



Policy Title: Dignity at Work	Policy Number: HR-POL-11
Issue Number:	Date of first issue:
Date of last review: October 2023	Date of next review: October 2026
Lead person: HR Manager	Approved by: Board
	Date approved: 12 December 2023

General Note

The Mental Welfare Commission acknowledges and agrees with the importance of regular and timely review of policy statements and aims to review policies within the timescales set out.

New policies will be subject to a review date of no more than one year from the date of first issue.

Reviewed policies will have a review date set that is relevant to the content (advised by the author) but will be no longer than three years.

If a policy is past its review date then the content will remain extant until such time as the policy review is complete and the new version published.

1. Policy Statement

The Mental Welfare Commission for Scotland recognises that its success is wholly dependent on those people who work within, and in association with, our organisation. Their positive contribution both maintains and improves our service provision.

We wish to create an environment which values differences and supports equality and open communication and promotes a culture where employees are able to constructively express different views.

The organisation is committed to providing employees with a workplace which is safe and respectful, and actively encourages a culture of Dignity at Work and respect for all.

All employees have a responsibility to treat colleagues with dignity and respect irrespective of characteristics such as age, disability, gender reassignment, marriage or civil partnership, religion or belief, pregnancy or maternity, race, sex and sexual orientation. These are protected characteristics under the Equality Act 2010.

Bullying, harassment and victimisation can have very serious consequences for individuals and for the organisation.

Behaviour involving the bullying, harassment, victimisation or intimidation of any employees for any reason is unacceptable and will not be tolerated or condoned by the organisation. If, following investigation, it is found that bullying, harassment and/or victimisation has taken place this will be considered a disciplinary offence.

This policy does not form part of any contract of employment or contract to provide services, and we may amend it at any time.

2. Scope

This policy applies to all employees, workers and to those employees on secondment to the Commission. It also relates (in its practice) to contractors, stakeholders, self-employed individuals or any other individuals who may from time to time interact with the Commission.

In line with our Equality, Diversity, Inclusion and Human Rights Policy, the Commission will ensure the prevention and elimination of discrimination between persons on grounds of the age, disability, gender reassignment, marriage or civil partnership, religion or belief, pregnancy or maternity, race, sex and sexual orientation (Protected Characteristics set out in the Equality Act 2010).

This policy covers bullying, harassment and victimisation. Details of the Protected Characteristics including examples of unacceptable behaviours are set out in Appendix 1.

This policy is compliant with current legislation and will meet the aims of the Public Sector Equality Duty of the Equality Act 2010.

The Public Interest Disclosure Policy should be used if an employee wishes to raise concerns about organisational malpractice or impropriety.

3. Definitions

“Bullying” 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

“Harassment” - This policy adopts the definition of harassment as defined in the Equality Act 2010, namely, unwanted conduct related to a relevant protected characteristic or of a sexual nature, and where the conduct has the purpose or effect of violating an individual's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

“Protected Characteristics” - age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

“Unacceptable behaviour” – any behaviour or conduct which is deemed to infringe an individual's dignity at work and amounts to bullying, harassment and/or victimisation as described in this Policy.

“Victimisation” – The Equality Act 2010 defines victimisation as being subject to a detriment because an individual does, or intends to do, a 'protected act'.

A 'protected act' means taking action related to discrimination law. This includes:

- making a complaint of discrimination or harassment
- supporting someone else's complaint
- gathering information that might lead to a complaint

- acting as a witness in a complaint
- saying something or giving evidence that does not support someone else's complaint.

