

Human Resources Children and Young People's Services

Policy

Model Dignity At Work Policy for All School & College Based Support and Teaching Staff

	DATE
AGREED WITH SUPPORT STAFF TRADE UNIONS	27 th Jan 2010
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ADOPTED BY THE GOVERNING BODY OF	
SCHOOL	

Valuing People, Valuing Learning

CONTENTS

1.	PURPOSE	3		
2.	SCOPE	4		
3.	PRINCIPLES	4		
4.	DEFINITIONS	5		
5.	ROLES & RESPONSIBILITIES	7		
6.	PROCEDURE	8		
7.	HARASSMENT, INTIMIDATION AND BULLYING OF EMPLOYEES BY THIRD			
PARTIES1				
APPENDIX A - DEFINITIONS/EXAMPLES OF HARASSMENT, BULLYING AND INTIMIDATION				

APPENDIX B - EXAMPLES OF FIRM, FAIR MANAGEMENT OF PEOPLE

1. PURPOSE

All staff of the School/College has a responsibility to treat colleagues with dignity and respect irrespective of;

- sex
- race
- marital status
- age
- health
- disability
- sexual orientation
- religious belief
- political conviction membership or non membership of a Trade Union
- real or suspected HIV/AIDS
- their state of physical/mental health or perceived state of physical mental health
- their appearance,
- exerting a statutory right or whistle-blowing, or
- unrelated criminal conviction.

The above list is not exhaustive. Head Teachers/Principals/Chair of Governors may wish to seek advice on the interpretation of any of the above issues from HR Services.

The Governing Body is committed to investigate any incident or behaviour which is deemed unacceptable by the recipient, whether explicitly stated within the definitions contained within this policy and procedure or not. It is the perception of the recipient as to whether any incident or behaviour can be viewed as harassment or bullying.

Complaints will be assumed to have been made in good faith. Any vexatious or malicious complaints without a genuine basis will be treated as a serious issue and may be referred for consideration under the Disciplinary Procedure. Whilst such cases may be considered to be gross misconduct staff should be reassured that disciplinary action would not apply simply because the complaint is not upheld. There would need to be strong evidence that a complaint was vexatious or malicious.

The purpose of the Dignity at Work Policy and Procedure is to provide staff who believes they are subject to harassment/bullying to have their concerns addressed.

The Governing Body will address and endeavour to eliminate harassment/bullying at work by:

a) Promoting a positive work environment where everyone treats each other with respect.

- b) Ensuring allegations of harassment/bullying are fully investigated in a sympathetic and positive manner.
- c) Use of the appropriate procedure(s), e.g.; disciplinary.
- d) Providing access to confidential support and counselling services.

It is important that any concern raised by staff is dealt with as quickly and as sensitively as possible.

As well as recourse to the Dignity at Work Policy and Procedure staff who feel they are being harassed/bullied can seek confidential advice and support from one or more of the following sources:

- The Head Teacher/Principal (or another member of the Senior Leadership Team)
- Their Trade Union Representative
- A member of the County Council Employee Welfare Service. (A full list of appropriate sources of support is available from the Employee Welfare Service 011630 57504/56178).

2. SCOPE

The School/College Dignity at Work Policy and Procedure applies to all staff (including the Head Teacher/Principal) at the establishment. It also applies to students on placements with the School/College, trainees, voluntary and casual workers and those on supported employment schemes (for the purpose of this Policy and Procedure hereinafter referred to as 'staff')

3. PRINCIPLES

- 3.1 The Governing Body/Local Authority is committed to providing staff a working environment that is free from all forms of harassment and bullying. They fully support the rights of all people to be treated with dignity and respect at work and will take appropriate steps to achieve this.
- 3.2 Harassment and/or bullying can lead to fear, stress and anxiety and may be unlawful. The Governing Body/Local Authority is committed to referring such cases to the appropriate authorities.
- 3.3 Every effort will be made to resolve issues as quickly and informally as practicable. Recourse to the latter stages of this procedure should be seen as a last resort.
- 3.4 The School/College's commitment to equality of opportunity will be observed at all times during the operation of this procedure. This will ensure that staff are treated fairly and without discrimination.
- 3.5 It is the responsibility of the Head Teacher/Principal to ensure that reasonable adjustments are made to the operation of the procedure for staff with a disability, for example adjustments to timescales or specialist assistance at meetings.

