
Anti-Bullying and Harassment Policy

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1 Introduction and definitions

- 1.1 This policy has been agreed following consultation with the Staff Representative Council and applies to all staff regardless of status or length of service. This policy applies to staff on and off the premises, including whilst working away from the office.
- 1.2 This policy does not form part of any employee's contract of employment and the PSOW may amend it at any time. Substantial changes to this policy will be made only following consultation with the Staff Representative Council.
- 1.3 The Public Services Ombudsman for Wales, PSOW managers and PSOW staff are committed to treating everyone with dignity and respect at work and seek to provide a safe, healthy, harmonious and fair environment in which people can work. PSOW values the diversity of its staff.
- 1.4 Bullying and harassment of any kind is unlawful and will not be tolerated. Such behaviour has a significant detrimental effect on everyone involved, including the Organisation.
- 1.5 All managers and staff have a responsibility to notice and take action when observing or experiencing any act that could constitute bullying or harassment. There are several avenues for reporting any incidents, informally or formally, within PSOW's culture for voicing any concerns as early as possible.
- 1.6 Complaints of bullying or harassment, or information from staff about such complaints, will be handled confidentially and sensitively. All reports of bullying or harassment will be investigated and could result in the need for the disciplinary process to be activated.
- 1.7 Bullying and harassment could constitute gross misconduct under the PSOW disciplinary process.

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- 1.8 Generally bullying or harassment involves something that has happened and is unwelcome, unwarranted and causes a detrimental effect. Examples and definitions of what may be considered bullying and harassment are provided in Appendix A for guidance. The list is not exhaustive. Bullying and harassment is not necessarily face to face. It may occur through written communications, photographs, email, social media or telephone.
- 1.9 Fairly, consistently and appropriately applied management actions, for example, to address attendance, performance or conduct issues, do not constitute bullying or harassment.
- 1.10 Appendix B provides a summary of the law on bullying and harassment. Appendix C includes details of advice and support that is available.
- 1.11 This policy includes details of how concerns about bullying or harassment should be raised and encourages early resolution. It is recognised that bullying and harassment could occur between members of staff, between a member of staff and his/her manager, involving a member of staff and another manager or between managers. For that reason, there are several avenues available for reporting such behaviour and references in this policy to the person with whom concerns should be raised are not prescriptive.

2 Measures to prevent and address bullying and harassment

- 2.1 The most effective way of addressing bullying and harassment is for all staff and managers to identify bullying and harassment and take action if they witness or experience it, or if they become aware of it. Bullying and harassment are unacceptable and should always be acted upon. PSOW does not distinguish between varying levels of level bullying or harassment, all forms are unacceptable.
- 2.2 PSOW's internal values of Achievement, Togetherness, Positivity, Supportiveness, Ownership, and Willingness, and the Staff Standards of Conduct policy, together detail the expected standards of behaviour for all staff and managers.
- 2.3 Equality and diversity training are provided to all staff.

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- 2.4 Managers will receive training on identifying and resolving incidents of bullying and harassment.
- 2.5 PSOW staff are expected to be mindful of other people's views, beliefs and anything resulting from a protected characteristic and demonstrate consideration at all times.

3 Actions to be taken if there is bullying or harassment

- 3.1 Any member of staff who experiences bullying or harassment or witnesses it should consider raising the issue with the person concerned as soon as possible, even where it might be considered "low level" bullying or harassment.
- 3.2 If a member of staff feels unable to do this or considers that the behaviour is repeated or part of a pattern of behaviour, this should be raised with a manager or Human Resources Business Partner as soon as possible. Generally, if the behaviour relates to that manager, the matter should be raised with the manager's manager. However, concerns may be raised with the Chief Operating Officer & Director of Improvement or Chief Legal Adviser & Director of Investigations if, in the circumstances, reporting the matter to another manager is not considered appropriate.
- 3.3 Members of staff may wish to take advice from their own trade union representative, a manager or the Human Resources Business Partner. It is important that concerns are reported as quickly as possible in order that the matter can be addressed/resolved.
- 3.4 All reports will be taken seriously and acted upon.

4 PSOW's response to a report of bullying or harassment

- 4.1 Any member of staff who complains that they are being bullied or harassed, will have their complaint handled as a grievance and in accordance with the Grievance Policy, whether or not their complaint accords with a standard definition.

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- 4.2 The person making the complaint will not normally be moved or have duties changed. They may, however, request a move whilst the matter is being investigated and any such request will be carefully considered and accommodated where possible.
- 4.3 If bullying or harassment of a member of staff is reported by another member of staff this will be discussed, with the person the concern is about, by their manager or another appropriate manager.
- 4.4 Any complaint or report of bullying or harassment will be investigated promptly and objectively in accordance with the Grievance Policy. Upon completion of the objective and independent investigation, PSOW will decide whether action to invoke any further procedure e.g. disciplinary will be necessary.
- 4.5 In investigating claims of bullying or harassment, PSOW will consider all the circumstances before reaching a conclusion. PSOW recognises that actions that some staff may perceive as bullying or harassment may not be considered as unacceptable by others. Whilst most people will agree on extreme cases of bullying and harassment it is sometimes the 'grey' areas that cause most problems. PSOW will therefore consider carefully whether what has taken place could reasonably be considered to constitute bullying or harassment.
- 4.6 If the concern raised is suggestive of criminal activity, the matter should be referred to the police, in discussion with the member of staff who is, or appears to be, being bullied or harassed.