4. Roles & responsibilities

- 4.1 Chief Executive and Executive Leadership Team (ELT)
The Chief Executive and Executive Leadership Team are ultimately responsible for this policy and for creating an environment of zero tolerance for unacceptable behaviours that infringe an individual's dignity at work.
Responsibility for the consistent application of this Policy, and for its monitoring and review.
- 4.2 Line Managers
- Ensure employees are treated fairly and equitably.
 - Ensure that all employees are aware of the content of this policy and what unacceptable behaviour at work is and that bullying, harassment and victimisation are disciplinary offences.
 - Ensure that there is a supportive working environment.
 - To take prompt action to prevent and stop bullying, harassment and victimisation by using this policy.
 - If an employee makes a complaint of harassment, bullying and/or victimisation (informally or formally) ensure they execute their duty to consider it and take appropriate action and notify the HR Team when incidents arise.
 - Be approachable, ensuring good communication with employees and between employees and be aware of issues of bullying and harassment and how such issues can be raised.
 - Role model positive and inclusive behaviour in the workplace and be aware of how their behaviour impacts on other people.
 - Respond to and deal with all complaints of bullying and/or harassment promptly and sensitively and try to get issues resolved informally in the first instance.
 - Ensure that there is no retaliation against an individual who has made a complaint.
 - Promote a working culture where bullying, harassment and victimisation are unacceptable and will not be tolerated.
 - Maintain confidentiality as far as is reasonably practicable throughout.
- 4.3 Employees
- Treat each other with dignity and respect and be aware of how their behaviour can affect other people.
 - Behave appropriately in the workplace and challenge unacceptable behaviours which may infringe an individual's dignity at work by raising concerns with their line manager.
 - Set a positive example by being aligned with the Commission's values treating others equally and with dignity and respect. Responsible for helping to ensure that individuals do not suffer any form of harassment, bullying and/or victimisation and that they are encouraged and supported in any legitimate complaint. Every individual will be accountable for the operation of this policy, as they carry responsibility for their own behaviour and actions on or off site.

- 4.4 Human Resources
- Support the informal and formal processes of this policy.
 - Provide advice and support to employees alleging they have experienced inappropriate behaviour, those who are alleged to have behaved inappropriately and those supporting both informal and formal resolution processes.
 - Signpost employees to appropriate health and wellbeing resources.
 - Ensuring that information is handled confidentially.
 - Provide professional, impartial advice and support to both managers and employees when dealing with matters covered by this policy.
 - Provide consistent advice and coaching for managers, particularly through the formal stages of the policy.
 - Monitor the use of the policy and processes and report any non-compliance to the Head of Culture & Corporate Services.

5. Operational system

5.0 Introduction

5.1 All employees and workers are expected to behave professionally and appropriately and have the right to expect professional and appropriate behaviour from others. Unacceptable behaviour for the purposes of this Policy means bullying, harassment, discrimination, sexual misconduct and/or victimisation.

5.2 When deciding the appropriateness of behaviour, factors that will be taken into consideration include the specific context, the motive or intent of the individual demonstrating the behaviour, the impact on the individual and whether that impact or effect is reasonable in the circumstances.

5.3 Unacceptable behaviour may:

- be perpetrated by an individual or a group.
- be intentional or unintentional.
- take place either on or off Commission's property, via Commission's IT systems, or online via email, the internet or social media.
- range from overt and easy to recognise one-off instances, to numerous.
- small remarks and acts sending denigrating messages to the recipient, linked to an individual's characteristics or status.

Examples, from sources such as the Advisory, Conciliation and Arbitration Service (ACAS), are provided to illustrate how each of the individual types of unacceptable behaviour listed in 5.1. may be demonstrated.

5.4 Although the terms are often used interchangeably, the terms "bullying" and "harassment" describe different types of behaviour.

ACAS defines bullying as 'unwanted behaviour from a person or group that is offensive, intimidating, malicious or insulting to the recipient. It may involve an abuse or misuse of power that makes a person feel undermined or humiliated or causes physical or emotional harm'.

Power does not always mean being in a position of authority but can include personal strength, status and the power to coerce through fear or intimidation. As such, it can also be perpetrated upwards to a manager or senior colleague.

Bullying can take the form of physical, verbal and non-verbal conduct. Such behaviour is considered unacceptable in the workplace by the Health and Safety Executive.

Examples of bullying could include:

- Spreading a false rumour about a colleague
- Consistently giving heavier workloads to one particular individual in a team
- Unjustly cutting off or preventing a colleague from reasonably expressing their views in a meeting
- Regularly undermining the authority of a more senior colleague.

- 5.5 Unlawful harassment under the Equality Act 2010 is unwanted conduct that is either related to the protected characteristics set out in section 5.5.1 or is conduct of a sexual nature as set out in section 5.5.2. The 2010 Act defines harassment as 'unwanted conduct that must have either the purpose or the effect (where it is reasonable for it to have that effect) of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them'.

