

BULLYING AND HARASSMENT

Trade unions have long fought for equal treatment and dignity at work. Under-staffed and poorly managed workplaces contribute to workplace bullying and harassment, just as target-driven workplaces may also encourage it. Staff care is becoming more relevant as organisations increasingly demand an adaptable and flexible workforce. Reps need to understand what constitutes bullying and harassment and how to use policies to improve the situation, for members and the organisation and to build trust and respect between diverse communities.

The 2018 TUC Safety Reps' survey showed that 45 per cent of safety reps listed bullying and harassment in their top five workplace concerns. Overall, it was the second largest workplace issue after stress. A large survey on bullying at work by the University of Manchester showed that:

- › 1 in 10 workers had been bullied in the previous six months
- › 1 in 4 workers had been bullied in the previous five years
- › 47 per cent of workers had witnessed bullying at work.

Identifying bullying and harassment

Bullying, harassment and violence undermine the rights and health of staff. All of these are unwanted. They are not 'fun' or 'having a laugh' or 'making a fuss about nothing'. Acas defines bullying as "offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the person." Harassment can be defined as unwanted conduct that violates people's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.

Staff wellbeing is a matter of mutual interest to employers, managers, trade unions and the workforce. To this end there should be a number of policies and procedures in place that:

- › integrate in a considered and planned way the approach to management to concerns around bullying and harassment, violence and stress
- › define and recognise bullying and harassment

- › identify work organisation and staffing issues that contribute to workplace bullying and harassment
- › understand how employment law principles and health and safety legislation apply to workplace bullying and harassment
- › make employers and staff aware of what they can do to recognise and eliminate workplace bullying and harassment
- › develop a workplace strategy to inform persons about what to do if staff witness or suffer bullying and harassment
- › develop workplace policies on bullying and harassment, violence, harassment and stress at work in the light of new cases
- › understand that bullying and harassment affects everyone and can be seen in a wider context beyond that of a health and safety issue.

Don't suffer in silence

People being bullied or harassed at work should not suffer in silence but should seek immediate advice from their union rep or HR department. They should not feel guilty or weak or that they are to blame in some way for inviting bullying and harassing behaviour.

Bullying and harassment must be taken seriously by employers. People's complaints must be believed and dealt with swiftly, seriously and sensitively. Confronting a bully on your own is not easy and is effective only in the early stages. The longer the bullying and harassment goes on, the harder it becomes to confront the bully, so members should use the union and other people to help them.

Examples of bullying and harassment

Public verbal abuse

"I was blamed for my own mistakes in front of the entire office. I was shouted at and told not to do it again. Everyone was listening as the manager shouted at me".

"It included rubbishing your work, public humiliation through doing a job not to the required standard. Setting unrealistic targets, being made to feel 'unprofessional'."

Contract manipulation

"Made to take a £2,000 pa pay cut, otherwise will be out of work. Holidays cut, sick leave cut, forced to sign new contracts".

"I was threatened with job loss because I wanted a bank holiday off with my family".

"I was harassed at home by phone by my ward manager when I was off sick. I was threatened about my job due to how much sick leave I'd had in the past six months. The sick leave was due to having to wait three weeks for a hospital admission. I needed time off for treatment for cervical cancer. My manager told lies to other staff about why I was off work."

Undermining

"Baiting traps to get me into trouble. Not coming forward with information about job. Exaggerating truth to others. Passing the buck. Feel that I'm being watched all the time. Changing my hours to make life difficult."

"Not giving me enough information to carry out tasks asked and then showing me up in front of other individuals and threatening disciplinary action".

"The manager totally undermined me in front of clients, giving them the impression I was not capable of helping them and advising them to come another day."

"Taking my clock card out of the rack and discussing my hours with general office staff. Not passing on messages. Delaying paperwork so deadlines were missed."

"One slight error, the manager blows up as if you had done the whole page wrong. Will not listen to what you have to say. Picks on different people at different times".

Humiliation

"Being told to wash some rubbish in front of a supervisor."

The law

Employers who fail to tackle bullying are breaking the law. All employers have a legal duty under the Health and Safety at Work Act to ensure the health, safety and welfare of their employees. That includes protection from bullying and harassment at work. The Management of Health and Safety at Work Regulations also require employers to assess the nature and the scale of workplace risks to health and safety, ensure there are proper control measures in place, and take action to remove or avoid these risks wherever possible as far as is reasonably practicable.

The Health and Safety Executive also states that "there should be systems in place to deal with interpersonal conflicts such as bullying and harassment".

