

# St Marychurch Pre-school

## Anti Bullying and Harassment Policy

### Statement of intent

St Marychurch Pre-school is responsible by law to do all it can to try to prevent bullying, harassment, discrimination and victimisation happening in the setting. The setting believes that violence, threatening behaviour, bullying, harassment and abuse against all staff, volunteers, apprentices and children is unacceptable and will not be tolerated and the setting has a duty of care in relation to their physical and emotional well-being. If such action occurs, the setting will take all reasonable and appropriate action in support of the staff, volunteers and apprentices as soon as possible. Nor will any such action be accepted by staff against each other within the setting.

### Aim

We aim to ensure that the workplace is a safe environment for all staff, volunteers and apprentices and appropriate action will be taken on their behalf if they are subjected to abuse, threats, violence or harassment from parents, service users and other adults as they carry out their duties.

### Methods

The committee, or manager, should do all they can to try to prevent and stop bullying, harassment, discrimination and victimisation at work.

Should anyone use abusive or intimidating and aggressive language this will be considered as unreasonable behaviour and steps will be taken, which will initially include informal action, but if this proves ineffective then ultimately the aggressor will be banned from the premises.

Should a person behave in a reckless or intentionally applies unlawful force on another, or puts another person in fear of an immediate attack, then this is considered an offence in law and will be classed as an assault. The setting will expect the police to be immediately contacted.

There are three categories of assault, based on the severity of the injury to the victim:

1. **Common Assault** - involving the threat of immediate violence or causing minor injury (such as a graze, reddening of the skin or minor bruise).
2. **Actual Bodily Harm** – causing an injury which interferes with the health or comfort of the victim (such as multiple bruising, broken tooth or temporary sensory loss).
3. **Grievous Bodily Harm** – causing serious injury (such as broken bone or an injury requiring lengthy treatment).

There is also an aggravated form of assault based upon the victim's race, religion, disability or sexual orientation and other protected characteristics as defined in the Equality Act 2010 which carries higher maximum penalties.

Please be aware that no physical attack or injury needs to have occurred for a common assault to have taken place, as the fear of such a physical attack or if a person has been threatened with immediate violence, is sufficient for an offence to have been committed.

Should any staff member, volunteer or apprentice feel under threat or have been threatened, assaulted, or intimidated in the course of their work they must report this immediately to the manager who will follow the settings manager's procedures and guidance for responding.

Where the immediate attendance of the police is required then 999 will be used.

The police support the use of 999 in all cases where:-

- There is danger to life.
- There is likelihood of violence.
- An assault, is or is believed to be, in progress.
- The offender is on the premises.
- The offence has just occurred and an early arrest is likely.

Practitioners will be aware of how to make a silent call.

### **Harassment and intimidation**

Staff may find themselves subject to a pattern of persistent unreasonable behaviour from individual parents, practitioners or service users. This behaviour may not be abusive or overtly aggressive but could be perceived as intimidating and oppressive. In these circumstances staff may face a barrage of constant demands or criticisms on an almost daily basis, in a variety of formats for instance, email or telephone. They may not be particularly taxing or serious when viewed in isolation but can have a cumulative effect over a period of undermining their confidence, well-being and health. In extreme cases, the behaviour of the parent or other service user may constitute an offence under the Protection from Harassment Act 1997, whereby:

A person must not pursue a course of conduct.

- Which amounts to harassment to another and
- Which they know or ought to know amounts to harassment of the other.

If so, the police have powers to act against the offender. If the actions of a parent appear to be heading in this direction, staff should speak to the manager who will take appropriate action to support. All incidents must be recorded and reported to the manager and committee.

### **Banning parents and other visitors from the premises**

Parents and some other visitors normally have implied permission to be on the premises at certain times and for certain purposes and they will not therefore be trespassers unless the implied permission is withdrawn.

If a parent or other person continues to behave unreasonably on the premises a letter will be sent to them from the chairperson/trustees withdrawing the implied permission for them to be there.

Further breaches may lead to prosecution of the person concerned by the police and they are treated as trespassers.

Full records are kept of each incident in the Reportable Incident Record including details of any person/persons who witnessed the behaviour of the trespasser(s) since evidence will need to be provided to the court.

