BULLYING AT WORK
A UNISON/BAOT guide for Occupational Therapy staff

UNISON

British Association of Occupational Therapists

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1. **Introduction**

Bullying at work is where an individual abuses a position of power or authority over another person. It can take many forms, including shouting at or humiliating an individual, especially in front of colleagues; picking on an individual; undermining someone’s ability to do their job; abusive or threatening behaviour which creates a stressful or intimidating atmosphere. Bullying causes stress. It damages the health and safety of staff and adversely affects the quality of service provided. UNISON is concerned about the amount of bullying that goes on at work. UNISON believes that all workers have the right to be treated with dignity and respect and bullying is totally unacceptable behaviour.

This briefing can be used to offer advice and support to UNISON/BAOT members who experience bullying or harassment in the workplace and will also help in developing or negotiating policies on bullying.
2. Defining Workplace Bullying and Harassment

Workplace bullying can be defined as persistent unacceptable ‘offensive, intimidating, malicious, insulting or humiliating behaviour, abuse of power or authority which attempts to undermine an individual or group of employees and which may cause them to suffer stress’. Harassment can be defined as conduct which is unwanted and offensive and affects the dignity of an individual or group of individuals. Whether the harassment is intentional or not is irrelevant; the key point is that it is offensive.

As both bullying and harassment are linked to an abuse of power there are clear similarities between the two types of behaviour. However, there is an important difference in that harassment springs from discrimination. While harassment is often aimed at individuals on the grounds of their race, gender or sexuality etc., it can also be a form of bullying. As many forms of discrimination are outlawed by specific legislation, it is important that cases of harassment are identified as such.

Bullying can occur in a number of different ways. Some are obvious and easy to identify. Others are subtle and difficult to explain. Examples of bullying behaviour can include:

- withholding information which can affect the worker’s performance
- ignoring views and opinions
- setting unreasonable/impossible targets and deadlines
- setting unmanageable workloads
- humiliating staff in front of others
- being shouted at or being the target of spontaneous rage.
- intimidation or violence
- unwelcome sexual advances
- blocking promotion or training opportunities
- threats about job security
- unjustified criticism
- denial of authority
- exclusion from conversation, workplace or social events
- verbal abuse and spreading of unfounded rumours

This list is not exhaustive - there are many other examples of bullying.

While misuse of power or position is the most commonly observed form of bullying, bullying is not always carried out by managers against staff. Bullying affects individuals at all management levels. Bullying can occur between all members of staff, between colleagues and with clients.

Top factors which can contribute to workplace bullying include lack of management skills - or personality and management styles that fail to deter bullying. Environments where bullying is more prominent can often have a culture of prejudice and discrimination, authoritarian management systems and a history of failing to address previous incidences of bullying. To ensure a positive workplace employers should take the time to talk with staff and undertake regular risk assessments and awareness training.

Useful guidelines for undertaking risk assessments can be found on the HSE Stress Management Standards section of the HSE website: http://www.hse.gov.uk/stress/standards/index.htm

Managers who are dealing with cases of bullying in the workplace often choose to initially deal with the situation by having an informal discussion with the parties involved. This is often successful - however, having a formal procedure for dealing with complaints becomes crucial for when allegations are serious. It is essential that managers make clear what action they do take, even when it remains informal, to ensure that it is perceived as effective.

To tackle workplace bullying and harassment organisations need to build a culture of mutual respect and support.
3. The effects of bullying

Bullying can have a significant impact on the physical and mental health of the workforce. In many cases, the effects can remain beyond the time of the bullying experience, sometimes affecting victims for years. Bullying is often associated with high levels of stress.

Symptoms of bullying can include:

- anxiety
- depression
- aggression
- insomnia
- melancholy
- apathy
- concentration problems
- lack of initiative
- headaches
- nausea
- ulcers
- various illnesses of organs such as the kidney
- contemplating suicide
- sleeplessness
- skin rashes
- irritable bowel syndrome
- high blood pressure
- bursting into tears
- loss of self-confidence

If you are feeling bullied or harassed at work you should speak to your manager or someone else you feel comfortable talking to in your organisation. Your employer has a duty to take reasonable steps to try to resolve the problem. If you think you are currently experiencing stress-related ill health you may benefit from a discussion with your GP.

