

Challenging harassment and bullying

*Guidance for RCN
representatives,
stewards and officers*



Royal College
of Nursing





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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

This guidance is for RCN representatives/stewards and officers involved in supporting members who complain of bullying and harassment, as well as members who have had complaints made against them.

Advice and information, and reviews of relevant legal issues are provided together with possible solutions for members. There are pointers to help you clarify what level of help and support you can give, and the final section looks at some of the more frequent dilemmas you will face. You should use this information in conjunction with the other RCN guidance on tackling harassment and bullying at work (see section on further reading).

The case for action

There are numerous reports and surveys that demonstrate how bullying and harassment is a significant problem in the workplace. The RCN repeated, in 2005, its research into the wellbeing and working lives of nurses which was first conducted in 2000. The results were extremely worrying and disappointing showing that just less than a quarter (23%) of nurses said they had been bullied or harassed by a member of staff in the previous 12 months. In 2000 17% of nurses gave the same response. Almost a third of nurses said that a nursing colleague was responsible for the bullying/harassment and 45% saying an immediate line manager or senior manager were the aggressors. Just under two thirds (64%) of nurses had made their employer aware of the problem but 40% of nurses said their employer had not responded to the problem.

Part of your role is to remind employers about the financial costs of bullying and harassment caused by sickness absence, early retirements, recruitment and compensation claims, as well as the psychological consequences for members. As well as encouraging employers to develop robust bullying and harassment policies you should work with employers to ensure these policies are monitored and reviewed for their effectiveness. The RCN Working Well research findings suggest that, in many cases, the existence of a policy does little to ensure that action is taken. As RCN representatives you have a role in ensuring all members

understand the policy too. You should also encourage employers to be proactive in building positive team cultures which minimise the likelihood of bullying/harassing behaviours occurring. The RCN has developed a tool, *Working with care: improving working relationships in health care (2005d)* to help health care employers do this.

Bullying and harassment – the support role

Dealing with cases of bullying and harassment can be a stressful and an emotional experience for the representatives/stewards providing the support role. If it appears unlikely that you can resolve the problem at the workplace, you should involve the RCN regional or board officer. You should also remember that it is possible that both the person complaining and the alleged harasser may need RCN support.

Whenever you represent a member, confidentiality is extremely important. If you or the officer believe that the member needs further psychological help provide advice on counselling services. Often the member is looking for someone to listen to their concerns without necessarily taking any further action. If the member does want to take action then a useful starting point is to ask them to keep a record of all the instances where they experienced bullying/harassing behaviour. Although some people find it difficult to keep a diary it will provide essential evidence. Representatives/stewards and officers must emphasise this to members.

Representatives/stewards and officers must also become familiar with the organisation's bullying and harassment policy to guide the member through the options for handling the complaint.

1

Bullying and harassment – the legal framework

Professional accountability

The regulatory body, the Nursing and Midwifery Council [NMC], recognises that there are circumstances in which a nurse may justifiably feel the need to consider withdrawing care from a particular patient or client. These circumstances may include the threat, or perceived threat, of physical violence on the part of the patient or client. Detailed and updated advice on this issue is available from the NMC's Professional Advice Service (see useful contacts for details).

Representatives/stewards and officers should also read the following RCN publications for additional guidance on how to deal with bullying and harassment from patients or their relatives (see section on further reading):

- ◆ *Dealing with bullying and harassment at work: a guide for RCN members (2005b)*
- ◆ *Bullying and harassment at work: a good practice guide for RCN negotiators and health care managers (2005a).*

What the law covers

Identifying the relevant law in a case of bullying or harassment is not always easy. There is, for example, no law explicitly outlawing bullying in the workplace. The options, however, include the following:

Discrimination law: if the reason for the bullying or harassment is the complainant's gender, gender reassignment, sexual orientation, race, religion, beliefs or disability then the discrimination legislation may apply. In general, harassment is explicitly recognised by the law as a 'free-standing' form of discrimination, except in respect of discrimination (under the Race Discrimination Act 1976) on the grounds of colour and nationality. Harassment on grounds of age will be outlawed from 1 October 2006.

A person is unlawfully harassed where, on a prohibited ground, the harasser engages in unwanted conduct which has the purpose or effect of either violating the other person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

The conduct must *reasonably* be considered as having the effect of violating the complainant's dignity and this means that the test is not confined to whether the complainant asserts that it violates their dignity. Nevertheless, the tribunal is obliged to take the complainant's perception into account in assessing whether the conduct could reasonably be considered as having that effect.

