

CHAPTER 10

Bullying, Harassment and Violence in the workplace

It is increasingly recognised that unacceptable behaviours such as bullying, harassment and violence are a major problem throughout industry.

Unite is totally committed to achieving workplaces which are free from unacceptable behaviours of any kind.

Bullying

The Health and Safety Executive (HSE) strongly condemns any form of workplace bullying and harassment. It is recognised by the HSE that bullying is a form of organisational violence and, if not dealt with properly, is a potential source of work-related stress".

Bullying is an employment issue, an equality issue and a health and safety issue. Unite members can work to ensure that a workplace bullying culture is discouraged by the introduction of meaningful policies, and support for members. Bullying takes many forms and can occur in a variety of situations. The Andrea Adams Trust, a charity which was committed to preventing workplace bullying, defined workplace bullying as follows:

- Unwarranted humiliating offensive behaviour towards an individual or groups of employees
- Such persistently negative malicious attacks on personal or professional performance are typically unpredictable, unfair, irrational and often unseen
- The abuse of power and position that can cause such anxiety that people gradually lose all belief in themselves, suffering physical ill-health and mental distress as a direct result

- The use of position or power to coerce others by fear, persecution or to oppress them by force or threat.
- Bullying can range from violence and intimidation to less obvious actions such as deliberately ignoring someone at work.

Bullying and harassment

Other examples of behaviour described as bullying may be unlawful harassment (see ACAS guide and legal proceedings section below)

- Spreading malicious rumours or insulting someone by words or behaviour (particularly on the grounds of race, sex, disability, sexual orientation, and religion or belief) – and age.
- Exclusion or victimisation.
- Unwelcome sexual advances – touching, standing too close, displaying offensive materials.
- Ridiculing or demeaning someone.
- Making threats or comments about job security without foundation.
- Preventing individuals progressing by blocking promotion or training opportunities.
- Giving individuals unrealistic targets and deadlines
- Sending unwelcome, offensive or pornographic emails or faxes.

Unite Action: Union Bullying and Harassment Advisors

The joint trade unions working in the forestry industry, and chaired by Unite, decided to act after a staff survey found that 16 per cent of staff (about 500) believed that they had experienced bullying at work in the last two years.

With the support of the employer, unions nominated members as Union Bullying and Harassment (B&H) Advisors. These advisors received formal training on how to handle bullying and harassment and support their members. They now provide a support network right across England, Wales and Scotland. They also meet up to support each other and share information – an essential part of the process.

When it is necessary to take a case to tribunal Advisors support members up to that point then hand over to the full-time union official.

To make it easier for members to report concerns the joint trade unions have circulated practical information leaflets – a Members' Guide to harassment and bullying at work and a Quick Action Guide for union reps.

The contact details of the Union B&H Advisors are included on these materials and on the joint trade unions' workplace website; the employer's intranet site has a link direct to this website.

Violence

Acts of violence may be amongst colleagues, between superiors and subordinates or by third parties such as clients customers, patients pupils etc. Many unite members may face the risk of aggressive or violent behaviour. They may be sworn at, threatened or even physically attacked.

The HSE's definition of work-related violence is: 'any incident in which a person is abused, threatened or assaulted in circumstances relating to their work'.

Violence can cause pain, distress and even disability or death. Physical attacks are obviously dangerous but serious or persistent verbal abuse or threats can also damage employees' health through anxiety and stress.

Violence can lead to poor morale and a poor image for the organisation, extra cost, with absenteeism, higher insurance premiums and compensation payment..

Domestic violence and abuse affects many Unite members on a daily basis. This may impact on their work in many ways, including their performance and attendance at work and their relationships with colleagues. In addition they may encounter their violent partner at work either because they visit their workplace or they are a colleague.

Employers are responsible for identifying and managing the risk of bullying, harassment and violence at work. Clear policies and guidelines should be in place, detailing employers' responsibilities, as well as those of their workforce, to raise awareness of related issues among the workforce, and set standards for workplace behaviour. A workplace policy on domestic violence and abuse should also be in place.

The law

Employers are responsible for preventing bullying and harassing behaviour at work. They have a "duty of care" for all their employees.

There isn't specific law covering bullying or stress. But it is possible to make a complaint to an employment tribunal under laws covering discrimination and harassment – for example under the Equality Act 2010.

The Protection from Harassment Act 1997 may also be relevant in certain circumstances.

The Fair Employment Act in Northern Ireland and the Employment Equality Act in the Irish Republic also cover legal rights to protection from harassment.

In addition there may be grounds for a claim of constructive dismissal/breach of contract if the mutual trust and confidence between employer and employee has broken down.

Members may also have grounds to pursue a personal injury claim if they suffer physical and/or psychological injury as a result of bullying and/or harassment. Such

claims are not always easy to win. Members should be referred to Union solicitors for advice as soon as possible as there are strict time limits to pursue all legal claims.

Health and Safety at Work etc Act 1974

Employers are responsible for the health, safety and welfare of all employees at work. This includes protecting them from the harmful effects of unacceptable behaviours and stress. So if employers fail to carry out their duties they may be liable not only for breach of contract, but also criminal prosecution. Employees also have a duty to work safely. For more information see Chapter 2.

Management of Health and Safety at Work Regulations 1999

These impose a number of duties on employers, including a duties to carry out risk assessments relating to stress, bullying, harassment and violence and requirements to provide training and information. For more information see Chapter 3.

Health and Safety Executive Stress Management Standards

These include promoting positive working to avoid conflict and dealing with unacceptable behaviour (eg bullying at work). You can work with your employer to negotiate anti-bullying measures as part of the your stress management policies. For more information see Chapter 12.

The Safety Representatives and Safety Committees Regulations 1977

Require employers to consult with Unite safety representatives on all matters relating to health and safety at work including stress, violence, harassment and bullying. This should include consulting and discussing with workers on formulating policies on bullying, harassment, violence and stress. For more information see the Introduction and Chapter 1

Reporting of Injuries, Disease and Dangerous Occurrences Regulations 1999

These state that employers must notify their enforcing authority in the event of an accident at work resulting in death, major injury or incapacity for normal work. This would include any act of physical violence done to a person at work. For more information see Chapter 5

The Sexual Offences Act 2003

Covers all physical forms of sexual abuse, specifically non-consensual sexual activity

Safety Reps' Action Points:

- Is bullying, harassment or violence a problem in your workplace? If you think so, do a confidential survey.
- If a member contacts you treat their complaint sympathetically and be supportive. Ask them what they would like to do about their complaint – and respect confidentiality.
- Encourage the member to keep written notes of what has happened.
- Make sure the employer recognises the seriousness of unacceptable behaviours and the negative effects on both employees and the organisation itself.
- Has your employer considered health and safety issues in relation to harassment, bullying, violence and stress – including risk assessments?
- Negotiate a policy that can deal with all forms of unacceptable behaviours – this could form part of the health and safety policy – including domestic violence and abuse.
- Make sure that the policy contains a clear and specific statement that bullying and harassment of any kind are unacceptable and will not be tolerated.
- Your procedures should ensure that employee relationships are based on good behaviour and trust to avoid problems relating to discipline, grievances and bullying.
- Set up clear procedures for reporting, recording and dealing with bullying, harassment and violence.
- Ensure that all staff are trained to recognise unacceptable behaviours – and organise a support network.
- Make sure that other aspects of your agreements are working properly.



ZERO TOLERANCE...

...to bullying and harassment at work

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