

Antiharassment, antisexual harassment and antibullying policy (ROI)

Document title:	Antiharassment, antisexual harassment and antibullying policy (ROI)
Employee groups policy applies to:	All pub employees
Locations the policy applies to:	ROI

Summary of the document

Harassment, including **sexual harassment**, is not permitted or condoned in Wetherspoon under any circumstances. Everyone must be treated fairly and is entitled to work in an environment free from harassment, **victimisation** and **bullying**. This policy covers the legal definition of harassment, what actions could constitute harassment and/or bullying and how you should report cases of harassment and/or bullying.

Policy/procedure – full details

Harassment, including sexual harassment, is not permitted or condoned in Wetherspoon under any circumstances. Everyone must be treated fairly and is entitled to work in an environment free from harassment, victimisation and bullying. This policy covers the legal definition of harassment, what actions could constitute harassment and/or bullying and how you should report cases of harassment and/or bullying.

This policy should be read in conjunction with the ‘equality, diversity and inclusion (EDI)’ policy, the ‘disability (welcoming and supporting employees with disabilities)’ policy, the ‘gender diversity’ policy and the ‘relationships at work’ policy.

You should be mindful about how your behaviour may be perceived or interpreted at work, including when interacting with customers. This policy, which applies to colleagues, customers, contractors and visitors, also concerns behaviour outside of the workplace, including at social functions, training events and online (including social media).

Wetherspoon is committed to being a business in which everyone is treated fairly, with dignity and without intimidation.

Antiharassment (including sexual harassment)

Harassment is unwanted conduct related to any of the nine discriminatory grounds which are:

- gender
- civil status
- age
- race
- religion
- disability
- family status
- sexual orientation
- membership of the traveller community

Harassment is unwanted conduct which has the purpose or effect of violating another employee’s dignity at work or which creates an intimidating, hostile, degrading, humiliating or offensive environment for another employee at work.

Harassment is harmful. It can subject individuals to fear, stress and anxiety and put a strain on work, personal and family life. Harassment can lead to illness, accidents, absenteeism, poor performance, an apparent lack of commitment and employee turnover. Harassment and victimisation are unlawful.

Harassment can take many forms, with examples including:

- unwanted physical conduct and behaviour, such as unnecessary touching, patting, pinching, brushing against another person's body, insulting or abusive behaviour or gestures, physical threats, assaults, coerced sexual intercourse or rape
- unwanted verbal conduct (name-calling, abusive language, mockery) or unwanted non-verbal conduct (social media/text messages or pictures, notices or written comments) related to an individual or group's gender, civil status, age, race, religion, disability, family status, sexual orientation or membership of the traveller community; this includes conduct inside or outside of the workplace which denigrates, ridicules, intimidates or is abusive to the individual or group and extends to exclusion of an individual from work or organised social activity
- sexual harassment includes less favourable treatment of others because they rejected or submitted to sexual harassment; subjecting someone to a detriment because they complained of sexual harassment or supported a complaint of sexual harassment
- speaking overly loudly in the presence of a deaf employee/customer
- mimicking the speech patterns of an employee
- making remarks of a racial nature
- mimicking the walk, gestures or personal mannerisms of another
- mocking a person's tendency to attend religious services of their choice
- singing songs containing offensive words
- displaying of certain contentious emblems, badges or flags

Expected standards and obligations to antiharassment:

- All employees have a responsibility to behave in a way which is inoffensive to others and to encourage others to do the same. You must ensure that your behaviour towards colleagues and customers does not cause offence and could not in any way be considered to be harassment.
- All employees should discourage harassment by making it immediately clear to any person who is harassing you, or another, that you find such behaviour unacceptable and by supporting those who are suffering such treatment and/or considering making a complaint.
- All employees should alert a line manager to any incident of harassment as soon as it is practical to do so, to enable the company to deal with the matter and prevent any further escalation of the problem.
- In deciding whether or not harassment has taken place, the company will investigate the alleged comments or actions and the effect they had on the recipient, the intent to cause offence and any other relevant factors.
- If you or another employee feel unable to bring a concern to the attention of your line manager, you should inform another manager immediately or e-mail: ashjdw@jdwetherspoon.co.uk

Breaches of antiharassment policy:

- Any complaints of harassment should be brought to the attention of your line manager immediately. If that is not possible, you should inform another manager or e-mail: ashjdw@jdwetherspoon.co.uk
- Disciplinary action, up to and including summary dismissal, will be taken against anyone failing to fulfil responsibilities under this policy.
- In the event of any legal proceedings, harassers, their supervisors and their line manager may be held personally liable.
- During an investigation into an allegation, it may be necessary to relocate employees. This may include the complainant/s, if it is not practicable, for business reasons, to move the other people at least until the conclusion of the investigation.
- For disciplinary purposes, allegations proven to be false or malicious will be regarded as gross misconduct.