In addition to the effects on individual workers, bullying at work can also have a major affect on an organisation.

An organisation with persistent exposure to bullying can suffer from:

- a decline in employee well-being
- stress-related illnesses leading to significant levels of sickness absence
- the financial costs and damage to their reputation if an individual takes their employer to an industrial tribunal
- an increase in accidents and lack of concentration
- increased use of alcohol and tobacco consumption
- low employee morale
- falling productivity, staff turnover and absenteeism

Staff under stress from being bullied should be encouraged to seek support. It should be made clear that this is not seen as a fault or weakness on the part of the individual being bullied. Counselling may help workers cope better with the stress of being bullied. Access to an independent, confidential professional counselling service provided by trained counsellors should be available. Counselling should also be offered to those carrying out the bullying and harassment. This is particularly useful if they do not understand why their behaviour has been found unacceptable.

Aside from the individual and their manager, other people that could be consulted include:

- TU/employee representative
- the individual's GP or other health professional involved in their recovery (with their consent)
- HR/personnel, OH or workplace counsellors.

Parties should work together to understand the situation, provide support to the individual, develop a plan to tackle the pressures and assess whether anyone else is experiencing problems.

Managers or employee representatives should check that there are adequate organisational arrangements in place and that a risk assessment has been conducted recently.
4. Workplace bullying and the law

Although there are no specific laws relating to bullying at work, employers have duties under the Management of Health and Safety at Work Regulations 1999 to assess the risk of stress-related ill health arising from work activities; and under the Health and Safety at Work etc Act 1974 to provide a safe and healthy working environment, including protection from bullying and harassment at work.

The Health and Safety Executive in their guidance on stress makes clear that "there should be systems in place to deal with interpersonal conflict such as bullying or harassment."

Where bullying or harassment is motivated by the workers’ age, sex, race or disability a claim may be brought under the Sex Discrimination Act 1975, the Race Relations Act 1976, the Disability Discrimination Act 2005 and the forthcoming regulations against age discrimination at work.

The Employment Rights Act 1996 also allows employees (with qualifying service) to claim unfair dismissal if they are forced to leave their job because of actions by their employer and to deal with any complaint. Such actions can include failure by the employer to protect their employees from bullying and harassing behaviour or failure to deal with any complaints of bullying or harassment.

There is also scope to take action through legislation that falls outside the workplace. For example, under the Criminal Justice and Public Disorder Act 1994 it is an offence to cause a person harassment, alarm, or distress, use threatening, abusive or insulting behaviour either verbally or in writing. Under the Protection from Harassment Act 1997 victims of harassment can seek civil injunctions against behaviour which causes distress.

Useful sources of information may include:
- Health and Safety at Work Act 1974
- Sex Discrimination Act 1975 (as amended by the Sex Discrimination Act 1986)
- Race Relations Act 1976
- Disability Discrimination Act 2005
- Employment Rights Act 1996
- Protection from Harassment Act 1997
- Crime and Disorder Act 1998
- Race Relations (Amendment) Bill 2000
- Employment Act 2002
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion or Belief) Regulations 2003
5. Developing a successful policy

A successful policy will communicate a clear message that bullying is not acceptable. It should form an essential part of any approach to managing bullying at work and will demonstrate to all staff that the issue is being taken seriously.

The key to a successful policy is to ensure employees and their representatives are on board. Employers should thoroughly inform and involve employee representatives (e.g. trade union and health and safety representatives) at the beginning of the process and throughout development and implementation of the policy. The policy should always suit the culture of the organisation.

It is important that the policy's focus is on bullying behaviour rather than on bullies, i.e. label the behaviour and not the person. This approach recognises that not all people who bully are bad, or do so knowingly. It avoids labelling people as bullies, which can tend to escalate conflict, especially if the perpetrator is not being dismissed. Bullying can too often be part of the whole culture of the organisation. To deal with bullying as an organisational issue it is important for the policy to focus attention on stopping the unwanted behaviour in general. If the policy just concentrates on individual acts of bullying by named individuals, the underlying cause - a management culture of bullying - will not be tackled.

Remember - instances of bullying are much less likely where there is a culture of respect and tolerance. Setting a good example is as important as having a good policy.

