

1. Fairness at Work policy

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2. Fairness at Work policy

We are committed to providing workplaces free from discrimination where all colleagues are treated fairly.

The Fairness at Work (FAW) policy applies to all Scottish Government staff, senior civil servants and associated bodies.

The policy aims to prevent colleagues suffering because of:

- bullying, harassment or victimisation
- equality and diversity issues
- relations with colleagues
- unfair working methods, conditions and workloads (including health and safety)
- reorganisation of work or other organisational change

Everyone has a part to play in reporting incidents and supporting colleagues, regardless of whether or not the perceived harassment, victimisation, discrimination or bullying is unintentional.

Anyone who witnesses unacceptable behaviour, as well as anyone who experiences it directly, has a responsibility to raise concerns.

The policy doesn't apply where there are more appropriate policies or procedures in place, such as attendance management or performance management.

Download the [Fairness at Work policy](#).

You can also read our guide to [standards of behaviour](#).

3. Expected standards of behaviour

All staff should be treated with respect. This can only happen if everyone is aware of the standards of behaviour expected of them.

Everyone has a duty to report any incidents of unacceptable behaviour. They also have a duty to support colleagues who feel they have been harassed, victimised, discriminated against or bullied and encourage them to seek help.

4. What is unacceptable behaviour?

There is no single definition of unacceptable behaviour.

The [Advisory, Conciliation and Arbitration Service](#) (ACAS) uses the following definition:

“unwanted conduct affecting the dignity of men and women in the workplace”

Unacceptable behaviour can relate to someone’s age, race, sexual orientation or religion.

The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

Unacceptable behaviour has a detrimental effect on both the individual and the organisation as a whole. It can significantly lower staff morale and motivation, cause increased absenteeism and staff turnover or, in some cases, end in legal proceedings.

5. Online behaviour

How someone behaves online is considered to be equivalent to face-to-face behaviour.

Staff must not engage in any conduct online that would be unacceptable in the workplace or is unlawful, including making derogatory remarks, bullying or intimidating other users, or posting hateful, threatening, discriminatory or pornographic content.

This includes conduct on social media which may have been carried out using personal equipment or out of working hours.

• Examples of unacceptable behaviour

General:

- refusing to work with, ignoring or deliberately isolating or excluding colleagues, including from social events
- excessive, or inappropriate, detailed supervision
- lack of supervision which leaves the individual feeling unsupported or demoralised
- discouraging someone from taking advantage of relevant and suitable training on grounds of irrelevant difference
- undermining an individual’s authority
- taking credit for others’ work
- reducing a job to tasks inconsistent with a person’s grade, skills and abilities
- not taking the blame when things go wrong
- unfair work allocation
- unjustifiably blocking promotion or training opportunities
- withholding information, ostracising, marginalising, spreading rumours, etc

Verbal:

- inappropriate comments about an individual’s religious or other beliefs, or other personal circumstances, for example their trade union involvement
- leering and suggestive gestures, comments or innuendo
- unwelcome comments or jokes
- use of offensive language, name-calling, taunts, jokes, mockery
- inappropriate questions about someone’s personal or sex life

- unwanted or derogatory comments about dress or appearance
- aggression, threats, shouting, swearing, abuse
- humiliating, ridiculing or belittling efforts in front of others or in private
- gossip and speculation about an individual's personal life, for example their sexual orientation

Physical:

- inappropriate physical contact, advances or propositions
- attacks, abuse or intimidation

Making assumptions:

- about an individual's personal or social life
- about their physical or mental capability
- about age-related retirement
- about the existence of a non-visible impairment
- about ability or competence

Bullying, harassment and victimisation

- What is bullying?

Bullying in the workplace can be viewed as any offensive, intimidating, malicious or insulting behaviour. It also covers abuse or misuse of authority to undermine or humiliate somebody.

This behaviour can relate to the actions of a single person or a group.

- What is harassment?

Harassment is viewed as unwanted conduct which affects the dignity of men and women in the workplace.

It can relate to somebody's age, sex, race, nationality or religion. This behaviour can take place as an isolated incident or over a period of time.

The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

- What is victimisation?

Victimisation is when a person is treated in a less favourable way because they have, or intend to, make a complaint about an incident of discrimination or harassment.

- How do I raise a fairness at work concern?

If you feel that you have a fairness at work concern there are a number of [steps you can take](#) to resolve the issue.

- What is my role

The Fairness at Work (FAW) policy applies to all colleagues and everyone has a role to play.

- As an employer

We will take all practicable steps to ensure staff can work in a safe and non-threatening environment. This includes contact with ministers, external stakeholders and third parties.

We will also:

- ensure managers and staff dealing directly with allegations of unacceptable behaviour are trained to identify and deal with these issues
- ensure all concerns are dealt with sensitively, professionally, effectively and as quickly as possible
- monitor incidents (such as the results from the People Survey) and address concerns
- review the FAW policy regularly

- As a colleague

Everyone has a responsibility to respect the dignity of others and avoid behaving in a way that may cause offence or distress to colleagues and external stakeholders.

