



Arolygiaeth Ei Fawrhydi dros Addysg a Hyfforddiant yng Nghymru
His Majesty's Inspectorate for Education and Training in Wales

Dignity at Work Policy

April 2024

This policy is also available in Welsh.

Information sheet

For further advice contact: Human Resources

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Version control

Document version	Author	Date of issue	Changes made
1.0	Helen Lovitt	April 2023	New policy
1.1	Helen Lovitt	April 2024	Minor updates

Equality impact assessment

- An equality impact assessment has been carried out and this policy is not deemed to adversely impact on any people on the grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. A Welsh language impact assessment has also been carried out.

Introduction

Estyn's commitment

1. This policy is a revision of Estyn's former Bullying & Harassment Policy. We are committed to providing a working environment free from all forms of bullying, harassment, discrimination and victimisation, in line with our organisational values and behaviours and our Strategic Equality Plan. All staff have the right to be treated with dignity at work.
2. At Estyn, we have a zero tolerance approach to any forms of bullying, harassment, discrimination, victimisation or intimidation. We recognise that such behaviours have a negative effect on personal and team health and wellbeing, our reputation as an organisation and on how we deliver our services.
3. We are committed to ensuring that any reports of bullying, harassment, discrimination or victimisation are investigated thoroughly and dealt with fairly.
4. All Estyn employees have a personal responsibility to help create a safe working environment. You should be aware of how your behaviour may affect others and uphold the standards of behaviour set within the organisation, and the [Civil Service Code](#).
5. You are encouraged to challenge unwanted and/or unacceptable behaviour if you see it, and to prevent instances of bullying, harassment, discrimination and victimisation (BHD&V) if you can.
6. It's important that you read and understand this policy so that you are confident in recognising BHD&V and what to do about it.
7. We are also committed to protecting our employees from bullying or harassment at work by people who aren't employed by Estyn, but who you may come into contact with in the course of your work (e.g. contractors, secondees, agency workers, members of the public, inspected provider staff and learners).
8. Likewise, we are committed to protecting such people from bullying and harassment whilst working with Estyn colleagues, or on Estyn premises.

What is bullying?

There is no legal definition of bullying; however, the Acas definition is,

"...unwanted behaviour from a person or group that is either:

- *Offensive, intimidating, malicious or insulting; and / or*
- *An abuse or misuse of power that undermines, humiliates or causes physical or emotional harm to someone."*

Bullying is often characterised as being persistent and / or long-term. It could take place wherever you carry out your work, including online and at events which are

'extensions of the workplace', e.g. staff parties, away days, conferences and whilst staying away from home on inspection.

Whilst bullying is often done face-to face, e.g. during 1:1 meetings, during CPMs or during the normal working day, bullying can also take place via communications such as emails, telephone calls, online chat (e.g. Teams messages), social media posts, WhatsApp messages and so on. Sometimes bullying can be so subtle that it is difficult for bystanders to recognise; for example if someone makes jokes at someone's expense, they may seem harmless to someone else. However the person making the jokes might know that they would be deeply hurtful to the recipient.

Bullying can be done 'upwards' as well as 'downwards', i.e. a junior colleague is capable of bullying a more senior colleague, just as senior staff may be capable of bullying junior staff. It can also happen between colleagues at the same level in the organisation.

The effect of bullying behaviour on the person who experiences it is more important than the intent of the bully.

Examples of upward bullying

- Manipulating colleagues into displaying 'mob' behaviour of undermining senior colleagues
- Using formal procedures to threaten and destabilise managers
- Accusing a manager of bullying, when in fact they are managing performance or conduct
- Refusing to carry out a reasonable instruction, perhaps because it is 'not in their job description'
- Persistent and deliberate lateness for meetings or other appointments
- Hostility towards senior colleagues for taking management actions

What is harassment?

Unlike bullying, there is a legal definition of harassment in the Equality Act 2010. This 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 protected characteristics which relate to harassment are:

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

In contrast to bullying, harassment could be a single, isolated incident: it doesn't need to be persistent or long-term behaviour. However, just like bullying, it is the effect on the person targeted which is more important than the intention of the harasser.

As well as harassment related to a protected characteristic, the law also protects individuals specifically against:

Sexual harassment: when someone engages in behaviour of a sexual nature which is unwanted, and has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. For example: making lewd comments, unwelcome sexual advances, touching, sexual jokes, sexual assault, sending emails of a sexual nature.

