

# Bullying and harassment at work:

*a good practice guide for  
RCN negotiators and  
health care managers*





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This guidance is dedicated to the memory of Neil Crawford (1954 - 2000). Neil, a psychotherapist at the Tavistock Institute, was an acknowledged expert in the management of bullying and harassment. His work helped organisations to establish anti-harassment programmes and encouraged many individuals to stand up to unreasonable behaviour. The RCN was fortunate to have the benefit of Neil's considerable knowledge in developing this guide.

## Introduction

Many health care organisations recognise the importance of taking a proactive approach to dealing with workplace harassment and bullying. Its effects are harmful to all concerned – the people directly involved in a complaint, team members and the whole organisation.

The aim is to encourage a workplace culture in which everybody treats their colleagues with dignity and respect, and where all steps are taken to minimise the occurrence of bullying and harassment. However, it is also important that organisations have appropriate policies and procedures to deal effectively with bullying and harassment when it does happen.

This document draws on the RCN's involvement with a wide range of health care organisations in the NHS and independent sector. It provides guidance for managers and RCN negotiators on good practice in dealing with workplace bullying and harassment.

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# A good practice guide for dealing with bullying and harassment

## Introduction

Most organisations now have policies and procedures for dealing with bullying and harassment. These are important first steps for dealing with this serious workplace conflict. But the effectiveness of an anti-bullying and harassment initiative, and the development of a healthy workplace culture, require more than policy statements and agreed procedures. This good practice guidance looks at what else is needed to achieve success and ensure the organisation performs effectively.

## A written policy

A written policy should be developed jointly by managers in full consultation with staff and staffside, and should apply to all grades and levels of employees. (See RCN model policy for the key elements). Consultation must be genuine and transparent, and must include the views of a wide range of staff. Final approval of the policy should be carried out through the agreed joint negotiating arrangements.

The process of policy development is as important as the policy statement itself. Joint work between staff and managers helps to show what causes bullying and harassing behaviour, and how they can be tackled. Involving staff leads to the shared ownership of the problem and its resolution, and develops trust and confidence between staff and managers.

## Designated trust/company board member with accountability for implementing policy

It is important to choose a trust/company board member to have accountability for implementing the policy. This will demonstrate that the senior management team is committed to developing and maintaining a healthy organisational culture that values employees. It means that staff know who to inform if they have any concerns about how the policy is being implemented. It also ensures central co-ordination of the policy monitoring and review process.

## Policy awareness and promotion strategy

Many organisations already have excellent written bullying and harassment policies. But employment tribunals have frequently commented that organisations fail to take the steps that ensure these policies are translated into practice. Key among these is the need for policies and procedures to be regularly promoted. The benefits of this include:

- ◆ increased awareness of individual responsibilities
- ◆ familiarity and understanding of acceptable behaviour
- ◆ recognition of continued commitment by senior management.

Information about the policy should also be given to new staff as part of their induction. Other approaches to promote awareness range from including the policy (or a summary) in the staff handbook, feedback from annual attitude surveys, newsletters, poster displays and presentations. Team/ward discussions around policy and procedures awareness are a useful mechanism for exploring key issues at local level, and for creating joint ownership of the policy aims.

## Training

The success of any anti-harassment and bullying initiative depends on a planned and systematic education and training programme supported by a realistic budget. A training strategy should identify the training purpose, analyse learning needs, and highlight training techniques. Careful consideration should be given to who can best provide the training, and how this is to be assessed. The content of training programmes should be tailored to fit the needs of particular employees. Core elements include:

### knowledge

- explain the theories and definitions of harassment and bullying
- demonstrate the effects of bullying and harassment
- spell out the organisation's policy and procedures
- describe what is reasonable and unreasonable behaviour
- explain the legal framework

### skills

- how to recognise bullying and harassment
- how to defuse potential conflict
- how to provide support to both complainant and perpetrator

### personal

- organisational and social attitudes towards different forms of behaviour
- self-awareness of behaviour.

Line managers have specific responsibility for:

- a) turning policy into practice
- b) ensuring staff are available to attend training programmes.

Specialist training for people investigating bullying and harassment complaints is also required (see section *Promoting healthy workplace environments*).

## Risk assessment and mechanisms for monitoring bullying and harassment incidents

Health and safety legislation requires that a risk assessment be carried out on all workplace hazards so that action can be taken to prevent harm. The assessment applies to both physical and psychosocial problems, and its purpose is to highlight the steps needed to control risk and protect employees. Ill health caused by bullying or harassment must be treated in the same way as ill health resulting from physical problems. The employer has a duty to take action and eliminate the risks.

Access to information is an important part of the process of assessing risk. Existing management information systems provide some indications of stress-related problems resulting from bullying or harassment. Signs that might need further investigation include:

- ◆ sickness absence
- ◆ erratic or poor timekeeping
- ◆ increases in patient complaints
- ◆ increase in number of employees taking counselling
- ◆ increase in grievances
- ◆ poor working relationships
- ◆ conflict between colleagues.

These indicators do not have a single root, and a specific audit may provide more accurate information to tackle the underlying causes. Interventions are more likely to be effective as a result.

Asking individual staff directly is the best way to assess the risks of bullying and harassment in the workplace. This could be by:

- ◆ questionnaire
- ◆ interviews
- ◆ focus groups
- ◆ a combination approach.

