

 West Mercia POLICE		POLICY
Security Classification	OFFICIAL	
Disclosable under Freedom of Information Act 2000	Yes	

POLICY TITLE	Harassment & Bullying
REFERENCE NUMBER	WMP175
Version	1.0

POLICY OWNERSHIP	
DIRECTORATE	BUSINESS SERVICES
BUSINESS AREA	PEOPLE AND ORGANISATIONAL DEVELOPMENT

INITIAL IMPLEMENTATION DATE	November 2021
NEXT REVIEW DATE:	November 2024
RISK RATING	LOW
EQUALITY ANALYSIS	LOW

West Mercia Police welcome comments and suggestions from the public and staff about the contents and implementation of this policy. Please e-mail contactus@westmercia.pnn.police.uk

1.0 POLICY OUTLINE

West Mercia Police is committed to providing a working environment free from harassment, bullying and victimisation and ensuring all staff and officers are treated, and treat others, with dignity and respect, and that any concerns can be confidentially reported without fear or intimidation. This policy will provide clear guidance in relation to the reporting and investigation of allegations of all forms of harassment and bullying.

It is designed both to help prevent any form of harassment and bullying and to offer support to any individual who feels they are subject to such behaviour.

Every instance of harassment should be addressed. This way, the person demonstrating the offending behaviour is made aware that their behaviour is unwanted or inappropriate and any further inappropriate conduct or escalation into more serious conduct is prevented.

Whilst reporting issues is often understandably difficult, a duty to “challenge and report improper behaviour” is an expectation imposed by the Code of Ethics on everyone working within policing. If the conduct you are experiencing, or witnessing, or are aware of in any way, is improper behaviour, especially if it constitutes any form of harassment or bullying, you have a responsibility to report this. Colleagues who are witnesses (as opposed to victims) of inappropriate behaviour and fail to report it may be asked to account for their failure to uphold this standard. Further information around how to report, the process and emotional and practical support is available in the Harassment and Bullying Guidance.

It may be necessary to refer instances of harassment to the Professional Standards Department (PSD) to determine whether a breach of the Standards of Professional Behaviour amounting to misconduct has taken place. This will be managed by the People and OD Department and the Professional Standards Department and will be subject to ongoing assessment.

This policy covers all forms of harassment and bullying which occurs at work and out of the workplace, such as on business trips or at work-related events or social functions, and any harassment and bullying which occurs over social media. It covers harassment by staff (which may include consultants, contractors and agency workers) and also by third parties such as customers, suppliers or visitors to West Mercia Police premises.

2.0 PURPOSE OF POLICY

The purpose of this policy and guidance is to support a working environment and culture in which all forms of harassment and bullying are known to be unacceptable and where individuals are confident enough to bring complaints without fear of victimisation or reprisal.

Harassment is defined under the Equality Act 2010. Harassment is unwanted physical, verbal or non-verbal conduct that has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive

environment for them. It also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.

Health and Safety legislation stipulates that and West Mercia Police have a duty of care as employers to protect the health and wellbeing of their employees. Alongside this, employees have a duty to take reasonable care of their own health and safety and that of others who may be affected by their acts. This includes both physical and mental health.

The Equality Act 2010 makes it unlawful for an employer (including the police service) to discriminate against its workforce (for the purposes of the policy this includes Police Officers, Police Staff, Specials, Cadets, volunteers and contractors).

Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined or threatened. Power does not always mean being in a position of authority, but can include both personal strength and the power to coerce through fear or intimidation.

Bullying can take the form of physical, verbal and non-verbal conduct. Bullying may include, by way of example:

- (a) physical or psychological threats;
- (b) overbearing and intimidating levels of supervision;
- (c) inappropriate derogatory remarks about someone's performance;

Legitimate, reasonable and constructive criticism of a worker's performance or behaviour, or reasonable instructions given to workers in the course of their employment, will not amount to bullying on their own.

A Hate Incident is defined as, "any incident, which may or may not constitute a criminal or hate."

A Hate Crime is, "any hate incident, which constitutes a criminal offence, perceived by the victim of any other person as being motivated by hate or prejudice."

Any instances of hate incidents/hate crimes should be reported through your line manager in line with this policy.

This policy will apply to all Police Officers, Specials, Police Staff, volunteers and contractors working for West Mercia Police and OPCC

3.0 IMPLICATIONS of the POLICY

3.1 Risks

Effectively dealing with complaints of harassment and bullying will reduce the risk of lengthy absence due to stress as a result of alleged harassment and/or bullying.

Adherence to, and the effective operation of this Policy will reduce the risk of successful legal action against West Mercia Police and OPCC under the equality and employment legislation at Employment Tribunal.

3.2 Legal considerations

The following employment legislation is relevant:

- Equality Act 2010
- Employment Rights Act 1996
- Employment Relations Act 1999
- Human Rights Act 1998
- Protection from Harassment Act 1997
- Health and Safety at Work Act 1974
- Police (Conduct) Regulations 2020
- Trade Union Labour Relations (Consolidation) Act 1992 (TULR(C)A 1992
- ACAS Code of Practice on Time off for Trade Union Duties and Activities.

3.3 Training

Management training to include sessions on Managing Standards within the Force Leadership Development Programme 'LEAD' along with specific training on 'unacceptable behaviour' focussing on harassment, sexual misconduct, professional standards and code of ethics.

Further Management coaching may be required via staff in People and Organisational Development.

4.0 PROCEDURE

There are several procedures that can be followed, however, the most appropriate course of action will be determined based on the circumstances and/or nature of the complaint, including the severity of the alleged behaviour and the wishes of the complainant.

This will be a matter for professional judgement supported by guidance provided by the Harassment and Bullying policy and supported by the principles set out within the Standards of Professional Behaviour and Force Values.