Harassment can be physical, verbal or non-verbal. It can be a single incident or repeated behaviour and can include imagery, graffiti, gestures, mimicry, jokes, pranks, and physical behaviour that affects the recipient. It can also include treating someone less favourably because they have previously submitted or refused to submit to unwanted conduct of a sexual nature or to unwanted conduct that is related to sex or gender reassignment.

- 5.5.1 When harassment relates to protected characteristics, it refers to the following characteristics: age, disability, gender reassignment, race, religion or belief, sex, or sexual orientation.

Examples of harassment relating to protected characteristics could include:

- Using derogatory terms in connection with a team member's race or age
- Belittling a colleague because of their disability
- Disclosing a colleague's gender reassignment status without their permission
- Creating a hostile environment for a team member because they hold a protected philosophical belief.

- 5.5.2 Sexual harassment is a form of sexual misconduct, an umbrella term that describes all types of unwanted and unpermitted behaviour of a sexual nature including sexual abuse. The intention or reasonably perceived effect of this type of harassment is to violate the recipient's dignity or create an environment that is intimidating, hostile, degrading, humiliating or offensive for the recipient. It can happen to and be demonstrated by women, men and people of any gender or sexual orientation. Sexual harassment includes serious sexual misconduct, such as sexual assault or rape.

Other examples of sexual harassment and misconduct could include:

- Emailing, texting or messaging sexual content or making sexually offensive jokes to your team
- Unwanted flirting or making sexual remarks about a colleague's body, clothing or appearance
- Touching a colleague without their permission, such as hugging them.

- 5.6 Unlawful discrimination under the Equality Act 2010 is when the recipient is treated unfairly because of any of the following characteristics: age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, or sexual orientation. Discrimination can be direct (when someone is treated less favourably than another person in the same situation - but without the

protected characteristic - is or would be treated) or indirect (where rules or arrangements apply to a group of employees or job applicants, but in practice are less fair to a certain protected characteristic).

Examples of discrimination could include:

- Not offering a promotion to an individual because of their sex.
- Excluding a colleague from team social events because they are close friends with a LGBT person.
- Drawing inferences about an applicant's religion because of their name and rejecting that individual for that reason.
- Advertising a role and specifying a minimum number of years' experience.

5.7 Unlawful victimisation under the Equality Act 2010 occurs when a person is subject to a detriment because they made a complaint of unlawful discrimination or harassment, provided evidence or information in connection with a complaint of unlawful discrimination or harassment, or because someone believes that they have done or may do so.

6.0 Behaviour

6.1 All employees are responsible for their own actions and for recognising the impact of their behaviour on others. It is vital that behaviour towards one another remains courteous and professional. The following information sets out the Commission's expectations around how all employees should and should not behave towards their colleagues. This list is not exhaustive but models both the positive behaviour expected of all employees in our interactions with one another and the negative behaviours that may lead to informal or formal action being taken. The negative actions listed below show how the unacceptable behaviours defined in **section 5** may be demonstrated within our organisation. Understanding this can help each of us appreciate the impact of the way we behave.

Where employees are registered with a regulatory or professional body (e.g. NMC, SSSC or GMC), the applicable body's own professional standards/requirements/code of conduct (or equivalent) may also be taken into account in determining whether or not behaviour is unacceptable.

6.2 Acknowledging the Commission's core values of Respect, Knowledge, Trust, Support, Challenge, Improve and Together, all employee's should always strive to:

- Foster a trusting environment that enables honest and supportive working conditions.
- Recognise that our actions can impact others and show courtesy and consideration in our interactions with others, even if we disagree with their views.
- Treat each other fairly and without bias.
- Recognise and acknowledge the contribution of others to our work.
- Honour the need for confidentiality when the nature of our work requires it.
- Maintain appropriate and professional relationships with all members of the Commission.
- Promote a culture where colleagues can speak out about unacceptable behaviour.
- Support our colleagues experiencing unacceptable behaviour by intervening, speaking out and helping where we feel able.

7.0 What to do when you have experienced unacceptable behaviour

7.1 Allegations should always be taken seriously, and action taken as quickly as possible to stop any unacceptable behaviour identified. This section summarises the procedures available to do this and explains the direct support available to all employees to address unacceptable behaviour.

7.2 Both informal and formal options are available to resolve issues.

8.0 Stages in the policy

Stage 1: Informal

8.1 Informal approaches are intended to help resolve one-off or minor incidents of unacceptable behaviour, to stop such behaviour early and to prevent it escalating.