There are a number of standard questionnaires designed to provide data on employee health and well being. But a better approach is to tailor the

questionnaire to the organisation to demonstrate links between poor health and stress in the workplace. It is important to respect the confidentiality of staff. Tell them how the information will be used and involve them in subsequent decisions. RCN safety representatives should also be involved.

Surveys provide numerical data on incidents of bullying and harassment but this is only a snapshot of the level of incidents at the time of the survey. Other reporting systems could be established to provide ongoing monitoring. These include:

- ◆ the use of existing accident forms
- ◆ introducing a special form for bullying or harassment incidents
- ◆ setting up a confidential telephone reporting system.

Reassuring staff about confidentiality is particularly important in encouraging them to report incidents.

## Counselling and other support for staff

Experience has shown that complaints and investigations of bullying and harassment may induce stress and anxiety in all those involved. As well as the person complaining and the alleged harasser, this may include witnesses, investigators, staff representatives and supporters. Consider what appropriate support should be provided.

Many health care employers now offer independent counselling in the workplace to all staff, a move the RCN welcomes and encourages. These services are increasingly recognised as a valuable service<sup>1</sup>. They can give everyone involved in a complaint much needed support, and help people to identify the best course of action for them.

Counselling may also be accessed privately, through voluntary sector organisations and via some general practitioner services. RCN members are able to use the RCN Counselling Service, which provides free, professional and confidential counselling.

<sup>1</sup> NHS organisations in England are required by the Human Resource Strategy for England, *Working together* to have in place occupational health services and counselling available to all staff. The Occupational Health Strategy in Scotland, *Towards a safer, healthier workplace*, also recommends comprehensive counselling and advice services for all NHS in Scotland staff.

<sup>2</sup> *Beat bullying at work: a guide for trade union representatives and personnel managers* (1998) TUC, London.

## Promoting healthy workplace environments

Minor tensions can occur in any work team, and in healthy organisational cultures those tensions can be a valuable force for initiating change. But if unhealthy tensions are not resolved swiftly, bullying and harassing behaviour can start to occur. Over reliance on the existence of policy and procedures does not always lead to an early resolution of the problem, particularly if people are reluctant to complain or decide to leave or take long-term sickness absence. The longer the unacceptable behaviour continues, the more the whole work team experiences the negative effects and it can take many months to recover.

Managers play an important role in implementing an organisation's anti-harassment and bullying strategy, and need to take a proactive approach to resolving conflict. But many managers avoid a direct approach because they lack confidence in their own skills to deal with the situation, and fear that they could make the situation worse rather than better.

To implement the organisation's anti-harassment and bullying strategy managers need to understand:

- ◆ the harmful effects on the organisation of failing to resolve bullying and harassment effectively
- ◆ their legal responsibilities as the "employer's representatives" under health and safety and discrimination legislation
- ◆ the importance of setting standards of behaviour.

To carry out these responsibilities effectively managers need skills in:

- ◆ conflict resolution-related training and education
- ◆ general management training in coaching and mediation, delegation and performance reviews and appraisals.

The value of these skills cannot be underestimated. Studies into the incidence of bullying and harassment<sup>2</sup> have reported that managers frequently perpetrate bullying/harassing behaviour. Clearly there is a world of difference between the exercise of authority, and the persistent treatment of staff in a hurtful way.

To further assist managers in promoting healthy workplace environments, the RCN has published the tool *Working with care: improving working relationships in health care*, to help produce a supportive culture or positive team climate where bullying and harassment are unlikely to occur.

## Investigating complaints

### Preparation and planning

The aim of an investigation is to discover what took place and why, and to propose steps to resolve the conflict. Investigations are a vital part of any anti-harassment initiative, and the way they are conducted sends clear messages about the organisation's commitment to promoting a healthy workplace culture. They should begin at the earliest opportunity after a complaint has been made, but certainly within five days.

Investigations are not easy to conduct, but with careful preparation and clear and agreed procedures the challenges can be minimised.

Consider the following set of questions before drawing up an action plan:

- ◆ Who will lead the investigation and who will make up a panel if this is required by the policy? Panel membership should be determined by the needs of the particular case. For example, it may be appropriate to consider the ethnic background and gender mix of panel members. People involved in the conduct of an investigation must:
  - be neutral – not part of the line management and reporting arrangements of either party to the complaint, and not close colleagues or friends
  - have received dedicated training on the organisation's bullying and harassment policy and procedures
  - have received dedicated training on interviewing skills and how to conduct an investigation.
- ◆ Who will need to be interviewed? This will usually be the person(s) complaining, alleged harasser/bully and witnesses. As the investigation progresses it may be necessary to expand the list.
- ◆ What other information may provide supporting evidence? For example, absence records, training

provision, development reviews, and copies of local procedures.

- ◆ What is the anticipated timescale involved, taking account of the number of interviews that need to be conducted? The timescale should be adhered to as far as possible. But if serious slippage occurs everyone involved in the complaint should be informed and told why.