The Employment Rights Act 1996 allows employees to claim unfair dismissal if they are forced to leave their job because of actions by their employer or a failure to deal with any complaint. This can include failure by the employer to protect their employees from bullying and harassing behaviour.

If an employee is being harassed because of their age, disability, gender reassignment, married or civil partner status, pregnancy or maternity, religion or belief, sex or sexual orientation, then they may have a claim under the Equality Act 2010. (For more information see the chapter on equality.)

Causing a person harassment, alarm, or distress can be a criminal act and in certain circumstances the police can charge the harasser with a criminal offence. Also, under the Protection from Harassment Act 1997, victims of harassment can seek civil injunctions against behaviour that causes distress.

However, these legal protections can be difficult to use in practice and only after bullying or harassing behaviour has taken place. They may also not address the deeper causes of bullying and harassment. Therefore, the priority for trade unions must be to prevent people being bullied in the first place. To do that it is important to focus on the bullying behaviour rather than the bullies themselves. This recognises that some people who bully do not do so knowingly, but specifically reflect a culture that is being allowed to develop within the workplace.

HSE health and safety guidance on stress at work

The Health and Safety Executive (HSE) has published guidance for employers on preventing stress at work that makes it clear that bullying and harassment can be a cause of stress and that preventative measures must include action to eliminate bullying and harassment where it exists.

These are the HSE guidelines:

Step One

The key to identifying causes of stress and eliminating them is risk assessment and employers should adopt a systematic step-by-step approach as with their other risk assessment duties under the Management of Health and Safety at Work Regulations 1992 and the other health and safety legislation referred to earlier. Employer should first seek to identify potential or actual causes of stress in the workplace. A checklist developed to suit the organisation could be used as a starting point.

Step Two

Having identified potential sources of stress in the organisation, employers should next determine the perceived level of stress among employees. The only way to do this is by asking employees themselves. This may be done by means of a questionnaire to all employees or by asking employees who take sick leave to complete a simple form asking them whether they think their illness was stress related. While the former may be anonymous, the latter clearly is not. Employers will need to explain clearly why they are asking for the information and assure employees that it will be treated on a no-blame basis. Other ways of determining whether there may be a problem include looking at sickness absence trends, staff turnover rates, etc.

Step Three

Risk assessment also requires employers to examine their existing preventative and protective measures and to evaluate their effectiveness. So, for the next step they should check their health and safety organisation and ensure that measures to prevent or control physical, chemical, biological or environmental hazards are adequate. This means looking also at the adequacy of information, instruction and training for employees.

No matter how good control measures are, if employees do not understand the nature of the risks they may face and what steps have been taken to protect them they may experience high levels of anxiety.

Step Four

Employers should also look at their organisation and other relevant policies to see whether they are adequate or whether more needs to be done. For example, employers should check that policies to prevent violence, bullying and harassment etc are actually being implemented and are working.

If provision is made for regular departmental meetings employers should check that meetings are actually held and that they provide an effective forum for discussing problems, disseminating information etc. Employers should ensure that they make clear that management training is a requirement of the job and not an optional extra. They should also ensure that employees are provided with and take up training opportunities.

Employers should ensure that they provide real information to employees about their work, for example by means of staff handbooks or work manuals and by regular bulletins. In-house journals that concentrate on stories about personalities are not sufficient.

Employers should also ensure that they are consulting union reps on a regular basis about all issues that affect their workforce.

Remedial action

Once any problems have been identified, remedial action will need to be taken. Some problems may be easy to resolve; others may require a longer-term strategy. Priorities for action should be agreed jointly and it should be clear who has responsibility for implementing them. Organisational and management problems must be taken equally seriously as problems with, for example, the work environment. If what is needed is a change of organisational culture, a review of management practices, the development of management training or the improvement of internal communications, then these changes must be implemented according to an agreed timetable.

Reporting and recording

The crucial feature of any strategy to reduce the risk of bullying and harassment is encouraging effective reporting. Research suggests that only serious health effects or incidents are reported, the reasons being that:

- › The bullied or harassed person may be frightened by the consequences of reporting the bully.
- › There may be doubt in the worker's mind about reporting bullying and harassment because there may be a workplace culture, or an individual view, that complaining and reporting implies some professional failing or inability to cope with the work.
- › The effects of bullying and harassment is not considered sufficiently serious.
- › There is insufficient time to make a proper written report, or the reporting system is over-complex.
- › There may be a belief that there is no point in reporting the effects of bullying and harassment because nothing will be done.