Anyone who makes a harassment complaint and fails to maintain confidentiality at any time during the process or anyone who is interviewed in connection with someone else's complaint and fails, likewise, to maintain confidentiality may be dealt with under the 'disciplinary and dismissal' policy.

Antibullying

Workplace bullying is repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more people against another or others at the place of work and/or in the course of employment which could reasonably be regarded as undermining an individual's right to dignity at work.

Bullying is defined separately from harassment and includes persistent criticism and personal abuse, either in public or private, which humiliates or demeans the individual(s) involved. It is different from harassment by definition, yet can include harassment – and harassment can include bullying, if related to a relevant protected characteristic.

Bullying can be harmful. It can subject individuals to fear, stress and anxiety and put a strain on work, personal and family life. Bullying can cause illness, accidents, absenteeism, poor performance, an apparent lack of commitment and employee turnover.

Bullying can be direct or indirect. It can be behaviour from employee to employee, from manager to employee, from client to employee or from contract worker (eg other professional engaged by the employer) to employee.

Examples of direct bullying behaviour:

- physical abuse or threats of abuse
- regular humiliation, ridicule, belittling efforts – often in front of others
- insulting, sneering or unnecessarily commenting on another's appearance
- making an individual, his or her beliefs or opinions the butt of jokes; uncomplimentary remarks which are likely to cause offence
- verbal abuse, including shouting, use of obscene language and spreading malicious rumours
- showing hostility through sustained unfriendly contact or exclusion
- inappropriate overruling or undermining of a person's authority
- reducing jobs to routine tasks well below the person's skill and capabilities without prior discussion or explanation
- persistently and inappropriately finding fault with a person's work and using this as an excuse to humiliate the person, rather than trying to improve performance
- repeatedly assigning duties which are obviously unfavourable to one individual
- constantly picking on a person, when things go wrong
- shouting at staff in public or in private
- intrusion – pestering, spying or stalking
- disseminating malicious rumour, gossip or innuendos
- other menacing behaviour

Examples of indirect bullying behaviour:

- deliberately and maliciously withholding work-related information, to undermine a colleague, or making it unnecessarily difficult for staff to access information
- subjecting an individual to unreasonable scrutiny
- setting unreasonable or impossible work deadlines or tasks
- continuously refusing reasonable requests without good reason
- not giving credit for work contributions or work well done

What is not bullying behaviour:

- expressing differences of opinion strongly
- offering constructive feedback, guidance or advice about work-related behaviour which is not itself welcome
- ordinary performance management
- reasonable corrective action taken by an employer or supervisor, taking reasonable disciplinary actions or assigning work
- workplace conflict where people disagree with, or disregard, another's point of view

Where possible, informal resolution should be attempted to try to resolve the situation; however, Wetherspoon does not tolerate bullying and will investigate complaints of bullying and, if necessary, take disciplinary action, up to and including summary dismissal, against any employee knowingly bullying another employee or failing to fulfil responsibilities under this policy.

For more information on bullying in the workplace, please refer to the Bullying Code of Practice 2021 ROI.

Cyber bullying and harassment

Cyber bullying is any form of bullying which takes place online or through smartphones and tablets. This includes, but is not limited to, text messages, inappropriate postings/photographs, offensive or threatening comments or sensitive personal information being posted to others (including outside of work). Wetherspoon views cyber bullying as unacceptable behaviour. If complaints are founded, this conduct will be treated under our disciplinary and dismissal procedures.

Anyone who makes a bullying complaint and fails to maintain confidentiality at any time during the process, or anyone who is interviewed in connection with someone else's complaint and fails, likewise, to maintain confidentiality, may be dealt with under our disciplinary and dismissal procedures.

Third-party harassment

Wetherspoon does not tolerate employee-harassing by customers, visitors or suppliers.

The company will take all reasonable steps to prevent third-party harassment of employees. Harassment by a third party can be just as devastating for an employee as harassment by a fellow worker.

Formal procedure

A formal complaint should be made to a line manager or can be made via the myJDW 'contact us' link.

In any event, if a complaint is made to a line manager under the formal process, that manager will inform the personnel team immediately.

If a manager wishes to make a complaint, he or she should go directly to his or her area manager or regional personnel manager. If the complaint is against the area manager or regional personnel manager, it should be made to the general manager or a senior personnel manager.

Usually, the formal procedure for handling a complaint of harassment, sexual harassment or bullying will be by investigation. When the manager receives the complaint in writing, he or she will do the following:

- 1) Tell the person complained about that a complaint has been made in writing.
- 2) Give him or her a copy of the complaint in writing.
- 3) Tell the person complained about that he or she will be given a fair

opportunity to respond to the complaint made.

No person who makes a complaint in good faith, supports a person in doing so or testifies under any of these procedures shall be victimised in any way.

Investigation

An impartial investigator will be appointed, who will meet, initially, with the complainant to clarify the complaint. This will happen promptly after receiving the complaint.

The investigator will draw up terms of reference. The investigator will ask all parties to the complaint to maintain confidentiality.