### **Dealing with an incident**

All cases of assault and all but the most minor of other incidents will be regarded as serious matters which should be reported to the setting manager/committee and/or police and followed up with due care and attention.

A record of the incident must be made whether the police are involved or not.

Whilst acknowledging that service users i.e. parents and families may themselves be under severe stress, it is never acceptable for them to behave aggressively towards staff and volunteers. Individual circumstances along with the nature of the threat are considered before further action is taken.

All parties involved should consider the needs, views, feelings and wishes of the victim at every stage. We will ensure sympathetic and practical help, support and counselling is available to the victim both at the time of the incident and subsequently.

A range of support can be obtained from the setting manager, chairperson/trustees and/or staff colleague from Victim Support on giving evidence in court.

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In non-urgent cases where the incident is not thought to be an emergency, but police involvement is required all staff and volunteers are aware of the non-emergency police contact number for the area, 999 calls receive an immediate response. Unless agreed at the time, non-emergency calls are normally attended within 8 hours (24 hours at the latest).

When they attend the setting or services the police will take written statements from the victim (including a Victim Personal Statement) and obtain evidence to investigate the offence in the most appropriate and effective manner.

The police will consider any views expressed by the setting manager and chairperson/trustees as to the action they would like to see taken. The manager should speak to the victim and be aware of his or her views before confirming with the police how they wish to proceed.

In some cases, the victim may be asked by the police if he/she wishes to make a complaint or allegation against the alleged offender. It is important to ensure that the victim can discuss the matter with their manager, a colleague, or friend before deciding on their response. It is helpful for the victim to be assured that, if there is a need subsequently to give evidence in court, support can be provided if it is not already available from Victim Support.

Some forms of bullying are illegal and should be reported to the police. These include:

- violence or assault.
- theft.
- repeated harassment or intimidation, for example name calling, threats and abusive phone calls, emails or text messages.
- hate crimes.

### **Types of discrimination**

**Direct discrimination** – treating someone with a protected characteristic less favourable than others.

**Indirect discrimination** – putting rules or arrangements in place that apply to everyone, but that put someone with a protected characteristic at an unfair disadvantage.

**Harassment** – unwanted behaviour linked to a protected characteristic that violates someone’s dignity or creates an offensive environment for them.

**Victimisation** – treating someone unfairly because they’ve complained about discrimination or harassment.

### **Discrimination at work**

The law protects employees against discrimination at work, including:

- dismissal.
- employment terms and conditions.
- pay and benefits.
- promotion and progression opportunities.
- training.
- recruitment.

## **Discrimination**

By law, discrimination is when someone's treated unfairly because of any of the following:

- age.
- disability.
- gender reassignment.
- marriage and civil partnership.
- pregnancy and maternity.
- race.
- religion or belief.
- sex.
- sexual orientation.

These are known as 'protected characteristics'. It's against the law to treat someone unfairly because of any of them, except in very rare circumstances such as if someone is turned down for a job or promotion because of their sexual orientation it's likely to be discrimination.

## **Disability**

If you are disabled, you have the same rights as other workers. The setting will make 'reasonable adjustments' to help disabled employees and job applicants with:

- application forms, such as providing forms in Braille or audio formats.
- aptitude tests, such as giving extra time to complete the tests.
- dismissal or redundancy.
- discipline and grievances.
- interview arrangements, such as providing wheelchair access, communicator support.
- making sure the workplace has the right facilities and equipment for disabled workers or someone offered a job.
- promotion and training opportunities.
- terms of employment, including pay.
- work-related benefits like access to recreation or refreshment facilities.
- redundancy.

## **If an employee thinks they have been unfairly discriminated against they can:**

- complain directly to the manager or committee.
- use someone else to help them sort it out (called 'mediation' or 'alternative dispute resolution').
- make a claim in a court or tribunal.
- contact the Equality Advisory Support Service for help and advice.

## **Workplace bullying**

There are different types of bullying, including cyberbullying, which can have an impact on mental health. Bullying and harassment is behaviour that makes someone feel intimidated or offended. Harassment is unlawful under the Equality Act 2010.