- 3.6 Any Head Teacher/Principal who fails to take steps to prevent harassment/bullying and who fails to investigate complaints may be held liable for any unlawful actions. This could mean that the School/College may be liable to prosecution, as will the member of staff who has committed the act of harassment/bullying.
- 3.7 Appropriate action will be taken against a member of staff found to have harassed or bullied others or who have been victimising/retaliating against a member of staff for bringing a complaint of harassment/bullying.
- 3.8 Any allegations of harassment/bullying will remain confidential. Any breach of confidentiality may result in disciplinary proceedings being used to deal with the breach.
- 3.9 Employees will have the right to be accompanied by a Trade Union Representative or a work colleague during any investigatory meeting into allegations of harassment or bullying, and any subsequent disciplinary or appeal hearings.
- 3.10 Head Teachers/Principals should be responsive and supportive to staff who complain of harassment/bullying. They should provide clear advice on the procedure to be followed and the types of sources of support that are available. Head Teachers/Principals will maintain a suitable level of confidentiality and take appropriate action to ensure that there are no further problems or any victimisation after a complaint has been addressed. Failure to respond appropriately compounds the behaviour and therefore action may be taken by the Governing Body against them if they fail to do so.
- 3.11 Harassment/bullying will usually occur in the workplace but work-related incidents outside the workplace will also fall within the remit of this policy, e.g. School/College related functions held outside of normal working hours, either on or off the School/College's premises.

4. **DEFINITIONS**

4.1 Harassment

Harassment is unwanted conduct that intentionally or unintentionally violates a person's dignity, or creates an intimidating, hostile, degrading or offensive working environment for them.

Forms of harassment may include:

- Physical contact ranging from touching to serious assault.
- Verbal and written harassment through offensive gossip, language, slander, letters, including postings on social network sites, internet, email and text communications etc.
- Visual display of posters, obscene gestures.
- Intrusion by pestering, spying, following, etc.
- It is the impact of the behaviour on the recipient which is important and, if the recipient feels that they have been harassed, the complaint must be taken seriously and investigated.

- Harassment is normally characterised by more than one incident of
 unacceptable behaviour, one minor incident will not usually constitute
 harassment, however a series of incidents, particularly where a member of staff
 has expressed a dislike of such behaviour and has asked for it to stop, or just
 one incident if it is sufficiently serious, e.g. threatened or actual violence or
 threats of dismissal may constitute harassment.
- Harassment is not only inappropriate behaviour, it may also be unlawful and criminal prosecution can result.

4.2 Bullying

Bullying at work is repeated abuse or harassment that destroys self-confidence and creates harmful stress. It usually involves an abuse of power, for example a manager may bully a subordinate or a group may bully an individual. Equally, a manager can also be bullied.

Forms of bullying may include:

- Spreading malicious rumours
- Cyber bullying (via any form of information communication technology including postings on social networking sites, internet, email and text communications etc.)
- Persistent and inappropriate criticism
- Setting unachievable deadlines or unequal workloads
- Excessive supervision.
- Exclusion or victimisation.
- There are also less obvious examples of bullying behaviour such as:
- Supplying incorrect information or unreasonably withholding relevant information, such as information without which a member of staff may not be able to undertake their job
- Belittling a person in front of colleagues
- Blocking applications for promotion, holidays or training

The above list is not exhaustive. People can be harassed and/or bullied for many reasons and the actions listed must be viewed in terms of the distress they cause; it is the perception of the recipient that determines if an action can be viewed as harassment and/or bullying.

Harassment and Bullying can also occur as a result of perceptions of third parties who is not necessarily the direct victim of such behaviour but who may overhear or see something that makes them feel uncomfortable. Perception is the process of interpreting information that individuals gather about other people through listening, talking, observing and general interactions. Complaints made by third parties should be dealt with in accordance with this procedure.

Further examples of harassment/bullying are included in Appendix A.

4.3 Firm, Fair Management

It is important to differentiate between management and bullying or harassing behaviour.

Head Teachers/Principals are responsible for ensuring that staff who report to them perform to an acceptable standard within a performance management framework. Legitimate, justifiable, appropriately conducted monitoring of a member of staff's behaviour or job performance does not therefore constitute bullying or harassment.

Carrying out these functions in a fair, firm and consistent manner does not constitute an act of bullying or harassment, although it is recognised that some staff may feel stressed or anxious while the procedures are ongoing. It is in the interests of the County Council that Head Teachers/Principals should be able to carry out their duties without threat of ill intentioned, malicious or vexatious complaints. Further detail and examples of firm, fair management are included in Appendix B.

