

Bullying & Harassment

18th May 2017

University of Reading

Scott Alexander – Regional Support Official

Overview

- **What are bullying and harassment?**
- **Your rights in the workplace**
- **How to tackle bullying and harassment**

Bullying

- Often used interchangeably with “**harassment**”
 - **Harassment** has a **specific definition in law**
 - No **legal definition** of workplace bullying!
- ACAS define “**bullying**” as:-
 - “*Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.*”

Bullying

- **Examples of bullying include, but are not limited to:-**
- Offensive **songs, remarks, jokes, emails** or **gestures**
- Display of offensive **posters, publications** and **graffiti**
- Unwanted **physical contact** or **advances**
- Offensive **remarks** about a **person's dress** or **appearance**,
- Offensive **remarks** about a **protected characteristic**
- **Shouting, abusive** or **intimidating language**
- Spreading **malicious rumours, allegations** or **gossip**
- **Excluding, marginalising** or **ignoring** someone
- Intrusion by **pestering, spying** or **stalking**
- **Copying memos** that are **critical** about someone **to others who do not need to know**
- Deliberately **undermining a competent worker** by **overloading, taking credit** for his/her work or **constant criticism**
- **Removing areas of responsibility** and **imposing menial tasks**
- Cyber-bullying: that is, the **sending** or **posting** of **harmful, cruel** or **offensive text** or **images** by **email, internet, social networking websites** or other digital communication devices.

Bullying

- **Common examples of bullying in education:-**
 - Constant criticism of a staff member's professional competence
 - Spreading stories and innuendo about members of staff
 - Removing responsibilities from staff members
 - Always giving the same staff member trivial tasks to do
 - Shouting at staff in private
 - Shouting at staff in front of colleagues or students
 - Making threats
 - Persistently picking on staff in front of others or in private
 - Failing to include staff in meetings, briefings etc
 - Obstructing professional development opportunities
 - Blocking promotion
 - Ignoring a staff member's views and opinions
 - Belittling individual members of staff

Bullying

- **Common examples of bullying in education:-**
 - Constantly **attacking a member of staff's personal standing**
 - Deliberately **ignoring an individual's contribution**
 - **Excluding individuals** from work activities
 - Adopting **different rules for different people**
 - Excessive **monitoring**
 - Excessive and **unnecessary criticism**
 - Generating **unrealistic expectations**
 - Regularly **making the same person the butt of jokes**
 - **Overloading** and **unrealistic work allocation**
 - Setting a person up to fail by **giving impossible tasks or deadlines**
 - **Failure to support staff** having difficulty

Harassment

- **Harassment** has a specific legal definition under the **Equality Act 2010 [EA2010]**...
 - “**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.”
 - Age, disability, gender reassignment, race, religion or belief, sex and sexual orientation **[EA2010]**
 - **Marital status/civil partnership** (no evidence it is needed) & **pregnancy/maternity** (unfavourable treatment is automatically discrimination) **excluded**

Harassment

- You have the right to not be harassed at work
- Under the **EA2010**, employees **may complain** about behaviour they find offensive **even if it is not directed at them**
- Protects against harassment of individuals who are **associated** with a person that has a protected characteristic
- Protects against harassment of individuals who are **perceived** to have a protected characteristic
- Ultimately, it is **the victim of harassment that determines “offensiveness”**
 - **S26(4)** of the **EA2010** provides exceptions if perpetrator could not be reasonably expected to appreciate conduct would cause offence, taking into consideration ALL circumstances

Harassment

- E.g. EAT ruled that a stressed news editor was **not guilty of harassment** when he shouted across a news room “What’s happening to the f**king Pope!?” about a late item of copy concerning the Pope’s visit to England.
 - EAT said that a Catholic sub-editor who heard the comment was **unreasonable in finding the working environment hostile**
- “Context” & “seriousness” are important, especially regarding single acts

Heafield v Times Newspapers Limited [2013]
UKEATPA/1305/12/BA

Harassment

- “Outing” a gay worker against their wishes, or referring to someone’s sexuality in a derogatory or humiliating way **is harassment**
 - Intentions or motivations of the perpetrator **do not matter** if the victim perceives it to be harassment
- Conduct regarded as inoffensive by most workers is **likely to be deemed harassment if the individual has told the harasser they object**
 - “Banter” – implications & consequences

Harassment

- **Sexual harassment**

- Conduct of a sexual nature that has purpose or effect of violating the dignity of the other person, or creating an intimidating, hostile, degrading, humiliating or offensive environment
- Outlawed under s26(2) **EA2010**
- Inappropriate touching, sexualised comments & jokes, displaying sexual/pornographic images
- Also covers future less favourable treatment as a result of the response to the unwanted conduct
 - E.g. Not promoted due to not submitting to unwanted sexual advances

Bullying & Harassment

Organisational Consequences

- Harassment is against the law and unacceptable!
 - Potential legal claims
- Impacts negatively on the morale of the workforce
- Poor employee relations
- Lack of trust and confidence
- “Inefficiency”
- Loss of staff/high staff turnover
- Legal claims
- Reputation amongst stakeholders