They include:

informal action

mediation and facilitated conversations.

This type of collaborative approach has been found to be the most effective way of resolving conflict, tackling unacceptable behaviour and minimising any negative impact on the individuals involved.

8.1.1 The Commission anticipates that, in many cases, it is possible and desirable for the issue to be settled informally. The individual subject to a complaint of bullying and/or harassment (respondent) may not understand how their behaviour is affecting a colleague and should be given the opportunity to resolve the situation after it has been brought to their attention.

8.1.2 **Informal Action** - In some cases talking directly with the respondent may be enough. This approach may be appropriate if the individual making the complaint (complainant) believes that the behaviour is unintentional, and where the respondent is unaware of its impact. The complainant can take this approach alone, or with help from a work colleague, the HR team or trade union representative.

The complainant should clearly:-

Explain how the behaviour makes them feel;

Explain how it is interfering with their work;

Ask for it to stop;

Keep a note of everything that is said.

If the complainant does not feel able to raise their concerns with the respondent in person, they could write to them stating that they feel harassed, bullied and/or victimised, state where and when this occurred and how they wish to be treated.

They should always keep a copy.

8.1.3 Individuals are encouraged to keep a record of the nature and frequency of the alleged unacceptable behaviour. This is to support them in raising their concerns and help the other party understand better the issues raised during the course of these discussions and the impact they have had.

8.1.4 The complainant may wish to try informal resolution but may feel unable or reluctant to directly approach the other party on their own. In an informal resolution process, the complainant may ask for support to achieve an informal resolution. This approach can particularly help when addressing issues concerning a line manager or a more senior colleague. If the individual feels unable to approach the other party unaccompanied, they should ask another colleague, manager or HR to be present.

8.2 Mediation and facilitated conversations

8.2.1 **Mediation**

It may be appropriate for the matter to be dealt with by way of mediation, depending on the nature of the issue. Mediation is a well-established, confidential process for resolving issues between individuals, involving an impartial mediator helping those involved find and agree their own solutions.

8.2.2 Mediation is the preferred method under the Dignity at Work Policy for resolving complaints of bullying, harassment and/or victimisation. The objective of mediation is to resolve the matter speedily and confidentially without recourse to a formal investigation and with the minimum of conflict and stress for the individuals involved.

8.2.3 Mediation is helpful where conflict involves relationship issues and/or misunderstandings between people. Mediation follows a set of practices and values that include impartiality, independence, neutrality, equality, collaboration and respect for the ability of the parties to make decisions. It is always a voluntary process. What is said in mediation is privileged in terms of employment law and cannot be disclosed or used in any subsequent proceedings.

8.2.4 Mediation requires the voluntary participation and co-operation of both parties in order to work effectively. Both parties will be requested to consider the use of mediation and every effort will be made to secure their agreement. An appropriate person who is experienced or well versed in mediation will meet with each of the parties separately to explain the mediation process and its benefits. This person may be from management or an external mediator.

An assigned mediator will meet with both parties, usually separately to begin with, to discuss the alleged offending behaviour. The mediator will then bring both parties together to reach a common understanding and agreement on acceptable future behaviour. A mediated agreement seeks to reach an accommodation between the parties and thereby restore harmonious working relations. A mediated solution will not result in the issues being dealt with under the disciplinary policy. Minimal paperwork and/or records will be generated by this process.

8.2.5 If the mediation process does not produce a satisfactory outcome, the complainant may seek to have the matter resolved through formal investigation. Any new information that emerges during the course of the mediation process remains strictly confidential and cannot be disclosed as part of the formal investigation. If the matter remains unresolved at this stage, a formal investigation will be carried out.

8.2.6 Mediation can be used at any time as a means of informal resolution, including before or after an informal or formal process.

8.3 **Facilitation**

If stakeholders agree that a resolution can be reached through a structured informal discussion rather than through mediation, they may decide to conduct a facilitated meeting. Facilitated meetings can be offered by Human Resources personnel, to provide an opportunity to explore options and develop a way forward towards resolving an issue.

8.3.1 The purpose of a particular facilitated meeting, as well as ground rules for the meeting, will be stated at the outset, but within these parameters a facilitated meeting can involve a broad range of issues and methods. For example, negotiation and/or compromise can be used and representatives can participate (i.e. a trade union/professional organisation representative or work colleague).