Less favourable treatment of someone because they submit to, or reject, sexual harassment or harassment related to gender reassignment: for example, a manager touching a junior colleague and trying to kiss them. The colleague resists, and pushes them away and as a result they find that they are ignored by the manager.

In the same example, perhaps the junior colleague had submitted to the manager's advances out of fear and a co-worker had seen what happened. As a result the junior colleague is the subject of rumours about them 'sleeping their way to the top'.

In both these situations, the junior colleague is the victim of less favourable treatment.

In another example, a person may have announced their intention to live in another gender. As a result, their colleagues persistently call them names, laugh at them and undermine them at work.

Examples of bullying behaviour and harassment include:

- open aggression, such as shouting or swearing at employees in public or private
- spreading malicious rumours or prejudiced myths
- refusing to allow someone with the right skills and experience to go on inspection because you don't like them
- mocking someone's accent
- labelling people, e.g. "Kiwi Steve", "Fat Gareth" etc.
- sending rude emails, e.g. capitalising words, using lots of question or exclamation marks, copying in unnecessary people, not using greetings or signoffs
- ridiculing or demeaning someone or their views and opinions
- racist, sexist, homophobic, ageist or disablist jokes
- using your position to force someone to do something which either isn't their responsibility, or they will struggle to complete due to other priorities
- taunting an individual, picking on them or setting them up to fail
- making assumptions about an individual's capability or treating them as inferior

- refusing to work with someone for no justifiable reason
- deliberately withholding key information which makes it impossible for someone to complete a task
- outing a person as LGBTQIA+ (lesbian, gay, bisexual or transgender) without their permission or spreading rumours
- refusing to treat a person as their new gender if they have changed gender
- anonymous abuse of individuals through social media, sometimes referred to as 'trolling' or speaking negatively about a colleague's views on social media
- acting inappropriately on your assumptions about what is 'normal', such as assuming everyone is heterosexual, or of a certain religion or belief
- making threats or comments about job security without foundation
- removing someone's responsibilities with no justification or reason
- excluding non-Welsh speaking colleagues from a conversation by speaking only in Welsh
- micro-managing someone who is capable of working unsupervised
- taking the credit for someone else's work, and passing blame on to others
- physical abuse, attacks or violence
- stopping someone from coming to meetings or putting someone down in meetings
- showing persistent disrespect
- refusing to complete tasks, or deliberately producing sub-standard work
- refusing to recognise someone's authority
- feigning ignorance of instructions given

What is discrimination?

In law, discrimination is when you are treated less favourably because any of the following protected characteristics apply to you:

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

Although these are the characteristics which are protected in law, Estyn expects everyone to be treated with dignity, respect and fairness, regardless of any aspect of their identity.

There are 4 recognised types of discrimination:

- **Direct discrimination:** treating someone less favourably because they have a protected characteristic. E.g. passing someone over for promotion because they are in their fifties.

- **Indirect discrimination:** applying a policy or rule to everyone, but in doing this you put someone (or a group of people) with a protected characteristic at a disadvantage. For example, a blanket ban on part-time working could put female employees at a disadvantage, because women tend to be primary carers for children.
- **Associative discrimination:** treating someone less favourably because they associate with someone with a protected characteristic (e.g. friend, family member, partner). For example, not recruiting the best candidate for the job because they disclosed at interview that they have a disabled child.
- **Discrimination by perception:** treating someone less favourably because they are perceived to have a protected characteristic. For example, bullying someone you assume is gay, because they have a 'camp' nature, even though you have no idea of their actual sexual orientation.

Examples of potential discrimination (unfair treatment) in the workplace may include:

- allocating work unfairly to male colleagues because you think they are more competent than female colleagues
- deliberately blocking a promotion or training opportunity because someone is gay
- refusing requests for leave during the summer holidays from younger, childless employees because colleagues with children will need that time off
- sacking someone because they have told you they are pregnant
- not having appropriate disability access, making it impossible for wheelchair users to work for you
- forcing someone to retire because they have reached the age of 65
- refusing to make reasonable adjustments for a disabled colleague

What is victimisation?

Victimisation is being treated unfavourably because you have made, or supported someone else to make, a complaint to do with a protected characteristic – or someone thinks you have, or you may do in the future. The protected characteristics related to victimisation are:

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

For example, your colleague William is being harassed by your manager Adrian because he is gay. You have seen some of Adrian's behaviour and agreed to be a witness for William when they raised a grievance. As a result, Adrian has removed

all your responsibilities and given you much more junior work to do. You are being victimised by Adrian.

