

Bullying in the Workplace – Be Prepared

Bullying and harassment in the workplace affects not only the victims but can also have serious consequences for employers. We spend the majority of our lives at work and you as employers should be aware of the duties you have in relation to your employees. Effects of bullying can be both physical and mental for the victim but they can also have a detrimental effect on the productivity and morale of the company. Employers are under a duty to protect their employees from potential harm (not least under health and safety law relating to stress), and in preparing adequately to prevent potential conflict you will not only be helping your employees but also your company.

What is bullying?

There is no specific legal claim for ‘bullying’ and therefore there is no firm legal definition of the same. The best guidance given on the subject is provided by ACAS (The Advisory, Conciliation and Arbitration Service) who define bullying as:

‘offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient’.

Bullying can include physical or verbal abuse, humiliation and undermining the victim’s confidence. This can include such things as being picked on or being unfairly treated, being given unreasonable targets which cannot be met, being unfairly denied promotion or training opportunities or constantly being threatened with dismissal. This list is by no means exhaustive and bullying can comprise one single incident or repeated occurrences.

Sometimes such behaviour is obvious for all to see, and in such cases there are likely to be witnesses which could assist an employee to substantiate a claim, but other times the bully targets their victim when they are on their own. In such circumstances you, as the employer, may not even be aware that the bullying is occurring. This does not however, absolve you from the responsibility you have to protect your employees.

As an employer you must be aware that bullying may occur in your workplace. It can happen between individuals or groups and between employees of different levels of seniority. You should also be aware that bullying is not necessarily done face to face. It can occur in written form, through the use of inappropriate pictures, by telephone or by e-mail.

The content and nature of the bullying will determine what potential complaint can be brought by the affected employee. If they feel they are being bullied or harassed on the grounds of sex, race, disability, sexual orientation, religion/belief or age, there is specific legislation covering each and every one of those grounds to protect employees from discrimination and harassment.

Whether the employee feels that they are being bullied on the grounds of one or more of the above, or for some other reason, they are entitled to have their complaint dealt with seriously. You need to be aware of the duties you have to protect your employees from such behaviour and what you need to do if such behaviour comes to your attention.

Employees do not always feel that they are able to make a complaint, especially if the bully is a more senior member of staff. In many cases employees will simply suffer in silence or resign and it is therefore very important that guidance be given to employees so that they know who they can turn to and how their issues will be dealt with.

Why take action?

As an employer you have a duty to protect your employees from bullying and harassment from not only the people who work within your organisation but also from third parties (such as outside contractors). If you do not deal with a complaint seriously your employee may have a potential claim for discrimination and/or unfair dismissal if they resign because of the bullying or the way their complaint has been handled (known as constructive dismissal). Such claims can be extremely costly to employers, running into thousands of pounds in potential payouts.

You can minimise the risk of potential claims by ensuring that you have appropriate policies and procedures in place, so that all employees are aware of what action they can take if they feel bullied and so managers are aware of their responsibilities.

It is a good idea to have a specific 'Anti-Bullying Policy' which sets out what the company's view on bullying is, stating that it will not be tolerated, to whom complaints can be made and how such complaints will be dealt with. Also highlight that the matter will be fully investigated and dealt with in an objective, independent and confidential manner.

In addition you should have Grievance and Disciplinary Procedures in place so that all employees are aware not only how the company will handle their complaints but also how any troublesome employees will be disciplined. The point is to ensure fair treatment of both parties and an open approach to issues which arise.

Once you have prepared your policies and procedures you must ensure that all employees are aware of them, ensure that all management is trained appropriately and of course actually follow your policies and procedures in a timely and efficient manner.

On a practical note, do not transfer the person making the complaint unless they ask for such a move. You may wish to redeploy or suspend the person accused of bullying prior to conclusion of any investigation, but careful consideration should be given to

any such move as such action should only be taken in severe circumstances and would normally be treated as part of a disciplinary procedure.

We can help you with your policies and procedures, or any other employment issues. Protect your employees and yourself!

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