

# Bullying and Harassment

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# Introduction

## **1.1 Context**

One in fourteen people reported having been bullied at work in a survey published in 2001 by the ESRI for the Department of Enterprise, Trade and Employment. Further survey reports carried out by the ESRI of Bullying Experiences in the Workplace (2007), puts the incidence rate at almost one in thirteen with higher rates reported for female employees.

Bullying is a cost for both employers and employees. The cost can be both financial and human. If not resolved internally, a serious case could bring an employer before a tribunal, the Labour Court and/or the civil courts. If destructive behaviour is tolerated and continues, it affects the performance and general health and wellbeing of individuals and/or groups. The negative effects can last a long time.

## **1.2 Purpose**

The aim of this policy is to provide employees and managers with knowledge on how to highlight and manage incidents of bullying or harassment within the company. A risk assessment relating to bullying and harassment can be found on-line within the risk section of your health and safety dashboard and must be completed regularly.

## **1.3 Scope**

This policy is applicable to all managers within the company. The main points of this policy are included in the employee handbook and the Induction e-learning module for all employees.

# Procedure

## 2.1 Definition

Bullying at work is defined as:

*'repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment which could reasonably be regarded as undermining the individual's right to dignity at work.'*

A pattern of the following behaviours are examples of types of bullying:

- Exclusion with negative consequences.
- Verbal abuse / insults.
- Being treated less favourably than colleagues.
- Intrusion – pestering, spying or stalking.
- Menacing behaviour.
- Intimidation.
- Aggression.
- Undermining behaviour.
- Excessive monitoring of work.
- Humiliation.
- Withholding work-related information.
- Repeatedly manipulating a person's job content and targets.
- Blame for things beyond a person's control.

Bullying can be carried out by supervisors, managers, subordinates, fellow employees, customers, business contacts or members of the public.

This list is not exhaustive

*This policy does not aim to address physical assault at work. There is no tolerance for such behaviour and all incidents of physical assault are dealt with through the investigation process.*

Bullying at work does not include reasonable and essential discipline arising from the good management of the performance of an employee at work or actions taken which can be justified as regards the safety, health and welfare of the employees. For example, an employee whose performance is continuously signalled at a level below required targets may feel threatened and insecure in their work but this in itself does not indicate bullying.

Factors which are known to signal a risk of bullying at work are:

- **High turnover of employees, high absenteeism or poor morale.**
- **Employment tenure** – *a bully may regard new, casual or contract employees as easier targets than permanent employees.*
- **Hierarchies** – *hierarchies involving, for example, technical or non-professional employees working to professionally qualified employees which can sometimes present higher levels of bullying.*
- **Changes in the workplace** – *workplace changes which can increase the risk include change in ownership, new manager or supervisor, introduction of new work performance measures or technology or internal re-organisation.*
- **Management of relationships in the workplace** – *bullying may be more likely to happen in workplaces that do not have effective management systems which respects persons and monitors and supports work relationships.*
- **Personality differences** – *petty jealousy, personal biases, taking advantage of vulnerable or less 'street-wise' individuals can contribute to bullying.*
- **Gender / age imbalance** – *bullying may be more likely where there is an age or a gender imbalance in the workplace.*
- **Other factors** – *include the composition of the workforce, interface with the public, and history of tolerance of unacceptable behaviour, lack of or inadequate procedures or disregard of procedures for dealing with bullying.*

## 2.2 Role of the employee

Employees have rights and duties as regards safety, health and welfare at work under the 2005 Act.

Employees have rights to be treated with dignity and respect at work and not have their safety, health or welfare put at risk through bullying by the employer, by other employees or persons. They have a right to complain to their employer if bullied and not to be victimised for doing so. They have a right under safety and health laws to be represented in raising this with the employer.

Employees have duties to behave and conduct themselves so as to respect the right of employers and other employees to dignity, courtesy and respect at work and the right not to be placed at risk as regards to their safety, health and welfare from bullying at work. Employees should also co-operate by providing any relevant information when an allegation of bullying at work is being looked into at either an informal or formal stage.

### **2.3 Role of the employer**

Every employer has a duty to manage and conduct work activities in such a way as to prevent any improper conduct or behaviour likely to put at risk an employee's safety, health or welfare at work. The prevention of bullying must therefore be part of the management system.

Employers must prepare a Safety Statement and consider if bullying at work is likely to be a hazard, the extent of risk involved and what preventive measures are necessary.

### **2.4 Who bullies at work**

It is not possible to describe all bullies but persons who engage in bullying at work may have certain personal characteristics such as poor communication skills, difficulty in working with others, difficulty in delegating responsibility, poor organisational skills or low self-esteem. Good job design, training and supervision can help overcome these difficulties.

### **2.5 Why deal with bullying at work**

Bullying can have serious effects for both the person bullied and for the employer. Stress, ill health, loss of confidence and self-esteem and career difficulties can result for a victim. For the employer a dysfunctional workplace, reduced productivity, poor morale, lost time, industrial relations problems and litigation can follow.

### **2.6 Resolving bullying at work (Informal)**

#### **Informal process**

A problem solving approach is promoted to ensure that the behaviour complained of, if established in fact, is eliminated and that working relationships are restored. An informal process should:

- Aim to assess the allegation and address it.
- Use agreed procedures.
- Be consistent, systematic, transparent and unbiased.
- Ideally have an intervention addressing the issue in place within three weeks or an agreed, indicative time frame.
- Promote the restoration of harmony over the medium to long term.

On receipt of a complaint of alleged bullying, or a complaint that a bullying atmosphere or bullying type behaviours are occurring, a manager should try and have the matter resolved informally with the consent of the parties involved with support from their B/M / Line Manager.