What are the effects of bullying, harassment, discrimination and victimisation (BHD&V)?

These behaviours have a significant effect on our physical, mental and social health and well-being. Allowing these types of behaviours, even tacitly, will also have severe consequences for our efficiency as an organisation, our ability to retain talented people and our reputation in the field of education and beyond.

Examples of psychological effects:

- depression / anxiety
- low self-esteem
- loss of confidence
- nightmares
- increased aggression / defensiveness
- loss of concentration
- panic attacks
- PTSD (Post-Traumatic Stress Disorder) symptoms
- insomnia
- memory loss
- suicidal tendencies

Examples of physical effects:

- fatigue
- weight gain / loss
- substance abuse, e.g. alcohol, drugs, food
- frequent viral infections, colds, flu etc
- stomach bugs
- headaches / migraines
- sweating, trembling, palpitations
- ulcers
- exacerbation of existing conditions, e.g. eczema, psoriasis, asthma

Examples of social effects:

- withdrawal
- loss of friendships
- avoiding social contact
- breakdown of relationships, estrangement / divorce
- lack of self-care
- isolation
- loss of interest in hobbies

Estyn recognises the duty of care we have to every employee, and we take this very seriously. Not only is condoning BHD&V ethically wrong and dangerous, both

physically and mentally to individuals, it also poses a threat to the health of our organisation.

BHD&V will have a detrimental effect on people's physical and mental health and as such can be a barrier to attending work. It can lead to breakdowns in working relationships, which will also have a significant impact on people's wellbeing.

From an organisational standpoint, BHD&V can be damaging both reputationally and financially, and can also lead to an inability to recruit talented people. Estyn is committed to ensuring that BHD&V is not tolerated and that all employees feel safe and confident and are treated with dignity.

What help is available?

Our vision for Estyn is a workplace that is open and supportive to those who need advice and support. If you are in any doubt about what to do, you should get advice from your manager, another manager, HR, Anti-Bullying Contact Officer or Trade Union representative.

If you feel that you and/or your work is suffering as a result of bullying, harassment, discrimination or victimisation, we will support your wellbeing, morale and mental health and encourage you to seek help. In this situation we will not address any performance issues until after the offending behaviours have been addressed.

All staff (permanent, agency and seconded) can access extra support tailored to their individual circumstances and needs such as independent and trained counsellors through the Employee Assistance Provider.

Individuals: if you think you may be experiencing BHD&V, there are some things which you may be able to do yourself:

- document it:
 - keep a written record of incidences: what happened, date and time, by whom, who saw what happened.
 - make sure that you keep a written copy of any communication or complaint you have made, and of any help you have asked for e.g. medical, practical or emotional and any response.
 - keep any relevant texts, emails and other documents.
- do you feel able to raise it with the perpetrator? There is evidence that if someone challenges their bully directly, the behaviours will often stop.
- if you don't feel able to do this yourself, speak to your manager or a trusted colleague.

Managers: your line manager has a duty of care to everyone within their team. You can expect your line manager to:

- follow this policy, and to seek advice from HR if they are unsure about any aspect.
- listen to your concerns, ask you how you'd like the incident to be dealt with and explain what happens next

- respond to any complaints about BHD&V swiftly and sensitively, and ensure that you know what to expect from the process.
- deal with any incidents of BHD&V they witness appropriately and confidentially, seeking advice from HR if they are unsure of what to do.
- record all incidents raised both informally and formally
- raise concerns about incidences of BHD&V by non-Estyn employees, e.g. contractors, visitors etc to HR and their own line manager.
- if you would like to speak to the bully directly but want some support to do so, you can ask your manager or a trusted colleague to come with you, or to speak to them on your behalf.
- signpost you to our Employee Assistance Provider to ensure that you have emotional support.

Trade union representatives: your Trade Union representatives have been trained in supporting colleagues who are victims of BHD&V. They can help you by:

- listening to your concerns and explaining what happens next.
- accompanying you to a meeting with management or HR to discuss your experiences.
- advising you on your rights and responsibilities as an employee.
- signposting you to appropriate emotional support, e.g. Employee Assistance Provider.