*Examples of bullying or harassing behaviour include;*

- spreading malicious rumours.
- unfair treatment.
- picking on or regularly undermining someone.
- denying someone's training or promotion opportunities.

*Anti-bullying and harassment policy continued.....*

*Bullying and harassment can happen:*

- face to face.
- by letter.
- by email.
- by phone.

**Bullying**

Although there is no legal definition of bullying, it can be described as unwanted behaviour from a person or group that is either:

- offensive, intimidating, malicious or insulting.
- an abuse or misuse of power that undermines, humiliates, or causes physical or emotional harm to someone.

*Bullying might:*

- be a regular pattern of behaviour or a one-off incident.
- happen face-to-face, on social media, in emails or calls.
- happen at work or in other work-related situations.
- not always be obvious or noticed by others.
- mental/emotional abuse.

*Examples of bullying at work could include:*

- spreading malicious rumours about someone.
- consistently putting someone down in meetings.
- deliberately giving someone a heavier workload than everyone else.
- excluding someone from team social events.
- someone consistently undermining their manager's authority.
- putting humiliating, offensive or threatening comments or photos on social media (cyber).

Sometimes bullying might be classed as harassment, if it's related to certain 'protected characteristics' under discrimination law (Equality Act 2010).

Bullying that's not classed as harassment could still lead to other legal issues, for example if it contributes towards constructive dismissal.

**The law**

Bullying itself is not against the law, but harassment is. This is when the unwanted behaviour is related to one of the following:

- Age.
- Sex.
- Disability.
- Gender reassignment.
- Marriage and civil partnership.
- Pregnancy and maternity.
- Race.
- Religion or belief.
- Sexual orientation – gender neutral, LGBTQ, non-binary.

### **What employees should do if they're bullied or harassed**

Bullying/harassment can happen anywhere. Everyone has the right to feel happy and safe. Employees should see if they can sort out the problem informally first. If they cannot do this, they should talk to the manager or committee. All staff will respond calmly and consistently to all allegations and incidents of bullying/harassment. All allegations will be taken seriously and will be dealt with impartially and promptly. All of those involved will have the opportunity to be heard. If this does not work, they can make a formal complaint using their employer's grievance procedure. If they are still being bullied/harassed, they can take legal action at an employment tribunal or call Acas (Advisory, Conciliation and Arbitration Service) helpline for advice.

If employee's feel they're being treated unfairly, it's important for the setting to understand whether they might be experiencing:

- Bullying.
- Discrimination.
- Harassment.
- Victimisation.

### **Harassment**

By law (Equality Act 2010), there are 3 types of harassment:

- sexual harassment, which is unwanted behaviour of a sexual nature.
- harassment related to certain 'protected characteristics' under the Equality Act 2010.
- less favourable treatment as a result of harassment related to sex, sexual harassment or gender reassignment.

Sometimes bullying might count as harassment if the behaviour meets the definition of one of the 3 types of harassment, such as if someone is being bullied because of their race and the behaviour has the effect of violating their dignity, this could count as harassment.

*As with bullying, the person being harassed might feel:*

- disrespected.
- frightened.
- humiliated.
- insulted.
- intimidated.
- threatened.
- undermined.

Unwanted behaviour can be considered harassment if it relates to any of the following protected characteristics:

- Age.
- Disability.
- Gender reassignment.
- Race.
- Religion or belief.
- Sex.
- Sexual orientation.

Unwanted behaviour can include:

- A serious one-off incident.
- Repeated behaviour.
- Spoken or written words, imagery, graffiti, gestures, mimicry, jokes, pranks, physical behaviour that affects the person.

*Anti-bullying and harassment policy continued.....*

It can still be against the law even if the person being harassed does not ask for it to stop.

To be harassment, the unwanted behaviour must have either:

- Violated the person's dignity.
- Created an intimidating, hostile, degrading, humiliating, or offensive environment for the person.

It can be harassment if the behaviour:

- Has one of these effects even if it was not intended.
- Intended to have one of these effects even if it did not have that effect.