- 8.3.2 Special attention should be paid to communications with employees who have limited experience of working life, those with learning difficulties, with physical disabilities, or mental health issues (which may impact on their ability to understand or express themselves) as well as employees whose first language is not English. Where required, a translator will be provided when requested.
- 8.3.3 Facilitated meetings are also different from mediation. The parties or their representatives can request a facilitated meeting. Alternatively, management or HR can recommend it. For a meeting to occur, the participants must be willing to take part. Notes will normally be taken to aid recall of what was discussed and a record will be produced of any decisions reached and actions agreed. This is shared with the participants and, if agreed as part of the outcome, may be shared with persons not actually present at the meeting. It may also be referred to in the future by anyone involved. If required, there can be a review meeting after a period of time to monitor progress and follow-up on any issues.
- 8.3.4 Facilitated meetings can last for several hours. If they form part of a series of meetings spread across a number of days, it is important to establish a timescale for concluding the process promptly.
- 8.3.5 Sometimes a manager or other third party may be called in to facilitate an informal discussion between two or more individuals. It is essential that this is conducted in a fair and consistent manner to facilitate equal participation by the parties making decisions.

The third party invited to facilitate must not have any stake in the issue or have any relationship to the situation that could cause any of the parties to feel disadvantaged.

They must outline their role and agree ground rules for the discussion and establish that the parties are both willing to continue before proceeding. They must use good listening and conflict management skills, and refrain from taking sides or bringing their own opinions, issues and concerns into the discussion.

Please note that there is no need to have a facilitated meeting before mediation and that a case may need both interventions.

9.0 Stage 2 Formal complaint

Formal action is more appropriate for serious instances or repeated patterns of unacceptable behaviour where previous informal attempts may have failed.

9.1 Notification of a Formal Complaint

There will be instances of unacceptable behaviour where an informal resolution process is not successful or is simply not appropriate due to the nature of the allegations.

There will be no victimisation of any employee who has raised a concern under the terms of this policy. Any evidence of discrimination against an individual who has made a claim of bullying and/or harassment will be the subject of an investigation and could lead to disciplinary action.

- 9.2 No employee is required to use the informal route before utilising the option of a formal route.

As a general principle, the decision whether to progress a complaint is up to the employee. However, the Commission has a duty to protect all employees and line

managers (after taking HR advice) and may pursue the matter independently if, in all the circumstances, it is considered appropriate to do so.

- 9.3 An employee's written complaint should set out full details of the conduct in question, including the name of the individual against whom the complaint of bullying, harassment and/or victimisation is made (respondent), the nature of the harassment, bullying and/or victimisation, the date(s) and time(s) at which it occurred, the names of any witnesses and any action that has been taken so far to attempt to stop it from occurring.

9.4 **Investigation**

An investigating officer will be appointed by an appropriate manager after taking advice from HR.

Whoever is appointed to investigate will do so in a timely, respectful and confidential manner.

The investigating officer will provide a provisional timescale for the completion of the investigation after scoping and planning the investigation.

The investigation should be thorough, impartial and objective and carried out with sensitivity and due respect for the rights of all parties concerned. It is important that at no time is the complainant made to feel that he/she has invited the alleged bullying, discrimination, harassment or victimisation nor is exaggerating their concerns, as this may add to their perception of being bullied, harassed etc.

A meeting with the complainant should take place, usually within one week of receiving their complaint, so that they can give their account of events. The complainant has the right to be accompanied by a colleague or a trade union representative of their choice, who must respect the confidentiality of the investigation.

Where the complaint is about another employee, the appropriate manager (after taking HR advice) may consider suspending them on full pay or making other temporary changes to working arrangements pending the outcome of the investigation, if circumstances require.

The investigating officer will also meet with the individual against whom the complaint is made (respondent) (who may also be accompanied by a colleague or trade union representative of their choice) to hear their account of events. They have the right to be advised of the nature of the complaint against them and the procedure being followed so that they can respond.

Where the complaint is about someone other than an employee, such as a customer, supplier or visitor, the investigating officer (with HR and senior management advice as required) will consider what action may be appropriate to protect the employee and anyone involved pending the outcome of the investigation, bearing in mind the reasonable needs of the business and the rights of that person. Where appropriate, the investigating officer will attempt to discuss the matter with the third party.