Bullying & Harassment

Employer's Legal Duties

- **Equality Act 2010**
 - To provide a workplace free from harassment
- **Statutory** and **common law duties** to take reasonable care to protect workers' health, safety and welfare
 - **Breach of contract** failing to protect against B&H
- Tort of **negligence** leading to reasonably foreseeable personal injury
- **Protection from Harassment Act 1997**
 - Suitable only for very serious cases, originally intended to tackle stalking
- Criminal **laws** on **malicious communications**
- **Unfair dismissal laws**
- **Anti-blacklisting laws**
- **Whistleblowing laws**

Bullying & Harassment

Employer's Legal Duties

- An employer is **liable for all unlawful acts by their employees in the course of employment**
 - Regardless of knowledge of such acts, or the authorisation or condoning of those acts
 - “**Reasonable steps**” defence
 - Must be able to prove steps taken *before* the harassment, steps taken afterwards will not help
 - Employers must therefore be **proactive** in **cultivating** and **promoting** a **positive working environment** free from bullying & harassment
 - Equality policies, Dignity at Work Policies, raising awareness, training, reviewing policies, dealing with grievances and complaints effectively

BT pays £290,000 telesales worker sexually harassed by manager

- The sum is the highest employment tribunal award in the past year

By [EMILY ALLEN](#)

UPDATED: 21:56, 20 September 2011



A telesales worker who was sexually harassed has won a £290,000 payout from British Telecom employment tribunal award in the past year.

Petrina Taylor, 36, complained about her claims of 'dangerous' sex pest boss Craig Alcock was 'woeful', a tribunal ruled.

Up to ten women have sued BT recently claiming that they allegedly suffered at the hands of several different men while working for its 'Customer Contact' operation.

The firm has settled several cases out of court.

Fox News 'to drop host Bill O'Reilly' after harassment cases

19 April 2017 | US & Canada

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More than 50 sponsors have withdrawn ads from Mr O'Reilly's show

Fox News is reportedly about to drop the country's top-rated cable news host, Bill O'Reilly, amid claims he sexually harassed female colleagues.

The Wall Street Journal - owned by Rupert Murdoch, who also owns Fox News - reports the network is "preparing to cut ties" with the presenter.

Pressure on Fox has mounted since recent reports that five women received \$13m in payouts because of Mr O'Reilly.

More than 50 sponsors **have withdrawn ads** from his show, The O'Reilly Factor.

Tackling Bullying & Harassment

If *You're* Being Bullied or Harassed

- DON'T Ignore It
 - You **don't have** to tolerate it
 - Bullying is sometimes **an attempt to exert control**; **silence** may be interpreted as **acquiescence**
- Check Your Bullying/Harassment Policy
 - Read **manager's responsibilities** and how your concerns should be raised
- Insist the Perpetrator Stops
 - *If* you feel able!!!
 - Make use of a **UCU rep/officer/friend** if in person
 - You can do this **in writing**

Tackling Bullying & Harassment

If *You're* Being Bullied or Harassed

- Get Support
 - Talk with a UCU rep, a colleague or a friend
- Get/Collect Evidence
 - CCTV, witnesses, make notes of incidents, e-mails
 - Invaluable to proving allegations in formal processes
- Find Out If Anyone Else Is/Has Been Targeted
 - You may discover you are not alone! Bullies tend to have histories of such behaviour
 - You will gain confidence



Tackling Bullying & Harassment

If *You're* Being Bullied or Harassed

- Seek Formal UCU Support
 - Report the incident
 - **You can decide** on how to progress under the relevant policy
 - Informal or formal?
 - Your complaint is **confidential** and **no action will be taken unless you consent** to such
 - If the **perpetrator is a UCU rep**, **speak to an officer** of the branch in the first instance
 - Persistent bullying can be raised under Health & Safety legislation as a **workplace hazard**

Tackling Bullying & Harassment

If You've Witnessed Bullying or Harassment

- You may **feel vulnerable**, especially if the perpetrator is senior to you
 - Seek **support from UCU rep**, a “**named person**” or **counsellor** if appropriate
- **Ask the victim if they feel they can discuss**
 - They may be too upset or distressed to talk, do not press for information
- **Speak to the victim and tell them what you observed**
- **Listen and respect their confidentiality**
 - Take notes, if they **consent** – will be useful



Tackling Bullying & Harassment

If You've Witnessed Bullying or Harassment

- Encourage them to talk to a “named person” or someone they trust if they don't feel able to talk to you
- If a formal complaint is raised, you will likely be requested to give evidence

Useful Resources

- **University & College Union**
www.ucu.org.uk
- **Education Support Partnership**
www.educationsupportpartnership.org.uk
- **Labour Research Department**
www.lrd.org.uk
- **Advisory, Conciliation & Arbitration Service [ACAS]**
www.acas.org.uk
- **Health & Safety Executive**
www.hse.gov.uk

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