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Harassment and bullying at work

Understand the legal positions on bullying and harassment at work, and how employers and employees can address the problem.

Introduction

Harassment and bullying remain significant workplace issues despite increasing awareness of the problem. Typical harassment and bullying behaviours range from unwelcome remarks and persistent unwarranted criticism to unwanted physical contact and shouting. Recipients of these inappropriate behaviours are more likely to experience anxiety, stress and a loss of confidence.

This factsheet examines the UK legal positions on harassment and bullying at work, and outlines employers' and employees' responsibilities in addressing the problem. It also gives advice on dealing with complaints.

Explore [our viewpoint on bullying and harassment](#) in more detail, along with actions for government and recommendations for employers.

What are harassment and bullying?

The terms bullying and harassment are often used interchangeably. However, in the Equality Act 2010, harassment has a specific meaning: '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'. Bullying is not specifically defined in UK law but [Acas](#) says bullying 'may be characterised as: Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient'.

People have the right to be treated with dignity and respect at work and organisations should take any form of harassment or bullying seriously. Employers should foster a fair

and inclusive working environment that enables everyone to feel they can contribute. People professionals should lead on developing a positive and inclusive culture with zero-tolerance for harassment and bullying. Individuals should feel confident to bring complaints without fear of ridicule or reprisal.

What are harassment and bullying behaviours?

Harassment and bullying may be against one or more people and may involve single or repeated incidents across a wide spectrum of behaviour, ranging from extreme forms of intimidation, such as physical violence, to more subtle forms such as ignoring someone. It can occur without witnesses, in face-to-face interactions, as well as online. Examples include:

- Unwanted physical contact.
- Unwelcome remarks about a person's age, dress, appearance, race or marital status, jokes at personal expense, offensive language, gossip, slander, sectarian songs and letters.
- Posters, graffiti, obscene gestures, flags, bunting and emblems.
- Isolation or non-cooperation and exclusion from social activities.
- Coercion for sexual favours.
- Pressure to participate in political/religious groups.
- Personal intrusion from pestering, spying and stalking.
- Failure to safeguard confidential information
- Shouting and bawling.
- Setting impossible deadlines.
- Persistent unwarranted criticism.
- Personal insults.

The continuing issue of sexual harassment in particular has been highlighted in the media. A 2016 report [Still just a bit of banter?](#) showed that more than half of women overall, and nearly two-thirds of women aged 18-24, had experienced sexual harassment at work. The Women and Equalities Select Committee held enquiries into [Sexual harassment in the workplace](#) with a range of recommendations.

Our [Managing conflict in the modern workplace](#) research found that employees were almost twice as likely to have experienced bullying than harassment (not of a sexual nature) at work in the previous three years. Fewer than one in 25 reported experience of sexual harassment. However, almost a quarter of employees thought that challenging issues like bullying and harassment are swept under the carpet in their organisation.

Encouragingly, our research showed a positive change in employees' confidence about tackling sexual harassment: a third felt more confident to challenge it and a similar proportion felt more confident to raise a complaint about it. Read our [guidance on how](#)

employers should respond to sexual harassment complaints and build gender-inclusive workplaces. CIPD members can use our more detailed resource pack.

The UK legal position

Harassment

In Great Britain and in summary, harassment because of someone's age, disability, race, religion or belief, sex, sexual orientation and other protected characteristic is unlawful under the Equality Act 2010. Harassment which is entirely unrelated to a protected characteristic isn't covered by the Act.

The Equality and Human Rights Commission has published guidance on harassment and the Equality Act, including a Code of practice on employment. Whilst not legally binding documents, the codes give important guidance on good practice and failure to follow them may be taken into account by tribunals or courts.

The law protects individuals from harassment while applying for a job, in employment and in some circumstances after the working relationship has ended, for example, in connection with the provision of a verbal or written reference. There's also protection for people against harassment on the basis of their membership or non-membership of a trade union and, in Northern Ireland, against harassment on the basis of political belief. (In England and Wales, harassment because of political views isn't always automatically protected although employees who are dismissed because of their political opinions don't need two years' service to bring an unfair dismissal claim.)