We are expected to treat each other with respect and courtesy. This involves positive communication, building trust, being supportive, understanding different perspectives and working collaboratively.

We should also:

- be aware of, and adhere to, the FAW and diversity policies and undertake training as necessary
- support colleagues who are subjected to unacceptable behaviour and encourage them to seek help
- remember that unacceptable behaviour is that which is 'viewed as unacceptable and demeaning to the recipient'
- alert your manager, countersigning officer or HR Help to any concerns

- As a manager or countersigning officer

Managers have a responsibility to ensure staff work in an environment which is free from unacceptable behaviour and promote tolerance and respect.

Managers should:

- make sure that they have undertaken the appropriate training and lead by example through a fair and open management style, applying the policies in a fair and consistent manner
- as part of the induction process, make sure that all staff are aware of, and understand, the FAW and [diversity](#) policies, including the support and options available to staff
- act if they are made aware of alleged inappropriate behaviour; you may be accountable if you do nothing

If a colleague raises concerns about unacceptable behaviour, as a manager you should:

- take the concern seriously and act quickly, making sure staff are aware of their responsibilities and what action they should take if they become aware of unacceptable behaviour
- follow the [informal resolution process](#)

Additionally, as a countersigning officer, you should:

- make sure all your managers are appropriately trained and that all staff are aware of what is expected of them
- act as a role model and ensure your work area is free from all types of unacceptable behaviour
- carry out these duties in a fair, reasonable and consistent manner
- As a witness

Witnesses to unacceptable behaviour should:

- take any appropriate action to try and end such behaviour
- participate fully with any actions required of them during any investigation or resolution process
- HR role

HR will ensure that you are provided with advice if you feel that you have been the subject of unacceptable behaviour. They will also:

- take action if you make a formal complaint under the FAW policy and ensure each complaint is fully and properly investigated as quickly as possible
- take forward any recommendations resulting from any complaint of unacceptable behaviour, including disciplinary action

6. Raising a fairness at work concern

There are several ways for staff to raise issues about their working conditions or relations with colleagues:

- informal resolution
- mediation
- formal resolution
- appeals

All parties must recognise the importance of dealing with issues confidentially.

If it becomes clear an accusation is malicious, this will be regarded as a disciplinary issue.

7. Keeping records of incidents

If you are experiencing unacceptable behaviour at work, you should keep a record of any incidents.

Records can prove useful if a formal route is used to deal with the problem.

8. After the process

Once your case has been investigated, an HR adviser will contact all involved and work to resolve the issue.

This could involve providing advice, support or coaching, and will apply regardless of the outcome.

9. Informal resolution

The first step in trying to resolve an issue is to raise it informally with your manager. There may be exceptions to this depending on the nature of the concern, but it is important that all parties attempt to initially resolve complaints or concerns through this informal process.

It is your manager's responsibility to act on all concerns raised. If you have an issue with your manager, you should raise it with your countersigning officer.

10. Timescale for informal complaints

Day one of your complaint (as soon as possible after the incident arises)

You must raise the concern either verbally or in writing with your manager (or any other appropriate manager).

By day four of your complaint (within three working days of receiving your complaint)

The manager will meet with you to discuss your concern. They will consider if and how the matter can be resolved, making further inquiries if necessary.

By day six of your complaint (within two working days of the initial meeting)

The manager will meet with you again to explain their decision about what should be done. This will also be confirmed in writing.

One month after the manager makes their decision

The manager will arrange to review the situation with you, unless you have decided to seek a formal resolution.

11. Mediation

Mediation is a voluntary process where an impartial third party helps colleagues in a dispute work out an agreement.

The key is that it provides a safe and confidential environment, enabling people to talk freely and resolve complaints and concerns.

You could benefit from mediation if:

- the conflict or dispute is at an early stage
- you and the other party are prepared to be honest and open and willing to try and resolve the situation
- you are willing to look at your own role in the situation
- you are prepared to abide by a mediated agreement

12. How the mediation process works

The process works by holding a number of meetings, which will normally be on the same day, aiming to resolve any issues through discussions.

13. First individual meeting

Mediators meet each party separately to clarify the process and roles of the mediators. They will consider the dispute and the people involved. They will also look at any background information and discuss what the participant's goals from the mediation are.

14. Second meeting

The issues raised at the first meeting will be explored in detail, as well as any additional concerns raised.

15. Joint meeting

The aim is to arrive at a realistic outcome, along with a plan of how to measure its success.

16. How to request a mediation referral

If you wish to use mediation, you should contact HR Help, who will arrange for a mediator to be allocated.

[Download the mediation guide.](#)

17. Formal resolution

If attempts to resolve your concerns have failed, you can make a formal complaint by day 16 of your original complaint (or within 15 working days of being given the informal decision).