5. ROLES & RESPONSIBILITIES

Roles and responsibilities of the various parties are outlined below:

Role	Responsibility
Governing Body	The Governing Body is responsible for ensuring all complaints are dealt with efficiently and effectively and in accordance with this procedure.
	In the case of complaints raised by the Head Teacher/Principal, the Governing Body will undertake the Head Teacher/Principal role in respect to following this procedure.
Head Teacher/ Principal	The Head Teacher/Principal is responsible for ensuring that the working environment is free from harassment, bullying or intimidation of any nature. The Head Teacher/Principal should be vigilant in respect of the identification and elimination of bullying or harassment at work and ensure implementation of, and adherence to this policy.
Employees	All staff have a responsibility to help create an environment free from harassment and bullying by treating their colleagues with dignity and respect. Employees can do much to discourage harassment by making it clear that they find such behaviour unacceptable and by supporting colleagues who experience such treatment and who are considering making a complaint. Employees who witness incidents of harassment are encouraged to report the occurrence and offer supporting evidence in any investigation.
HR Services	It is the role of HR Services to advise and support the Head Teacher/Principal in the application of the Dignity at Work Policy and Procedure and any other HR policy/procedures that may be implemented following the outcome of an investigation.
Investigator	Schools/Colleges must ensure that the investigator is impartial.

	The role of the investigator will be to investigate the issues raised, interview witnesses as appropriate, establish the facts and make recommendations.
	In certain cases it may be appropriate for the investigator to be sourced via contracted out services
Trade Union or other Representative	All Employees have the right to be accompanied at an investigatory meeting/hearing. The member of staff may be accompanied by a work colleague or a Trade Union Representative.
	The work colleague or the Trade Union Representative can attend any meetings/hearings to support the staff, but should not answer any questions asked of the staff in these situations unless agreed by all parties.

6. PROCEDURE

This Policy suggests a two-tier procedure; an informal stage and then if this proves insufficient or the allegation is of a serious nature, a formal stage.

6.1 Stage 1

- 6.1.1 Wherever possible, staff who feel that they have been the subject of harassment/bullying should be supported in trying to resolve the problem informally. This can often be done effectively by the individual raising the issue directly with the person who is creating the problem, either orally or in writing. If this is not appropriate or it would be difficult or embarrassing to pursue the complaint, e.g. the harasser/bully is their direct line manager, they may seek support from;
 - A member of the Governing body (in cases where the Head is the alleged harasser)
 - the Head Teacher/Principal
 - another member of the Senior Leadership Team
 - a Trade Union Representative
 - or a colleague who may make the initial approach if requested.

It may be agreed that the nature of the grievance is such that the involvement of a third party (for example, a member of the Employee Welfare Service in terms of counselling / support, another manager or external advisor with counselling/mediation skills) might assist in resolving the matter. The use of a third party to help mediate or facilitate a solution is dependent on the agreement of all persons affected by complaint. Such mediation/facilitation should then be conducted over an agreed timescale after which the situation will be reviewed and a decision made as to whether the matter is now resolved.

- 6.1.2 How an individual raises the subject with the alleged harasser/bully depends on themselves and their situation. It can be done face-to-face, by letter or with support from one of the sources listed above but the harasser/bully needs to be informed that their conduct is unwelcome, offensive and/or affecting the member of staffs ability to undertake their work.
- 6.1.3 If the member of staff feels able, often the quickest and most effective means of dealing with an issue is to raise the matter informally with the person(s) concerned, explaining that they find their behaviour offensive and unacceptable.
- 6.1.4 If the above preliminary measures prove to be ineffective or the member of staff feels them to be inappropriate or serious bullying or harassment is perceived to have occurred, then the member of staff should be supported and encouraged to take formal action. However, it is recognised that this requires courage and determination and despite the support offered, staff have the right not to pursue their complaint formally if they so wish. Nevertheless, under its duty of care obligations, the school/college may investigate the situation and take appropriate formal action.

