

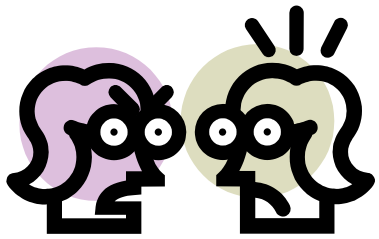


**Footwear and Leather Industries
Health & Safety
Committee**

BULLYING AND HARASSMENT IN THE WORKPLACE

A preventative guide for the footwear and leather industries





INTRODUCTION

Everyone should be treated with dignity and respect at work. Bullying and harassment of any kind are in no-one's interests and should not be tolerated in the workplace. If you are being bullied or harassed it can be difficult to know what to do about it.

Millions of workers suffer bullying and harassment in the course of their jobs, scarring workplaces and ruining lives. Despite legislation nearly thirty years ago on sex and race discrimination, these problems are still rife. Concerns about other forms of harassment on grounds of age, sexual orientation, disability and religion or belief have been highlighted by unions and campaigners.

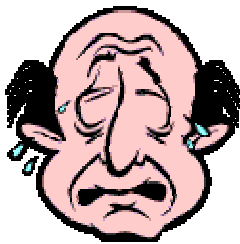
Bullying costs employers eighty million working days and up to £2 billion in lost revenue every year. Nearly half a million people in the UK experience work related stress and the financial costs associated are estimated at £3.8 billion per year.

The objective of this guidance note is to assist employers and employees to prevent ill health caused by bullying and harassment by using the practical tips and guidance provided in this document.

WHAT THE LAW SAYS

There is no specific legislation in the UK dealing with the issues of workplace bullying, but a number of areas of law may be relevant and applicable:

- Data Protection Act 1998
- Disability Discrimination Act 2004 (amends the Disability Discrimination Act 1995)
- Employment Act 2002 (Dispute Resolution) Regulations 2004
- Employment Rights Act 1996
- Health and Safety at Work Act 1974



- Protection from Harassment Act 1997
- Management of Health & Safety Regulations 1992 (amended 1999)
- Race Relations Act 1976
- Sex Discrimination Act 1975
- Age Discrimination Act 2006
- Employment Equality (Religion or Belief) Regulations 2003 (Amendment) (No. 2) Regulations 2004
- Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000

The Employment Act 2002 states that from 1 October 2004 all employers **must** have statutory minimum dismissal and disciplinary procedures in place. These procedures give any employee the right to begin a formal grievance to investigate their complaint. The formal grievance procedure **must** have been pursued before any complaint is made to Employment Tribunal.

Employers have a “duty of care” to look after the health and safety of all their employees, this is required by:

- **Statute** – the Health and Safety at Work Act 1974
- **Common Law** – under the law of negligence and:
- **Contract Law** – it is an implied term in the contract of employment that the employer will ensure the employees’ health, safety and welfare

DEFINITIONS - WHAT IS WORKPLACE BULLYING?

Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. The most extreme cases of bullying in the workplace can result in actual physical violence.

Harassment, in general terms, is unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, nationality or any personal characteristic of the individual and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

IDENTIFYING CAUSES AND EFFECTS OF BULLYING AND HARASSMENT

Bullying and harassment do not necessarily take place face to face. They may occur by written communication, e mail, telephone or automatic supervision methods (such as computer recording of downtime from work, or recording of telephone conversations) if these are not universally applied to all workers. *Examples of harassment and workplace bullying are provided in Appendix 1.*

HSE's guidance includes examples of repeated behaviour that counts as bullying:



- verbal abuse (including shouting and swearing)
- insubordination
- libel, slander or ridicule
- spying, pestering, or other inappropriate intrusive questioning, particularly into personal or domestic life
- setting of impossible or arbitrary objectives or deadlines
- excessive supervision
- unjustified faultfinding
- withholding of information that the employee has a reasonable expectation of being given
- exclusion from meetings that the employee has a reasonable expectation of attending
- other forms of unreasonable ignoring of the employee
- refusal (without reasonable cause) of reasonable requests for leave or training
- malicious prevention of career development



Symptoms of bullying

- ❖ anxiety
- ❖ headaches
- ❖ nausea
- ❖ ulcers
- ❖ sleeplessness
- ❖ skin rashes
- ❖ irritable bowel syndrome
- ❖ high blood pressure
- ❖ tearfulness
- ❖ loss of self-confidence

To tackle bullying and harassment at work, it is necessary to identify the type of behaviour considered unacceptable and to provide examples so that people understand what is meant by it.