Employers are liable for harassment between employees, and can also be liable for harassment from a third party (for example, a customer). Although the government has removed express protection for this third-party harassment from the Equality Act, liability can still arise from other legal duties, for example breach of contract, direct discrimination, the Protection from Harassment Act 1997 and so on. These other legal duties and good practice mean that employers should continue to take steps to protect employees from harassment from anyone they come into contact with.

Our Brexit hub has more on what the implications of leaving the EU might be for UK employment law.

Bullying

The UK legal position on bullying is more complex as there's no single piece of legislation which deals with workplace bullying. Bullying may be covered by:

- The Equality Act 2010, if it is linked to a protected characteristic.

- The Employment Rights Act 1996, especially the 'detriment' provisions.
- Claims for breach of an express or implied term of the employment contract - for example, breach of the implied term to take care of employees.
- Criminal or civil provisions under the Protection from Harassment Act 1998.

Bullying might also be covered by a myriad of other legal principles and laws, for example:

- The common law obligation for an employer to take care of workers' safety.
- Personal injury protection and duties to take care of workers arising out of Tort law.
- Health and Safety at work etc Act 1974.
- Criminal Justice and Public Order Act 1994.
- Whistleblower protections.
- Human Rights Act 1998.

Responsibilities of employers and employees

Bullying and harassment are still a significant workplace issue.

Employers should put in place a robust and well-communicated policy and guidance that clearly states the organisation's commitment to promoting dignity and respect at work. Employers' responsibilities may extend to work-related activities, such as work parties or outings. Employers could be liable for events which take place on these occasions unless they took reasonable steps to prevent them.

Employers should be especially aware of 'cyber bullying'. Detrimental texts sent via mobiles or images of work colleagues posted on external websites following work events could amount to bullying for which the employer could be liable. Our [research](#) found that cyber-bullying is more common than inappropriate behaviour at a work social event, with one in ten employees reporting that it happened.

Importantly, all individuals have a responsibility to behave in ways which support an inclusive and tolerant working environment. Everyone should play their part in making the organisation's policy a reality and employers should challenge inappropriate behaviour and take action.

Employers and individuals can be personally ordered to pay unlimited compensation where discrimination-based harassment has occurred, including the payment of compensation for injury to feelings. Prosecutions can arise under criminal as well as civil law.

Developing a culture of respect

Prevention is better than cure. Promoting a positive culture at work for everyone based

on personal respect and dignity will help to prevent inappropriate behaviour starting. Organisation should send a clear message to all employees that there is zero tolerance for any type of inappropriate behaviour. Senior leaders should have a clear vision and demonstrate strong values that communicate what a culture of dignity and respect looks like.

Policies, communication and training

A well-designed policy is essential to tackle bullying or harassment. Policies and guidance should be agreed with trade union or employee representatives and communicated to everyone. They should:

- Give examples of what constitutes harassment, bullying and intimidating behaviour, including cyber-bullying, work-related events and harassment by third parties.
- Explain the damaging effects and why it will not be tolerated.
- State that it will be treated as a disciplinary offence.
- Clarify the legal implications and potential personal liability.
- Describe how to get help and make a complaint, formally and informally.
- Promise that allegations will be treated speedily, seriously and confidentially, and that the employer prevents victimisation..
- Clarify the accountability of all managers, and the role of union or employee representatives.
- Require supervisors/managers to implement policy and ensure it is understood.
- Emphasise that every employee carries responsibility for their behaviour.

All employees should:

- Be made aware - through induction, training, guidance and other processes - about their rights and personal responsibilities under the policy and understand the organisation's commitment to deal with harassment.
- Know who to contact if they want to discuss their experiences to decide what steps to take.
- Know how to make a complaint and the timescales for any formal procedures.

The policy should be monitored and regularly reviewed for effectiveness, including:

- Records of complaints - why and how they occurred, who was involved and where.
- Individual complaints to ensure resolution and no victimisation.

It's also essential that line managers understand their role in addressing all forms of inappropriate behaviour, and that they have access to help and support with appropriate confidentiality and sensitivity. There's more in our [Dealing with conflict at work guide](#).

All dignity at work or anti-bullying policies should be co-ordinated with the organisation's

grievance and disciplinary policy.

Advice and counselling

All employees who make a complaint should have access to someone inside the organisation trained for this role or an outside sponsored service. This allows them to talk in confidence about any inappropriate behaviour they've experienced or witnessed so they can discuss options and decide themselves whether to progress a complaint.