Every effort should be made to complete an investigation as soon as possible. An extended process can cause difficulties. Evidence becomes less reliable as people's memory of the event fades. The ongoing stress and anxiety experienced by people involved in the investigation can have a devastating effect on their health. In addition, the uncertainty can impact on people not directly involved. In the RCN's experience whole teams have disintegrated as a result of a protracted investigation. This has a significant effect on organisational performance and reputation.

### Suspending attendance at work during an investigation

Where a staff member has been suspended from work (see model policy for the circumstances of suspension), clarify the requirements about contact with colleagues in writing. The letter should include instructions not to discuss the complaint with work colleagues, other than their RCN steward or staff representative, hospital counsellor, or occupational health adviser. Point out that contact with colleagues may be interpreted as an attempt to influence the outcome of the investigation, or as further harassment/bullying. The letter may also instruct the suspended person to inform the human resources/personnel department or line manager if they want to visit the workplace/hospital site.

Where relatives and/or close friends are also employees the organisation should not attempt to limit normal social contact with suspended staff.

### Conducting interviews

The rights of all people interviewed must be protected. Both parties to the complaint should be encouraged to have either their trade union representative, or an appropriate friend or colleague to accompany them. Witnesses may also wish to be accompanied.

At the start of the interview explain the investigation process, emphasise the importance of confidentiality, and clarify the intended timescales. Interviewees should

be reminded of the organisation's commitment to ensure the person(s) complaining is/are protected from inappropriate behaviour and victimisation.

It is very important that interviews are conducted in a manner that sets people at ease and gives them support. Nevertheless it is essential to probe and clarify any apparent discrepancies in statements. But the style of questioning should always be objective and non-accusatory.

Comprehensive notes of the interviews should be made<sup>3</sup>. They should be signed by the interviewee as accurate and reflecting the discussion. The interviewee must be able to make written comments about any section of the notes that they do not agree with. A copy of the signed interview note should be given to the interviewee. Tape recorders should only be used if the interviewee gives permission in advance. If this happens the interviewee should be given a copy of the tape.

#### Interviewing the person complaining<sup>4</sup>

The person(s) investigating the complaint should first find out the facts from the point of view of the person complaining. At interview ask questions such as:

- ◆ what happened?
- ◆ in what context did this happen?
- ◆ who was involved?
- ◆ when did the incident take place?
- ◆ how did you react?
- ◆ was this the first time this has happened?
- ◆ tell me about the other occasions?
- ◆ did anyone see/hear this or a previous incident?
- ◆ is there any physical, documentation, or other evidence of the incident?
- ◆ have you talked about this incident to anyone?
- ◆ how has it affected you?
- ◆ what do you want to happen to resolve this situation?

Questions that should not be asked include:

- ◆ what were you wearing at the time?

- ◆ did you do anything to lead him/her on?
- ◆ surely he/she was only joking?
- ◆ I know the person you are talking about. I can't believe he/she would do something like that. Are you sure that there hasn't been a misunderstanding?
- ◆ do you really want me to take this complaint further?

#### Interviewing the alleged harasser or bully

The alleged harasser or bully must be given a full and fair opportunity to explain his or her version of the events that have taken place. It is helpful to know the complainant's version of events before seeing the alleged harasser/bully. Questions to the alleged harasser/bully should include:

- ◆ x has described an incident to me and says that you were involved. Can you tell me anything about it?
- ◆ x has told me that he/she asked you not to behave in this way. Why do you think x asked you this?
- ◆ are there any witnesses who saw what happened?
- ◆ how did x react when this incident took place?

Often in cases of harassment the alleged harasser/bully may give one of the following explanations:

- ◆ I did it, but I thought x wanted me to
- ◆ I did it, but I didn't think it bothered x
- ◆ I always behave like that with other staff
- ◆ I did not do it.

If the explanation is one of the first two listed, the person investigating should find out what led them to believe this. Harassment and bullying are unwelcome, and no one actively solicits or invites unwelcome conduct. The alleged harasser/bully may claim that he or she thought that their behaviour was welcome or acceptable. He or she may not deny that the conduct or behaviour occurred, and might state that it was freely entered into. He or she may say that the allegation is being made because of a particular action or decision in the workplace that has adversely affected the person complaining. Also that this is an opportunity to "get back" at him or her.

<sup>3</sup> Employers will need to develop policies relating to these and other personal data held in manual records to ensure compliance with the Data Protection Act 1998.

<sup>4</sup> The remainder of this section about investigation has been adapted from Hampshire County Council's *A Manager's Guide to Dignity at Work* and has been reproduced with their kind permission.

In an interview with an alleged bully it is important to ask why he or she thinks the person complaining feels they are being bullied. The alleged bully may respond that they have a particular style of working that the person complaining finds difficult to cope with. Find out what it is about their behaviour that causes these problems. If the person complaining's work performance is the relevant issue:

- ◆ look back over previous appraisals
- ◆ establish what the alleged bully has been doing to help the person complaining meet the standards or targets
- ◆ check that training and support is provided if new tasks are allocated
- ◆ identify whether the person complaining thinks that the standard of their own work has dropped
- ◆ check if work is programmed with realistic deadlines and clear instructions
- ◆ establish whether goal posts get changed, and if the person complaining is criticised for failing to anticipate this.