THE EFFECTS OF BULLYING BEHAVIOUR

This widespread phenomenon is one of the most destructive forces eroding the professional lives of men and women who have to go to work. The unpredictable behaviour and the often unseen aggression of a bullying boss engenders fear and paranoia in large numbers of employees. It makes their working lives utterly miserable, leaves people full of self doubt, affects performance and is the source of both high absenteeism and in many cases prolonged sick leave.

Bullying at work is the precursor of alarming and unimagined misery for its recipients and is synonymous with tragic consequences. There are documented cases of major physical impairments of health and many more cases involving nervous breakdown, psychological distress and personality change, besides the intolerable pressure of acute financial repercussions and the total fracturing of careers. It has a devastating effect on the bullied person's family.



People who find themselves being bullied – and this is a subjective test – often suffer from the following symptoms:

PHYSICAL


- ◆ sleeplessness
- ◆ nausea
- ◆ migraine/severe headaches
- ◆ palpitations
- ◆ skin complaints
- ◆ sweating/shaking
- ◆ stomach problems
- ◆ backache
- ◆ loss of appetite
- ◆ lethargy

EMOTIONAL

- ❖ acute anxiety
- ❖ loss of confidence/self esteem
- ❖ depression
- ❖ panic attacks
- ❖ anger
- ❖ mood swings
- ❖ lack of motivation
- ❖ suicidal thoughts

Sexual Harassment

- unwelcome sexual advances, propositions and demands for sexual favours
- unwanted or derogatory comments about dress or appearance
- leering and suggestive gestures
- display of offensive material, pornographic pictures or page three type pin-ups or calendars (including in electronic forms such as computer screensavers)
- physical contact, ranging from invasion of personal space and unnecessary touching through to sexual assault and rape

	<p>Racial Harassment</p> <ul style="list-style-type: none">➤ refusal to work with someone or deliberate isolation of them because of their race, colour, nationality or ethnic origin➤ display of racially offensive material, including graffiti ➤ racist jokes, banter, insinuations, insults and taunts➤ unfair work allocation and physical attacks on individuals because of their race, colour, nationality or ethnic origin <p>Harassment of Workers with Disabilities</p> <ul style="list-style-type: none">❖ intimate questions about an individual's disability❖ name-calling, jokes, taunts and use of offensive language❖ assumption that a physical disability means that the individual has a mental disability❖ assumption that a mental disability means that the individual lacks intelligence❖ speaking to colleagues rather than the person with the disability❖ exclusion from workplace and social activities <p>Religious Harassment</p> <ul style="list-style-type: none">▪ mocking or derision of people's religious beliefs▪ unwanted comments on dress▪ making it unnecessarily difficult for people to conform to their religious beliefs <p>Harassment of Lesbians and Gay Men</p> <ul style="list-style-type: none">• unwelcome comments or jokes• stereotypical assumptions, eg that all gay men are HIV positive• intimate questions about an individual's personal or sexual life• assumption that everyone is heterosexual
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- physical abuse or intimidation

People may also be harassed on the grounds of their age. This could take the form of pressure to retire, or assumptions or derogatory remarks about their ability or competence.

Harassment can also involve deriding or mocking people's political beliefs, or their trade union involvement.

GOOD WORKING PRACTICE AND DEALING WITH BULLYING AND HARASSMENT

Many individuals who bully will excuse such behaviour as a necessary means of motivating an employee in the highly competitive commercial environment of today. However, the impact on an organisation can be devastating:

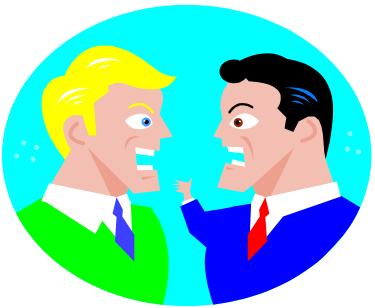
CONSEQUENCES

- ⇒ increased sick absence
- ⇒ increased absenteeism
- ⇒ reduced productivity
- ⇒ high staff turnover
- ⇒ costly retraining
- ⇒ low staff morale
- ⇒ demotivation
- ⇒ increase in tribunal cases
- ⇒ civil action for stress
- ⇒ costly law suits
- ⇒ risk to public image damage to corporate image
- ⇒ loss of client/customer confidence

Bullying in organisations is, therefore, not only a problem for the individual but also for the organisation as a whole.

