

Guidance for employees



Bullying and harassment at work

inform

advise

train

work
with you

Acas can help *with your employment relations needs*

Every year Acas helps employers and employees from thousands of workplaces. That means we keep right up to date with today's employment relations issues – such as discipline and grievance handling, preventing discrimination and communicating effectively in workplaces. Make the most of our practical experience for your organisation – find out what we can do for you.

We inform

We answer your questions, give you the facts you need and talk through your options. You can then make informed decisions. Contact us to keep on top of what employment rights legislation means in practice – before it gets on top of you. Call our helpline **08457 47 47 47** or visit our website www.acas.org.uk.

We advise and guide

We give you practical know-how on setting up and keeping good relations in your organisation. Look at our publications on the website or ask our helpline to put you in touch with your local Acas adviser. Our Equality Direct helpline **08456 00 34 44** advises on equality issues, such as discrimination.

We train

From a two-hour session on the key points of new legislation or employing people to courses specially designed for people in your organisation, we offer training to suit you. Look on the website for what is coming up in your area and to book a place or talk to your local Acas office about our tailored services.

We work with you

We offer hands-on practical help and support to tackle issues in your business with you. This might be through one of our well-known problem-solving services. Or a programme we have worked out together to put your business firmly on track for effective employment relations. You will meet your Acas adviser and discuss exactly what is needed before giving any go-ahead.

Everyone should be treated with dignity and respect at work.

Bullying and harassment of any kind are in no-one's interest and should not be tolerated in the workplace, but if you are being bullied or harassed it can be difficult to know what to do about it.

This leaflet:

- gives employees¹ basic information about bullying and harassment
- summarises the responsibilities of employers
- outlines some of the options open to you
- points you to sources of further information and advice.

What are bullying and harassment?

These terms are used interchangeably by most people, and many definitions include bullying as a form of harassment.

Harassment, is

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 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.

Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual.

¹ The term 'employees' is used to cover all those who work for someone else rather than on their own account, regardless of whether they are employed strictly under a contract of employment.

Examples of bullying/harassing behaviour include:

- spreading malicious rumours, or insulting someone by word or behaviour (particularly on the grounds of age, race, sex, disability, sexual orientation and religion or belief)
- copying memos that are critical about someone to others who do not need to know
- ridiculing or demeaning someone – picking on them or setting them up to fail
- exclusion or victimisation
- unfair treatment
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances – touching, standing too close, the display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and constant criticism
- preventing individuals progressing by intentionally blocking promotion or training opportunities.

Bullying and harassment are not necessarily face to face. They may also occur in written communications, electronic (e)mail, phone, and automatic supervision methods such as computer recording of downtime from work or the number of calls handled if these are not applied to all workers.

Bullying and harassment make someone feel anxious and humiliated. Feelings of anger and frustration at being unable to cope may be triggered. Some people may try to retaliate in some way. Others may become frightened and demotivated. Stress, loss of self-confidence and self-esteem caused by harassment or bullying can lead to job insecurity, illness, absence from work, and even resignation. Almost always job performance is affected and relations in the workplace suffer.

The legal position

Employers are responsible for preventing bullying and harassing behaviour. It is in their interests to make it clear to everyone that such behaviour will not be tolerated — the costs to the business may include poor employee relations, low morale, inefficiency and potentially the loss of staff. An organisational statement to all staff about the standards of behaviour expected can make it easier for all individuals to be fully aware of their responsibilities to others.

Summary of the Law

Harassment

Harassment is “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”.

The Equality Act uses a single definition of harassment to cover protected characteristics. Employees will now be able to complain of behaviour that they find offensive even if it is not directed at them.

Paul is disabled and is claiming harassment against his line manager after she frequently teased and humiliated him about his disability. Richard shares an office with Paul and he too is claiming harassment, even though he is not disabled, as the manager’s behaviour has also created an offensive environment for him.

In addition, the complainant need not possess the relevant characteristic themselves and can be because of perception or association. Harassment applies to all protected characteristics except for pregnancy, maternity where any unfavourable treatment may be considered discrimination and marriage and civil partnership.