Currently, where there is no explicit definition of harassment in the discrimination legislation, it is nevertheless treated as being a form of direct discrimination, that is, constituting less favourable treatment to the detriment of the complainant. Identifying the relevant law in a case of bullying or harassment is not always easy. There is, for example, no law explicitly outlawing bullying in the workplace. The options, however, include the following:

Disability: under the Disability Discrimination Act 1995 it is unlawful to subject a disabled person to harassment where, for a reason which relates to the disabled person's disability, the harasser engages in unwanted conduct which has the purpose or effect of (a) violating the disabled person's dignity, or (b) creating an intimidating, hostile,

degrading, humiliating or offensive environment for that person. An employer would be liable for the actions of an employee unless it could show that it had taken reasonable steps to prevent the harassment from occurring.

Religious and political discrimination: this is outlawed only in Northern Ireland by the Fair Employment and Treatment (Northern Ireland) Act 1998. Harassment is direct discrimination by treating a person less favourably than others are treated, or would be treated on religious or political grounds.

Legal remedies for discrimination: Employment tribunals hear discrimination cases and there are now no ceilings on compensation awards for discrimination. The person harassing remains personally liable under the legislation, and awards of compensation can be made against both harasser and his employer. Awards for injury to the complainant's feelings in harassment cases have ranged from £750 to £25,000. Compensation for personal injury caused by the harassment is also recoverable under the discrimination legislation.

Discrimination claims and the statutory grievance procedure

Under the statutory procedures it is essential for the complainant to serve a written statement of grievance on their employer about the harassment within the relevant limitation periods (usually 3 months from the date of the relevant incident of harassment), and must wait 28 days before lodging any claim with an employment tribunal. If the grievance is not raised internally with the employer then the complainant will generally be prohibited from bringing any claim in the employment tribunal.

Unfair constructive dismissal

Harassment or bullying may be a breach of the employee's contract of employment, and if an employee resigns as a result, they may be able to claim unfair constructive dismissal. The employee must resign, with or without notice, because of behaviour or conduct which constitutes a fundamental breach of their employment contract. There is an implied term in every employment contract that recognises a relationship of trust and confidence between the employer and employee, and between employees. Bullying or harassment is likely to

be a breach of this term. If the bullying or harassment is an abuse of power against a member of staff by a manager the employer will be contractually liable. In other cases it may be that the employer fails to deal with a complaint of bullying or fails to support an employee who is being bullied.

RCN representatives/stewards should always first take advice from the Regional or Board officer, before advising a member on whether they should resign, because these cases are often difficult to prove. Where a member has already resigned and subsequently wants to claim unfair constructive dismissal then you must involve your regional or board officer.

Unfair constructive dismissal and the statutory grievance procedures

Under the statutory grievance procedures it is essential, except where there are grounds for believing that the employee will suffer further harassment at work because they invoke the grievance procedure, that the employee serves a grievance statement on the employer. Otherwise they will be prevented from pursuing the claim at an employment tribunal.

Health and safety and the Employment Rights Act 1996

Employees are protected, irrespective of how long they have worked for the employer, by the Employment Rights Act 1996 which states that they must not be disadvantaged or dismissed on health and safety grounds. The grounds include:

- ◆ raising health and safety concerns with the employer, which could include complaining about a workplace bully
- ◆ taking protective action such as leaving the workplace in the event of serious and imminent danger (*Harvest Press Ltd v McCaffrey [1999] IRLR 778*). For example, a community nurse is protected from any detrimental action by his or her employer if s/he leaves a patient's home because of abuse or violence from the patient or relatives.

Common law

Apart from the health and safety legislation, employers have a common law duty to provide a safe and healthy working environment. Failure to do so may lead to claims for compensation for personal injury, arising in negligence and/or breach of contract. The employer however, is only liable for an employee's injury if they have failed to take reasonable steps to prevent foreseeable injury occurring at work.

The employer may be directly liable for failing to take reasonable steps to protect an employee from bullying or harassment, although this presupposes that the employer is aware that the bullying or harassment is taking place. In this respect it should be noted that an employer will not be deemed to know what is communicated in confidence by its employee to its occupational health department or occupational health advisers (*Hartman v South Essex Mental Health & Community Care NHS Trust* [2005] IRLR 293).

