in accordance with its Data Protection Policy.

In particular, data collected as part of the investigation stage and any subsequent stages of action is held securely and accessed by, and disclosed to, individuals only for the purpose of completing the Dignity at Work procedure.

Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the Trust's Data Protection Policy. It may also constitute a disciplinary offence, which will be dealt with under the Tarka Learning Partnership Disciplinary Policy and Procedure

Appendix 1 – Flowchart for the Dignity at Work Procedure



## Appendix 2 – Dignity at Work Fact Sheet

The Tarka Learning Partnership has a duty to provide working environments that are free from any fear of harassment, intimidation and bullying. Employees have the right to be treated with respect and to work in a harmonious and supportive working environment.

All employees, volunteers, agency personnel, contractors, customers and third parties are treated with dignity and respect: where diversity and equality are valued and where everyone can realise their full potential.

If on occasion's discrimination, bullying, harassment or victimisation is alleged to have occurred complaints will be taken seriously and will be investigated thoroughly and promptly.

Complaints should be made as soon as possible after the incident and must be resolved, informally or formally, as soon as possible.

Confidentiality must be maintained by all parties and employees involved may be represented by a recognised Trade Union representative or workplace colleague.

Once a complaint has been received:

- The Manager / Head Teacher or other senior person will arrange a discussion with the complainant to see if they wish to pursue an informal resolution or a formal investigation.
- The approach to be used is then confirmed in writing. If the informal route is taken and the complainant is unresolved the complainant may wish to pursue the formal route.
- If the formal route is taken the complainant must submit their complaint in writing and an investigation will be undertaken.
- The investigation is a fact-finding exercise and not part of the disciplinary or grievance procedure.

Dependent upon the nature of the allegations, consideration will need to be given to:

- Working arrangements to ensure the complainant and alleged harasser work apart whilst a complaint is under investigation
- The alleged harasser being suspended from work to enable an investigation to be undertaken.

Following the Investigation:

- If evidence is found of discrimination, harassment or bullying – referral to the Disciplinary Procedure
- Where there is evidence of a malicious allegation – referral of complainant to the Disciplinary Procedure

If no evidence of discrimination, harassment, bullying or malicious intent by the complainant, consideration will need to be given to helping both parties continue or resume working or how working relationships will be managed. Mediation may be appropriate if the parties agree to it.

The alleged harasser can be assured that, in cases where no evidence is found, the allegation will not affect their career in any way.

## Appendix 3 – Illustrations of Bullying and Harassment and Bad Behaviours

### **Bullying and Harassment**

- Persistent unfounded criticism.
- Unwelcome sexual advances – touching, display of offensive materials.
- Unwanted jokes, comments or nicknames related to a person's age, sex, race, religious belief or disability.
- Spreading malicious rumours, gossip or insulting someone (particularly on the grounds of race, sex, age, disability, sexual orientation and religion or belief).
- Making insulting or offensive comments about others.
- Questions about a person's sex life.
- Humiliation, intimidation, ridicule and/or personal abuse, either in public or private.
- Exclusion or deliberately ostracising colleagues.
- Picking on a person or deliberately setting someone up to fail.
- Ignoring the views of others.
- Constantly criticising others' work and efforts.
- Overbearing supervision or other misuse of power of position.
- Torment by a peer group that humiliates, demeans or frightens the individuals to whom the behaviour is directed.
- Sending or posting of harmful or cruel text or images using the Internet or other digital communication devices.

### **Bad behaviours**

Employees can be upset by a wide range of behaviours. The general principle is that bad behaviours:

- Involve repeated negative behaviours
- Are unwelcome
- Are an abuse of power
- Cause distress, offence or humiliation

This list is not exhaustive. It is simply a guide to help individuals consider their own and other behaviours and gain understanding of what behaviours are unacceptable in the workplace.