

DOCUMENT NAME:	Bullying and Harassment Factsheet
LINKED DOCUMENTS:	This factsheet is part of a suite of factsheets.
HEALTH WARNING/USAGE RESTRICTIONS:	This factsheet sets out the basics/law on bullying and harassment.

Disclaimer

This document has been prepared on the basis of what is required by law at December 2025 what is good practice, and our understanding of common issues. This document is not intended to be a comprehensive guide, may not be suitable for your circumstances and should not be considered a substitute for the advice of a lawyer. You agree you use this document at your own risk in these respects.

Bullying and Harassment

Factsheet

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1 Legal terms explained

There is not a strict legal definition of bullying. Workplace bullying can include offensive, intimidating, malicious, insulting or humiliating behaviour by colleagues, managers or others. It can also include managers or other senior leaders who abuse their power or authority to undermine an individual or group of employees.

Even though there is no legal definition of bullying, workers who are bullied may be protected under the Equality Act 2010, Protection from Harassment Act 1997 and, in some circumstances, have rights under the Employment Rights Act 1996.

“Harassment” occurs where a person engages in unwanted conduct towards another person related to a protected characteristic, which has the purpose or effect of violating their dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. There are different types of harassment including sexual harassment. This factsheet focuses on harassment related to a protected characteristic.

“Equality Act 2010” is an Act of Parliament that provides protection from discrimination and applies to all areas of employment including job adverts and the recruitment process, terms and conditions of work, conduct during employment and social events within a work context.

“Employment Rights Act 1996” is an Act of Parliament dealing with employment rights including unfair dismissal.

“ACAS” is the Advisory, Conciliation and Arbitration Service set up by Acts of Parliament to assist in dealing with employment situations.

“Employment Tribunals” have jurisdiction to determine employment claims and award compensation.

2 Examples of bullying

It is important for both employers and employees to understand what types of behaviour can be classed as workplace bullying. Examples of such behaviour include:

- Spreading malicious rumours
- Deliberately undermining or denying someone training or promotion opportunities
- Picking on someone
- Providing unwarranted open criticism, belittling or intimidation
- Providing an unwarranted low performance rating
- Cyber bullying with the use of email, mobile phones or social media
- Deliberate exclusion from meetings, emails, lunches or other workplace gatherings
- Overloading with work
- Micromanaging

3 Protection under the Equality Act 2010

Although bullying isn't protected per se, harassment is. Harassment is a type of discrimination and is legally defined in the Equality Act (please see terms explained above). It can be summarised as: unwanted conduct related to a protected characteristic which has the purpose or effect of violating the dignity of an individual, or creates an intimidating, hostile, degrading, humiliating or offensive environment for the individual.

The Equality Act protects employees, workers, former employees, job applicants, directors and partners from being treated unfairly because of one of the following reasons, known as 'protected characteristics'. There are nine protected characteristics, but only seven apply to harassment claims:

- Sex
- Race
- Disability
- Age
- Religion and belief

- Sexual orientation
- Gender reassignment

Pregnancy and maternity and marriage and civil partnership are not protected directly under the harassment provisions. However, pregnancy and maternity harassment would amount to harassment related to sex, and harassment related to civil partnership would amount to harassment related to sexual orientation.

Unwanted conduct covers a wide range of behaviour including spoken or written words or abuse, imagery, graffiti, physical gestures, facial expressions, mimicry, jokes, pranks, acts affecting a person's surroundings or other physical behaviour.

The word unwanted means the same as unwelcome or uninvited. It does not mean that a person has to object to the conduct before it is considered to be unwanted. A serious one-off incident can also amount to harassment.

The conduct may be blatant (for example, overt bullying or name calling), or more subtle (for example, ignoring or marginalising an employee).

The person who is causing offence doesn't have to intend to do so. It's the impact on the 'victim' that counts. And provided their reaction is not extreme, they will be protected even if someone else wouldn't have reacted in the same way.

It's therefore no defence for someone who has caused offence to say that they didn't mean to offend the other person or that "we all thought it was funny" etc.

3.1 Examples of bullying behaviour that may amount to harassment

Example 1: A female electrician works in an all-male team and is undermined by her manager. He says that her work is below standard (without reason) and mocks her in front of others. As a result, her co-workers start to tease her and make sexist remarks about women doing, what they call "men's work".

This type of bullying is likely to amount to harassment related to sex.