An accurate record of the causes and effects of bullying and harassment are necessary to:

- › identify individuals or groups at risk
- › identify the potential sources of bullying and harassment at work
- › identify measures to reduce the risks
- › assess whether those measures are working
- › provide evidence to support complaints, absence for ill-health or effects on work levels.

Role of the rep: advising members

Union reps are often the first person that someone will talk to if they are experiencing bullying or harassment. From the very start, reps can advise members to do certain things that will help their case.

If a person approaches you saying they have been bullied or harassed, the following steps can be taken:

- › Ensure that you treat any cases of bullying and harassment seriously and be supportive to the person bullied. The nature of bullying and harassment means that in many cases it will be the word of the bully (who is often in a more influential position) against the bullied.
- › Listen carefully to what the person says and make it clear that you don't consider them to be over-sensitive, that the incident isn't silly or trivial, and that the union is prepared to help.

- › Encourage the person to write down details of each occurrence of bullying and harassment, including the date and time, how they felt and what was said and done.
- › Keep copies of all annual appraisals, and letters or memos relating to their ability to do the job.
- › Try to get witnesses to bullying and harassment incidents. Try to avoid situations where the person is alone with the bully.
- › Find out if they are the only person being bullied or whether other people are also affected and try to make a collective complaint.
- › If the person involved is the member's manager, tell someone higher up in the organisation.
- › Talk to colleagues and see if they will give their support.
- › Make sure the person knows exactly what their job description is so that they can check whether the responsibilities they are given match it.
- › Find out if the employer has a policy on harassment or unacceptable behaviour that may cover bullying and harassment.
- › Make sure the person keeps the union rep whom they have asked for help informed of all developments.
- › Keep up their resolve and encourage them to take things one step at a time, stand firm and not let themselves be a victim.
- › Ask open-ended questions to obtain the facts of what happened - who, why, where, when and witnesses.
- › Discuss with the person how they wish the case to be pursued.
- › If the person agrees, seek the support of other workers.
- › Advise the person to report the incident to management. Help them to do this if they wish. Take all written information about the case with you when you discuss it with the management.
- › Offer to represent and/or support the person at any stage of the enquiry into the allegations.
- › Ensure that the case is dealt with as quickly as possible by management, ensure each step is followed up promptly and press for a deadline to complete the enquiry.
- › Ensure that any agreement reached is effective.

After the interview check:

- › information from witnesses
- › what the union says
- › what work agreements say
- › what union members and other staff affected want and whether you need to involve them
- › what the law says
- › what questions you should put to management.

Example of a joint management or union policy on bullying and harassment at work

1. The [name of organisation] considers that no form of bullying and harassment or harassment should be tolerated. It undermines the respect to which individuals have a right, produces anxiety and distress and compromises the effectiveness of the organisation.
2. The [name of organisation] has, therefore, considered what advice it might issue to help eliminate bullying and harassment at work. The following guidelines set out management and union's views on good practice. They are not intended to replace equivalent statements or guidelines that may be in operation at present.
3. The [name of organisation] fully supports joint initiatives between authorities, employees and union that are designed to eliminate bullying and harassment at work. They define bullying and harassment as:
Unreasonable, offensive, intimidating or insulting behaviour that makes the recipient feel upset, threatened, humiliated or vulnerable, which undermines confidence and which may cause stress.
Bullying and harassment can occur at any level and within any relationship. It is not confined to management or supervision. Employees may bully colleagues on the same, lower or higher grades and groups of employees may bully individuals. Generally, there is a pattern of behaviour that constitutes bullying and harassment, not a single event. Here are some examples:
 - unfair and unjustified criticism
 - humiliating or disparaging remarks about individual ability, personality or other characteristics
 - workloads or deadlines that are deliberately unreasonable
 - taking credit for other people's work
 - passing blame from one person to another
 - unreasonably changing duties or 5.1 Responsibilities, for example giving menial or pointless tasks
 - unreasonably refusing requests for leave, training, etc
 - preventing promotion where it would otherwise be due.
4. Bullying and harassment affects both the organisation and the individual. The organisation experiences worsening working relationships, reduced productivity, increased turnover and increased costs. For the employee, the results are low morale, lack of motivation and confidence, and increased stress and sickness. The HSE makes it clear that bullying and harassment can be a significant cause of stress. Employers have a clear responsibility to act to reduce unnecessary stress and are likely to be in breach of their duty of care if they fail to act reasonably.
5. The [name of organisation] seeks to ensure that harassment policies and procedures are adapted to cover bullying and harassment and to include all groups of workers and, if no harassment policy exists, that new arrangements are introduced to cover all forms of harassment. Unions have a legitimate interest in eliminating bullying and harassment and should be fully consulted when policies and procedures are drawn up. These should cover:
 - a. recognition of the seriousness of bullying and harassment, the detrimental effects it may have on employees and organisations and the need to develop working cultures that respect the dignity of individuals
 - b. a statement that bullying and harassment will not be tolerated and may lead to disciplinary action
 - c. recognition that allegations of bullying and harassment place the complainant and alleged perpetrator under considerable stress and that complaints must, therefore, be investigated sensitively and as quickly as possible to resolve the situation
 - d. a statement that false or mischievous allegations may also lead to disciplinary action
 - e. procedures that place emphasis on the need to protect complainants from further stress, improve working relationships and resolve complaints as near to their source as possible
 - f. provision for investigation, including information on morale, management style, sickness levels, turnover, changes in behaviour etc., as well as direct information from the complainant, alleged perpetrator and any witnesses
 - g. emphasis on the need to ensure that proper records are taken at all stages
 - h. access to counselling and support for people affected, including those against whom allegations are made
 - i. training for employees designed to prevent bullying and harassment, and training for managers and supervisors in dealing with complaints
 - j. monitoring of informal and formal complaints by department or work unit.