To do this, you must submit a formal written complaint to HR Help.

The complaint must contain the following information:

- details of your concern, giving specific instances and any witnesses
- why you think the informal stage did not address your concerns and how you would like to see matters resolved (you should also inform the manager who dealt with the informal stage)

Your case will be sent to an HR adviser, who will acknowledge your complaint.

A deciding officer (DO) will also be appointed. This person will work with the HR adviser and be responsible for making a decision on your case.

You can ask your trade union representative, or a colleague, to help you present your case and to support you through the process.

18. Timescale for formal complaints

By day 18 of your complaint (within two working days of the formal complaint being received)

Where fact-finding is required, and normally in cases of complaints about unacceptable behaviour, an investigating officer (IO) will be appointed.

By day 28 of your complaint (within 10 working days of you making a formal complaint)

The IO will produce a report for the DO.

By day 33 of your complaint

The DO and HR adviser will arrange a meeting with you to allow you to discuss your case and how you think it should be resolved. You should also consider if anyone else should be interviewed. You have the right to be accompanied at the meeting by your trade union representative or a colleague.

By day 35 of your complaint

The DO will advise you in writing of their decision and the reasons for the outcome. You will also get a copy of the minutes and the report.

If the case involved bullying, harassment or discrimination, and where the allegations are founded, the DO will refer the matter to the HR adviser to be dealt with under disciplinary procedures.

The individual complained against will be advised of the result. A record of the complaint will only be kept on your file if a penalty is imposed under any disciplinary action.

The HR adviser will be responsible for ensuring that any recommendations in the DO's report are carried out.

Mediation during a formal complaint

Mediation can be put in place at any point and, if this happens during the formal resolution process, it will be suspended while mediation takes place.

19. Appeals – fairness at work

If you feel that your complaint has not been dealt with satisfactorily, you have a right to appeal against the formal stage decision. This is the final stage to have a decision overturned.

To do this, you must write to the HR adviser handling the case, setting out your grounds for an appeal. This must be done within 10 days of the verdict.

This appeal will then be submitted to an appeal panel.

20. Appeal panel

The appeal panel will consist of three people – the chair, a member of the HR team and another deciding officer.

The panel can't include any of your own managers.

You will then be given a date to present your case to the panel in person, along with any related written documents.

You may be accompanied to the hearing by a trade union official or colleague.

The panel will:

- give you the opportunity to present your case orally
- consider your oral and written representations and all other papers relating to the case

Within five working days, the panel will either:

- overturn the original decision
- uphold the original decision
- uphold the decision, but determine that the penalty or solution imposed is inappropriate

21. What to do if a complaint is made against you

If you are accused of unacceptable behaviour, it is natural to feel upset and defensive, but it is important that you act in a fair and reasonable manner.

You will be expected to work with colleagues to try to reach a satisfactory outcome and seek support if needed.

22. Informal resolution

All parties should attempt to resolve any complaints or concerns informally.

23. Mediation

Mediation may be considered as an alternative to pursuing a formal resolution. It may also be used during or after the formal process. This is entirely voluntary and both parties need to agree to do this.

24. Formal resolution

Should the matter not be resolved using the informal process, the complainant may then raise the matter formally using the formal resolution process.

If the alleged conduct is very serious, it may result in an investigation as a disciplinary matter.

You will be kept informed of how the case progresses, its outcome and the reason for the particular outcome.

25. Help

Additional support is available from:

- the [Employee Assistance Programme](#)
- the [Counselling and Wellbeing Officer](#)
- [trade unions](#)
- networks and groups
- Special cases

Special cases are concerns or complaints which fall outside the usual range of the Fairness at Work policies. These include the following incidents:

- Employment terms/collective agreements

These instances cannot be resolved by management directly. Each case must be raised with HR Help.

If you are not satisfied with the outcome, you can contact your trade union for further advice.

See paragraph 6.5.1 of the [Fairness at Work policy](#) for more.

- Group/team concerns

If a number of staff wish to raise the same concern, this should be raised with HR Help.

See paragraph 6.5.2 of the [Fairness at Work policy](#) for more.

- Whistleblowing

The Public Interest Disclosure Act gives protection to workers who blow the whistle about a wrongdoing and who are dismissed or suffer as a result. Staff are also protected under the [Civil Service Code](#).

Learn more about how to [raise this type of concern](#).

See paragraph 6.5.3 of the [Fairness at Work policy](#) for more.

- Concerns about an external third party

You should speak to your manager immediately if you have concerns over an external third party. They should discuss with HR Help how to raise it with the third party.

See paragraph 6.5.4 of the [Fairness at Work policy](#) for more or refer to Annex C of the [supporting documents](#).

- Complaints about ministers

You should contact the Deputy Director, People Development if your concern relates to ministers.

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