There are some warning signs that indicate bullying has taken place. The person investigating should establish:

- ◆ has there been a new line manager?
- ◆ have jobs changed recently?
- ◆ do complaints sound trivial?
- ◆ is there a pattern of ill treatment?
- ◆ are there accounts of persistent undermining?
- ◆ have the complainant's personal standards been consistent?
- ◆ does the person complaining believe the mistakes are their own fault?
- ◆ is the person complaining under close scrutiny?

The person investigating must come to a conclusion about which version of events is most credible, and resist any temptation to apply their own standards to the seriousness of the complaint. The person on the receiving end is the judge of whether particular behaviour is offensive.

### Evidence

People should be encouraged to keep records of

harassment/bullying experiences that include:

- ◆ date of the incident(s)
- ◆ location
- ◆ time
- ◆ nature of the incident(s)
- ◆ their response
- ◆ their feelings at the time
- ◆ any action taken by them
- ◆ the names of any witnesses.

There may be other evidence the person investigating could collect:

- ◆ have sickness absence levels increased? The reason for absence may be given as stress, anxiety or depression
- ◆ has staff turnover increased? People being harassed or bullied may leave, and other staff who witness the bullying behaviour may also decide to leave
- ◆ has the working atmosphere changed? A content and productive workplace may become strained, with good working relationships deteriorating
- ◆ do appraisal reports show a changed perception about an employee's performance? The work standards an employee sets themselves may not change, but bullying/harassment may have had an adverse effect on their performance
- ◆ are there previous complaints about the alleged bully/harasser that have been disregarded?
- ◆ are there any common features to a series of complaints?
- ◆ have exit interviews with staff revealed any problems?

The investigation may make use of evidence collected by the person complaining:

- ◆ accounts of incidents of harassment
- ◆ accounts of meetings or exchanges in which the individual or his/her professional competence were attacked
- ◆ dates, times and locations of harassing behaviour
- ◆ slurs on their character

- ◆ copies of annual appraisals or letters relating to their ability to do their job.

Harassment and bullying often take place without witnesses, so the resolution of a complaint may depend on the credibility of the two parties.

The investigation must reveal what evidence there is to support the version of events given by the person complaining. Supervisory staff and, where appropriate, colleagues should be asked what they know about the alleged harassment/bullying, and if they saw how the person complaining behaved after the incident. If the person complaining discussed the incident with anyone else they should be interviewed too.

### General points

If the alleged harasser/bully denies that the incident took place, the person investigating must decide whose version of events seems more likely. The case of the person complaining will be stronger if he or she complained at the time, or made notes of the incident and the response. However, take into account that the person complaining may have been too upset or distressed to do so, or may not have thought of it at the time.

In harassment cases where the alleged harasser says that the behaviour had been welcomed on a previous occasion, he or she must be able to show how and where this occurred and that the person complaining welcomed it.

Someone who is being harassed or bullied may delay complaining fearing repercussions. They may believe that they can sort out the situation themselves. If there has been a delay in complaining, the investigation must find out why.

If the alleged harasser/bully admits “I did it, but I didn’t think it bothered x”, the situation may be relatively easy to resolve. It could be implied that if they had known that the behaviour or conduct was offensive they would not have acted in that way. This explanation is not acceptable where the person complaining has previously told the alleged harasser/bully that the behaviour is unacceptable.

It may be possible to resolve this type of complaint informally, and for both parties to resume their working relationship without further repercussions. A way of encouraging this is for a manager to explore with both parties why the behaviour was offensive, and the effect it

had on the person complaining. With an improved understanding of the impact of their behaviour, the alleged harasser/bully is less likely to act in a similar way in the future. See page 13 for the type of actions that should be considered following an investigation.

### Dealing with stress

Participating in an investigation as the person(s) complaining, alleged harasser(s)/bully(s), or as witnesses creates considerable stress and anxiety. Lack of information and/or understanding of the process adds to this stress.

Investigators and staff representatives should address the following issues:

- ◆ inadequate preparation for the investigation process
- ◆ lack of understanding of the investigation process
- ◆ lack of understanding about the use of statements
- ◆ lack of understanding of how evidence is interpreted and used
- ◆ the role of the trade union representative
- ◆ knowledge of peoples’ rights and responsibilities
- ◆ timing and duration of interviews.

### Dealing with group complaints

There are occasions when several complaints are made about a person at the same time. In the RCN’s experience this usually happens when the alleged bully/harasser is a manager and the complaints are made by their staff. Where the RCN has been involved in such cases, the people complaining have said they chose to lodge a group complaint because they believed:

- a) the complaint would be taken more seriously
- b) that they would be better protected against victimisation.

When a group complaint is lodged, each complaint is investigated separately. But they indicate low staff confidence in the organisation’s bullying and harassment procedures. Key personnel responsible for policy implementation should review events in the light of this, and ensure that useful lessons are taken on board, and efforts are made to rebuild confidence.

### Monitoring and review

To ensure there is no repeat harassment/bullying, or

victimisation/retaliation it is imperative to put in place procedures for monitoring and regularly reviewing the situation.

## Abusive clients/patients

There is an increasing incidence of violence and harassment towards health care staff by patients, their relatives and members of the public. Health care employers are responsible for providing safe working conditions for all staff, and they must develop separate policies and procedures to address this issue.

Risk assessments should be used to address the potential for harm to employees from patients/clients.

