

# Dignity at Work

**This document outlines the Scottish Prison Service Policy in relation to Dignity at Work**

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**Unlocking Potential. Transforming Lives.**

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**Directorate Owners:**

Corporate Services, Human Resources

**Policy Scope:**

All SPS Employees

**Links to Other Policies:**

Whistleblowing Policy

Equality, Diversity and Human Rights Statement

Equal Opportunities in Employment Policy

Grievance Policy

Recruitment Policy

Employee Code of Conduct

Civil Service Commissioners Recruitment Principles

Personal Performance Management System (PPMS)

Staff Health and Wellbeing Notice

SPS Equal Pay Statement

Internet Acceptable Use Policy

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Head of Human Resources

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## Policy Content

<b>1.0 Introduction.....</b>	<b>1</b>
<b>2.0 Aim.....</b>	<b>1</b>
<b>3.0 Policy Statement.....</b>	<b>2</b>
<b>4.0 Scope.....</b>	<b>3</b>
<b>5.0 Definitions .....</b>	<b>3</b>
5.1 Human Rights .....	3
5.2 Harassment .....	4
5.3 Bullying .....	5
5.4 Victimisation.....	6
5.5 Other Definitions .....	6
5.6 Effective Performance Management.....	7
<b>6.0 Roles and Responsibilities .....</b>	<b>7</b>
<b>7.0 Raising an Informal Complaint .....</b>	<b>8</b>
7.1 Mediation .....	9
<b>8.0 Raising a Formal Complaint .....</b>	<b>9</b>
<b>9.0 Dealing with a Complaint .....</b>	<b>10</b>
<b>10.0 Being Accused of Bullying or Harassment.....</b>	<b>11</b>
<b>11.0 Monitoring .....</b>	<b>12</b>
<b>12.0 Advice and Support.....</b>	<b>12</b>

## 1.0 Introduction

The Scottish Prison Service (SPS) is committed to creating a culture where equality of opportunity, diversity, and human rights are actively valued and promoted, and where discrimination is not tolerated.

This policy sets out the SPS approach to dignity at work, taking into account the relevant Equality, Human Rights and Health and Safety legislation.

This policy has been developed and agreed in Partnership with the SPS Trade Union Side (TUS) and the Prison Governor's Association Scotland (PGA(S)). This policy will not form part of any employee's contract of employment and may be amended by SPS at any time in Partnership.

This policy should be read alongside the [Equality, Diversity and Human Rights Statement](#), the [Equal Opportunities in Employment Policy](#) and the [Grievance Policy](#).

## 2.0 Aim

The aim of this policy is to:

- ensure the human rights of all employees are respected, protected and fulfilled;
- ensure the dignity at work of all employees;
- make full use of the talents of SPS' workforce;
- encourage employees to develop positive behaviour towards each other and all those with whom they have contact in the course of their work;
- eliminate bullying, discrimination, harassment, victimisation or any other form of unacceptable behaviour;
- encourage individuals to recognise and challenge all forms of unacceptable behaviour;
- empower and support individuals towards resolving issues informally where this is possible and appropriate in the circumstances;
- ensure that individuals have access to formal process for resolution of issues where informal resolution has not been possible or is not appropriate;
- set out clearly the responsibilities of both managers and employees;
- communicate the range of support available to employees who find themselves subject to harassment, victimisation, discrimination or bullying and

the procedures that should be followed in the event that any complaint of unacceptable behaviour is made;

- allow SPS to gather equality information and take appropriate action to ensure that their equality policies work as intended.

## 3.0 Policy Statement

The SPS is committed to creating a culture where everyone working with or for SPS is treated with dignity and respect at work. It is the SPS' responsibility to ensure that, as far as reasonably practicable, everyone is able to work in an environment free of any form of bullying, harassment, victimisation or discrimination. The SPS is committed to adopting a human rights based approach to ensure that the human rights of employees are respected, protected and fulfilled in the workplace.

All SPS employees have the right to be treated with dignity and respect regardless of the protected characteristics of sex, gender identity, marital and civil partnership status, pregnancy and maternity, race (including ethnic or national origin, nationality or colour), disability, sexual orientation, age or religion, belief, and regardless of other characteristics such as: social background, patterns of work, trade union activity or political opinion (this is qualified as per the [Civil Service Management Code](#), Section 4.4).

Bullying, harassment and victimisation are harmful behaviours that are unwelcome, unwarranted and have a detrimental effect on SPS' workplace and the people involved. Such behaviours can lead to poor morale, unnecessary turnover, absence, loss of productivity and reputational damage. All employees must take individual responsibility for ensuring that any form of unacceptable behaviour has no place in the SPS.