The following ACAS five-step plan will help organisations protect their staff from bullying and harassment:





- ✓ write a formal policy making it clear that bullying and harassment are not to be tolerated, securing the confidentiality of claimants and clarifying the responsibilities of supervisors and managers
- ✓ set a good example – authoritarian styles of management can create a culture where bullying and harassment thrive
- ✓ maintain fair procedures for dealing promptly with complaints, with provision for confidentiality for both the person making the complaint and the subject of the complaint to be accompanied by a fellow employee or trades union representative of their choice
- ✓ set standards of behaviour – an organisational statement to all staff about the standards of behaviour expected can make it easier for individuals to be fully aware of their responsibilities to others
- ✓ let employees know that complaints of bullying/harassment, or information from staff relating to such complaints, will be dealt with fairly, confidentially and sensitively

Implementing a Policy

A policy on preventing and tackling bullying and harassment to staff needs to clearly define the responsibilities of both the employer and employees with regard to preventing incidents, responding to incidents and providing support.

Key messages from the policy need to be communicated to staff and customers and mechanisms put in place to ensure that the policy and procedures are monitored, updated and implemented. Here again we come back to training, which is an important part of an organisation's policy on work-related bullying and harassment.



EARLY WARNING SIGNS

How to tell if someone is being bullied:

- ⇒ the working relationship feels different from that previously experienced
- ⇒ he/she is being persistently "got at"
- ⇒ work is being criticised even though he/she knows their standards have not slipped
- ⇒ he/she has doubts as to whether the mistakes they were supposed to have made were really theirs

If this is an accurate picture of what is happening, reflect on what has happened in the recent past and question if everything was alright before, then why not now?

BULLYING BEHAVIOUR

Bullying can begin innocuously enough, so that the victim is at first unsure of their suppressor's intentions. A bully will give somebody tasks to do they know cannot be achieved in the time given, designed to set up somebody to fail. They also remove responsibilities, giving somebody very trivial tasks instead, or they constantly change instructions, persistently nit pick or freeze the target out.

Obvious Bullying Behaviour

- repeatedly shouting or swearing in public or private
- public humiliation
- persistent criticism
- constantly undervaluing effort
- personal insults and name calling
- persecution through fear or threats
- dispensing unfair punishment out of the blue
- increasing responsibility whilst decreasing authority
- being overruled, ignored, marginalised or excluded

Less Obvious Bullying Behaviour

- setting individuals up to fail
- setting uncontracted tasks
- setting unrealistic deadlines for an increased workload
- removing areas of responsibility and imposing menial tasks
- deliberately sabotaging or impeding work performance
- constantly changing guidelines
- withholding work related information

RECORDS, INFORMATION, INSTRUCTION & TRAINING

If employees are to develop confidence and skills in dealing with challenging situations there is no substitute for direct skills-based training. In larger organisations with a variety of job roles the ideal is to split people into groups. This allows the training to focus on the level of need and the specific scenarios faced by employees in certain roles.

Training needs to be commensurate with the risks faced and must therefore link back to the risk assessment findings.

Most employees only require training in non-physical skills that help them avoid and defuse conflict. This will typically cover how to:

- assess and reduce personal risk
- safely approach a situation
- communicate effectively and manage challenging behaviour
- defuse emotive situations and resolve conflict
- confront unacceptable behaviour professionally
- adopt safe positions and tactics and contain an incident
- account for their actions
- seek and provide post-incident support





Where physical assault is foreseeable, training may need to include physical “disengagement” skills to protect against assault and, in some cases, skills to safely restrain potential aggressors.

Consulting with trade union-appointed safety representatives (see Safety Reps and Safety Committee Regulations 1977) or other employee representatives (see Health & Safety [consultation with employees] Regulations) is a legal requirement. Working with safety representatives and employees’ representatives is a very useful means of communicating on health and safety matters in the workplace.

Remember: involving employees in decisions can help to foster closer working relationships and make employees more receptive to new ideas.