The investigating officer (with HR advice/support) will also seriously consider or refer for consideration any request that the complainant makes for changes to their own working arrangements during the investigation. For example, the complainant may ask for changes to their duties or working hours to avoid or minimise contact with the respondent.

It may be necessary to interview witnesses to any of the incidents mentioned in the complaint. If so, the importance of confidentiality will be emphasised to them.

9.4.1 Action following the investigation

On conclusion of the investigation, the investigating officer will submit a written report for consideration normally by the manager who commissioned the investigation.

The manager will arrange a meeting with the complainant, usually within a week of receiving the report, in order to discuss the outcome and what action, if any, should be taken. The complainant has the right to bring a colleague or a trade union representative to the meeting. A copy of the report and the manager's findings will be given to the complainant and respondent.

If the manager considers that harassment, bullying and/or victimisation has occurred, prompt action will be taken to address it.

Where an employee is found to have harassed, bullied and/or victimised another employee, the matter may be dealt with as a case of possible misconduct or gross misconduct under the Disciplinary Procedure. If the respondent is a third party such as a customer, supplier or other visitor, the manager will consider what action would be appropriate to deal with the problem.

Whether or not the complaint is upheld, the manager will consider how best to manage the ongoing working relationship between the complainant and respondent. It may be appropriate to arrange some form of mediation and/or counselling, or to change the duties, working location or reporting lines of one or both parties.

Any employee who deliberately provides false information or otherwise acts in bad faith as part of an investigation may be subject to action under the Commission's Disciplinary Procedure.

9.5 Formal Appeal

If the complainant is not satisfied with the outcome they may appeal in writing to the HR Department, stating their full grounds of appeal, within one week of the date on which the decision was sent or given to them.

HR will arrange an appeal meeting, normally within one week of receiving the written appeal. Where practicable, the appeal hearing will be conducted by a manager who has not been previously involved in the case. They may ask anyone previously involved to be present. The complainant has the right to bring a colleague or trade union representative to the meeting.

The manager appointed to hear the appeal will confirm the appeal final decision in writing, usually within one week of the appeal hearing. This is the end of the procedure and there is no further appeal.

If the complainant is not satisfied that their complaint has been dealt with quickly and effectively under this policy they should raise the matter through the Commission's Grievance Procedure following the process outlined therein.

All parties involved will ensure confidentiality is maintained and managers and HR will ensure that the policy is applied fairly and equally to all those involved.

Managers in conjunction with HR will take whatever measures they feel appropriate to ensure that there is no victimisation of either the complainant or the respondent during or after the complaint has been dealt with.

10.0 Raising alleged unacceptable behaviour without making a complaint

- 10.1 It is the aim of this policy to ensure all employees feel able to disclose alleged unacceptable behaviour so that it can be resolved. If an individual raises alleged unacceptable behaviour but does not want or feel able to proceed with either an informal resolution or a formal process, the HR Team will:

Discuss ideas for how the individual can respond to the behaviour if it happens again.

Encourage the individual to talk again if there is any repetition of the behaviour.

Make the individual aware that the Commission may have to take action if the nature of what is disclosed invokes the Commission's duty of care, particularly if the reported behaviour is impacting the individual's mental or physical wellbeing.

Check that the individual is aware of the informal and formal options available to resolve the alleged behaviour should they wish to reconsider at any point.

12.0 What to do when you are the subject of concerns being raised

- 12.1 It can be a disconcerting and upsetting experience for an individual to be approached and told that their behaviour could be construed as inappropriate. If this is done through an informal process, they should be prepared to listen patiently and calmly and allow the employee (or the person supporting them in the process) to express their concerns. If it is possible, they should also try to remedy the situation and allow a positive working relationship to be resumed. The individual should keep a note of what was discussed and, if appropriate, agreed.

- 12.2 The individual who is the subject of the complaint (respondent) should also be able to give an account of what happened as part of any informal and formal resolution processes. They can speak with any of the following for general guidance or to discuss any specific questions about the resolution process:

- their line manager (or equivalent)
- a member of the HR Team
- Individuals may also discuss the matter and any guidance or information received in connection with the resolution process with a colleague in confidence.