The SPS will not tolerate bullying, discrimination, harassment, victimisation or any other form of unacceptable behaviour. SPS will take all reasonable steps to eliminate any such behaviour and will treat seriously and investigate thoroughly any complaints made relating to bullying, discrimination, victimisation and harassment. Where appropriate, disciplinary action will be taken against those demonstrating such behaviour.

It is recognised that SPS employees can, on occasion, work in challenging situations dealing with difficult cases. However, the SPS requires that all of their employees are treated with courtesy and consideration by all people using their services. At all times employees (including agency workers, contractors, criminal justice partners) working within the SPS have the right to work without fear of intimidation or assault. Discrimination, harassment, victimisation and bullying against any employee will not be tolerated.

Violent or aggressive behaviour is not acceptable in any circumstance; therefore any acts of physical or verbal abuse, including hate-aggravated incidents, against any employee will be recorded and reported to the police.

All SPS employees are required to deliver the same level of courtesy and consideration to any member of the public they interact with during the course of their duties.

## 4.0 Scope

This policy applies to all employees who work within SPS, regardless of their employment status.

This policy applies to all behaviour within or outside any SPS workplace but still “in the course of the employment relationship”. It includes dealings with: those in our care, their families, our customers, clients or contractors, work-related away-days or social events, and when working remotely.

This policy covers any aspect of behaviour at work and extends to electronic communication including (but not limited to) email, internet and intranet use and use of social media.

## 5.0 Definitions

For simplification of this document the following terms and definitions apply:

### 5.1 Human Rights

Human rights are protected through domestic and international legislation. Within the workplace, this means employees have the right to:

- Work in a fair and safe environment; free from bullying, harassment, victimisation and abuse or neglect;
- Respect for private and family life;
- Freedom from discrimination on any grounds;
- Freedom of expression (however this is a qualified right, and does not permit any of the behaviours described in 5.2 to 5.5);
- Freedom to hold your own views and practice a religion, or choose not to.

## 5.2 Harassment

Harassment can be defined as: unwanted, unwelcome or uninvited 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. Relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex and sexual orientation.

Although pregnancy and maternity and marriage and civil partnership are not protected directly under the harassment provisions, pregnancy and maternity harassment would amount to harassment related to sex, and harassment related to civil partnership would amount to harassment related to sexual orientation. SPS will treat harassment of any kind, whether related to any protected characteristic or not, seriously.

Harassment is both a criminal offence and grounds for a civil action. This means that someone can be prosecuted in the criminal courts for harassment and a victim can also take action against the person in the civil courts.

Harassment is defined as:

- Causing alarm or distress; or
- Putting people in fear of violence

Closely connected groups may also be subjected to 'collective' harassment. The primary intention of this type of harassment is not generally directed at an individual but rather at members of a group.

Harassment of an individual can also occur when a person is harassing others connected with the individual, knowing that this behaviour will affect their victim as well as the other people that the person appears to be targeting their actions towards. This is known as 'stalking by proxy'. Family members, friends and employees of the victim may be subjected to this.

There is no strict legal definition of stalking, but it could be any behaviour which has the effect of curtailing a victim's freedom, leaving them feeling that they constantly have to be careful and causing them significant alarm, harassment or distress.

### Harassment under the Equality Act

Harassment is unlawful under the equality legislation, which prohibits three types of harassment:

- Harassment related to a 'relevant protected characteristic';
- Sexual harassment; and
- Less favourable treatment of a worker because they submit to, or reject, sexual harassment or harassment related to sex or gender reassignment.

Anyone is able to complain of behaviour that they find offensive even if it is not directed at them. In addition, the complainant does not need to possess the relevant characteristic themselves and their complaint can be because they are perceived to have a protected characteristic; they are associated with someone who has a protected characteristic or, the harassment involves a protected characteristic.

Harassment can occur in any number of scenarios and may come from peers, managers or the people they manage. It may also come from a third party, such as those in our care, suppliers, visitors or other members of the public. Employees who feel they have been bullied or harassed by a third party should report any such behaviour to their manager who will take appropriate action. Where bullying or harassment is alleged to have been carried out by SPS employees towards those in our care, suppliers, visitors or others, this will be dealt with via the SPS' disciplinary procedures.

In deciding if behaviour has the effect of creating a hostile or degrading environment, the **perceptions** of the recipient of the harassment are very important. Harassment can have been deemed to have occurred even if the intention was not present, but the recipient felt they were being harassed. It is up to them to decide whether or not a particular type of treatment is offensive to him or her personally.