The policy should include:

**A statement of commitment**
The policy should demonstrate a clear commitment on the part of the employer to tackle bullying and harassment. It should make clear that bullying and harassment will not be tolerated and complaints will be taken seriously. It should spell out the rights of all staff to be treated with dignity and respect at work.

**A definition of bullying and harassment**
A clear definition is needed, that includes examples of the types of behaviour which are considered unacceptable so that staff are clear on what will not be tolerated.

**Prevention measures**
The policy should outline the steps which employers will take to prevent bullying and harassment at work. It should include the steps taken to reduce factors that contribute to bullying, such as bad management practices or styles and organisational cultures.

**Duties of managers and supervisors**
The policy should be clear on the duties of managers and supervisors and their responsibilities for preventing or eliminating bullying and harassment.

**Trade union involvement**
The role of safety representatives should be made clear in the policy. They have a dual role, which includes educating members about bullying and receiving complaints. Giving them equal status to managers will promote partnership working and build confidence among staff.

**Contact officers**
Staff should be enabled to identify the signs of bullying and talk about the issues. Some employees may find it difficult to raise bullying concerns with their manager. This may be because the manager is the one doing the bullying or because the feelings they experience make it hard for them to speak out to anyone. For this reason, the policy should include details of an independent contact officer to provide help and support for those being bullied and harassed.
Procedures for dealing with complaints
A procedure for complaints relating to bullying and harassment should be developed. Whatever procedure is used, it should give the bully the opportunity to change their behaviour, as some people are unaware that their behaviour in some circumstances is bullying. If it is clearly pointed out to them that their behaviour is unacceptable, the problem can sometimes be resolved. Where this is not possible more formal measures may be needed. The policy should therefore include an informal and formal procedure for dealing with bullying complaints.

Informal methods could include encouraging staff to apologise immediately if comments or behaviour - perhaps unintentional or made when under stress - are interpreted as bullying. Mediation sessions, handled by independent services or by someone within the organisation, could be another informal way of proceeding with a complaint.

A formal grievance procedure may be necessary where an incidence of perceived bullying is sufficiently serious or a situation has escalated to the point where it cannot be resolved informally. The procedure should be operated as fairly and objectively as possible. Any formal procedure should ideally be separate from the usual grievance procedure. If this is not possible then the normal grievance procedure can be used. However, the normal grievance procedure will not always be sufficient, as the facts of the case need to be established in a sensitive way. In addition, the bullying may be by the member's line manager, who is normally the person a problem is raised with in the first instance in a grievance procedure.

For further info see the Acas handbook ‘Discipline & grievances at work’ at: www.acas.org.uk

Information and training
Once agreed, the policy should be widely publicised to all new and existing staff. It should also be brought to the attention of outside contractors, agency staff, patients, clients, visitors and so on. Outside contractors should also comply with the policy and its requirements. A statement of the policy should be included in contract specifications.

Information about the policy and the types of behaviour that will not be tolerated should be included in health and safety training and in staff induction etc. It is especially important that managers are included in any training provided. This is because in many cases it is the manager or supervisor who is the bully. They should be made aware of what constitutes bullying, what the policy is, and what their responsibilities are in preventing or eliminating bullying at work.

Because of the safety representative’s involvement in representing both the bullied and the bully they should be given equal training as well as time off to carry out this duty.

The following should be included in any training programme on bullying and harassment:
- details of the policy and its implementation
- the meaning of bullying and harassment, its causes and effects
- the reporting procedures
- how to get support
- the assistance available to those being bullied or harassed.

Training for individual members of staff could also include assertiveness, training to change offensive behaviour, mediation and people management skills.

Monitor and review
The policy should be monitored and reviewed regularly to ensure that it is achieving its objectives and is effective.