Employees and Trade Union Safety Reps

What Safety Reps can do:

- ◆ First ensure that the victim knows whatever is discussed is **confidential** and also inform them that you can represent and support them at any stage of the investigation **if they so wish**, so they are not made to feel **intimidated**
- ◆ Reassure the victim, listen to the complaint, be supportive, don’t take sides, advise them to keep a diary of incidents with times and any witness present. Discreetly find out if the problem is more widespread and obtain other workers’ support if this is so
- ◆ Explain to the victim the workplace grievance procedure and how to report the incident to the appropriate staff member **if they so wish**

- ◆ Discuss with the victim how he/she wishes the case to be pursued. If the victim agrees, seek the support of other workers. 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
- ◆ Keep victim informed, deal with complaint promptly through normal workplace grievance procedure and, if not resolved, contact full time official for further advice/assistance

USEFUL SOURCES OF INFORMATION



www.banbullyingatwork.com

www.acas.org.uk/a_z/bullying_harassment.html

www.hse.gov.uk/stress

www.hse.gov.uk/pubns/stresspk.htm

"Tackling work-related stress: a manager's guide" contained in the action pack "Real Solutions, real people" HSE Books 01787 881165

Andrea Adams Trust www.andreaadamstrust.org

Labour Research Dept *"Tackling bullying and harassment at work – a trade unionist's guide" ISBN 1 900544 97 0* www.lrd.org.uk

www.bullyingonline.org

ACAS advice leaflet *"Bullying and harassment at work" guidance for employees*

ACAS advice leaflet *"Bullying and harassment at work" a guide for managers and employers*

APPENDIX 1 - GUIDANCE ON THE DIFFERENCES BETWEEN HARASSMENT AND WORKPLACE BULLYING (Source: Berger & Co Ltd Management Report "Bullying at Work")

HARASSMENT	WORKPLACE BULLYING
Has a strong physical component, eg contact and touch in all its forms, intrusion into personal space and possessions, damage into possessions, including a person's work etc.	Primarily psychological (eg criticism), may become physical later, especially with male bullies, but almost never with female bullies.
Tends to focus on the individual because of what they are (eg female, black, disabled etc).	Anyone will do, especially if they are competent, popular and vulnerable.
Harassment is usually linked to sex, race, prejudice, discrimination etc.	Sex, race and gender play little or no part – it's usually discrimination on the basis of competence.
Harassment may consist of a single incident or a few incidents or many incidents.	Bullying is rarely a single incident and tends to be an accumulation of small incidents.
The person who is being harassed knows almost straight away that they are being harassed.	The person being bullied may not realise they are being bullied for weeks or months – until there is a moment of enlightenment.
Everyone can recognise harassment, especially if there is an assault, indecent assault or sexual assault.	Few people recognise bullying.
Harassment often reveals itself through the use of recognised offensive vocabulary.	The focus is on competence (envy) and popularity (jealousy).
There is often an element of possession, eg stalking.	Phase 1 of bullying is control and subjugation – when this fails, phase 2 is elimination of the target.
The harassment almost always has a strong, clear focus (eg sex or race).	The focus is on competence (envy) and popularity (jealousy).
Often, the harassment is for peer approval, bravado, macho image, etc.	Tends to be secret behind closed doors with no witnesses.
Harassment takes place both in and out of work.	The bullying takes place largely at work.
The harasser often sees their target as easy, albeit sometimes a challenge.	The target is seen as a threat who must first be controlled and subjugated and if that does not work, eliminated.
Harassment is often domination for superiority.	Bullying is for control of threat (of exposure of inadequacy).
The harasser often lacks self-discipline.	The bully is driven by envy (of abilities) and jealousy (of relationships)
The harasser often has specific inadequacies (eg sexual).	The bully is inadequate in the area of interpersonal skills.

APPENDIX 2.

EXAMPLE OF A MODEL POLICY ON WORKPLACE BULLYING AND HARASSMENT

The Company is an equal opportunity employer, committed to adopting fair and equitable treatment for all employees. The policy aims to ensure that no employee or other worker is subjected to any form of bullying or harassment.