In deciding whether an incident has the effect of being harassing, each of the following must be taken into account:

- the perception of the person who may have been harassed (a subjective test by the recipient);
- whether it is reasonable for the conduct to have that effect (an objective test by the investigating manager);
- the other circumstances of the case.

## 5.3 Bullying

Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. Typically, bullying is one person or a group of people taking offensive action against another. Bullying may be hard to detect, as it may not be obvious to others.

All bullying behaviour is unacceptable, regardless of whether or not it is linked to a protected characteristic, and regardless of the format it takes (written, verbal, offensive images, etc.)



## 5.4 Victimisation

Victimisation occurs when someone is put at a disadvantage or treated less favourably, because they have, in good faith, made or may make a complaint of discrimination, harassment or other prohibited conduct (or another 'protected act').

The following are protected acts:

- Bringing proceedings under the Equality Act;
- Giving evidence or information in connection with proceedings under the Act;
- Doing any other thing which is related to the provisions of the Act;
- Making an allegation that someone has contravened the Act.

To establish victimisation a complainant simply needs to show that they were subjected to a detriment because they made a complaint, and does not need to compare their treatment to that of a real or hypothetical person.

An individual is protected from victimisation even if the allegation turns out to be wrong, providing that it was made in good faith. However, individuals who have maliciously made or supported an untrue complaint may be subject to disciplinary action.

## 5.5 Other Definitions

Although the below definitions are covered under the general heading of discrimination or harassment, the SPS feel that it is important to explicitly define the following unacceptable behaviours.

- **Racism** – discrimination on the grounds of race, colour, nationality or ethnic or national origin.
- **Sectarianism** – Narrow-minded beliefs that lead to prejudice, discrimination, malice and ill-will towards members, or presumed members, of a religious denomination.
- **Sexism** – prejudice or discrimination based on sex, especially discrimination against women; behaviour, conditions, or attitudes that foster stereotypes of social roles based on sex.
- **Homophobia, biphobia** – irrational fear of, aversion to, prejudice or discrimination against homosexuality or homosexual people, or bisexuality or bisexual people.
- **Transphobia** – irrational fear of, aversion to, prejudice or discrimination against transgender people.
- **Ableism** – discrimination or prejudice against people with disabilities.

- **Ageism** – discrimination or unfair treatment based on a person's age.

## 5.6 Effective Performance Management

Managers have to be able to manage their employees, and at times this will involve:

- issuing reasonable instructions and expecting them to be carried out;
- setting expected standards of performance in accordance with SPS values and behaviours, and the Civil Service Code;
- giving appropriate performance assessments in accordance with any Performance Management System adopted by SPS;
- discussing work performance with individuals and giving legitimate, constructive and fair feedback of performance or behaviour at work and put in place, through discussion, development plans to address shortcomings;
- providing objective evidence to substantiate their decisions that they make in their role as a manager; or
- taking appropriate disciplinary action or action to manage sickness absence in accordance with SPS procedures.

Carrying out these duties in a fair, reasonable and consistent manner does not constitute an act of harassment, victimisation, discrimination or bullying. Managers should ensure that they perform these duties whilst upholding the principles of this policy and treating all employees with dignity and respect.

## 6.0 Roles and Responsibilities

**Executive Management Group** – has overall responsibility for the effective operation of this policy and for ensuring compliance with equality and human rights legislation.

**Head of HR** - has responsibility for the development of this policy, including ensuring it is reviewed in Partnership with the TUS; and, for the provision of advice, support and guidance to managers in its implementation.

**Governors and Managers** - all managers have the responsibility to encourage an atmosphere of tolerance and respect and promote understanding. Ensure that all employees for whom they have responsibility are aware of, and understand: the Equality Diversity and Human Rights Statement; Dignity at Work Policy (this policy); and, the Equal Opportunities in Employment Policy. This includes ensuring

appropriate training is provided and new employees are provided with training and awareness as part of their induction to the SPS.

- take all reasonable steps to eliminate discrimination, harassment and victimisation or any other unacceptable behaviour that violates the rights and dignity of employees; in particular this extends to protecting their employees against discrimination (or other prohibited conduct) by third parties.
- treat seriously and investigate thoroughly any complaints made relating to bullying, discrimination, harassment or victimisation or any other degrading treatment.
- ensure that all complaints are dealt with sensitively, professionally and effectively and that decisions are objectively justifiable.
- emphasise that every employee carries responsibility for their own behaviour under this policy.
- proactively tackle prejudice and unacceptable behaviour. It is not acceptable for managers to take no action as they may later be held accountable for their lack of action under the SPS's individual performance management process or disciplinary procedure, or, in more serious cases, through an employment tribunal for any act of unlawful discrimination.