Steve is continually being called gay and other related names by a group of employees at his work. Derogatory homophobic comments have been posted on the staff notice board about him by people from this group. Steve was recently physically pushed to the floor by one member of the group but is too scared to take action. Steve is not gay but heterosexual; furthermore the group know he isn't gay. This is harassment related to perception of sexual orientation.

Bullying

It is not possible to make a direct complaint to an Employment Tribunal about bullying as it is not related to a protected characteristic.

Your right not to be harassed by third parties

The Equality Act makes your employer potentially liable for harassment of their employees by people (third parties) who are not employees of your company, such as customers or clients. They (your employer) will only be liable when harassment has occurred on at least two previous occasions, they are aware that it has taken place, and have not taken reasonable steps to prevent it from happening again.

Chris manages a Council Benefits Office. One of his staff, Frank, is gay. Frank mentions to Chris that he is feeling unhappy after a claimant made homophobic remarks in his hearing. Chris is concerned and monitors the situation. Within a few days the claimant makes further offensive remarks. Chris reacts by having a word with the claimant, pointing out that this behaviour is unacceptable. He considers following it up with a letter to him pointing out that he will ban him if this happens again. Chris keeps Frank in the picture with the actions he is taking and believes he is taking reasonable steps to protect Frank from third party harassment.

Unfair dismissal

Employers have a 'duty of care' for all their employees. If the mutual trust and confidence between employer and employee is broken – for

example, through bullying and harassment at work – then an employee can resign and claim ‘constructive dismissal’ on the grounds of breach of contract (as long as they have worked for the employer for 12 months). Employers are usually responsible in law for the acts of their workers.

Health and safety

Breach of contract may also include the failure to protect an employee’s health and safety at work. Under the Health and Safety at Work Act 1974, employers are responsible for the health, safety and welfare at work of all employees.

The Health and Safety Executive (HSE) is currently focusing on the issue of stress at work. HSE defines stress as “the adverse reaction a person has to excessive pressure or other types of demand placed upon them”. In *Tackling work-related stress* HSE reminds employers that looking after the health of employees includes “taking steps to make sure that employees do not suffer stress-related illness as a result of work”. For more information visit www.hse.gov.uk.

What can you do?

Bullying and harassment are often clear cut but sometimes people are unsure whether or not the way they are being treated is acceptable. If this applies to you there are a number of things to consider, including:

- has there been a change of management or organisational style to which you just need time to adjust – perhaps because you have a new manager or work requirements?
- is there an organisational statement of standards of behaviour that you can consult?
- can you talk over your worries with your personnel manager, your line manager/supervisor, union representative or colleagues, who you may find share your concerns?
- can you agree changes to workload or ways of working that will make it easier for you to cope?

If you are sure you are being bullied or harassed, then there are a number of options to consider, and these are set out below. You should take any action you decide upon as quickly as possible.

Let your union or staff representative know of the problem, or seek advice elsewhere, perhaps from a Citizens Advice Bureau, the Acas helpline (08457 47 47 47) or one of the bullying helplines that are now available by phone and on the Internet (see page 8 for contact information). Try to talk to colleagues to find out if anyone else is suffering, or if anyone has witnessed what has happened to you – avoid being alone with the bully or harasser.

If you are reluctant to make a complaint, go to see someone with whom you feel comfortable to discuss the problem. This may be your manager, or someone in personnel (particularly if there is someone who specifically deals with equality issues), your trade union representative, or a counsellor if your organisation has suitably trained people available.

Keep a diary of all incidents – records of dates, times, any witnesses, your feelings, etc. Keep copies of anything that is relevant, for instance annual reports, letters, memos, notes of any meetings that relate to your ability to do your job. Bullying and harassment often reveal themselves through patterns of behaviour and frequency of incidents. Keep records and inform your employer of any medical help you seek.

Tell the person to stop whatever it is they are doing that is causing you distress, otherwise they may be unaware of the effect of their actions. If you find it difficult to tell the person yourself, you may wish to get someone else – a colleague, trade union official or confidential counsellor – to act on your behalf.

If you cannot confront the bully, consider writing a memo to them to make it clear what it is you object to in their behaviour. Keep copies of this and any reply.

Be firm, not aggressive. Be positive and calm. Stick to the facts. Be prepared to describe what happened even if you find it embarrassing.