A draft policy on bullying is available on UNISON’s web site: www.unison.org.uk/safety/reports.asp
A model bullying policy by NHS Employers can be found at: www.nhsemployers.org
Checklist
Does the policy include:
- a commitment from senior management?
- acceptance that bullying is an organisational issue?
- a statement that bullying is unacceptable and will not be tolerated?
- clear definitions of unacceptable behaviour?
- a statement that bullying may be treated as a disciplinary offence?
- steps to assess and prevent bullying?
- duties of heads of departments and supervisors?
- confidentiality for complainants when they report bullying?
- procedures to protect complainants from victimisation?
- procedures for investigating complaints?
- informal complaints procedure?
- formal complaints procedure?
- information and training about bullying and the policy?
- access to support and independent counselling?
- procedures for reviewing and monitoring the policy?
- is it jointly agreed by the employer and trade union?
- does it cover everyone, including contractors?
- is it implemented?
- is training provided for all staff including managers and supervisors?
- are details of the policy included in induction health and safety training courses?

Use Safety Reps Rights!
Where the health and safety of employees is concerned safety reps have the right to consult with members on bullying and carry out inspections. They should be able to consult with management regarding the appointment of counsellors as well as training and materials for members on the management of bullying.
There are also rights to access facilities assistance, paid time off to carry out safety representatives functions and to attend UNISON or TUC training.

More detailed guidance on the rights and role of safety representatives is available in UNISON's Guide for Safety Reps at www.unison.org.uk

What can OT Stewards and Safety Reps do?
- raise awareness of bullying in general. This helps members who are being bullied recognise the fact. Also, some people who bully may not be aware of the impact of their behaviour and will change in response to a general campaign
- encourage members to come forward and report cases of bullying
- organise meetings so that members can talk together about bullying
- encourage safety representatives and stewards to attend training on bullying
- negotiate a policy on bullying and harassment with employers
- encourage members to keep written records of all bullying incidences
- inform employers in writing that incidents are occurring. This must be done in a general way if a member has raised the issue with the union in confidence
- circulate UNISON material on bullying to members and non members as this will help to raise bullying as a workplace health and safety issue and can help to recruit and retain members
- include articles on bullying in branch magazines and newsletters.
6. Work-related violence: Bullying by clients or the public

Bullying by clients or other members of the public is different from bullying within the workplace. Work-related violence - for example threats, verbal abuse, harassment or actual harm from clients, patients, members of the public etc. – can be a very real risk for some UNISON/BAOT members. Under health and safety legislation employers have duties to assess risks to staff, including work-related violence, and to introduce separate policies and procedures to control the risks. This might include harassment, verbal abuse or violence to teaching staff from pupils, to healthcare staff from patients, or to staff working in the community, or who work alone.

Risk Factors that may make OTs more vulnerable to bullying or harassment by members of the public or patients include:

- handling or having access to money or drugs
- providing care to people who are ill, distressed, afraid, in a panic or on medication
- relating to people who have a great deal of anger, resentment or feelings of failure
- dealing with people who have unrealistically high expectations
- dealing with the friends and families of clients who may be concerned or feel inadequate
- working with people who have used violence to express themselves or achieve their needs
- exercising power to restrict the freedom of individuals
- working alone, in clients’ homes, in physically isolated units, or at hours when few other employees are around
- working under pressure created by increased workloads, staff shortages, and the absence of alternative support for the client.

Steps you can take to tackle violence in your workplace include looking for hazards and establishing a system for reporting and recording incidences. Make sure you are consulted during risk assessments and on any planned measures to tackle violence. The risk assessment should be checked regularly so that it remains valid and each workplace should have an identified person responsible for implementing control measures. If a risk of violence has been identified make sure training in the prevention and management of violence is being provided.

UNISON has produced separate guidance on violence at work called ‘Violence at Work – Guidelines for safety representatives and stewards’ which can be found at www.unison.org.uk
7. What if I am accused of harassment or bullying?

If you are accused of harassment or bullying you have the right to defend yourself through a full investigation that is conducted fairly, sensitively, promptly and thoroughly. Carefully read your organisation’s policy and procedures for handling complaints and ensure it is fully complied with. These procedures will vary between organisations and will differ if a complaint is handled informally or formally.

If the complaint against you is investigated, here are some key things you should be entitled to:

**REPRESENTATION**
You have the right to ask someone to accompany you throughout the whole process. You can ask for support from a work colleague or a UNISON/BAOT trade union representative to do this. There must be fairness to both the complainant and the person complained of. All UNISON/BAOT members are entitled to representation to ensure that disciplinary procedures are conducted fairly.

