

ADDRESSING BULLYING AND HARASSMENT IN THE WORKPLACE

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PREVENTION

1 The case for prevention

It is important for employers to take steps to minimise the risk of harassment or bullying occurring within their organisation. One reason to do so is to prevent legal claims. However, there are also many wider detrimental effects that employers can look to avoid, including:

- low workforce morale;
- increased staff absence;
- poor performance and/or poor productivity;
- increased resignations, destabilising the workforce and increasing recruitment costs;
- damage to the employer's reputation if matters become public knowledge;
- poor workplace culture/diversity and inclusion.

2 Prevention steps

Ensure your policy is robust

Your policy on bullying and harassment may be standalone, or part of a wider "Dignity at Work" policy. In either case, the bullying and harassment policy or section should contain the following (as a minimum):

- a statement that bullying and harassment is not tolerated and a clear indication of the action that will be taken;
- examples of unacceptable behaviour;
- the procedure for employees to follow if they wish to raise a concern either formally or informally. This may be the usual grievance procedure or it may be a separate procedure with greater confidentiality built in.

Enforce the policy

The employer needs to take active steps to ensure that the policy is well known and followed. This includes:

- ensuring the policy is implemented and regularly reviewing how it operates;
- training all staff, particularly managers, on the importance of equal opportunities and the impact of bullying in the workplace;
- making sure that all concerns that are raised, whether as a formal grievance or otherwise, are addressed fully;
- reviewing the operation and effectiveness of the policy if bullying or harassment has occurred.

MANAGING AN INCIDENT

3 Dealing with a bullying and harassment situation

If a potential issue of bullying or harassment can be addressed at an informal stage, this is typically better for all concerned. Even if dealt with informally, the issue should still be treated seriously.

If the victim raises a formal complaint instead, the grievance procedure/specific bullying and harassment procedure should be followed.

Once the issue has been investigated, one of the following steps may be appropriate:

- disciplinary action;
- informal action, for example discussions between the perpetrator and the victim;
- counselling;
- mediation;
- training for one or more members of staff.

When issues of bullying and/or harassment are raised, they should always be taken seriously and taken as an opportunity to improve procedures, re-train staff and amend policies if appropriate.

COMMON ISSUES

4 Illustrative examples

An employee complains about a co-worker. The manager suggests moving the employee making the complaint to a different team so that they do not have to work with the colleague while the issue is being investigated. Is this a good idea?

- **No.** Moving the victim could be seen to be punishing them for raising the issue. They should only be moved if they ask to move or, if the manager feels it appropriate, following a discussion and if the individual agrees. An alternative could be to either move or suspend the perpetrator but again this should only be done with caution and at an appropriate stage.

An employee complains about harassment by their manager. They have asked to be accompanied to the investigation meeting by a colleague as they are very nervous. Does the right to be accompanied apply in this context?

- **Strictly, no. But it is good practice.** The right to be accompanied applies to grievance and disciplinary meetings, not to investigation meetings at the start of the process. However, it is often good practice to allow an employee to be accompanied at this stage, particularly when they have alleged that they have suffered bullying or harassment.

An employee complains that they have been harassed by a colleague. Having investigated, the employer is satisfied that harassment didn't occur and believes that the individual raised the issue because they were jealous of the colleague's bonus. Can action be taken against the employee who raised the complaint?

- **Yes**, provided that the employer genuinely believes that the grievance was not raised in good faith. In these circumstances, it may well be appropriate to take disciplinary action against the complainant. However, care should be taken when doing this, particularly if the original allegation on its face could have amounted to harassment, to avoid a claim for victimisation.

A complaint of bullying is not upheld but the employer feels that the complainant was genuine. What can be done to rebuild the working relationships?

- In this type of situation, no punitive action should be taken against the employee who complained (or against any colleagues who supported them). However, it might be appropriate to offer counselling if the employee has been affected by the issue. Further, some form of workplace mediation or training may assist, depending on the issue that has arisen.

If an individual is dissatisfied with the outcome of the investigation into a bullying issue, should they be given a right of appeal?

- **Yes.** Normally, the employee's concern will amount to a grievance. As required by the Acas Code, part of a fair grievance process is the right to an appeal.

Getting in touch

When you need a practical legal solution for your next business opportunity or challenge, please get in touch.

London

Governor's House, 5 Laurence Pountney Hill
London EC4R 0BR England

Rebecca Harding-Hill

Tel: +44 (0) 20 3400 4104

rebecca.harding-hill@bclplaw.com

Bryan Cave Leighton Paisner LLP

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