We will always take on board the views and wishes of the victim or complainant and in the majority of situations, informal action is likely to be appropriate to address low level inappropriate behavioural issues to repair workplace relationships and encourage learning.

However, where serious allegations of harassment or bullying are raised or where, upon review, there is intelligence to raise concerns and/or the outcome of a Fairness at Work investigation is that allegation/s of harassment or bullying are founded, a conduct assessment will be undertaken and consideration will be given as to whether the conduct amounts to misconduct or gross misconduct, or whether potential criminal offences are disclosed as below, or as outlined in the Guidance.

4.1 Informal

Wherever possible you should aim to raise the issue informally with the person who is creating the problem, if you feel able to do so, pointing out that their conduct is unwelcome, offensive or interfering with work. The advantage to this approach is that it is likely to produce solutions that are speedy, effective and can minimise embarrassment and assist with the continuance of working relationships. Setting a clear boundary may resolve the issue.

However, it is recognised that this first step can be difficult; particularly where the person harassing or bullying you works on the same team, or is a supervisor; equally, if the behaviour is more serious, or has been on-going for some time, then this will not be appropriate.

If this is too difficult, you should speak to your line manager or a member of the People and OD Department, who can provide confidential advice and assistance in resolving the issue formally or informally.

If you are not certain whether an incident or series of incidents amounts to harassment or bullying you should initially contact your line manager or the People and OD Department informally for confidential advice. You also may consider speaking to Professional Standards or the Police Federation, UNISON or staff networks for advice. A full list of support is available in the Harassment and Bullying Guidance document.

The use of an informal procedure will not generally result in disciplinary action being taken against the person causing offence. This fact may encourage the individual alleged to have been harassed or bullied to take that initial step to discuss the problem and receive confidential support and advice.

If informal steps are not appropriate, or have been unsuccessful, you should follow the formal procedure set out below.

Furthermore, whilst the decision whether to progress is up to you, West Mercia Police has a duty to protect all staff and officers and may pursue the matter independently if, in all the circumstances, the organisation considers it appropriate to do so.

4.2 Mediation

Mediation is a more structured resolution process where trained mediators are involved. Both parties need to agree to mediation for it to go ahead. It is a confidential and voluntary process where a mediator facilitates communication between two individuals in dispute. The mediator is not there to judge to say that one individual is right and the other wrong, or to tell those involved in mediation what to do. Mediation seeks to provide an informal and speedy solution to a dispute and offers a safe and confidential space for the individuals to find their own answers in a number of ways. At the mediation meeting both parties will be given the opportunity to discuss the situation in a safe and supportive environment with the aim of resolving the matter through informal discussion and reaching agreement about future behaviour.

If informal steps are not appropriate, or have been unsuccessful, you should follow the formal procedure set out below.

4.3 Formal Procedures

4.3.1 Fairness at Work

Where informal steps have not been successful, or they are deemed inappropriate, or you do not feel able to resolve the issue informally, then the issues should be raised via the Fairness at Work procedure (formal stage):

- Submission of a Fairness at Work Form to the 'Fairness at Work submission' email box and copies to your Line Manager (or where not appropriate your Second Line Manager).
- HR/Chief Superintendent assesses the submission in order to appoint an appropriate individual to investigate (Fact Finder). HR will monitor the progress/timescales of the process to ensure it is progressed in a timely manner.
- The Fact Finder will:
 - Acknowledge receipt of the formal Fairness at Work concern.
 - Arrange to meet with the individual within 7 calendar days to do a proportionate fact finding.
 - Meet with the individual to deliver the outcome of the fact finding.
 - Confirm the outcome on the Fairness at Work Form within 5 calendar days of the outcome meeting.
 - Action any resolution agreed from the meeting
 - Feedback any lessons learnt via HR support.

Where the outcome/resolution is not accepted by you and you wish to appeal:

- Appeal within 10 calendar days following the formal stage by completing the relevant section on the Fairness at Work Form and submit via the 'Fairness at Work submission' email inbox.

4.3.2 PSD Misconduct Investigation

If, having reviewed a report, the severity of the alleged behaviour is determined to have met the threshold for misconduct, the following actions will take place:

For police officers and special constables Professional Standards will implement the procedures as detailed in the Police (Conduct) Regulation 2020.

For police staff PSD will liaise with HR in relation to processes within the Misconduct (Police Staff) Policy and guidance for police staff.

5.0 CONFIDENTIALITY AND RECORD KEEPING

- All reports, statements, letters and notes resulting from the formal element of a harassment or bullying complaint via the Fairness at Work Policy will, wherever possible be kept confidential. However, if maintaining confidentiality would compromise the ability to deal with the concern effectively, the individual will be consulted and revised parameters for maintaining confidentiality will be agreed with him/her.
- In certain circumstances, third parties who are party to a complaint, may be informed of the resolution of the complaint.
- Written records, relating to the concern, will be held in accordance with appropriate retention schedules.

6.0 CONSULTATION

<i>Business Lead/Chief Officer Consulted</i>	<i>Date Consulted</i>
Bal Jacob/ Rachel Hartland-Lane	August 2021

7.0 DOCUMENT HISTORY

The history and rationale for change to policy will be recorded using the below chart:

Date	Author / Reviewer	Amendment(s) & Rationale	Date of Approval / Adoption
Aug 2021	Julie Darby	New Policy, replaces Internal Hate Crime Guidance	JNCC Exec Board 09/11/2021

8.0 ASSESSMENT AND ANALYSIS

The Equality Analysis, Health & Safety Assessment and Risk Assessment associated with this document are available on request

9.0 MONITORING / EVALUATION

The Monitoring and review of this policy is the responsibility of the policy owner