6.2 Stage 2 (to be implemented where a case is not resolved at Stage 1)

- 6.2.1 A complaint should be made in writing to the Head Teacher/Principal at the school/college where the employee concerned is employed or, in the case of service providers (e.g. agency staff), to the line manager responsible for the individual. The complaint will need to detail the basis upon which the alleged harassment/bullying has taken place and the reasonable outcome/resolution that the member of staff wishes to see to resolve the issue.
- 6.2.2 Normally, the letter should be acknowledged within 5 working days of receipt. Consideration should be given to members of staff who are employed to work on a term time only basis. At the same time as acknowledging the complaint staff should be notified, where possible the name of the person nominated to investigate the complaint.
- 6.2.3 At the same time, the individual must be informed of the nature of the complaint lodged against him/her and of any immediate action to be taken e.g. suspension. With regard to this latter point, further advice can be found in the Disciplinary Policy and Procedure.
- 6.2.4 The individual should also be advised that an investigation will take place, the outcome of which may result in Disciplinary Procedures being put into practice.
- 6.2.5 Where suspension is not invoked consideration needs to be given as to whether any working arrangements affecting the two parties involved need altering during the course of the investigation e.g. if either party is the immediate supervisor of the other.
- 6.2.6 The Chair of Governors is ultimately responsible for invoking the formal stage of the Dignity at Work Policy and Procedure. The Head

- Teacher/Principal/Chair of Governors at the school or college where the individual accused of the allegation works will normally conduct the investigation, unless it is deemed inappropriate or they are involved in anyway. The person appointed to conduct the investigation is hereafter referred to as the 'investigator'
- 6.2.7 In the case of a Head teacher/Principal invoking Stage 2 of the Dignity at Work procedure, this should be sent to the Chair of the Governing Body in the first instance. In the case of allegations made by the Head Teacher against the Chair of Governors, the complaint should be submitted to the Vice Chair of Governors or another nominated Governor (e.g. Complaints Governor). A representative from HR and/or Governor Development may be invited to provide support and advice with a view to early resolution of the situation. Any appeal will be dealt with by a panel from the Governing Body which would not include panel members involved at previous stages.

6.3 Investigation

- **6.3.1** An investigation will be necessary to establish the facts. The intention is for the investigation to be completed as swiftly as possible and should commence within 5 workings days of the complaint being received where reasonably practicable to do so. The investigator may seek advice from HR at any point prior to and during their investigation.
- **6.3.2** Allegations of bullying and harassment are extremely sensitive and every care should be taken to ensure that the complainant and the alleged bully/harasser are supported throughout the investigation.
- 6.3.3 Throughout the investigation the investigator should arrange for notes to be taken at all investigatory meetings. These notes should be agreed by all parties.
- 6.3.4 The investigator should meet with the member of staff who has raised the formal complaint as soon as possible and in any event no later than 10 working days from receipt of the complaint.
- 6.3.5 The member of staff will have the right to be accompanied at any meetings by a Trade Union Representative or work colleague. The main purpose of the meeting is to explore the full details regarding the allegations made in the complaint and the reasonableness of their expected outcome of the investigation.
- 6.3.6 The alleged harasser/bully will be invited to attend a formal investigatory meeting in order to clarify any issues and put forward their version of events. They will have the right to be accompanied by a Trade Union Representative or work colleague.
- 6.3.7 The investigator should handle the matter promptly and gather all the relevant facts before memories fade. Statements should be obtained from any witnesses at the earliest opportunity and witnesses should be given an opportunity to correct their statements. The statements must be signed and dated.

- 6.3.8 The investigation must be seen to be objective and independent. The investigator should consider all the information before reaching their recommendation. Having gathered all the evidence the investigator should review whether on the balance of probabilities the conduct being complained of is capable of being categorised as offensive, inappropriate and/or unprofessional.
- 6.3.9 The investigator will conclude one of the following outcomes:
 - 6.3.9.1 there is no case to answer
 - 6.3.9.2 an acknowledgement that the behaviour was not appropriate but not sufficiently serious to warrant formal disciplinary action and is felt to be capable of resolving informally. This may include an apology, reassurance of no repeated harassment and guidance, mediation, training or counselling as appropriate. If subsequently this does not seek resolution then the matter will be presented to a formal disciplinary meeting.
 - 6.3.9.3 to proceed to a formal disciplinary hearing

(NB Where the investigation is delegated to someone other than the Head Teacher or Chair of Governors then the Investigator will present their report to the Head Teacher/Chair of Governors with recommendations for the Head Teacher/Chair to conclude this stage).

