

**STOPPING**  
bullying  
and  
harassment  
at work

A toolkit for UCU branch and  
LA officers

Including health and  
safety representatives  
and equality officers

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# Introduction

## A duty of care

All employers have a duty of care to ensure that employees are treated fairly and to provide a safe working environment. Colleges and universities also have a duty to provide a working environment free of discrimination, and one where equality is promoted.

Where bullying and harassment are allowed or where action is not taken to prevent them, educational institutions do more than damage their staff.

A culture of bullying is also not conducive to good teaching or good research. Bullying and harassment are particularly unacceptable in institutions of learning because staff must be able to question and challenge received wisdom and to teach students how to do the same.

## A real problem in education

When Petra Boynton of University College London surveyed academic staff in 2005 she found bullying to be widespread with many incidents taking place in meetings and communal areas, suggesting a culture which condoned bullying.

In further and higher education there is growing evidence that bullying and harassment are widespread.

UCU's own UK-wide survey published in 2007 showed that across both sectors over one third of respondents found bullying by managers or colleagues to be at 'very stressful' levels.

A further 2007 survey of UCU members by Professor Jeremy Waddington found that the issue of bullying and/or harassment was the single most common concern facing UCU members. The UCU survey had responses from 4,000 UCU members nationwide, and showed that the issues members were most likely to take to branch officers were bullying and harassment. Professor Waddington said this was the **only** union in which such a survey result had occurred.

The Health and Safety Executive (HSE) estimates that bullying is a key element in stress-related workplace illness and costs employers many millions of lost days a year. Stress-related illness and absence levels in education are substantially above the national average.

## A collective problem not just an individual one

Bullying and harassment are rarely completely isolated, one-off events. While UCU can and must give support to individual members, we will be much more effective if we address the problem at source. That means looking at the institution as a whole to:

- identify who else is being bullied or harassed
- ensure your institution has a clear policy in place to prevent bullying and harassment and tackle them if they occur and that the policy is enforced.

## **The purpose of this guide**

This guide is intended to be useful to all UCU members but is especially designed to equip local representatives with the tools to deal with bullying and harassment within your institution.

Some universities and colleges recognise that bullying and harassment exist and are unacceptable, but others remain in denial. We welcome the good practice emerging, but much more needs to be done.

## Section 1

# What is workplace bullying & harassment?

### If you believe that you are being bullied, the chances are, you are

Bullying can affect staff at every level of the institution and from all backgrounds. It involves a misuse of power, and is usually, but not always, perpetrated by managers against staff over whom they have power. It may particularly affect women, disabled, ethnic minority and LGBT staff, and can be a form of discrimination. Bullying and harassment are a major danger to staff health. They are often closely linked, and may overlap, but they are legally distinct.

The guide tackles both issues together because of the considerable overlap but the differences may be important and should always be borne in mind.

#### Definition of harassment

Harassment is unlawful when it is on the grounds of sex, gender reassignment, race, ethnic or national origin, sexual orientation, age, religion or belief, or disability. It is also unlawful to subject a person to sexual harassment (a separate category from harassment on the grounds of sex), or to harassment on the grounds of membership or non-membership of a trade union, or, in Northern Ireland, on the grounds of political belief.

The law defines harassment **as unwanted contact which has the purpose (intentional) or effect (unintentional) of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.**

#### Definition of bullying

Bullying may include harassment and harassment may include bullying. However there is no statutory definition of bullying, which is defined by ACAS (Advisory, Conciliation and Arbitration Service) as behaviour that:

- is offensive, intimidating, malicious or insulting
- is an **abuse of power**, and
- uses means intended to undermine, humiliate, denigrate or injure the recipient

Whereas harassment is linked, in law, to discrimination, bullying is not.

### Identifying bullying and harassment

Although there is no comprehensive list of bullying behaviours, and there is no one type of person who is likely to be a bully or a harasser, **ACAS** lists some of the behaviours which constitute workplace bullying and harassment

Examples of workplace bullying and/or harassment can include:

- constantly criticising competent staff, removing their responsibilities, or giving them trivial tasks to do
- shouting at staff
- persistently picking on staff in front of others, or in private

- obstructing professional development / blocking promotion
- regularly making the same person the butt of jokes
- constantly attacking a member of staff in terms of their professional or personal standing
- setting a person up to fail by overloading them with work or setting impossible deadlines
- regularly and deliberately ignoring or excluding individuals from work activities
- ignoring staff views and opinions
- different rules for different people
- criticism and threats
- excessive monitoring
- unrealistic expectations

**Bullying or harassment may be by an individual against another (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious or it may be subtle - whatever form it takes, the crucial point is that it is unwarranted and unwelcome by the recipient.**

## Effects in the workplace

### For the employee

When bullying and harassment occur they not only affect the complainant but have a knock-on effect for the work area or institution in which they are occurring. Relationships between work colleagues become strained and at times difficult, with some colleagues not wanting to 'get involved' as they do not see the bullying and harassment as having anything to do with them or they themselves may not want to become a target for the perpetrator.