- 12.3 The support services set out in section 15 are also available to provide support for individuals who are the subject of a complaint under this Policy.

13.0 Witnessing Bullying or Harassment

- 13.1 If an employee witnesses unacceptable behaviour that is tantamount to bullying harassment and/or victimisation, they should speak to the colleague who has been the recipient of the behaviour and offer them support.

If support is declined, or the colleague elects to ignore the matter, employees should raise the matter with their line manager as soon as is practicable. In the event that their line manager is the individual about whom the perceived bullying, harassment or victimisation is concerned, then employees should approach HR for advice. In either situation, their colleague's wishes will be respected and although no formal action will be taken, their line manager and/or HR have been made aware of the employee's concerns and should be able to offer advice.

Employees may be called upon at a later date to provide a statement or give evidence at a subsequent investigation. It may help, therefore, if employees keep a record of any incidents that they have witnessed. This record should include details of dates, times, people involved and of what occurred.

There is an expectation that employees will keep details of the situation confidential other than, if appropriate, informing their line manager and they should not divulge information to any other party without the express permission of their colleague.

14.0 What happens if you have behaved inappropriately?

14.1 While this policy emphasises the value of an early, informal resolution process, there will be situations that can only be resolved through a formal route. Where a formal complaint is brought and upheld against an individual - and the nature of the unacceptable behaviour warrants it - separate proceedings may be instigated under the Commission's Disciplinary Policy and Procedure. This may result in the full range of sanctions and outcomes, including a formal warning, training and/or other interventions. In the case of serious or sustained misconduct, the procedure may result in the termination of employment.

15.0 How we will support you

15.1 Support Services

The Commission is committed to providing support for employees and workers affected by these issues. The following support resources are available to any employee or worker whether they are considering raising an issue about unacceptable behaviour, disclosing an incident, or the subject of a complaint.

Sources of support

Human Resources (HR)

HR can provide advice and support, helping to clarify employee expectations and discuss possible options. Depending on how each incident develops, HR will also take up other roles (e.g. facilitating meetings, taking part in hearings etc.).

Employee Assistance Programme

A range of health and support services including counselling are available to employees.

Occupational Health can provide confidential advice on health issues that may cause difficulties within the workplace either following management referral or self-referral. Additional support services such as counselling are available.

15.2 Confidentiality

15.2.1 Confidentiality – and trust in that confidentiality – is critical when dealing with allegations of unacceptable behaviour. Details of the complaint (including the names of the person making the complaint and the person subject to the complaint) must only be disclosed on a 'need-to-know' basis. Breach of confidentiality in either an informal or formal resolution process may give rise to disciplinary action under the Commission's Disciplinary Policy and Procedure.

15.2.2 Information about a complaint by or about an individual may be placed on their HR file, along with a record of the outcome and any notes or other documents compiled during the process. Notes and records will be treated as confidential and be kept no longer than necessary in accordance with the data protection principles set out in the relevant data protection legislation.

15.3 Victimisation

- 15.3.1 The Commission will not tolerate any form of victimisation against an employee who has raised or supported an informal complaint, co-operated in a formal investigation, challenged unacceptable behaviour, or in each case is believed to have or is believed to be likely to take such steps. This includes behaviour targeting an individual's career progression, such as deliberately providing unbalanced or overly negative references or blocking opportunities for that individual to participate in training and other development activities.
- 15.3.2 If a formal complaint of victimisation is made about an employee's behaviour it will be fully investigated and, if upheld, will be dealt with in accordance with the Commission's Disciplinary Policy and Procedure.

15.4 Malicious or vexatious complaints

- 15.4.1 A malicious complaint is one that is made with the intention to intimidate, to lower the reputation of, or otherwise injure or harm a colleague or manager, through knowingly providing false or misleading information or withholding information about an incident or issue.
- 15.4.2 A vexatious complaint is either one that is made with the sole or main intention to harass, annoy or subdue somebody, or one that is unreasonable, without foundation, frivolous, repetitive, deliberately burdensome or unwarranted.
- 15.4.3 If it is found that an individual has made a complaint that is malicious or vexatious, the Commission may instigate a disciplinary process against them. Disciplinary action will not be taken, however, where a complaint is mistaken or otherwise ill-founded but not malicious or vexatious.