- 6.3.10 The Head Teacher (or Chair of Governors in the case of complaints made by and against Head Teachers) should meet with the member of staff and the alleged bully/harasser separately to provide them with a summary of the findings and recommendations and inform them of their decision. This should then be confirmed in writing to both parties within 5 working days.
- 6.3.11 Schools/Colleges should not expect everything to be 'back to normal' straight away. The damage to relationships and feelings is often long term and deep and may take time to mend.
- 6.3.12 It should be agreed with the complainant and the alleged harasser/bully how they are going to work together. The overriding concern is that all staff have a right to a safe, working environment. It may be beneficial to all concerned for trade union representatives to be involved in these discussions. The same principle is true if the allegation is not upheld.

6.4 Right of Appeal for Complainant

6.4.1 In the case of 6.3.9.1 and 6.3.9.2 above, the complainant has the right to appeal against the decision if they feel that their complaint has not been dealt with satisfactorily. i.e. they are able to demonstrate that there are procedural flaws in relation to the investigation which would have affected the decision and outcome.

- 6.4.2 The appeal must be submitted in writing and sent to the member of staff who made the decision regarding the outcome of the investigation within 10 working days of the date of the outcome letter.
- 6.4.3 The appeal will be heard by a panel of three governors, the Chair (normally the Chair of Governors if not involved previously or another person appointed on their behalf) and two other panel members. An HR Adviser can be invited to attend to advise the panel. It is important to note that panel members should not have previously been involved in any part of the investigation.

6.5 Disciplinary Hearing – (to be used in cases where this is recommended following the investigation stage)

- 6.5.1 If a decision is taken to move forward to disciplinary action, this should commence at the formal hearing stage.
- 6.5.2 All hearings and appeals concerning complaints of harassment/bullying will be convened under the School/Colleges Disciplinary Policy and Procedure.

7. HARASSMENT, INTIMIDATION AND BULLYING OF EMPLOYEES BY THIRD PARTIES.

- 7.1 The Governors acknowledge that School/College based staff may suffer harassment/bullying in a variety of forms from School/College users, for instance; pupils, parents/carers etc. Governing Bodies have a duty of care to seek to prevent this from happening in the course of their employment.
- 7.2 The Governors will provide support for any staff who is the victim of such behaviour in the course of his or her employment. The Governors will arrange to investigate any complaint of harassment made by staff against School/College users and take appropriate action.
- 7.3 The Governors' response to harassment/bullying of its staff by School/College users may be restricted by the lack of applicable sanctions or by statutory duties to provide services. Within these restrictions, however, the following guidelines must be observed by Governors whose staff have been subjected to harassment/bullying in the course of their employment by School/College users and take appropriate action:
 - 7.3.1 Any member of staff who has been subjected to such behaviour must be dealt with sympathetically and supportively by senior staff, and must be offered suitable counselling.
 - 7.3.2 Head Teachers/Principals should deal explicitly with perpetrators with a view to withdrawing the services of the School/College if behaviour is not moderated. If the case involves provision of a statutory service, then other measures, including substitution of staff, may be considered as a last resort.
 - 7.3.3 Head Teachers/Principals should not automatically respond by removing the member of staff from the area of work where the harassment/bullying occurred. To do so is likely to undermine the staff and give the harasser the impression that his or her actions are

- acceptable. Only where the member of staff has requested such action or has asked not to deal with the individual service user again and the School/College provides a statutory service to the user should substitution of staff be considered.
- 7.3.4 Not every case can be covered by such advice and Head Teachers/Principals must use their discretion in appropriate circumstances. It may be helpful in such cases for the Head teacher/Principal to seek advice from HR Services.
- 7.3.5 The School/College disciplinary procedures should not be invoked against staff that refuse to deal with individual service users of the School/College because of harassment but should seek to resolve the issue as soon as practicably possible.

DEFINITIONS/EXAMPLES OF HARASSMENT, BULLYING AND INTIMIDATION

(These lists are meant as an example and are by no means exhaustive)

Bullying

People who are bullied find they are:

- Constantly criticised and subjected to destructive criticism
- Subjected to nit-picking and trivial fault finding
- Undermined, especially in front of others, overruled, ignored, sidelined, marginalised, ostracised
- Isolated and excluded from what's happening
- Singled out and treated differently
- Belittled, degraded, demeaned, ridiculed, patronised, subject to disparaging remarks
- Regularly the target of offensive language, personal remarks, or inappropriate bad language
- Threatened/victimised through Cyberspace, including receiving various communiqué via the internet, email and/or mobile phones.
- Threatened, shouted at, humiliated
- Set unrealistic goals and deadlines which are unachievable or are changed without notice
- Have their responsibility increased but their authority removed
- Denied information or knowledge necessary for undertaking work and achieving objectives
- Either excessive and/or persistent over-loading of work, or having their work taken away unreasonably

