

A guide for
employees



Bullying and harassment at work

inform

advise

train

work
with you

We inform, *advise, train and work with you*

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 0300 123 11 00 for free confidential advice (open 8am-6pm, Monday to Friday) 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. Download one of our helpful publications from our website or call our Customer Services Team on 0300 123 11 50 and ask to be put you in touch with your local Acas adviser.

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. Go to www.acas.org.uk/training to find out more.

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. Go to www.acas.org.uk/businesssolutions for more details.

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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 employees* 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 as defined in the Equality Act 2010 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.

* 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 (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, email, 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 can 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 de-motivated. 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

The Equality Act 2010 uses a single definition of harassment to cover the relevant protected characteristics. Employees can complain of behaviour that they find offensive even if it is not directed at them.

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 relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex and sexual orientation.

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 their association with a person who has a protected characteristic, or because they are wrongly perceived to have one, or are treated as if they do. Harassment applies to all protected characteristics except for pregnancy and maternity where any unfavourable treatment may be considered discrimination, and marriage and civil partnership where there is no significant evidence that it is needed.

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 noticeboard 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 sexual orientation.

Your right not to be harassed at work by others

An employee can make a complaint against their employer where they are harassed by someone who doesn't work for that employer such as a customer, client or passenger. You should let your employer know if you are being harassed in this way so they can take steps to prevent it from happening again.

Chris manages a Council Benefits Office. One of his staff, Raj, is a Sikh. Raj mentions to Chris that he is feeling unhappy after a claimant made derogatory remarks regarding his faith 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 Raj in the picture with the actions he is taking and believes he is taking reasonable steps to protect Raj from harassment.

Bullying

The impact on the individual can be the same as harassment and the words bullying and harassment are often used interchangeably in the workplace.

Unless bullying amounts to conduct defined as harassment in the Equality Act 2010 it is not possible to make a complaint to an Employment Tribunal about it.

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, at an Employment Tribunal, on the grounds of breach of contract (as long as they have worked for the employer for two years). Employers are usually responsible in law for the acts of their workers. If you are (or expect to be) affected by such an issue, see Appendix 1 on important changes to making a tribunal claim.

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.

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.

Harassment at work

Let your manager or union or staff representative know of the problem, or seek advice elsewhere, perhaps from a Citizens Advice Bureau, the Acas helpline (0300 123 11 00 Open Monday – Friday 8am–6pm or the Equality and Human Rights Commission (EHRC) at www.equalityhumanrights.com. 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 who 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. Where harassment is unlawful conduct under the Equality Act 2010, you can take a claim to an employment tribunal¹. If you make a claim to an employment tribunal, they 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. If you resign as a last resort 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 24 months.

¹ Refer to appendix 1 which outlines important changes to making Employment tribunal claims.

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.

Appendix 1: Important changes to making Employment Tribunal claims

Previously, an employee could go straight to the tribunal service, but this will change. From 6 April 2014, if an employee is considering making an Employment Tribunal claim against their employer, they should notify Acas that they intend to submit a claim.

Details of how and where to do this are given below.

Acas will, in most circumstances, offer to assist in settling differences between employee and employer. Employers intending to make a counter-claim against an employee must follow a similar procedure.

The process for agreeing settlement is called Early Conciliation. It is handled by experienced Acas conciliators and support officers and is:

- free of charge
- impartial and non-judgmental
- confidential
- independent of the Employment Tribunal service
- offered in addition to existing conciliation services.

Early Conciliation focuses on resolving matters on terms that employee and employer agree.

Early Conciliation may not resolve matters in every claim. When this is the case Acas will issue a certificate that is now required for a claim to be submitted to an Employment Tribunal.

From July 2013, employees have been required to pay a fee to “lodge” a claim at the Employment Tribunal, followed by another fee if the claim progresses to a tribunal hearing. In some cases, other fees may also apply. If a claim is successful, the employee may apply for the costs of the fees to be covered by the employer. Some employees, including those on low incomes, may be exempt from fees.

Remember, when a claim is lodged with a tribunal, Acas will continue to offer conciliation to both sides until the tribunal makes a judgment and, if the claim is successful, a remedy decision (usually financial compensation) has been made.

To find out more about Early Conciliation, go to
www.acas.org.uk/earlyconciliation

To find out more about Employment Tribunal fees, go to
www.justice.gov.uk/tribunals/employment

Acas Training

Our training is carried out by experienced Acas staff who work with businesses every day. They will show you the value to your business of following best practice in employment matters and how to avoid the common pitfalls. We also run special training sessions on new legislation.

Look at the Acas website for up-to-date information about all our training or if you want to book a place online, just go to www.acas.org.uk/training or call the Acas customer services team on 0300 123 11 50.

Training sessions are specially designed for smaller companies and our current programme includes:

- Managing discipline and grievances at work
- Managing absence at work
- Employment law update
- HR management for beginners
- Having difficult conversations
- Contracts of employment: how to get it right
- New employment legislation
- Redundancy and restructuring.

We also have free online learning to help you – just go to www.acas.org.uk and click on e-learning to look at the topics covered.

Acas Publications

*Book time with your
Employment specialist*

Whether you need to know how to write a contract of employment, how much holiday you are entitled to or about the latest employment legislation, our range of publications give practical information and advice for both employers and employees on employment matters.

View and order online at www.acas.org.uk/publications

You can also sign up for Acas' free e-newsletter. It will keep you informed about the latest developments in employment legislation as well as best practice advice on a range of employment-related topics.

If you would like to join our mailing list, subscribe online at www.acas.org.uk/subscribe

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.

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