16.0 Training and development opportunities

- 16.1 In meeting its public sector equality duty, the Commission will also identify any mandatory courses that need to be undertaken by employees and managers when they join the Commission (and on a periodic basis thereafter), or when preparing to undertake certain activities on behalf of the Commission (such as recruitment). The content of such courses will be focussed on building awareness of the employment legislation, statutory codes, case law, and other relevant information to achieve the objectives of this duty, namely eliminating conduct prohibited by or under the Equality Act 2010, advancing equality of opportunity, and fostering good relations between those who share a relevant protected characteristic and those who do not share it.

17.0 Monitoring, Evaluation and Review of Policy

- 17.1 Responsibility for monitoring the application of this policy will rest with HR and will take place annually as a minimum.

Indicators for success will include:

Employee awareness that the policy exists and an understanding of how it works.
Management and employees believing in the policy, using these to raise genuine concerns and feeling comfortable when using.
Improvements in the reporting and handling of such incidents.

Basis for Evaluation will include:

Feedback from employee surveys or changes in organisational culture and the incidence of bullying, harassment and/or victimisation.
Information gained from exit interviews.

6. Risk Management

This policy will be reviewed every three years to ensure compliance with relevant and appropriate employment legislation.

7. Related Documents

- Staff Code of Conduct Policy
- Disciplinary Policy and Procedure
- Grievance Policy
- Equality, Diversity, Inclusion and Human Rights Policy
- Health and Safety Policy
- Employee Assistance Programme
- Unreasonable Conduct and Behaviour Policy (refers to individuals using the Commission's services and behaviours/contact that are difficult).
- Equality Outcomes Plan
- The Public Interest Disclosure Policy (intended to assist individuals who believe they have discovered malpractice or impropriety and have not been able to address this through normal procedures. The Public Interest Disclosure Policy is also designed to enable all employees and workers to raise concerns internally and at a high level. In relation to Dignity at Work this covers concerns regarding improper conduct or unethical behaviour which are in the public interest).

8. References

- Health and Safety at Work etc. Act 1974
- Protection from Harassment Act 1997
- Civil Partnership Act 2004
- Marriage (Same Sex Couple Act) 2013
- CIPD, (2023). Bullying and Harassment Factsheet.
<https://www.cipd.org/en/knowledge/factsheets/harassment-factsheet/>
- ACAS. Bullying and harassment at work: guidance for employees. Available at:
<http://www.acas.org.uk>
- The Equality Act (2010). Available at <https://www.gov.uk/guidance/equality-act-2010-guidance>
- [Human Rights Act 1998](#)

Protected Characteristics under the Equality Act 2010 covered by this policy



Examples of unacceptable behaviour (include but are not limited to)

In order to maintain a culture of courtesy and professionalism, we must never bully, harass, discriminate, victimise or commit sexual misconduct, by avoiding such behaviour as:

- Talking down to, belittling, gratuitously interrupting or preventing others from speaking.
- Directing inappropriate language, such as swearing, towards others or making degrading comments about individuals or groups of individuals.
- Making inappropriate derogatory remarks about a colleague's performance in public, whether directly (such as in a meeting) or indirectly (for example, by needlessly copying people into an email).
- Humiliating others by shouting at them, either publicly or privately.
- Maliciously ignoring individuals or groups of individuals, or inhibiting the ability of others to perform their roles by withholding information or excluding them from necessary meetings and discussion.
- Imposing overbearing and intimidating levels of supervision or management.
- Undermining the reputation of others through malicious rumours or false allegations or by breaching confidential conversations.
- Making racist, sexist, homophobic, transphobic, disablist or ageist jokes, remarks or gestures, which may demean or discriminate independently of our intentions.
- Mocking, mimicking or belittling a colleague or visitor because we perceive them as different to us, or using this difference as a reason to treat them unfairly.
- Behaving in a controlling or coercive way, such as placing excessive pressure on others to subscribe to a particular political or religious belief.
- Circulating or displaying any type of communication on any form of media that would otherwise constitute a form of unacceptable behaviour contrary to this Policy.

- Making unwelcome and unpermitted sexual advances, suggestive behaviour or touching someone against their will or without their consent, even if it is perceived as harmless by the individual behaving this way.
- Retaliating to allegations of unacceptable behaviour, including threatening those who have made the allegations, providing unfair or misleading references, or blocking access to career development opportunities.