- Monitoring of the effectiveness of training, counselling and the procedure in general
- k. regular review of the policy and procedure in the light of monitoring.
6. The employer and the union have responded to several requests to carry out sensitive and confidential investigations of individual problems. The [name of organisation] commends this approach; however, it also recognises that a joint investigation is not always appropriate. The employers will respond immediately to any requests for employer or employee advice or support.



UNIONS IN ACTION

Support from the union

Anita works in a university 8.5 hours a day, for £6 an hour. Her pay rate has not changed for two years, even though it was supposed to be reviewed after three to six months. There is nothing she likes about her job - the wages are low and the hours long. Public holidays are part of her annual leave, so she tends to take her annual holiday during Christmas or other bank holidays.

She receives Statutory Sick Pay on only the first three days of being ill and no overtime pay. Double shifts are paid at the normal rate, so there is no premium pay for working unsocial hours.

Things worsened when a new manager arrived and started bullying her. He accused her of misusing the university phone whenever she answered calls from the public. Once, when all her other colleagues were on their break, he told her to go into a small, closed space. Then he shouted at her, accusing her of various things. She felt very scared and physically vulnerable. She didn't know whether he had the right to shout at her in this manner.

Anita's colleagues, who were members of UNISON, supported her. The UNISON branch put out a petition against bullying staff, which was signed by many UNISON members at the workplace. This was shown to the manager. Since then, his behaviour towards Anita has improved. After the success of the petition, she decided to join UNISON and she now encourages other employees to do the same.



UNIONS IN ACTION

Racial harassment

Sukhjit Parma, a production worker at Ford, suffered the worst case of racial harassment that his union (Unite) had ever come across. Mr Parma suffered years of abuse by his foreman and team leader, who opened his sealed pay packet and scrawled racist words inside, sprayed him with oil (as a result of which he needed medical attention) and kicked food out of his hand. Management took no action for 10 months. The company admitted liability and the team leader was dismissed and the foreman demoted.



UNIONS IN ACTION

The role of the rep: raising awareness at work

There are a number of positive steps that safety reps can take to raise awareness and tackle bullying in the workplace.

- › Use posters and leaflets to raise the issue of bullying with members, and take the opportunity to discuss bullying with them to see if they think that there are any problems. Safety reps should report their concerns and those of their members to management.
- › Safety reps can use their routine inspections, or undertake special inspections, to speak to members about bullying at work.
- › One of the best ways of assessing the scale of bullying within the workplace is to survey members. This can gather evidence on the scale and extent of bullying in the workplace and can be done either by the union or jointly with management.
- › Any survey must be strictly confidential, but it is important that staff receive information on the overall findings from the survey. The results from any survey can help employers develop a policy on dealing with bullying and can also be of use in trying to change the behaviour of individual managers and staff.

More information

Acas

www.acas.org.uk

Leaflets, information and helpline.

Acas (June 2014) *Bullying and harassment at work: a guide for employers*

EHRC

www.equalityhumanrights.com

Covers all aspects of equality, discrimination and human rights.

HSE

www.hse.gov.uk

TUC

www.tuc.org.uk/resource/bullying-work