In contrast to direct liability, the employer may also be vicariously liable for acts of bullying and harassment carried out by their other employees. In other words, although the employer didn't know about the bullying and harassment, nevertheless under normal principles of vicarious liability, they are responsible for the actions at work of all of their staff.

Pursuing a personal injury claim for negligence as a result of bullying or harassment can prove difficult. Problems include:

- ◆ proving that the employer's breach of duty caused or materially contributed to the harm suffered by the employee
- ◆ demonstrating that the bully or harasser was acting in the 'course of his or her employment', making the employer vicariously liable. However, in relation to this aspect of a claim, the courts have in recent years considerably widened the concept of vicarious liability of the employer (previously restricted to actions which the employer had in effect actually or impliedly authorised), holding that the employer may be liable for anything which is 'work connected' (*Lister & others v Hesley Hall Ltd* [2001] ICR 665).

In the recent case of *Moore v Welwyn Components Ltd* [2005] IRLR 293, for example, Mr Moore was awarded damages for a depressive illness after it was found that he had been subjected to sustained bullying by Welwyn's finance director over a period of two years. The judge held that the director's conduct was appalling, and would have exposed any employee of reasonable fortitude to the risk of psychiatric illness. The employer was liable in negligence for the director's conduct.

Protection from Harassment Act 1997

Some of the difficulties of pursuing a personal injury negligence or breach of contract claim may be averted if a recent judgment of the Court of Appeal in *Majrowski v Guys and St Thomas NHS Trust* [2005] IRLR 340 is upheld on appeal to the House of Lords. An employee claimed to have been bullied, intimidated and harassed by his line manager, and sued the employer as being vicariously liable for the statutory tort, that is, civil wrong, of harassment, contrary to section 1 of the Protection from Harassment Act 1997.

The Act was originally intended to deal with 'stalking', but doesn't define harassment (other than referring to 'alarming' someone, or causing them 'distress'), nor does it exclude behaviour in the workplace. It created both criminal and civil wrongs arising from harassment. One of the new criminal offences created by the Act, and also a civil wrong, is described as 'pursuing a course of conduct that amounts to harassment of another person, and which the perpetrator knows or ought to know amounts to harassment'.

The Court of Appeal in *Majrowski* allowed the civil case to proceed. An employer is strictly liable under the Act for any harassment by an employee in the course of employment, and there is no need for the claimant to demonstrate that the injury was reasonably foreseeable. Damages under the Act can include an amount for any anxiety caused, and any financial loss resulting from the harassment. Furthermore, the time limit is six years for bringing a claim, not the usual three years for personal injury claims.

Although it is too early to assess the impact of the judgment, it should be noted that the harassment under the Act has to be a 'course of conduct' and so cannot arise out of a single incident.

Health and Safety Executive (HSE) Guidance

The view from the Health and Safety Executive is that bullying and harassment are primarily employment relations issues and as such should be dealt with by employers' internal procedures. However, HSE does recognise that negative relationships can be a source of work-related stress and can be addressed by the Management Standards that HSE have produced to help employers carry out a risk assessment of stress. 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 to take measures to control that risk. The standards were launched in 2004 following extensive development and piloting. They are an effective tool to assist organisations in identifying the causes of stress and implementing practical solutions to manage the risks. Causes of stress are classified into six key areas:

- ◆ demands – workload, work patterns, work environment
- ◆ control – how much say a person has in the way they do their work
- ◆ support – encouragement and resources provided by the organisation, line management and colleagues
- ◆ relationships – includes promoting positive to avoid conflict and dealing with unacceptable behaviour
- ◆ role – understanding the role and avoiding role conflict
- ◆ change – how organisational change is managed and communicated.

Further information and materials to implement the standards are available from the HSE website, www.hse.gov.uk

Whistleblowing

In appropriate cases the employee may be able to rely on the 'whistleblowing' legislation. The Public Interest Disclosure Act 1998 gives protection to employees who disclose, generally in good faith, information about wrong doing in the workplace. This may include:

- ◆ failure to comply with any legal obligation
- ◆ dangers to health and safety.

Revealing information to the employer about bullying and harassment could fall within the protection afforded by the Act. Any subsequent detriment experienced by, or dismissal of, the whistleblower is unlawful under the Act.