The process

1. The investigator will begin the process by interviewing the complainant.
2. The investigator will then have an interview with the person(s) complained about.
3. Both the complainant and the person being complained about may be accompanied by a work colleague or employee/trade union representative, if necessary.
4. If the complainant wishes to have a copy of the statement of the person being complained about, this will be given.
5. Following interviews with the complainant and the person being complained about, all witnesses will be named and interviewed, if necessary.
6. In accordance with fair procedures, the person making the complaint and the person being complained about will be given a copy of each statement and any witness statements and be allowed to provide comments.
7. Where there are conflicting accounts, the investigator will have to consider the consistency in the statements.
8. The investigator will not discuss the case with anyone.
9. The investigator will make every effort to complete the investigation within a reasonable time frame, not usually longer than 28 days from the formal complaint receipt date.
10. At the conclusion of the investigation, the investigator will find one of the following – that the complaint is:
 - upheld... and the investigator will give reasons.
 - not upheld... and the investigator will give reasons.
11. If the person being complained about does not co-operate with the investigation, the investigator will be entitled to draw the conclusion that the complaint is upheld.
12. If the complainant wishes to withdraw the complaint and the matters are of a very serious nature, the investigator may inform the complainant that the withdrawal will not be accepted until the investigator is satisfied that there are no grounds for continuing with the complaint without the co-operation of the complainant.
13. When the investigation has been completed, the investigator will compile a written report.
14. An update on the outcome of the investigation will be provided to the parties concerned by the area manager or regional personnel manager. Any comments from either party on receipt of the update should be made immediately to the area manager or regional personnel manager.

Action post investigation

1. If the complaint is upheld, a disciplinary meeting will be held.
2. The disciplinary action to be taken will be in line with the company's disciplinary policy.
3. This action could include a transfer or any other appropriate action up to and including dismissal.

4. Records of any warnings for harassment, sexual harassment or bullying will remain in the employee's file and will be used if any further offences of the same or similar nature occur.

Victim support

Employees subjected to harassment and/or sexual harassment will be supported during and after the necessary investigation. Likewise, other individuals involved in any enquiry will receive appropriate levels of support.

Employee's responsibilities

- To not behave in a way which could be construed as offensive or could, in any way, be considered harassment of others or have the effect of undermining their dignity at work.
- To discourage harassment by making it clear that you find such behaviour unacceptable, that it must cease or you will make a complaint.
- To alert a line manager to any incident of harassment to enable Wetherspoon to deal with the matter quickly and stop it from happening.

Company's responsibilities

Wetherspoon has a duty to ensure, as far as is reasonably practicable, the health, safety and welfare at work of employees under the Safety, Health and Welfare at Work Act 2005.

All staff, including management will undergo training on harassment and sexual harassment in the workplace.

A failure to take steps to prevent harassment, victimisation or bullying of employees, whether by colleagues or third parties, may amount to a breach of this duty.

Management guidance

Managers must:

- be responsive and supportive to any employee who makes an allegation of harassment and be committed to provide clear advice on the procedure to be followed.
- maintain and promote confidentiality around any complaints of harassment or bullying and seek to ensure that there is no further harassment or victimisation after a complaint has been made or resolved.
- ensure, while any investigation into harassment is carried out, that the contact between the individuals involved is minimised and, where possible, avoided.
- set an example through their behaviour and treat all employees and customers with dignity and respect.
- take individual concerns seriously and act on them, without allowing any reprisal.
- be alert to potentially unacceptable behaviour and take appropriate action to prevent or address any such behaviour, including in cases where the employee raises concerns of harassment outside of work (eg linked to social media or text messaging).

Under no circumstances should managers 'turn a blind eye' or ignore behaviour which they know, or could reasonably know, to be taking place.

It is possible that inaction or a particular way of dealing with complaints of third-party harassment could amount to indirect discrimination. This occurs when a way of dealing with issues or a policy is applied in the same way for all employees or a group of employees, but has the effect of putting employees sharing one of the grounds of discrimination at a particular disadvantage. It does not matter that we did not intend to disadvantage those employees.

We may also be liable for direct discrimination if we treat complaints of harassment by an employee with grounds for discrimination in a less favourable way than we treat complaints by others.

Complaints of bullying, harassment and sexual harassment

These should all be treated seriously, sensitively and in accordance of the right of the complainant and of the person against whom the complaint is made.

A full, fair and confidential investigation will take place. It is a requirement that the person against whom the complaint is made must be informed of the nature of that complaint and given a copy of that complaint in full. That person must also be given fair opportunity to respond to the allegations made. No assumptions will be made about the culpability of the alleged perpetrator until the investigation is completed.

Follow SOP OF0193 – How to conduct an investigation and SOP OF0191 – How to conduct a formal meeting (if required).

Opting to use these procedures does not remove any rights from the complainant which he or she may possess under statute.

Malicious complaints

If the complaint is found to be malicious, appropriate disciplinary action, up to and including dismissal, will be imposed.