5 Informal approaches

- 5.1 In some cases, it may be possible to rectify matters informally. Sometimes people are not aware that their behaviour is unwelcome, and an informal discussion can lead to greater understanding and an agreement that the behaviour will cease. It may be that the individual will choose to do this themselves, or they may need support from the Human Resources Business Partner, a manager or a trade union representative.

6 Counselling

- 6.1 Counselling can play a vital role in complaints about bullying and harassment, by providing a confidential avenue for an informal approach, and perhaps identify ways to resolve the complaint without need for more formal action.
- 6.2 PSOW provides staff with free and confidential self-referral access to a counselling service. PSOW managers may also recommend that a member of staff makes use of the counselling service. (See Appendix C and staff intranet.)

7 Mediation

- 7.1 An independent third person or mediator may be engaged by PSOW to help resolve bullying or harassment issues, **depending upon the nature of any allegations**. Mediation will always be a voluntary process but may be appropriate if both parties:
- understand what mediation involves.
 - enter into the process voluntarily.
 - are seeking to repair the working relationship.
- 7.2 PSOW will arrange and fund mediation between members of staff where this might be helpful in achieving resolution.

8 Grievance procedure

- 8.1 A complaint of bullying or harassment will be treated as a grievance and investigated in accordance with PSOW's grievance procedure. If the outcome of this investigation is that disciplinary action should be considered, PSOW's disciplinary process will be followed.

9 Disciplinary procedures

- 9.1 In cases where an informal resolution is not possible or is inappropriate and where an investigation has been completed, PSOW may decide that the matter is a disciplinary issue which needs to be dealt with as set out in PSOW's Disciplinary Procedure.

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- 9.2 In the case of a complaint of bullying or harassment there must be fairness to both the complainant and the person against whom allegations have been made.
- 9.3 Discrimination or bullying behaviour can range from unintentional misunderstandings and lack of awareness through to deliberate and malicious acts. In cases where the allegations made are significantly serious and if found, could constitute gross misconduct, PSOW may initiate an immediate independent investigation as per the disciplinary procedure without first seeking informal resolution.
- 9.4 If, as part of the disciplinary process, it is decided that action should be taken then that action can either be a disciplinary sanction (warning) or alternatively, it could detail counselling or training with the desired outcome being a demonstrable change in behaviour.
- 9.5 Where a sanction is to be imposed, all the circumstances should be considered, including whether the proposed sanction is proportionate, action taken in any previous cases, any explanations, any aggravating or mitigating factors and the circumstances.
- 9.6 If the allegation is upheld, disciplinary action may be taken, up to and including dismissal. Besides disciplinary warnings, other sanctions e.g. suspension, or transfer may be imposed.. The outcome will be proportionate to the findings. Where bullying or harassment amounts to gross misconduct, dismissal without notice may be appropriate.

10 Suspension

- 10.1 Where an allegation has been made that could constitute gross misconduct if found and in order to conduct a full investigation, it may be necessary to suspend the staff member against whom the allegation has been made. If this is necessary, suspension will be on full pay.

11 Unfounded or malicious allegations

- 11.1 There may occasionally be cases where somebody makes an unfounded allegation of bullying and/or harassment. This is rare and all allegations will be assessed and investigated as appropriate.

11.2 If, after assessment/investigation it appears that the allegation(s) are malicious, these cases should also be investigated and dealt with fairly and objectively under the disciplinary procedure.

12 Confidentiality

12.1 PSOW will investigate complaints about bullying or harassment confidentially. The principles of natural justice require that the person whose behaviour is complained about is informed of the allegation(s) prior to any investigation commencing. However, the member of staff making the complaint, the person the complaint is about and those involved in investigating the complaint are all required to maintain confidentiality.

13 Support for the person making the complaint about bullying or harassment and the person accused

13.1 Staff who consider that they are being bullied or harassed, and a member of staff accused of bullying or harassment, may feel anxious, vulnerable and uncertain. There are several support arrangements in place and details are included in Appendix C of this policy.

13.2 If someone reports that they are being bullied or harassed, PSOW will identify and put in place support arrangements. Support may be provided to the member of staff by a Trade Union Representative, Human Resources Business Partner or other identified colleague/manager. Counselling services are also available. Any other arrangements e.g. changes in the office will be considered as appropriate. The same arrangements will apply in respect of the person against whom allegations have been made.