Criminal offences

Intentional harassment has been a criminal offence since 1995, under the Criminal Justice and Public Order Act 1994 and is punishable by fine or imprisonment. When introducing the new law, the Government made clear that the offence covered harassment at work. Intentional harassment is committed when a person 'uses abusive or insulting behaviour, with intent to cause a person distress or harassment, and which causes that person distress or harassment'. It is also an offence to display 'any writing, sign or other visible representation which is threatening, abusive or insulting'.

As has already been mentioned, the Protection from Harassment Act 1997 created two new criminal offences of harassment:

- ◆ pursuing a course of conduct that amounts to harassment of another person, and which the perpetrator knows or did know amounts to harassment.
- ◆ pursuing a course of conduct that the perpetrator knows or ought to know causes another person, on at least two occasions, fear that violence will be used against him or her.

2

Guidance – supporting members

Members who complain of bullying and harassment, or who have had complaints made against them are likely to be suffering symptoms of stress. Support from RCN representatives/stewards and officers will be essential to them.

The following pointers can help you decide on the appropriate level of support. The process can be considered in three stages.

Exploring:

- ◆ spend time getting a clear picture of what has led the member to seek help. Time spent here will pay dividends later
- ◆ try to listen without prejudice, making judgements and assumptions, or jumping into solutions before getting the full picture
- ◆ find out what the member has done or is doing to manage the problem. How far is this working? Is it addressing the underlying situation or simply about coping with it?
- ◆ ask why they have chosen now to seek help
- ◆ be prepared to hear their distress but resist the temptation to take responsibility for “making it better”.

Understanding:

- ◆ try to build a picture of what has contributed to the situation
- ◆ to what extent are personal dynamics involved? Is this part of a pattern for the member, or could it have happened to anyone?
- ◆ what is the organisational context?
- ◆ how much of the situation could be in the member’s control either now, or with the development of other skills such as assertiveness?
- ◆ don’t be afraid to test your hunches about what

might have contributed to the member’s current position. But be tentative and prepared to be corrected

- ◆ summarise your understanding of the situation, and aim to come to a shared agreement from which you can consider a way forward
- ◆ feeling properly listened to and understood may be of enormous help – it gives someone who is stressed the time to reflect, and the ability to see the problem more clearly.

Action:

- ◆ once you have spent time exploring the situation you can go on to consider what needs to happen and what does the member want? What is their preferred outcome? Is it realistic?
- ◆ can this be brought about informally, or will it need formal action?
- ◆ does it require behaviour change by the member, and could training, mentoring or counselling be appropriate?
- ◆ what does the member feel capable of doing?
- ◆ if appropriate explore options the member may not have thought of. Assess the level of real and perceived threat to the member of the options
- ◆ agree a contract for who is to do what, clarifying issues such as confidentiality, contacts, availability and so on.

3

Bullying and harassment – frequent dilemmas

Introduction

Even in organisations where good policies and procedures exist, experience shows that in practice there are many challenges to minimising and resolving workplace bullying and harassment. This section describes some of the frequent dilemmas that RCN representatives/stewards and officers face when they support members.

In many cases there are no obvious answers to these dilemmas, but possible solutions and guidance are offered. At the very least acknowledging the dilemmas will help RCN representatives/stewards and officers either avoid them, or in future, help reveal solutions.

Extended sick leave

Bullying and harassment is detrimental to people's health and may lead to either the person complaining, or the alleged bully/harasser taking sickness absence. If the sickness absence of the alleged bully/harasser delays the investigation, a number of other difficulties may occur including:

- ◆ a “chicken and egg situation” where the person's health is unlikely to improve until a resolution is found, but this cannot happen until they return to work
- ◆ continued stress and anxiety for everyone concerned (including the wider team members) that undermines organisational performance
- ◆ difficulty in conducting the investigation at a later stage because the delay reduces the clarity of people's memory, or leads to the permanent loss of evidence
- ◆ heightened atmosphere of conflict, particularly in circumstances where it is suspected that the alleged

bully is using sickness absence as a tactic to delay the investigation

- ◆ conversely conflict may be intensified because the person who is not absent is suspected of using the delay to gain support
- ◆ the impact on the person complaining if the alleged bully resigns on ill health or other grounds prior to resolution
- ◆ a lengthy period of conflict that continues until one person resigns. Unfortunately it appears that management often finds this preferable to taking positive action to resolve the complaint. This undermines the organisation's ability to put an effective anti-harassment programme into practice.

Failure to investigate a complaint to resolve it promptly creates a negative outcome for the people and the organisation concerned. The RCN recommends that whoever manages the investigation, and the representatives of the person complaining need to consider whether or not there is scope for continuing without the involvement of the absent person.