Guidance and counselling can be offered to people whose behaviour is unacceptable, as well as those affected. Simply punishing those responsible for the harassment risks isolating individuals who may not understand that their behaviour is inappropriate and affecting their colleagues.

Dealing with complaints

All complaints should be dealt with promptly. Some may be dealt with internally and informally. But formal procedures should enable an appropriate manager or people professional to take disciplinary steps where needed. A choice of contact should be available in case the person's manager is the alleged harasser. Employees can also call the [Acas helpline](#) for advice.

Listen to our podcast: [Handling harassment: are you getting it right?](#)

Mediation

Our work on [managing conflict](#) shows that a growing number of employers and employees are open to using an independent third party to help resolve workplace conflict. [Mediation](#) is a voluntary impartial process and can be used in alleged bullying and harassment cases where both parties are willing to participate and the complaint isn't at the serious end of the spectrum.

Formal procedures

If informal approaches don't work or aren't appropriate, formal procedures should be triggered. They're needed if the harassment is serious or persists, or if the individual prefers this approach.

Organisations should have a clear formal policy to deal with all types of [grievances and disciplinary](#) issues, including bullying and harassment.

Investigation

Formal allegations of harassment, bullying or any intimidating behaviour should be treated as a disciplinary offence. Investigation should include:

- A prompt, thorough and impartial response.
- Taking evidence from witnesses.
- Listening to both the alleged harasser and the complainant's version of events.
- A time-scale for resolving the problem.
- Confidentiality in the majority of cases.

Employers should always make a record of complaints and investigations. These should include the names of the people involved, dates, the nature and frequency of incidents, action taken, follow-up and monitoring information.

All sensitive information should be treated confidentially and meet the requirements of [data protection](#) law.

Taking action

Where a complaint is upheld, relocating or transferring one of those involved to another part of the organisation may be necessary. It should not automatically be the complainant who is expected to move, but they should be offered the choice where practical.

Where the perpetrator is transferred, no breach of contract must occur or a claim of constructive unfair dismissal could arise.

Confidentiality or Non-disclosure agreements (NDAs)

There can be issues around using [non-disclosure agreements](#) (NDAs) in cases of alleged harassment or discrimination at work. Acas has issued guidance on [settlement agreements](#).

Useful contacts and further reading

Contacts

[Acas - Discrimination, bullying and harassment](#)

[GOV.UK - Workplace bullying and harassment](#)

[Equalities and Human Rights Commission - What is harassment?](#)

[Sexual Harassment at Work - legal advice telephone helpline provided by charity Rights of Women](#)

TUC – Reporting work-related violence

Books and reports

EQUALITIES AND HUMAN RIGHTS COMMISSION. (2020) Sexual harassment and harassment at work: technical guidance. London: EHRC.

EVESSON, J., OXENBRIDGE, S. and TAYLOR, D. (2015) Seeking better solutions: tackling bullying and ill-treatment in Britain's workplaces. Acas Policy Discussion Paper. London: Acas.

FISHER, V. and KINSEY, S. (2018) Lifting the lid on sexual harassment and power in the workplace. CIPD Applied Research Conference Paper. Reviewed in In a Nutshell, issue 88.

HOEL, H., LEWIS, D. and EINARSDOTTIR, A. (2014) The ups and downs of LGBs' workplace experiences: discrimination, bullying and harassment of lesbian, gay and bisexual employees in Britain. Manchester: Manchester Business School.

QUIGG, A-M. (2015) The handbook of dealing with workplace bullying. Farnham: Gower.

Journal articles

ATWAL, M. (2019) What does the Stalking Protection Act mean for employers? *People Management* (online). 2 September.

FOX, R. (2017) Fair investigation of sexual harassment claims. *People Management* (online). 28 November.

KOSHITSKY, N. (2019) Combating sexual harassment at work. *People Management* (online). 18 February.

PALMER, S. (2020) When is 'just banter' not just banter? *People Management* (online). 23 January.

RUBINO, C. at al. (2018) And justice for all: How organizational justice climate deters sexual harassment. *Personnel Psychology*. Vol 71, No 4. pp519-544. Reviewed in In a Nutshell, issue 84.

SOAKELL, C. (2021) Tackling bullying and harassment in a remote working environment. *People Management* (online). 15 January.

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