Anti-bullying Team: Contact Officer and Deputy Contact Officers

Dyfrig Ellis is our Anti-Bullying Contact Officer, and his deputies are Nicola Thomas (HMI) and Sarah Lloyd Davies (CS).

The Anti-bullying Team in Estyn have specific responsibilities to:

- maintain an overall view of issues raised;
- ensure that all complaints and concerns are assigned to an Investigator and ensure all investigations are dealt with as quickly as is reasonably practicable;
- explain the process for making a complaint, and what will happen next, to someone who has complained and to the person accused;
- signpost complainants and those accused to sources of support;
- identify and monitor any patterns in behaviour or developing issues, and raise these with HR and the senior manager responsible for the area any issues are identified;
- meet regularly with the HMCI to update him on the current situation;
- ensure all complainants are treated with respect and, as far as possible, are kept informed of developments;
- inform complainants of the outcome of any investigation;
- identify any needs in line managers and employees, and identify appropriate training or support.
- ensure you are receiving the support you need by signposting you to the Employee Assistance Programme

Third party harassment

Third party harassment is when you are subjected to harassment (see definition above) from individuals who are not employed by Estyn, but who you may come into contact with during the course of your work, e.g. provider employees, local authority employees, learners' parents, subcontractors etc. At Estyn we also consider behaviours such as bullying, intimidation, abuse and discrimination to be third party harassment.

Equally, as an Estyn employee you have a duty to ensure that your behaviour does not constitute third party harassment towards people with whom you come into contact during the course of your work.

How do I complain, and what can I expect to happen?

There are many different ways to deal with and stop BHD&V, and the best way will depend on the individual circumstances of each case.

You can (and should) make a complaint if you are a victim yourself, but also if you witness BHD&V behaviour. We are all responsible for challenging such behaviour when we see it. Sometimes people are unaware of the consequences of their actions and it may only need pointing out to them for the behaviour to stop.

Procedures

It is always advisable to deal with behaviours at the lowest (i.e. least formal) level of corrective action. All cases will be handled sensitively and confidentially.

Informal action

You should discuss with your line manager or trusted confidant whether you feel that informal action is appropriate.

In these circumstances, you (or your manager or a trusted colleague) should have a **confidential discussion with the person responsible for the behaviour** and ask them to stop the unwelcome behaviour. Explain how it makes you feel and the effect that it is having on your physical and mental health.

It's important for everyone to understand that we all have the right to decide what behaviour is offensive to us, and we should respect this in others. It is not acceptable for someone to protest that a colleague is "too sensitive" or "has no sense of humour" etc, as a defence for their behaviour. But in informal situations, an apology and assurance that the behaviour will stop is usually enough to close the matter.

Sometimes a manager may feel that a **facilitated discussion** between the two sides is appropriate. Provided everyone agrees, this can also be a good way to air concerns and find a way forward.

Facilitated discussions can:

- give you the opportunity to explain how their behaviour makes you feel to the person you believe to be bullying, harassing or treating you unfairly;

- help everyone to see things from different points of view;
- help explore the effect of such behaviours on individuals, and on the organisation as a whole; and
- enable you to reach a solution which everyone can work with.

However, no-one should feel forced to have such a discussion. The process is entirely voluntary and you can say no if you feel unable to take part.

Mediation can sometimes be a way for resolving differences and finding agreement on acceptable future behaviours. Again, this is a voluntary process, designed to find a solution to the issues between two or more parties. The mediator is always a neutral person (and sometimes from an external organisation) and works with the parties to identify common ground and find a way forward. Mediation is not always appropriate in cases of bullying, harassment, discrimination or victimisation.

Formal action

If informal action does not resolve matters, or you decide to submit a formal grievance from the outset, we will adopt the process laid out in the Grievance Procedure.

If you believe you have been bullied, harassed or unfairly treated and don't feel that informal action is appropriate, you should formally report the alleged behaviour to your line manager. If the person responsible for the behaviour is your line manager, you should report it to their line manager. If there is no one within the reporting line who you feel able to report the behaviour to, you should report to the Anti-Bullying Contact Officer or one of the deputies.

You should set out details of your complaint in writing with dates and times and an account of the behaviours you experienced, how it made you feel, as well as what outcome you are seeking.