But there are potential risks to this approach that you must give serious consideration to. For example, the person under investigation may successfully challenge the outcome of an investigation on the grounds that the process was unfair.

To deal with the dilemma of investigations where people take sickness absence:

- ◆ ensure that related policies such as sickness absence management, grievance and complaints procedures take account of this situation. Managers should be able to refer the person off sick to occupational health to assess the nature and degree of their ill health
- ◆ negotiate appropriate safeguards that prevent unreasonable pressure being placed on individuals to attend hearings. For example, these may include referral timescales and the provision of independent medical assessments
- ◆ use effective communication and work closely with representatives, managers and the people complaining to decide whether or not to progress an investigation.

Anonymous statements

The question of whether or not anonymous statements should be allowed in a bullying and harassment investigation is controversial. One argument suggests that anonymous statements are unfair to the alleged bully/harasser and may encourage malicious claims that are difficult to discredit. While another argument suggests that complainants/witnesses will only make a statement/formal complaint if they are allowed to make it anonymously because they genuinely fear retaliation.

As a general rule the RCN recommends that representatives/stewards and officers should encourage complainants/witnesses to disclose their identity when they make statements. But it is up to you to assess each individual case. In some circumstances you may resist management's reliance on anonymous statements. But in other situations you may consider that it is sensible, subject to rigorous safeguards.

ACAS supports the use of anonymous statements as long as stringent processes are followed to ensure fairness.

Employment Appeal Tribunal judgement on anonymous statements

The Employment Appeal Tribunal in its judgement of *Linfood Cash and Carry v Thomson* [1989] (IRLR 235) states that every case must depend on its own facts and a careful balance must be maintained between the desirability to protect informants who are genuinely in fear, and providing a fair hearing of issues for employees who are accused of misconduct. The judgement contains a series of guidelines to assist employers conducting investigations in which the identity of an informant is not disclosed. These are reproduced in full below:

The Judgement in Linfood Cash & Carry v Thomson [1989] (IRLR 235)

- 1 *The information given by the informant should be reduced into writing in one or more statements. Initially these statements should be taken without regard to the fact that in those cases where anonymity is to be preserved, it may subsequently prove to be necessary to omit or erase certain parts of the statements before submission to others – in order to prevent identification.*
- 2 *In taking statements the following seem important:*
 - a) *date, time and place of each or any incident or observation*
 - b) *the opportunity and ability to observe clearly and with accuracy*
 - c) *the circumstantial evidence such as knowledge of any system or arrangement, or the reason for the presence of the informer and why certain details are memorable*
 - d) *whether the informant has suffered at the hands of the accused or has any other reason to fabricate, whether from personal grudge or any other reason or principle.*
- 3 *Further investigation can then take place either to confirm or undermine the information given. Corroboration is clearly desirable.*
- 4 *Tactful enquiries may well be thought suitable and desirable into the character and background of the informant or any other information which may tend to add or detract from the value of the information.*
- 5 *If the informant is prepared to attend a disciplinary hearing, no problem will arise, but if, as in the present case, the employer is satisfied that the fear is genuine then a decision will need to be made whether or not to continue with the disciplinary process.*
- 6 *If it is to continue, then it seems to us desirable that at each stage of those procedures the member of the management responsible for that hearing should himself interview the informant and satisfy himself what weight is to be given to the information.*
- 7 *The written statement of the informant – if necessary with omission to avoid identification – should be made available to the employee and his representatives.*
- 8 *If the employee or his representatives raises any particular and relevant issue that should be put to the informant, then it may be desirable to adjourn for the chairman to make further inquiries of that informant.*
- 9 *Although it is always desirable for notes to be taken during disciplinary procedures, it seems to us to be particularly important that full and careful notes should be taken in these cases.*
- 10 *Although not peculiar to cases where informants have been the cause for the initiation of an investigation, it seems to us important that if evidence from an*

investigating officer is to be taken at a hearing it should, where possible, be prepared in a written form.

Use of tape recorders

Members may ask you if they can make tape recordings of any meetings or interviews they attend with the alleged bully/harasser. In general members should not be encouraged to tape record meetings secretly. If this behaviour becomes widespread it will contribute to an organisational culture of secrecy and lack of trust between colleagues.

Instead present members with alternatives:

- ◆ take comprehensive notes of everything that is said
- ◆ take a friend or union representative to the meetings.