**Employees** - all SPS employees must:

- be aware of and adhere to: the [Equality Diversity and Human Rights Statement](#); the Dignity at Work Policy (this policy); and, the [Equal Opportunities in Employment Policy](#).
- carry out their role in accordance with the SPS values and behaviours, and the Civil Service Code.
- behave in a manner which promotes understanding and fosters good relations between people.
- challenge any behaviour which contravenes this policy, the SPS values and behaviours or the Civil Service Code.

## 7.0 Raising an Informal Complaint

Wherever possible, an attempt should be made to resolve the issue informally before a formal complaint is made, unless the issue is of such a serious nature that it is not possible and/or appropriate to resolve informally. Informal action is often the most effective way of resolving a problem, especially when it is due to a lack of sensitivity rather than a deliberate attempt to offend or discriminate.

If they feel confident in doing so, employees can raise a complaint informally with the individual(s) involved, or their line manager, indicating in a fair and reasonable

manner exactly what behaviour was unacceptable and asking for it to stop. Individuals may not be aware of the effect that their behaviour is having and an informal discussion may help them to agree to change it.

Employees who have experienced unacceptable behaviour do not have to tackle the matter on their own. They can ask a work colleague, a manager, a trade union representative or a member of the HR team to accompany them as they raise the complaint. Alternatively, with their agreement, one of these individuals could make an initial approach on their behalf.

Employees who do not wish to speak to the person directly, or who have done so but find that the behaviour continues, should speak to their line manager, or second line manager where appropriate. When raising the matter informally, employees should be prepared to provide a specific, objective description of the behaviour they find unacceptable or distressing. It is most effective if they can give details on when and where any incident happened.

Complaints may be resolved at this point and no further action may be necessary. Resolving complaints informally does not mean that they are not treated seriously.

## 7.1 Mediation

Where a work relationship is the underlying issue, individuals involved may consider informal discussions, or mediation under the [SPS Mediation policy](#).

Mediation can be effective in helping individuals reach agreement where there have been misunderstandings or a lack of awareness, settle an issue where there is little or no appetite to take matters further, or to encourage employees out of entrenched positions.

The use of mediation is not suitable in all cases, although it can be a positive route to address and resolve relationship challenges without escalation into a formal grievance procedure and/or SPS' disciplinary processes.

## 8.0 Raising a Formal Complaint

If an informal approach does not resolve matters or the employee thinks that the situation is too serious to be dealt with informally, a formal complaint can be made under the SPS [Grievance policy](#).

If the employee considers the unacceptable behaviour constitutes a criminal offence, they may wish to report the matter to the police. Local HR teams can arrange for someone to accompany employees to make a complaint to the police.

Additionally, the SPS has a duty to report alleged criminal behaviour to the relevant agencies.

## 9.0 Dealing with a Complaint

SPS will treat any complaint about bullying, discrimination, harassment, victimisation or any other form of unacceptable behaviour seriously and with an open mind. Employees do not need a witness to the alleged behaviour in order to pursue a complaint.

Anyone who raises a complaint, in good faith, around unacceptable behaviour will not suffer any form of detriment for having brought the complaint.

Certain behaviours will not be tolerated and treatment which, as a single one-off incident or as a systematic and persistent pattern, is wholly unacceptable may be serious enough to warrant direct and immediate entry to the SPS' disciplinary processes.

The decision around what constitutes behaviour or treatment serious enough to merit being actioned through the disciplinary process will usually be a matter for the individual.

There are situations and types of behaviour or treatment which, if line management are aware of, no matter how, they will be required to take action to ensure that this is dealt with appropriately and promptly. In serious cases, where the alleged behaviour may also constitute a criminal offence, it may be necessary to refer the matter to the Police.

Employees are encouraged to make suggestions on how they feel the matter would be best resolved, and may note that they would prefer informal resolution or may suggest that the matter is serious enough to be dealt with as a disciplinary matter.

The manager dealing with the complaint will give serious consideration to these representations; it may be too serious to be properly resolved informally, or it may be that other employees have experienced the same unacceptable behaviour. The employee who raised the complaint or concern will be advised on whether their complaint is upheld but will not know the detail of any action being taken against the other party.

Management also have a duty of care to ensure that allegations which are clearly vexatious, spurious or unsubstantiated are dealt with appropriately at the lowest possible level.

Once the facts of a situation have been established, it will fall to management to decide, in line with SPS' agreed processes and procedures, on the appropriate course of action in each case.