Example 2: A male shop assistant has a learning disability and finds it difficult to retain a lot of information. One of his colleagues makes fun of him in front of others and also refers to him as "dim Tim".

This type of bullying is likely to amount to harassment related to disability.

Employers should have clear policies in place which explain how an employee can raise concerns if they are bullied or harassed, such as a:

- Grievance procedure
- Bullying and harassment policy
- Diversity and inclusion policy (although it might have a different name)
- Whistleblowing policy.

Such policies may require that employees come forward and speak out about bullying/harassment they encounter or witness.

Employers are responsible for the behaviour of their staff towards others and will be liable for harassment/bullying unless they can demonstrate that they took all reasonable steps to prevent the harassment from happening. This is known as the 'statutory defence' and to establish it, employers will need to have clear policies in place and provide robust training to their staff about what is and isn't acceptable behaviour in the workplace. Employers must also explain what steps they will take against anyone who breaches this and deal with issues promptly, fairly and consistently.

3.2 Who can make a claim?

Employees don't need to have worked for their employer for any length of time to make a claim of harassment under the Equality Act. In addition, the Equality Act protects almost all staff (even if they are working under casual or zero hours contracts) unless they are genuinely self-employed. However, volunteers aren't usually protected.

4 Protection from Harassment Act 1997

In addition to claims under the Equality Act, victims of harassment may also be able to bring a claim in the civil courts under the Protection From Harassment Act 1997. Employment tribunals don't have jurisdiction (the right) to hear these types of claims

The Act itself doesn't define harassment. For a claim to succeed, an employee will need to prove that another person (such as their line manager or a colleague) engaged in a course of conduct and that person knew or ought to have known that that the conduct amounted to harassment.

The course of conduct is defined as behaviour that has occurred at least twice. The longer the time between incidents, the more difficult it is to prove the course of conduct.

The Act sets a high bar for employees because the conduct has to be serious enough to also amount to a criminal offence, punishable by a custodial sentence. It's therefore unusual for employees to bring claims under this Act.

5 Protection under Employment Rights Act 1996.

An employee who has been bullied at work may be able to resign and claim constructive dismissal if they have complained about it to their employer and their employer hasn't dealt with it appropriately. The employee would have to prove that their employer's failure to resolve the bullying breached the duty of trust and confidence which is implied in all contracts of employment. To be eligible to claim constructive unfair dismissal, an employee must:

- Be an "employee" not a "worker" (this will exclude independent contractors and most casual and agency staff)
- Not be within an excluded category of employee such as the police, armed forces or certain other public servants
- Have worked to the employer for at least two years.

Employees must prove that the employer's conduct amounted to fundamental breach of contract and that it was sufficiently serious to entitle them to resign. They must also resign promptly, and if they fail to do so, will be treated as accepting the breach. If the employee cannot show the breach was sufficiently serious to justify resigning, they will not be treated as having been constructively dismissed.

6 Time limits for bringing claims

Most employment claims can only be brought in the Employment Tribunal which imposes very strict time limits. Discrimination claims have to be issued in the Employment Tribunal within three months of the act complained of and constructive dismissal claims within three months of the date of termination. This is known as the "primary limitation date".

However, before a claim can be issued, the employee must engage in a process known as ACAS Early Conciliation. Employees are required to contact ACAS on or before the "primary limitation date" to start Early Conciliation. If they fail to do so, the Employment Tribunal will not be able to consider their claim.

Early Conciliation enables the employee and employer to try and resolve the dispute without the need to bring a claim in the Tribunal. If the parties agree, an ACAS conciliator will act as a "go between" and try and reach agreement. There is no need for the employee to communicate directly with their employer unless they wish to do so.

This process can last for up to twelve weeks. If Early Conciliation fails, the employee will be issued with an Early Conciliation Certificate which the employee needs before he/she can issue a claim in the Employment Tribunal.

Limitation is paused from the day after the employee submits the Early Conciliation Form until the date the employee receives a Certificate. Generally the employee will have a minimum of one calendar month from the date of the Certificate to issue a claim in the Employment Tribunal.

Details about Early Conciliation are available from ACAS: www.acas.org.uk.

Calculating the correct time limits for bringing a discrimination claim can be complex and we recommend that specialist advice is obtained.

The limitation period for bringing on the claim under the Protection from Harassment Act 1997 is six years.

If a claim is not lodged on time, it is unlikely that the employee will be able to pursue it.

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