A written policy should include:

- ◆ a written commitment to protect staff
- ◆ a definition of violence that includes verbal abuse and threatened violence
- ◆ details of the relevant legislation including health and safety legislation and the Crime and Disorder Act 1998
- ◆ a description of managers' and staff responsibilities (including the requirement to report all incidents including "near misses")
- ◆ a description of procedures to follow during and after an incident (including reporting procedures)
- ◆ information about the support available following an incident (including opportunities for debriefing and access to counselling services)
- ◆ a written commitment to support staff who enter into criminal proceedings against the offender(s)
- ◆ details of staff training
- ◆ details of relevant local plans/procedures that also include community-based staff.

Every attempt should be made by employers and employees to minimise the risk of violent or threatening incidents. The RCN is encouraging health care employers to take the strongest steps to protect staff from violence and abuse. This includes making the public (both patients and relatives) understand that aggression towards staff is unacceptable and will not be tolerated.

Health care organisations should display notices and

posters prominently to inform visitors that inappropriate behaviour (citing examples) will not be tolerated. They should be reminded that the organisation is private property. If visitors behave inappropriately staff should tell them that this is the case and draw their attention to the posters. If visitor(s) persist in behaving inappropriately, staff should be instructed to liaise with security staff and the police to have the visitors removed from the building.

A manager should inform patients who harass staff that their behaviour is inappropriate, and explain what action the NHS trust will take if they continue. This could include a formal written request to the patient to withdraw their remarks, apologise and agree to behave appropriately in the future. The letter should also inform the patient that if they persist in inappropriate behaviour this will result in the withdrawal of services, except as an emergency in A&E.

The NHS Security Management Service, which is responsible for operational policy on violence in England, has published a framework for reporting and dealing with non-physical assaults on NHS staff. The guidance defines what constitutes non-physical assault for reporting purposes and describes how such assaults should be dealt with. It also gives practical advice on courses of action including verbal warnings and, if these fail, the use of an Acknowledgement of Responsibilities Agreement (ARA). This is a written agreement between parties aimed at preventing the recurrence of unacceptable behaviour. It can be used as an early intervention process to stop behaviour from becoming more serious. Other actions identified are written warnings, withholding of treatment, civil injunctions, Anti Social Behaviour Orders (ASBOs) and, possibly, criminal prosecution.

## 2

## The RCN model bullying and harassment policy

The following model policy can be used as a template to develop anti-bullying and harassment policies appropriate to your organisation.

### Introduction

This organisation, together with the Royal College of Nursing and other staff organisations is committed to providing a healthy working environment where all staff are treated with the dignity and respect they deserve.

The organisation values the contribution that all its employees make to deliver efficient, and high quality services. The organisation recognises that to deliver these services to the best of their ability employees need an environment that is free from harassment and bullying in all its forms.

Bullying and harassment is morally, legally and professionally unacceptable. Team working is undermined and staff morale is reduced. This in turn lowers productivity, and increases staff sickness absence and turnover. It also costs time and money, affects quality of service delivery, and damages the organisation's reputation.

For all these reasons bullying and harassment will not be tolerated and is likely to lead to disciplinary action.

### Policy aims

This agreement relates to all staff, managers, contractors and voluntary workers (a separate policy addresses the management of bullying and harassment by patients and other members of the public<sup>5</sup>).

This policy aims to:

- ◆ minimise the risk of bullying and harassing behaviour

- ◆ encourage a proactive approach to the early recognition of bullying and harassment
- ◆ resolve such conflicts effectively and speedily if they occur.

Principles on which the policy is based:

#### Principles

##### Organisational culture

All staff must treat colleagues with respect and dignity. Anyone who supports or encourages harassment or bullying by others may be liable to disciplinary action.

##### Self-definition

It is important to remember that bullying and harassment are not determined by the intention of the person who has caused offence, but by the effect it has on the recipient. It is up to that person to decide if they are being bullied or harassed because they find the behaviour unacceptable.

##### Impartiality

Independent procedures are available to establish what happened in any alleged incident(s) as far as that is possible.

##### Fair treatment

Both parties to a complaint will be treated fairly. They will both be offered support and guidance throughout the investigation and/or grievance/disciplinary procedures.

##### Non-victimisation

Employees will be protected from victimisation for making or being involved in a complaint.

##### Confidentiality

As far as possible, confidentiality will be maintained but cannot be guaranteed once the investigation process is set in motion.

## Roles and responsibilities

### The organisation

The organisation will ensure that:

- ◆ all staff are made aware of their personal responsibilities under this policy

<sup>5</sup> There is an increasing incidence of harassment of health care staff by patients, relatives and members of the public. Health care organisations should develop effective policies and procedures to address this issue. See *Dealing with bullying and harassment at work: a guide for RCN members* publication code 001 302.

- ◆ formal training to support this policy is provided to appropriate staff. In particular people who investigate<sup>6</sup> formal complaints, and those who support and advise individuals who complain or are complained about
- ◆ all staff are informed about the contents of this policy and the complaints procedures
- ◆ all staff have access to independent counselling if they wish<sup>7</sup>
- ◆ policy provisions comply with UK law
- ◆ the policy and procedures are monitored and reviewed formally on a regular basis with staff representatives
- ◆ a senior manager (insert name and/or job title) will be accountable for the effective implementation of the policy.
- ◆ dealing with any complaints fairly, thoroughly, quickly and confidentially, respecting the feelings of all concerned
- ◆ ensuring that there is no retaliation against the person who made the complaint
- ◆ recognising that gossip about bullying and harassment can be destructive.