If the person being bullied and the alleged bully are members of the same UNISON branch they cannot both be represented by the same person. Branches should develop an appropriate system of representation for these types of bullying cases. Branches can seek advice from their regional office.

**CONFIDENTIALITY**
Both complainant and ‘complained-of’ have the right to confidentiality with their respective grievance. Your employer must demonstrate that they are committed to confidentiality and non-disclosure of information during the investigation and after its completion. You should be reassured that your identity will not be revealed to uninvolved third parties, whether the action taken is informal or formal. Breach of confidentiality by any of the parties involved in the process may be subject to disciplinary action. This applies whether the breach occurs during the process or after it is completed.

**FAIRNESS & IMPARTIALITY**
You should always be considered innocent of the alleged offence unless an investigation leads to a different conclusion. Any investigation should objectively reach an informed conclusion as to whether the complaint is substantiated or not.

**FULL & ACCURATE RECORDS**
Your employer should ensure that details of the complaint are clearly outlined and that you get a fair opportunity to answer the charges and identify witnesses to give their full version of events. You can request copies of relevant documents and materials pertaining to the complaint. Accurate note-taking and record keeping must be carried out throughout the investigation. The aim of the investigation should be to draw as complete a picture of events as possible.

**A TIMELY RESOLUTION**
Investigations should be carried out promptly and you should be notified of a timetable for the investigation so that you can be sure that time scales for resolution are adhered to.

Having a complaint made against you can lead to high levels of stress. If you are feeling under stress you may wish to access counselling services (check what counselling services your employer provides for staff), seek support from colleagues or have a discussion with your GP.
**What if the investigation proves that the complaint was unsubstantiated?**
Where a complaint is not substantiated by an investigation you should request that no record of or reference to the complaint or investigation be kept on your personal file.

If the investigation reveals that a complaint may have been malicious, it could possibly be recommended that the disciplinary process be invoked against the complainant. Your employer must address any instance of unfounded or malicious complaint against you.

**What if the allegations against me are proven?**
If the complaint is informal or if a formal complaint is not taken further to the disciplinary process, you should ask your employer whether or not a record of it will be kept on your personal file.

If the outcome of an investigation results in disciplinary action against you, you should:
- read your organisation’s disciplinary procedure and ensure it is fully complied with
- ensure you have representation from Trade Union representative or colleague
- be given the right to appeal.

Frequently individuals can be unaware that their actions are inappropriate or offensive and that there could have been some misunderstanding or misinterpretation on either part. The important thing to remember about bullying behaviour is that it is not about the intention of the perpetrator, but its impact on the recipient. It is possible that you are unaware of the effect your behaviour has on others. You may like to consider requesting training or personal development to help resolve this issue.
8. Further information

UNISON has produced a number of publications that may be useful for dealing with workplace bullying. They are available on the UNISON web site at www.unison.org.uk or from the Communications Unit at UNISON Head Office.

**Bullying at work - guidelines for UNISON branches, stewards & safety reps.** (stock no. 1281)

**Stress at Work – a guide for safety reps.** (stock no.1725)

**Violence at Work – Guidelines for safety representatives and stewards** (stock no. 1346)

**UNISON’s Toolkit and Guidance on Sickness Absence Policies**

**The Health and Safety six pack - UNISON’s guide to health and safety law** (stock no. 1660)

**UNISON’s health and safety representatives guide** (stock no. 1684)

Additional health and safety information and guidance can be found at www.unison.org.uk

Other useful documents include:

*Bullying in the Workplace - Guidance for Managers (sponsored by UNISON)*

and

*Bullying in the Workplace – the experience of managers (sponsored by UNISON)*

Chartered Management Institute
http://www.managers.org.uk

*Management standards for stress*

Health and Safety Executive
http://www.hse.gov.uk

*Bulled at work? Don’t suffer in silence*

TUC
http://www.tuc.org.uk

*Model bullying and harassment policy*

NHS Employers
http://www.nhsemployers.org/practice

*Harassment at Work Factsheet*

Chartered Institute of Personnel and Development
http://www.cipd.co.uk

*Bullying and harassment at work: a guide for managers and employers*

and

*Bullying and harassment at work: guidance for employees*

Advisory Conciliation and Arbitration Service (ACAS)
http://www.acas.org.uk