For general non-specific issues, a proactive, non-judgemental intervention approach such as information sessions, clarifying what is acceptable interaction for a workplace should be used.

The first step in any informal resolution of a complaint should be to get the facts of the complaint, the specific issues complained of, when they occurred and to judge whether or not they fall within the definition of bullying, and thereafter to establish whether or not they are representative of the events complained of.

### **Closure of Informal Process**

To obtain closure after a resolution is found through informal procedures both parties should be given support or periodical reviews, insofar as is reasonable, in the form of support services.

Where a complaint has been assessed as vexatious, the matter should be progressed through the disciplinary procedures.

In many situations, with the co-operation of all parties, the matter can rest there.

If the issue is not or cannot be resolved through an informal process, or, if after that informal process the bullying persists, a formal process should be invoked. This process includes a formal complaint and formal investigation. In this case, the procedures below should be followed.

## **2.7 Resolving bullying at work (Formal)**

### **Complaint**

The complainant should make a formal complaint, ideally in written form and signed and dated. The complaint should be confined to precise details of alleged incidents of bullying, including their dates, and name of witnesses where possible.

Where this is not possible, a written record should be taken of the complaint by a designated person and signed by the complainant.

The complainant should be advised of the aims and objectives of the formal process, the procedures and time frame involved, and the possible outcomes. He/she should be assured of support as required throughout the process. He/she should be given a copy of the Bullying and Harassment Policy.

### **Information to the person complained against**

The person complained against should be notified in writing that an allegation of bullying has been made against him/her. He or she should be assured of the company's presumption of his/her innocence of any wrongdoing at this juncture. He/ she should be advised of the aims and objectives of the formal process and procedures and time frame involved and the possible outcomes.

A meeting should be organised at which he/she is given a copy of the complaint in full and any relevant documents including the Bullying and Harassment Policy.

### **Investigation**

An investigation must be conducted in accordance with the company's Bullying and Harassment Policy. The investigation must be conducted by a person with no prior involvement in the case. This may be:

- a) A Business Manager.
- b) HR Support.
- c) An external investigator.

The likely scale for its completion should be outlined and agreed and its rationale explained along with the scope of the investigation, indicating that the investigator will consider whether the complaint falls within the definition of bullying at work and whether the complaint has been upheld.

Statements from all parties should be recorded in writing as the use of written statements tends to make matters clearer from the outset and maintains clarity throughout the investigation. Copies of the record of their statements should be given to and agreed with those who make statements to the investigator.

All parties should continue to work normally, if possible during the investigation.

The objective of an investigation is to ascertain whether or not, on the balance of probabilities, the behaviours complained of occurred. Evidence and witness statements are relied on for this purpose. The investigator should meet all parties and witnesses on an individual confidential basis with a view to establishing the facts. A work colleague or employee/trade union representative may accompany the complainant and the person complained of, if so desired.

The investigation should be completed as quickly as possible, preferably within an agreed timeline. The investigator should submit the report to the employer which should include his or her conclusions. Both parties should be given a copy of the report as soon as possible by the employer and given an opportunity to comment, within a set deadline, before the employer decides on any action to take.

The employer should decide in the light of the investigators report and the comments made, if any, what action is to be taken arising from the report. The employer should then in writing inform both parties of the next steps.

### **Action where the complaint is upheld**

Where a complaint has been upheld, bullying has been identified as a behaviour which is a hazard in that store/department. Action should be taken to eliminate the risk of bullying behaviour continuing or being repeated at a later date. A record of the interventions used for this purpose should be kept.

If a complaint is upheld the matter is now a disciplinary issue and the employer should follow the appropriate disciplinary procedures.

### **Action where a complaint is not upheld**

It is important that employers, managers and supervisors monitor the situation to ensure that there is no victimisation of a complainant following an investigation. It is crucial that situations are treated sympathetically where complaints are made in good faith but not upheld, and it should be noted that there are incidences where this will be the case.

When a complaint is not upheld, the employer has a duty to the person complained against. It should be made clear to both parties that the complaint is not upheld and no wrong doing has been found. Support should be offered to the person complained about and all efforts made to ensure that any person with a prior knowledge of the complaint is made aware of the finding that it is not upheld.

Where, on the other hand, a complaint has been found to have been maliciously made, the employers disciplinary procedure should apply.

## **Appeals**

With a formal system, an appeals procedure for both parties will be in place. The reason for the appeal should be outlined in writing to management if such an option is being taken. The appeal should be heard by another party, of at least the same level of seniority as – but preferably more senior than – the original investigator, and focus only on the aspect of the case cited by the appellant as being the subject of the appeal. The grounds of the appeal and any outcome and methodology employed should be appended to the investigation file.

## **Closure and Next Steps**

Both parties should be given appropriate and periodical reviews, insofar as is reasonable, after a resolution is found as to obtain closure. It must be accepted that investigations can result in very divisive relationships for individuals, teams and departments and some type of reconciliation or rehabilitative meetings, or team working session should be advised to restore healthier working communication for the future. In many situations, with the cooperation of all parties, the matter can rest here.

## **2.8 Escalation of a Bullying Complaint**

If full utilisation of the range of available internal procedures has not resolved a bullying complaint, the services of a Rights Commissioner may be accessed directly by the individuals involved.

## **2.9 Employee Assistance Programme**

The Company provides a confidential service to help employees manage life and work challenges. This service is available to all employees 24/7 and offers a wide range of advice and support services. The EAP helpline can be contacted on 1800 955 955 or by e-mail at [eap@vhic.ie](mailto:eap@vhic.ie). For more information regarding this service please see An introduction to your Employee Assistance Programme within the documents section of your on-line health and safety management system.

## **3.0 Additional Support**

Additional support for managers and employees is available through the following:

- Business Manager
- Health & Safety Coordinator
- Human Resources Department