### Staff

All staff are responsible for adhering to this policy. They are required to:

- ◆ treat all colleagues with dignity and respect and be aware of how their behaviour can affect other people. For example, by ensuring that normal workplace banter enhances, rather than undermines teamwork
- ◆ support colleagues who are being bullied or harassed and bring it to the attention of their line manager, or other appropriate senior manager.

### Managers<sup>8</sup>

Managers are essential in implementing this policy. They do this by:

- ◆ ensuring good communication with staff and between staff by operating an open door policy, and discussing bullying and harassment issues at team meetings
- ◆ setting examples and standards of behaviour in the workplace that include not bullying and harassing staff, and being aware of how their behaviour affects other people
- ◆ creating an environment and culture where destructive forms of behaviour are not tolerated, and where everyone is treated with respect and dignity
- ◆ recognising destructive behaviour and taking action where it occurs
- ◆ ensuring staff know about this policy and know how to raise harassment and bullying issues
- ◆ working to find solutions to bullying and harassment cases
- ◆ supporting staff who may feel they are being harassed and bullied

## Harassment in the workplace

Harassment is any conduct based on age, disability, HIV status, domestic circumstances, sex, sexual orientation, gender reassignment, race, colour, language, religion, political, trade union or other opinion or belief, national or social origin, association with a minority, property, birth or other status which is unreciprocated or unwanted and which affects the dignity of men and women at work. (Adapted from the Human Rights Act 1998 enacted in UK law in October 2000 and European Community Recommendation & Code of Practice on Harassment).

“At work” includes any place where the occasion can be identified with either the requirements of the employer, or with social events linked to that employment.<sup>9</sup>

### Features of harassing behaviour

Harassment can take many different forms:

- ◆ persistent incidents

<sup>6</sup> Anyone required to conduct an investigation of these complaints should receive specific training – see good practice guidance in section 1.

<sup>7</sup> The RCN recommends that, wherever possible, employers make a counselling service available to staff – see good practice guidance in section 1. It acknowledges, however, that smaller organisations may have more difficulty in providing such a service.

<sup>8</sup> See *Working with care: improving working relationships in health care* (RCN, 2005)

<sup>9</sup> For NHS employers it includes any place where NHS care is delivered.

- ◆ a single serious incident
- ◆ unwanted physical contact
- ◆ verbal abuse such as anonymous answerphone messages, offensive language or innuendo, telling offensive jokes, name calling or spreading malicious rumours
- ◆ written abuse such as letters, faxes, e-mails or graffiti (these may be anonymous) or displaying offensive pictures or posters
- ◆ explicit behaviour such as mimicking the effect of a disability, threats
- ◆ covert or disguised behaviour such as social isolation and non-co-operation, implicit threats, and pressure for sexual favours
- ◆ incidents associated with work such as stalking.

#### Such behaviour is unacceptable if:

- ◆ it is unwanted, unreasonable and offensive to the recipient
- ◆ it is used as the basis for employment decisions
- ◆ it creates a hostile or ineffective working environment.

## Bullying in the workplace

Bullying is the misuse of power or position that undermines a person's ability, or leaves them feeling hurt, frightened, angry or powerless.

#### Features of bullying behaviour

- ◆ sadistic or aggressive behaviour over time
- ◆ exclusion from meetings
- ◆ humiliation or ridiculing
- ◆ criticism in public that is designed to humiliate
- ◆ persistent, unwarranted criticism in private
- ◆ treating colleagues as children, not as adults

- ◆ undermining staff by replacing their areas of responsibility unreasonably or without justification
- ◆ withholding information to deliberately affect a colleague's performance
- ◆ constantly changing work deadlines or work guidelines.

#### Procedures<sup>10</sup>

The following procedures aim to help resolve complaints of bullying and harassment carefully and sensitively by:

- ◆ clarifying how complaints should be made and resolved
- ◆ ensuring that complaints are dealt with promptly, fairly and consistently
- ◆ protecting the rights of both the complainant and the alleged bully/harasser.

Further guidance for staff is usually provided in the employer's guide for employees.<sup>11</sup>

#### Options for action

Members of staff who believe they are being bullied or harassed should take the following steps:

- ◆ personal action
- ◆ informal action
- ◆ formal action.

#### Personal action

In some cases talking directly with the person who is causing the bullying or harassment problem may be enough. This approach may be appropriate if the person complaining believes that the destructive behaviour is unintentional, and the perpetrator is unaware of its impact. The person complaining can take this approach alone, or with help from a friend or trade union representative.

The person complaining should clearly:

- ◆ explain how the behaviour makes them feel

<sup>10</sup> Under new statutory grievance procedures, employees must generally serve a written complaint (grievance) on the employer about bullying and harassment before lodging a claim with an employment tribunal. The procedures apply in all discrimination and unfair constructive dismissal cases. In exceptional cases, where there is a fear of further harassment, this might not be necessary but employees should always first take legal advice. See *The Employment Act 2002 (Dispute Resolution) Regulations 2004*.