Consideration will be given to how the ongoing working relationship between the parties will be managed both during and following an investigation, including mediation; whether the person accused of unacceptable behaviour should be redeployed temporarily; suspended without prejudice on full pay; or, whether reporting lines or other managerial arrangements should be altered pending the outcome of the investigation. The complainant will not normally be moved, except at their request or in exceptional circumstances.

If the complaint is upheld, every effort will be made to ensure that the complainant does not have to continue working alongside the person who harassed them, if they do not wish to do so. The complainant will be involved in discussions about what options are best. This may include transferring the harasser to another post, or, if the complainant prefers, they may be able to transfer to another post.

If the complaint is not upheld, SPS will support both parties and relevant managers in managing the ongoing working relationship. Consideration will be given to putting in place arrangements for both parties not to have to work alongside each other, if either wishes this.

## 10.0 Being Accused of Bullying or Harassment

Where an employee has a complaint of unacceptable behaviour made against them, they should give strong consideration to any requests for mediation, and may suggest mediation themselves as a means of resolving the issue.

If a formal complaint is made about an employee's behaviour, and there is a full investigation under the SPS [Grievance Policy](#) or disciplinary procedures, the employee will be entitled to the usual rights set out in that procedure.

Victimisation of an individual who has raised a complaint about unacceptable behaviour in good faith, or anyone who has supported them in doing so will not be tolerated. If there is good reason to consider that anyone has victimised a complainant, or any other person involved in bringing the complaint, disciplinary action will be taken against that person.

Employees accused of unacceptable behaviour are equally entitled to access support as detailed in section 12.

## 11.0 Monitoring

SPS may monitor the types of complaints, grievances and misconduct cases that are made in order to help eliminate discrimination, bullying, harassment and victimisation.

This information will be held in confidence and used for monitoring purposes only in accordance with the Data Protection Act.

SPS will take appropriate action if the results of monitoring bring to light any concerns regarding their policies or practices.

SPS may also monitor how successful they are in fulfilling the aims of this policy by other means, including confidential employee surveys. These will be used to help identify patterns and enable targeted action on contributory factors.

## 12.0 Advice and Support

Advice and support is available from:

- line managers, or any manager;
- local HR teams;
- Trade Union representatives;
- relevant policy owners e.g. Resourcing Team for recruitment practices;
- Equality and Diversity Team at HQ. Responsibility for implementation of this policy lies with managers however the E&D Team can provide signposting to appropriate ways to raise a matter, and avenues of support;
- 'help' SPS Employee Assistance Programme – 'help' have a confidential support line which is open 24 hours a day, 7 days a week, 365 days a year. They can provide advice and guidance on a range of matters including discrimination at work and unacceptable behaviour. To contact 'help' visit <https://sps.helpeap.com/> or call 0800 854 562 and quote reference 'SPS';
- the *Equality Advisory Support Service (EASS)* advises and assists individuals on issues relating to equality and human rights;
- the *Equality Human Rights Commission*;
- *ACAS (Advisory, Conciliation and Arbitration Service)* provides free and impartial information and advice on all aspects of workplace relations and employment law.

## Further Information:

The SPS recognises that from time to time employees may have questions or concerns relating to Dignity at Work. In certain situations employees' rights and obligations regarding Dignity at Work may change. In these circumstances the SPS will abide by any statutory obligations.

The SPS wishes to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. Employees are encouraged to seek clarification on any issues with the appropriate Line Manager in the first instance.

## Sustainability

Improving our environmental performance and doing things in a more sustainable way should be seen as integral to our core business practices.

In line with the SPS Sustainable Policy and to demonstrate compliance with the Scottish Government's commitment to improving environmental and sustainable development performance, please be mindful if printing this document – keeping paper usage to a minimum (print only version), printing on both sides, and recycling.

## Equality Statement

The SPS is an equal opportunities employer where all employees are treated with dignity and respect. We are fully committed to equality, diversity and human rights and to ensuring our culture, working environment, policies, processes and practices are free from bias. This policy applies to all employees regardless of protected characteristics, and, subject to any eligibility criteria, length of service, grade, working pattern or operational status.



## Inclusive Communications

It is our ambition to ensure that SPS documents are readable, accessible and engaging for employees.

In formatting this document, good practice principles around engagement and inclusive communications have been adhered to.

If you require this document in an alternative format please contact Human Resources.

## Review and Monitoring

This policy will be reviewed every three years or sooner where applicable to reflect changing business and legislative requirements.

## Human Resources Policy and Guidance in SPS

SPS policies take into account current legislation, rules, regulations and best practice guidance from a range of professional and public bodies, including the following:



UK Civil  
Service  
Management  
Code



UK Legislation



EU  
Legislation



ACAS



CIPD Best  
Practice