*The law on harassment also applies if a person:*

- is harassed because they are thought to have a certain protected characteristic when they do not.
- is harassed because they are thought to have a certain characteristic.
- is harassed because they're linked to someone with a certain protected characteristic.
- witnesses harassment, if what they've seen has violated their dignity or created an intimidating, hostile, degrading, humiliating or offensive working environment for them.

The law on harassment does not cover the protected characteristics of:

- marriage and civil partnership.
- pregnancy and maternity.

if someone experiences worse treatment because of having one of these protected characteristics they might have been discriminated against.

### **Victimisation**

Victimisation is when someone is treated unfairly because they made or supported a complaint to do with a 'protected characteristic', or someone thinks they did or might do.

If an employee feels they're being treated unfairly, it's important for the setting to understand whether they might be experiencing:

- Bullying.
- Discrimination.
- Harassment.
- Victimisation.

### **Mental health and wellbeing**

It's likely to be stressful and distressing for someone to:

- experience bullying, harassment, discrimination or victimisation.
- witness someone else being bullied, harassed, victimised or discriminated against
- be accused of bullying, harassment, discrimination or victimisation
- likely to make existing mental health issues worse

The manager/committee will take into account the wellbeing of their employees and offer them support while the complaint is being handled and afterwards.

Workplace bullying occurs when an individual, or a group of individuals, repeatedly behaves unreasonably towards a worker, or a group of workers, and the behaviour creates a risk to health and safety. It includes both physical and psychological abuse.

Bullying behaviours can take many different forms, from the obvious (direct) to the more subtle (indirect). The following are some examples of direct bullying:

- Abusive, insulting or offensive language or comments; Violent, aggressive, or intimidating conduct;
- Belittling or humiliating comments; Victimisation and
- Practical jokes or initiation.

The following are some examples of indirect bullying:

- Unjustified criticism or complaints;
- Deliberately excluding someone from work-related activities; Withholding information that is vital for effective work performance; Setting unreasonable timelines or constantly changing deadlines;
- Setting tasks that are unreasonably below or beyond a person's skill level;
- Denying access to information, supervision, consultation, or resources to the detriment of the worker; Spreading misinformation or malicious rumours; and
- Changing work arrangements such as rosters and leave to deliberately inconvenience a particular worker or workers.

The above examples are not an exhaustive list of bullying behaviours.

**Workplace bullying is not:-**

Reasonable management action taken by managers or committee to direct and control the way work is carried out is not considered to be workplace bullying, if the action is taken in a reasonable and lawful way.

The following are some examples of reasonable management action:

- Realistic and achievable performance goals, standards and deadlines;
- Fair and appropriate rostering and allocation of working hours;
- Transferring a worker to another area or role for operational reasons;
- Deciding not to select a worker for a promotion where a fair and transparent process is followed;
- Informing a worker about unsatisfactory work performance in an honest, fair and constructive way;
- Informing a worker about unreasonable behaviour in an objective and confidential way;
- Implementing organisational changes or restructuring; and
- Taking disciplinary action, including suspension, or terminating employment where appropriate or justified in the circumstances.

For example, the practitioner might prefer:

- The manager/committee to keep an eye on the issue.
- Advice and support on how to handle it.
- An apology.
- Someone to have a quiet word with the person they're complaining about.
- To try mediation.
- To make a formal complain.



*Anti-bullying and harassment policy continued.....*

The manager/committee should try to take what they'd prefer into account. But if it is felt that what they'd like to happen is not appropriate, the manager/committee should:

- talk to the person and explain why it is thought it needs to be handled differently.
- try to agree on the approach together.

For example, if your employee wants it handled informally but it's an extremely serious matter, the manager/committee might suggest handling it formally instead. If both parties cannot agree on the approach together, the manager/committee will need to decide the most appropriate way to handle it and if in doubt it should be dealt with formally.

All bullying/harassment incidents will be recorded and dealt with.

**Legal Framework**

- The Management of Health and Safety at Work Regulations 1999.

Signed \_\_\_\_\_

Position Chairperson

Dated \_\_\_\_\_

We aim to provide a safe, stimulating, caring, happy Pre-school where all children and their families are welcome. We provide a curriculum based on the Early Years Foundation Stage using individual children's interest and needs.