If you do decide to make a formal complaint, follow your employer's procedures, which should give you information about whom to complain to and how your complaint will be dealt with.

If you have access to a union representative or other adviser, ask them to help you state your grievance clearly, as this can help in its resolution and reduce the stress of the process. Employers should have a grievance procedure which will be used to handle your complaint, and some organisations have special procedures for dealing with bullying or harassment. After investigation you and your employer may wish to consider different ways of resolving your complaint, such as mediation or counselling. Alternatively your employer may decide to take disciplinary action against the bully/harasser in accordance with the organisation's disciplinary procedure.

Disciplinary procedures may also be used for disciplinary action against someone who makes an unfounded allegation of bullying or harassment.

What about taking legal action?

If, despite all your efforts, nothing is done to prevent the mistreatment, you should take advice on your legal rights. If you leave and make a claim to an employment tribunal, the tribunal will expect you to have tried to resolve the problem with the organisation and any records you have kept will be considered when it hears your claim. This is also the case in claims alleging discrimination, where you might still be employed by the organisation. Resignation may be the last resort but make sure you have tried all other ways to resolve the situation. To make a claim of constructive unfair dismissal you need to have worked for your employer for 12 months.

Mediation

An independent third party or mediator can sometimes help resolve disciplinary or grievance issues. Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator.

Mediators may be employees trained and accredited by an external mediation service who act as internal mediators in addition to their day jobs. Or they may be from an external mediation provider. For more information about mediation see the Acas website at www.acas.org.uk and the Acas/CIPD guide *Mediation: An employer's guide* which can be downloaded from the website.

Where can you get help?

Additional advice can be obtained through the Acas national helpline (tel 08457 47 47 47). Advice can also be obtained from your trade union, legal advisers, Citizens Advice Bureaux and the Equality and Human Rights Commission (EHRC).

Bullying help sites can also be found on the Internet — search under 'Workplace bullying'.

It can sometimes help to read of other people's experiences and what they did about it. One such book is by Andrea Adams, called *Bullying at Work: How to confront and overcome it* (published by Virago in 1992).

Useful contact

Equality and Human Rights Commission

The EHRC brings together the work of the CRE, DRC and EOC and also takes on responsibility for the other aspects of equality: age, sexual orientation and religion or belief, as well as human rights. Go to www.equalityhumanrights.com for further information.

Suggested further reading

Bully in Sight by Tim Field, published by Success Unlimited in 1996.

Harassment, bullying and violence at work by Angela Ishmael with Bunmi Alemoru, published by The Industrial Society in 1999.

Tackling work-related stress - a guide for employees published by HSE Books, publication orderline tel: 01787 881165

Information in this booklet has been revised up to the date of the last reprint – see date below. For more up-to-date information, go to the Acas website www.acas.org.uk

Legal information is provided for guidance only and should not be regarded as an authoritative statement of the law, which can only be made by reference to the particular circumstances which apply. It may, therefore, be wise to seek legal advice.

Acas aims to improve organisations and working life through better employment relations. We provide up-to-date information, independent advice, high quality training and we work with employers and employees to solve problems and improve performance.

We are an independent, publicly-funded organisation and many of our services are free.

October 2010

Acas' main offices:

- **National**
London
- **East Midlands**
Nottingham
- **East of England**
Bury St Edmunds, Suffolk
- **London**
- **North East**
Newcastle upon Tyne
- **North West**
Manchester
- **North West**
Liverpool
- **South East**
Paddock Wood, Kent
- **South East**
Fleet, Hampshire
- **South West**
Bristol
- **West Midlands**
Birmingham
- **Yorkshire and Humber**
Leeds
- **Scotland**
Glasgow
- **Wales**
Cardiff

Helpline **08457 47 47 47**

08456 06 16 00
for Minicom users

08702 42 90 90
Acas publications orderline

To view a full list of Acas publications
go to **www.acas.org.uk/publications**

08457 38 37 36
Acas Customer Services Team who
can provide details of services and
training in your area or visit
www.acas.org.uk/training

08456 00 34 44
for questions on managing
equality in the workplace



INVESTOR IN PEOPLE

www.acas.org.uk