13.3 The person making a complaint of bullying or harassment and the person who is the subject of the complaint have the right to be accompanied by a work colleague or trade union representative in all formal stages of the grievance or disciplinary processes.

13.4 PSOW is an Organisation where bullying and harassment is not acceptable and will not be tolerated. However, if concerns about bullying or harassment are raised, PSOW will work to support the member of staff making the complaint and complained about.

14 Protection against victimisation

- 14.1 Staff may be concerned that reporting concerns about bullying or harassment could result in victimisation. All complaints about bullying or harassment will be treated seriously and investigated.
- 14.2 Staff reporting bullying or harassment will not be disadvantaged or victimised. Any member of staff who treats a colleague less favourably, because of a complaint of bullying or harassment, will themselves be subject to the disciplinary process.

15 Responsibilities of managers

- 15.1 All managers and supervisors have a responsibility to notice and act in respect of any bullying or harassment.
- 15.2 They are also expected and required to avoid bullying or harassing behaviour themselves, and to treat staff fairly and consistently at all times.
- 15.3 Concerns about bullying or harassment, and any specific incidents should be reported in accordance with this policy. Advice from the Human Resources Business Partner should be sought as soon as practicable.

16 Arrangements for review of this policy

- 16.1 This policy has a review date set. The Policy will be reviewed no later than the review date. However, it will be reviewed and revised if necessary, in the light of experience of any concerns or allegations about bullying or harassment.

17 Review and publication

- 17.1 This policy will be reviewed every 2 years and published internally and externally.
- 17.2 All queries about this document can be directed to policycontrol@ombudsman.wales

Appendix A - Examples of bullying or harassment

Please note that the examples below are illustrative and not exhaustive.

Examples of unacceptable behaviour include:

- spreading malicious rumours, or insulting someone by word or behaviour
- copying memos or sending emails that are critical about someone to others who do not need to know
- ridiculing or demeaning someone – picking on them or setting them up to fail
- exclusion or victimisation
- unfair treatment
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances or making decisions because of sexual advances being accepted or rejected
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and constant criticism
- preventing individuals progressing by intentionally blocking promotion or training opportunities.

Bullying and harassment is not necessarily face to face. It may occur through written communications, photographs, email, social media or telephone.

Appendix B - Summary of the law: Bullying & Harassment

Harassment

The Equality Act 2010 uses a single definition of harassment to cover the relevant protected characteristics. Employees can complain of behaviour that they find offensive even if it is not directed at them.

Harassment is “unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”. The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation.

In addition, the complainant need not possess the relevant characteristic themselves and can be because of their association with a person who has a protected characteristic, or because they are wrongly perceived to have one, or are treated as if they do. Harassment applies to all protected characteristics except for pregnancy and maternity where any unfavourable treatment may be considered discrimination, and marriage and civil partnership where there is no significant evidence that it is needed.

Harassment at work by others

An employee can make a complaint against their employer where they are harassed by someone who doesn’t work for that employer such as a customer, client or passenger. As an employer, once you are aware of this unwanted behaviour you should take reasonable and proportionate action to address the issues.

Bullying

ACAS characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

The impact on the individual can be the same as harassment and the words bullying and harassment are often used interchangeably in the workplace.

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Responsibility

Employers are usually responsible in law for the acts of their employees.

Health and safety

Employers have a duty to protect an employee's health and safety at work. Under the Health and Safety at Work Act 1974 employers are responsible for the health, safety and welfare at work of all employees.

Appendix C - Advice, support and useful contacts

Equality and Human Rights Commission

www.equalityhumanrights.com or

<https://www.equalityhumanrights.com/en/advice-and-guidance#24> for further information.

ACAS Helpline (Advisory, Conciliation and Arbitration Service)

For confidential and impartial advice on employment related issues.

Tel: 0300 123 1100 (Open Monday – Friday 8am – 8pm & Saturday 9am – 1pm).

www.acas.org.uk

Acas National, Euston Tower, 286 Euston Road, London, NW1 3JJ

Advice and leaflets on bullying & harassment at work: guidance for employees.

National Bullying Helpline

www.nationalbullyinghelpline.co.uk

Tel: 0845 22 55 787

The National Bullying Helpline, PO Box 1276, Swindon, SN25 4UX.

Bullying UK

www.bullying.co.uk Tel: 0808 800 2222

Email: help@bullying.co.uk

Help and advice for victims of bullying.

Trades Union Congress (TUC)

www.tuc.org.uk

Tel: 020 7636 4030 Congress House, Great Russell Street, London, WC1B 3LS

Publishes a series of free booklets explaining your rights at work and dealing with other common workplace problems.

Counselling service for PSOW staff

Horizons Counselling

Contact details: 01656 662 286

9A Ewenny Rd, Bridgend, CF31 3HN

horizonscounselling@hotmail.co.uk

PSOW Human Resources Business Partner

Other websites

www.bullyproofassistant.com

bulliesout.com/