<sup>11</sup> The RCN recommends organisations provide a separate and shorter leaflet for employees advising them of how they may feel if they are being bullied and harassed and where to seek help.

- ◆ explain how it is interfering with their work
- ◆ ask for it to stop.

The person complaining should keep a note of everything that is said.

### Informal action

Informal action is designed to conciliate rather than punish.

If a personal approach fails or is inappropriate, informal action by a line manager or personnel manager may be more effective. The advantages are:

- ◆ it provides an opportunity for the manager to be satisfied that the individual complained about fully understands the requirements of the policy
- ◆ it produces quick and effective solutions
- ◆ it keeps embarrassment and the risk of confidentiality breaches to a minimum
- ◆ it minimises disruption at work.

This approach should not be taken if the person complaining wishes to take formal action or if the seriousness of the incident(s) makes it inappropriate.

After discussing the issue with the person complaining, the manager should speak to the alleged harasser/bully to attempt to resolve the issue. This informal and confidential discussion should explore:

- ◆ how the person complaining is feeling as the result of their behaviour
- ◆ the alleged harasser/bully's view of the situation
- ◆ how the behaviour may be contrary to the harassment and bullying policy
- ◆ the required standards of behaviour
- ◆ the likely consequences of continuing the behaviour
- ◆ how the situation will be monitored.

The manager should make a note of both discussions.

Following these discussions the manager should provide feedback to the person complaining. If appropriate the manager can offer to facilitate a joint meeting with both sides to re-establish effective working relations.

### Formal action

The matter should be reported to a human resource or personnel manager<sup>12</sup>. The complaint must be made in writing confirming the dates and details of the incidents, and any approaches asking the alleged harasser/bully to stop.

### The procedure

- ◆ The human resource manager gives the complaint high priority and arranges for another senior manager to investigate. The senior manager will not have line management responsibility for either the person complaining or the alleged bully, and will have had specific training.
- ◆ The senior manager will gather facts and statements relating to the incident from everyone concerned<sup>13</sup>.
- ◆ Everyone involved is guaranteed a fair and impartial hearing.
- ◆ A friend or trade union representative may accompany the person complaining to meetings about the complaint. This also applies to the alleged bully/harasser.
- ◆ After an initial investigation the senior manager will decide:
  - 1) *Whether there is a case to answer.* If there is no case to answer, all records of the matter will be disregarded. The person complaining will receive feedback on the reasons for this decision
  - 2) *Whether the matter can be dealt with through mediation or conciliation.* If both sides agree to this, the alleged bully/harasser's manager will be informed confidentially
  - 3) *Whether there is justification for further investigation in a formal disciplinary hearing.*
- ◆ The results of the preliminary investigation will take no longer than three weeks to prevent additional stress and anxiety to both sides of the complaint.
- ◆ If the matter is investigated in a formal disciplinary hearing it will happen as soon as possible, in accordance with the organisation's disciplinary procedure.
- ◆ It may be necessary to suspend a member of staff to

<sup>12</sup> If there is no designated HR manager then the complaint should be made to whoever is responsible for personnel issues.

<sup>13</sup> Guidance on the type of information that may be needed see section 1 good practice guide.

protect them or to aid the investigation.

- the decision will always be made in consultation with the human resource or personnel department
- the suspension will be for the shortest time possible
- the suspension is NOT disciplinary action, and this should be made clear to everyone involved.
- ◆ A decision to suspend a member of staff will only be taken where there could be a serious threat to:
  - the health and safety of staff
  - the security of the organisation.
- ◆ If appropriate it may be preferable to move a member of staff.

right to be treated with dignity and respect, and the employer will consider all complaints of harassment or bullying in this context.

- ◆ Staff are encouraged to raise valid complaints and can expect them to be taken seriously by their employer, investigated promptly, sensitively and fairly.
- ◆ Malicious complaints will be regarded as gross misconduct and disciplinary action will be taken.

### Outcomes

- ◆ If the preliminary investigation finds that the disciplinary procedure is not required, then there will be conciliation, mediation or provision of appropriate training for the people involved.
- ◆ If the investigation supports the allegation the organisation's disciplinary procedure will be used. To ensure impartiality the complaint investigator(s) will not conduct the disciplinary process. The bully/harasser will be disciplined in line with the employer's procedures. In serious cases this may mean instant dismissal.
- ◆ The person complaining will receive verbal feedback on the outcome of their complaint that will later be confirmed in writing.
- ◆ Frequently the person complaining and the bully/harasser are based in the same workplace. If the complaint is upheld it may be necessary to separate them. In most situations it will be the bully/harasser who is moved.
- ◆ Sometimes it is necessary to separate both sides even where the complaint is not upheld to maintain good working relations.
- ◆ The organisation recognises that it employs a diverse workforce where individual staff may have different expectations about what is acceptable workplace behaviour.
- ◆ The organisation recognises that all staff have the

# 3

## Bullying flow chart

**Start**

Employee is distressed by bullying/harassing behaviour of others. Is harasser/bully a patient?



Is the harasser/bully an employee in the organisation or someone else with whom there is a working relationship?



Start making record of all incidents. Discuss situation with family/friends/colleagues. Is employee still concerned?