Aims

- to prevent bullying and harassment taking place rather than to deal with its effects
- a commitment to treat persons with dignity and respect while at work (ie setting a good example)
- procedures for defining the role and responsibilities of management when dealing with any claims of bullying or harassment in a confidential manner.
- awareness of disciplinary action

Responsibility

- the Managing Director is ultimately responsible for the implementation of the policy
- the senior manager/director has responsibility:
 - for dealing promptly and sensitively with any claims
 - to conduct a thorough investigation to deal with claims of bullying or harassment (*refer to Appendix 3 for the investigation procedure*)
- the participation of managers, supervisors, workers and their representatives is crucial both in identifying the problems and in implementing solutions
- in compliance with this policy, all employees are actively encouraged to co-operate with management personnel if they suspect any person is involved in an act of bullying or harassment

Definitions

- “bullying” is where employees are intentionally intimidated, threatened or humiliated, possibly by a misuse of status or physical strength. The most extreme cases of bullying in the workplace can result in actual physical violence

- “harassment” can be defined as any unwanted conduct that is offensive or objectionable to the recipient. The recipient’s view is crucial, because what one person may find acceptable, another may not
- RIDDOR is the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995
- ANI is the Group Accident Notification and Investigation form

The Rules

- no form of bullying, harassment or victimisation will be permitted or condoned under any circumstances
- where a claim of bullying or harassment is brought to the attention of management (eg via grievance procedure) prompt investigation and corrective action will be instituted, that may include disciplinary action against the person who perpetrated the bullying or harassment
- claims will be dealt with in a manner that respects the rights of all parties and will also be dealt with in confidence
- advice, counselling or other support will be afforded to any employee who has suffered bullying or harassment at work. The perpetrator may also benefit from advice or counselling. Measures to prevent violence can involve making changes to the physical environment, work organisation, the design of the job, training and selection of workers
- a confidential record will be kept of all incidents using the accident reporting system (ie ANI form). Under RIDDOR any act of non-consensual physical violence to a person at work is reportable to the Health and Safety Executive if it results in death, major injury or incapacity from normal work for over three days

Confidentiality

- Management will treat any claim of bullying or harassment seriously and in strict confidence

Help

- Victim Support 01207 735 9166
- Victim Support Scotland 0131 225 8233
- Andrea Adams Trust 01273 704 901
- Appropriate trade union regional office, if a member

Information and Acceptance of Policy Conditions

- the policy will be well publicised throughout the workplace. The policy will be communicated to all new employees as part of their induction
- all personnel are required to observe the conditions outlined in this policy strictly at all times
- a review of the accident reporting system for incidents of violence (ie physical and psychological) will be carried out periodically. Where significant, a risk assessment will be carried out or, where one already exists, it will be reviewed in line with the findings from the accident reporting system
- where absenteeism, poor work performance or repeated minor illness occur, bullying should be considered as a possible cause
- the policy will be monitored and reviewed regularly in consultation with workplace representatives

Disciplinary Action -

Gross Misconduct

- victimisation of, or retaliation against, an individual who has made a claim of bullying or harassment will, of itself, be regarded as gross misconduct
- fighting, assault on another member of staff or serious harassment/ bullying in the workplace will, of itself, be regarded as gross misconduct

Other

- frivolous, or vexatious, allegations that are unfounded will be treated as a disciplinary issue
- disciplinary action will be taken where an employee commits a serious act of insubordination

APPENDIX 3. EXAMPLE OF A PROCEDURE FOR INVESTIGATING A CLAIM OF HARASSMENT OR BULLYING (source: Visual Business Tools “Managing People)

- discuss the matter privately with the alleged perpetrator and assure them the discussions will be treated in confidence
- offer the person the opportunity to be accompanied by a work colleague or union rep during the discussion, if they wish
- assure the person that the purpose of the discussions is not to accuse, but rather to hear their version of events
- tell the person factually what allegations are being made, giving specific examples if possible
- give the person a full opportunity to present their side of events, however credible or otherwise the complaint may seem
- remain objective and neutral throughout the discussions
- try to establish whether the person accepts or denies the allegations
- avoid getting into an argument or an emotional scene
- if, during discussion, it becomes apparent that there is no foundation to the allegations, adjourn the discussion to consider the matter, then return to inform the employee that the allegations are being dropped. The next step may be to consider whether the employee who raised the matter should be disciplined for misconduct in raising an unfounded complaint
- if new information comes to light during discussions, adjourn if necessary to investigate the claims
- if it becomes apparent that the allegations of harassment are well-founded, adjourn the meeting and review the next step, which may be to invoke the Company’s disciplinary procedure against the alleged bully/harasser
- assure the person that you will return to them promptly with feedback once you have decided what action to take, including timescales for action
- if the bullying or harassment is treated as an offence under the Company’s disciplinary procedure, follow this procedure exactly

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