



## **Bullying & Harassment**

### **A brief guide...**

This brief guide is not a definitive statement of the law around bullying and harassment. It is an overview designed to give you a flavour of the obligations the law places on employers to address bullying and harassment and to provide a safe and healthy place for you to work.

### **Legal issues**

An employer may be liable under the Equality Act 2010 if harassment is based on discrimination. The Protection from Harassment Act 1997 may impose liability on an employer for a course of conduct amounting to harassment.

It is an implied duty of employment contracts to provide a safe and suitable working environment, to not destroy mutual trust and confidence and to provide prompt redress of grievances.

The Health and Safety at Work Act 1974 obliges employers to provide a safe place and system of work. Health and safety is not just about hard hats and steel-capped boots. It's also about a work environment which is safe in terms of mental health.

### **A tricky issue for employers**

Employers find it difficult to handle matters around bullying and harassment. It is a tricky area to deal with because often the employer will have to decide which one of two employees is telling the truth and decide whether bullying or harassment has taken place. Often there is little direct evidence and even if there are witnesses, other co-workers do not want to get involved in the conflict. They just want to keep their head below the parapet, do their work and keep their job. Try to understand why work friends are never keen to get involved.

Sometimes employers are slow to deal with allegations of bullying and harassment. If they do not take the issue seriously you may have to raise a formal grievance.

### **Remember: it's not your fault**

The other issue with bullying and harassment is that by the time it becomes a serious issue the victim quite often feels as though this has happened to them through some fault of their own. This is how bullying and harassment impacts human beings.

Try to appreciate that it is not your fault. But it has to be dealt with. Left unchecked it will either force you out of your job or out of your mind.

### **What is bullying?**

Bullying is hard to define. There is no specific legal definition. In general terms it is about all kinds of abuse or intimidation. For example: being shouted at, being sarcastic, ridiculing or demeaning someone; physical or psychological threats; overbearing and intimidating levels of supervision; inappropriate or derogatory remarks about someone's performance; and

deliberately excluding someone from meetings or communications.

Bullying can take many forms. It is far too common in the workplace and if left unchecked can cause serious health issues for the victim.

Bullying is not always overt. It can be something as subtle as repeated unwarranted criticism that slowly wears down an individual over a period of time.

### **What is harassment?**

Harassment is any unwanted physical, verbal or non-verbal conduct which has the purpose or effect of violating someone's dignity or creating an intimidating, hostile, degrading, humiliating or offensive workplace environment.

Unlawful harassment may involve conduct of a sexual nature (sexual harassment) or it may be related to age, disability, race and the other protected characteristics.

Harassment is unacceptable even if it doesn't fall into any of these categories.

It does not matter what the person's motive is for harassing you, for example, if they think it is funny. It is the effect on you that counts.

Examples may include unwanted physical conduct or horseplay, unwelcome sexual behaviour, sending offensive emails and texts, insensitive jokes or pranks, mocking or belittling a person, ignoring or shunning someone and excluding them from a conversation or workplace social activity.

Harassment can become a serious health issue at work if left unchecked. You should raise a grievance if you are feeling harassed at work and ask your employer to address the issue. If it cannot be resolved, seek advice.

### **Bullying and harassment can cause illness**

Many people don't realise until it is too late and they have become ill, that they have been the subject of a bully's attention.

In any form bullying in the workplace is unacceptable and should be reported to your employer as soon as it occurs.

Bullying can lead to serious mental health conditions such as depression and anxiety. In severe cases it may lead to post-traumatic stress disorder. The victim should seek advice at the earliest possible opportunity.

### **Your employer's responsibilities**

It is the responsibility of every employer to provide a safe and healthy working environment which is free from abuse. A failure to provide such an environment may constitute a breach of contract and entitle an employee to bring claims in the Employment Tribunals or civil courts.

Your employer is vicariously liable for the act of every one of its employees. This means that even if the employer was not aware they are legally liable for the acts of their employees. Ignorance is not a defence. If you are being bullied by a co-worker it is the responsibility of your employer to take steps to address the bullying and end it. This may involve an internal reshuffle or moving you to another role but it is for the employer to take active steps to preserve your job and your health.

If your employer repeatedly fails to address the issue, or does not adequately address it, take advice before you make any decisions about your employment.

### **Raising a grievance**

It is your employer's duty to address any workplace issue promptly. If your employer does not wish to tackle it informally you may have to raise a grievance. If the bullying is being carried out by your manager, submit your grievance to that person's manager or the most highly ranked person in the organisation if there is no specific HR function.

Your employer has a duty to offer redress. If it fails to do so this may be a breach of contract.

### **Next steps**

If you cannot continue to work because of the bullying and harassment, or the impact on you, you should speak to your GP and ask them to sign you off work. Do not forget to submit your medical certificate to your employer and try and ensure the reason for your absence is clearly set out.

If the situation becomes untenable take legal advice before making any decisions, especially if it is your intention to resign.