Harassment

Acts of harassment usually centre on:

- unwanted, offensive and intrusive behaviour with a sexual, racial or physical component.
- It can take many forms, occur on a variety of grounds and may be directed at one person or a group of people.
- The intention of the perpetrator is irrelevant; it is the impact upon the individual which determines whether harassment has taken place.

The following list provides some examples of harassment or discriminatory behaviour:

Sexual Harassment

 Unwanted non-accidental physical contact ranging from unnecessary touching, patting or brushing against a colleague's body, to assault and coercing sexual relations

- Unwelcome sexual advances, propositions or pressure for sexual activity, continued suggestions for social activity within or outside the workplace, after it has been made clear that such suggestions are unwelcome: offensive flirting
- The display of pornographic or sexually suggestive pictures, objects or written materials
- Leering, whistling or making sexually suggestive comments or gestures, innuendoes or lewd comments
- Conduct that denigrates, ridicules or is intimidates or is physically abusive because
 of his/her sex, such as derogatory or degrading abuse or insults which are gender
 related and offensive comments about appearance or dress

Racial Harassment

Conduct that denigrates or ridicules a colleague because of his or her race such as derogatory remarks, graffiti, jokes. Such conduct can be verbal or physical i.e.:

- The display or sending of offensive letters or publications; threatening behaviour
- Being "frozen out" of conversations
- Jostling or assault, or other non accidental physical contact
- Derogatory nicknames or racial name calling or jokes

Disability Harassment

- Mimicking the effect of a disability or speech impairment
- Ostracising, "freezing out", ignoring and staring
- Making fun of a disability
- Use of inappropriate terms
- Inappropriate personal questions/comments about a disability
- Belittling or patronising comments/nicknames
- Moving a wheelchair without the user's agreement
- Practical jokes, e.g. hiding a disability aid
- Touching a visibly impaired person, to annoy

Homophobic Harassment

Conduct which denigrates or ridicules a colleague because of his or her actual or presumed sexuality such as derogatory remarks, graffiti, jokes. Such conduct can be physical or verbal

- The display or sending of offensive letters or publications; threatening behaviour
- Being "frozen out" of conversations
- Jostling or assault, or other non accidental physical contact
- Derogatory nicknames or homophobic name calling or jokes
- Intrusive or inappropriate comments about someone's personal life or family circumstances

Age Discrimination

Ridiculing or demanding behaviour focused towards people because of their age

Religious Belief

Discriminatory behaviour which fails to acknowledge the rights or needs of people with different beliefs or practices

Victimisation

Where a person is treated less favourably than other people because, for example, that person has brought proceedings, given evidence, or complained about the behaviour of someone who has been harassing or discriminating against them.

Aids/HIV

Harassment, ridicule or exclusion of people, due to their real or suspected infection with Aids/HIV

APPENDIX B

EXAMPLES OF FIRM, FAIR MANAGEMENT OF PEOPLE

- Because of differences in perception it is not always easy to differentiate between firm, fair management and harassment/bullying.
- It is accepted that the examples below represent extremes of behaviour.
- In practice things will not be so clear and perpetrators may display characteristics which fall somewhere in the middle. The following are examples, but are not exhaustive:

Firm, Fair Management	Bullying / Harassing Management
Consistent and fair	Aggressive, inconsistent and unfair
Leads by example	Dominates, sets a poor example
Decisive	Random, impulsive
Has a good appreciation of short, medium and long term needs and goals	Is rigidly short-term, often no more than 24 hours
Learns from experience and applies knowledge gains from experience to improve business, communication and interpersonal skills	Cannot apply knowledge gained from experience except by being devious, manipulative and how to evade accountability
Allows and trusts people to get on with the job	Constantly interfering, dictating and controlling
Shares information freely	Withholds information, releases selectively
Only addresses genuine performance and behaviour issues which can be evidenced.	Makes false claims about alleged underperformance and focuses on the person, not behaviour or performance
Listens, coaches,	Instructs
Acknowledges failings and any mistakes	Denies failings, always blames others