



Factory: Survey No. 278/1/2, Demni Road, Dadra - 396230. Dadra & Nagar Haveli.
[T] +91-260-3199966 / 3198866 | [T/F] +91-260-2669966

Bullying and harassment are not only unacceptable on moral grounds but may, if unchecked or badly handled, create serious problems:

- Poor morale and poor employee relations
- Loss of respect for managers and supervisors
- Poor performance
- Lost productivity
- Absence
- Resignations
- Damage to organizational reputation
- Tribunal and other court cases and payment of unlimited compensation

The legal position

Discrimination and harassment

It is not possible to make a direct complaint to a tribunal about bullying. However, employees might be able to bring complaints under laws covering **discrimination and harassment**.

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 on the grounds of breach of contract. Employers are usually responsible in law for the acts of their workers. 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.

Action by Management

Management should be clear about the standards of behaviour expected, set a good example in their own behaviour and ensure that individuals are fully aware of their responsibilities to others.

Procedures

Bullying should not be treated as a standard grievance; it is a serious issue and must be treated as such. Complaints of bullying and / or harassment, or information from staff relating to such complaints, must be dealt with fairly and confidentially and sensitively using the general format set out in the organisations grievance procedures.



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Investigation

Complaints must be taken seriously and investigated promptly and objectively. Employees do not normally make serious accusations unless they feel seriously aggrieved. The investigation must be seen to be objective and independent. Decisions can then be made as to what action needs to be taken.

Informal approaches

In some cases it may be possible to rectify matters informally. Sometimes people are unaware that their behaviour is not welcome and an informal discussion can lead to greater understanding and an agreement that the behaviour will cease. It may be that the individual will choose to do this themselves, or they may need support from a manager, a colleague or an employee representative.

Counselling

Counselling or mediation may be used where appropriate, particularly where investigation shows no cause for disciplinary action, or where doubt is cast on the validity of the complaint. Counseling may be used to resolve the issue or help support the person accused as well as the complainant.

Serious misconduct

In cases which appear to involve serious misconduct, and there is reason to separate the parties, a short period of suspension of the alleged bully/harasser may need to be considered while the case is being investigated. The person making the complaint will not be transferred unless they ask for such a move. When somebody makes an unfounded allegation of bullying and/or harassment for malicious reasons the case should be investigated and dealt with fairly and objectively under the disciplinary procedure.

Imposing penalties

Where the complaint is found to be justified any action taken against those responsible should be dealt with under the organisation's disciplinary policy and must comply with the statutory minimum procedure.

The action to be taken must be reasonable in the light of the facts. In some cases it may be concluded that a penalty is unnecessary nor that counseling or training is preferable – the individual may now be more able



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to accept the need to change their behaviour. Where a penalty is to be imposed, all the circumstances should be considered including: the employee's disciplinary and general record; whether the procedure points to the likely penalty; action taken in previous cases; any explanations and circumstances to be considered and whether the penalty is reasonable. Oral or written warnings, suspension or transfer of the bully/harasser are examples of disciplinary penalties that might be imposed in a proven case. Suspension or transfer (unless provided for in the employee's contract or agreed by the employee), could breach the employee's contract if they suffer a detriment by it, for instance a transfer to a different location which means additional expense or a less responsible job. Any such breach could lead to a claim of constructive dismissal by the affected employee. Where bullying or harassment amounts to gross misconduct, dismissal without notice may be appropriate.