But if the member approaches you after taking a recording you may use this as part of the evidence to the complaint.

In the RCN's experience a good minute taker can produce notes of equal quality to a transcript of a recorded interview, and that this is generally more acceptable than tape recorded interviews.

Observers at investigation interviews

Investigation interviews can provide important learning opportunities for union representatives, managers being trained in interview techniques, and human resources/personnel staff. But requests for observers to attend investigation interviews should only be granted after the people being interviewed agree. Strict rules of confidentiality apply throughout the interview, and the person being interviewed can ask observers to leave at any point.

Moving staff to another department

As part of the resolution process it is sometimes necessary to separate the people involved in the complaint during the investigation, or following its completion. However, there are other options such as

team building work and conciliation. If they are unsuccessful, the criteria used to decide who should move should not include the seniority or profession or occupational specialism of the people involved. Natural justice requires that the aggrieved person should be supported, and only be moved if they want to.

If the person who made the complaint is moved instead of the (alleged) bully/harasser this may constitute race or sex discrimination, and you must ask the regional/board officer or legal adviser for advice.

You should also write to the organisation's chief executive, and if appropriate the health authority/health board detailing your concerns. Remind them that decisions like this seriously undermine the confidence of staff in the organisation's ability to deal effectively with bullying and harassment. This formal notification of failings in the bullying and harassment process may prompt the organisation to take action. It may also provide important evidence of ongoing problems if similar incidents occur in the future.

If no action is taken when complaint is upheld – what do you do?

Anti-harassment/bullying initiatives are severely undermined if no action is taken despite a complaint being upheld. There can be situations where there are no disciplinary proceedings at all, or if there is a disciplinary process no sanctions are applied. This situation most commonly occurs when the bully/harasser is either more senior to the person complaining, or is a medical practitioner.

Depending on the circumstances of the bullying/harassing you may decide to report the bully/harasser to their professional body for misconduct. You should also consult your regional/board officer/legal adviser, who will consider appropriate legal remedies.

It may also be appropriate to write to the trust chief executive, and the health authority/health board as outlined in the section above.

Occupational health departments – the confidentiality issue

Occupational health staff may be aware that staff are experiencing difficulties because of bullying and harassment. Some uncertainty exists about their responsibilities around disclosure of this information. This is particularly true in circumstances where the behaviour of the person or group of persons affects a number of staff.

Specific questions have been raised as to whether or not occupational health staff have a duty under the Public Interest Disclosure Act 1999 (Whistleblowing) to inform senior managers. But the points below suggest that it is extremely unlikely that the disclosure of confidential client information can be justified. Disclosure will therefore be a **breach of confidentiality**. In very rare cases where circumstances may suggest otherwise, RCN occupational health members should ask for legal advice from the RCN before disclosing information.

There is a comprehensive discussion document looking at the circumstances where disclosure of confidential information may be justified. *Confidentiality: RCN guidance for occupational health nurses* is available online at www.rcn.org.uk or from RCN Direct 0845 772 6100, quote the publication code 002 043.

The most relevant points are summarised below:

- ◆ occupational health professionals have a duty of care to their clients to keep confidential the information supplied
- ◆ disclosure of confidential information should only occur with express (and preferably written) consent from the client
- ◆ disclosure without consent may only take place in *exceptional circumstances*. For example:
 - a) if disclosure is clearly in the client's interest, but it is not possible or is undesirable to seek consent
 - b) if it is required by law
 - c) if it is unequivocally in the public interest
 - d) if it is necessary to safeguard national security or to prevent a serious crime
 - e) if it will prevent a serious risk to public health
- f) in certain circumstances for the purposes of medical research (Faculty of Occupational Health Medicine, *Ethics for Occupational Physicians*, May 1999)
- ◆ the relationship between health professional and client simply could not function in the absence of trust that medical confidences will be respected.

Summary

The RCN believes that all nurses have the right to be treated fairly and consistently at work, and the right to a working environment that is free from undue stress, anxiety or fear. RCN representatives/stewards and regional/board officers have an important role in representing and supporting people, who may be victims of bullying and harassment. They are also key in raising awareness about the serious consequences of bullying and harassment, and advising employers about their duty to take preventive steps.

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Useful contacts

Nursing and Midwifery Council (NMC)

Nursing and Midwifery Council,
23 Portland Place,
London W1B 1PZ
Main switchboard: 020 7637 7181



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