Get a copy of organisational policy. Does employee want to help in taking action? Discuss with RCN representative.



Keep under review.



Bullying/harassment is very distressing for all concerned. Contact RCN representative at any stage for help. If suffering stress/anxiety seek advice from GP/OH department.

Keep under review.

Does employee wish to raise the issue with the bully/harasser directly?



Does employee wish to raise the issue informally with management?



Remaining option is to take formal action. Prepare complaint in writing and pass to HR manager who should arrange investigation.



Is investigation carried out?



Does investigation show that there are grounds for the complaint?



Will a disciplinary hearing take place?



Employee is likely to be key witness. The RCN representative will provide support. Another RCN representative will act on behalf of alleged bully/harasser if also an RCN member.

A number of outcomes are possible eg. use of sanctions within disciplinary procedure ranging from verbal, warning to dismissal. This may be accompanied by moving the bully/harasser to another part of the workplace.

Is employee satisfied with outcome?



Report incident to line manager. Record in accident/incident book. Is action taken?



No further action.



Contact RCN representative. Agree action – remember withdrawal of care, although a last resort, may be justified.



Employee could do this him/herself or be accompanied by friend or RCN rep. Prepare carefully for discussion and make a note of everything that is said.

Does this solve the problem?



Does employee wish to raise the issue informally with management?



Discuss complaint with line manager/personnel.

Does manager/personnel manager speak to alleged bully/harasser (with complainant's permission)?



Refer to RCN rep.

Does situation improve?



Refer to RCN rep.

Keep under review.



Discuss with RCN representative.



No further action will be taken against alleged bully/harasser.

Other action if appropriate: relationship/team building/ counselling.



The matter may be dealt with by mediation/conciliation between parties.

## 4

# Bullying and harassment checklist

## Introduction

The following standard statement summarises the key elements of an effective approach to reducing bullying and harassment in the workplace, and for resolving conflicts. It is a checklist for organisations to use as a tool in monitoring progress, and working towards continuous improvement.

The elements of this checklist may need to be reviewed as good practice in the workplace may change in time.

## Standard statement

This organisation does not tolerate bullying and harassment, and is working constantly towards the creation and maintenance of a healthy organisational culture that takes steps to prevent bullying and harassment, and takes effective action where it does occur.

### Structure

What resources are needed, and what systems/procedures need to be in place before any action to achieve the standard can be implemented:

- ◆ employers and staff must jointly develop a policy that applies to all grades and levels of employees, and that is regularly reviewed
- ◆ a member of trust/company board must be nominated to take on overall responsibility for implementation of the policy
- ◆ staff must be made aware of the policy, including their rights and responsibilities
- ◆ training courses must be developed for line managers so they can learn how to manage staff and deal with bullying and harassment conflict before it becomes a problem, and take appropriate action
- ◆ training courses must be developed for staff representatives in handling cases where members have been bullied/harassed
- ◆ mechanisms must be developed for monitoring incidents of bullying and harassment – for example, sickness absence, questionnaires, team meetings
- ◆ a procedure must be developed for handling complaints that includes an agreed use of suspension, and use of trained investigators
- ◆ a method for applying sanctions must be developed that includes a disciplinary procedure
- ◆ a mediation and conciliation process must be developed as an appropriate non-disciplinary dispute resolution
- ◆ an accessible counselling service must be available to everyone
- ◆ there must be understanding of the underlying causes/factors in bullying and harassment.

### Process

Actions needed to achieve the standard statement:

- ◆ staff must receive training at induction and then according to need – for example, to rebuild the team following an incident
- ◆ managers must confront and deal with conflict among staff before it leads to dysfunction
- ◆ incidents of bullying and harassment must be investigated objectively by trained investigators
- ◆ appropriate support for everyone involved in the bullying/harassment case, including witnesses, must be provided
- ◆ patients must be informed about the staff harassment policy
- ◆ managers must attend training courses that give them the skills to create and manage a healthy organisation
- ◆ the board must receive regular reports on incidents of bullying/harassment, and take action where necessary
- ◆ anyone involved in dealing with a case of bullying and harassment can access counselling by self-referral
- ◆ staff attitude surveys must include questions about harassment and bullying.

## Outcome

The results achieved by following structure and process:

- ◆ reduced incidence of bullying and harassment
- ◆ reduction in workplace stress
- ◆ staff are aware that bullying and harassment will not be tolerated
- ◆ staff, managers, and patients know what behaviour is unacceptable
- ◆ managers feel confident in taking a proactive approach to the resolution of unhealthy workplace conflict
- ◆ a healthy organisational culture in which diversity of views can be expressed constructively, and which promotes team development and the attainment of organisational goals
- ◆ staff and management know they will be fully supported in challenging unacceptable behaviour
- ◆ staff are confident that any complaint will be fully investigated
- ◆ staff believe that complaints are dealt with fairly and effectively and that they will not become a victim
- ◆ everyone involved is kept informed of progress at all times
- ◆ both parties maintain their self-esteem
- ◆ sanctions are applied fairly
- ◆ there is adherence to employment legislation.

## References and further reading

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- A campaign resource pack, *Zero tolerance: we don't have to take this*, is available from the NHS. Response Line: 08701 555455.



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