The person to whom you have raised the formal dispute has a duty to notify the Anti-Bullying Contact Officer (ABCO) of your complaint. The ABCO will then appoint an Investigating Officer to your case, who will not have had any prior involvement with the incidents reported; that is they will not be solely or partly responsible, nor are they a witness to the behaviours you experienced. In some cases the Investigating Officer may be the person to whom you made the formal complaint.

We will investigate all complaints in a timely and confidential manner. If there is a legal obligation for us to take immediate action, e.g. in relation to an alleged criminal act, we will tell you before we do so.

Your complaint will be investigated thoroughly, and the Investigating Officer will give both you and the person accused the opportunity to put their case forward to them by interviewing you separately.

If it is appropriate and possible, we will try to ensure that you and the person accused do not work closely together during the course of the investigation, and any subsequent formal process.

In serious cases, we reserve the right to suspend the person accused while we investigate and while any subsequent disciplinary procedure is carried out. Suspension is not an indication of guilt, but a neutral act designed to protect either the investigation itself, you and / or other colleagues, or the organisation. Any suspension will be for as short a time as possible and the individual will be paid as usual.

If the investigation reveals that the person accused has a case to answer, we will then follow the process laid out in the Disciplinary Policy. In these circumstances we will, if necessary, move the person accused to a different role / team where possible, and where a suitable role exists, unless you ask us not to.

If a person is subjected to unfair treatment after having made a complaint of BHD, this will be investigated as potential victimisation. A disciplinary procedure against the person responsible will follow and could lead to dismissal.

As with all formal procedures, you have the right to appeal against any decision. Any appeal must be made in writing, within 10 working days of the decision being communicated to you. Appeals must state the reasons you are appealing against the decision. Any appeal decision is final and represents the end of internal procedures.

What if I'm accused of bullying and / or harassment?

If you are accused of bullying and/or harassment, we will need to investigate the accusations and will need you to co-operate with this process. However we do recognise that this can be a very upsetting experience, and we will encourage you to seek support from close colleagues, your line manager and our Employee Assistance Programme. If you are in a union, your union representative will also be able to provide advice and support.

You will be kept up to date with any investigation process and we will let you know without undue delay if you will face disciplinary or other action as a result of the accusation.

What if I'm the victim of third party harassment?

If you think you have suffered third party harassment during the course of your work for Estyn, you should raise the issue with your line manager in the first instance. How third party harassment against you is dealt with will depend on the circumstances of the alleged perpetrator. For example, if they are an employee of a provider you are visiting, it may be appropriate to follow their external complaints procedure.

Any case of alleged third party harassment will be investigated thoroughly and you will be consulted at every stage. If a formal complaint is to be made to the alleged perpetrator's employer, you will be informed before this happens.

What if I'm accused of third party harassment?

If you are the subject of a complaint of any type of inappropriate behaviour from an external stakeholder, we will follow our Complaints Policy. As a result of that process there may be a need for further action, via the Dispute Resolution, Grievance or Disciplinary Policies. You will be kept informed of any developments in the matter.

Information and training

We will tell all employees about this policy. We will ensure that this policy is readily available to all employees and signpost new employees to it during induction.

We will also provide training about bullying, harassment, discrimination and victimisation and this policy to all employees, including managers and new recruits. This will include information on what behaviours we view as bullying and harassment and what everyone's responsibilities are.

We will ask Trade Union representatives to support training sessions and contribute to guidance on bullying and harassment.

Further information in relation to this policy is available, including:

- Grievance Policy
- Disciplinary Policy and Guidance
- Equal Opportunities Policy
- Employment Guide
- Strategic Equality Plan
- When to raise a concern using the whistleblowing policy
- Civil Service Learning
- Employee Assistance Programme
- Health and wellbeing Policy
- Policy and guidance for managing stress and wellbeing in the workplace.
- Social media policy

Review and monitoring

This policy will be reviewed and its effectiveness monitored by the Anti-Bullying Contact Officers, HR and Senior Management regularly.

We will also review this policy regularly with the Trade Unions to monitor its effectiveness. The first review will take place six months after this policy comes into force. After that, we will carry out reviews at least every two years. We will tell you about any changes agreed and made to this policy.

We will also monitor our progress towards creating a workplace free of BHD&V. We will do this in several ways:

- Data collected on informal and formal complaints and analysed by the Anti-Bullying Team
- Feedback via the Civil Service People Survey
- Evaluation of training
- Confidential exit interviews
- Employee surveys carried out by other bodies, e.g. Trade Unions