The **effects on the recipient of bullying and harassment** vary from individual to individual. While this list is not exhaustive, it does give an indication of the symptoms that may occur:

- depression
- mental health problems
- low self esteem / lack of confidence
- loss of appetite
- feeling isolated
- migraine / severe headaches
- stomach problems
- skin complaints
- sleeplessness
- acute anxiety
- panic attacks
- nausea
- mood swings

A major survey conducted by the University of Manchester Institute of Science and Technology showed:

- **The effects of workplace bullying are estimated to be responsible for between one third to a half of all stress related illnesses.**
- **One in ten workers had been bullied in the last six months. One in four workers had been bullied in the last five years. 47% of workers had witnessed bullying at work.**

The main cost of bullying is to the individual being bullied. Stress and ill health can become part of the daily life of those being bullied. But there are major costs to the institution and to students.

### For the employer

A survey of UCU members carried out in March 2007 at Leeds Metropolitan University revealed a disturbing culture of individual and institutionalised bullying. The survey revealed that **68%** of members were stressed because of bullying and **61%** suffered work related health concerns.

Employers who fail to tackle bullying and harassment undermine their own staff performance and may be breaking the law. They need to put in place clear and properly implemented policies to prevent bullying and harassment and deal effectively with it if it nevertheless occurs.

**Bullying thrives where it is common behaviour across the management hierarchy – which is the case in highly competitive environments where many individuals consider bullying as the accepted method of motivating staff.**

**‘In organisations that pride themselves on strong management, bullying can soon become part of the organisation’s culture and management will be seen by their employees to have condoned such behaviour simply through their inaction.’**

Source: The Andrea Adams Trust

**3.6% of salary budgets (national average) is paid to people absent from work due to stress related illness.**

Source: Department of Health

**Failure to address the issues of harassment and bullying** in the workplace can also have serious consequences which can include:

- increased sick absence
- increased absenteeism
- reduced productivity
- high staff turnover
- costly retraining
- low staff morale
- demotivation
- costly law suits over stress and bullying
- risk to public image of the institution
- loss of client/customer confidence

## The legal framework

Proving you have been bullied or harassed at work is not easy. UCU strongly recommends that wherever possible members try to resolve bullying and harassment through negotiations and campaigns at work, using institutional policies. This summary of potentially relevant law is simply intended as background and members are **strongly** encouraged only to consider legal action as a last resort.

There is no specific UK legislation on workplace bullying but a large amount on harassment on any of the protected grounds. The following place legal duties on employers and employees which should form part of the framework within which institutions draft policies and implement them.

- **The Health and Safety at Work Act 1974** sets out the general duty of care of employers towards staff and the HSE has published regulations requiring risk assessments and management standards for stress at work, one of whose main causes is bullying at work. Using these regulations is discussed in more detail on page 8 of this guide.
- **The Sex Discrimination Act 1975** offers protection against unlawful discrimination to both men and women, while the Employment Equality [Sex Discrimination] Regulations 2005 give protection against discrimination and harassment on the grounds of a person's sex or gender re-assignment. Amendments introduced in 2005 produced new definitions of sexual harassment, making it clear that this involves unwanted actions of a sexual nature. The Gender Equality Duty, brought in by The Equality Act 2006, requires public authorities (including colleges and universities) to eliminate unlawful discrimination and harassment
- **The Employment Equality [Sexual Orientation] Regulations 2003** became law on 1 December 2003 and make it unlawful to discriminate or harass in employment or training on the grounds of sexual orientation. The Equality Act [Sexual Orientation] Regulations 2007 extended the legislation to cover goods and services. Lesbians, gay men and bisexuals are entitled to protections similar to those provided for women, disabled and black and ethnic minority staff.
- **The Race Relations Act 1976** makes it unlawful to discriminate against or harass a person, directly or indirectly on racial grounds in: employment, education, housing; and in the provision of goods, facilities and services while **The Race Relations Act 1976 [Amendment] Regulations 2000** required public authorities (including further and higher education institutions) to observe a statutory general duty to eliminate discrimination and promote race equality
- **The Disability Discrimination Act 1995** makes it unlawful to discriminate or harass on the grounds of disability. The Disability Equality Duty (DED), introduced by the Disability Discrimination Act 2005, places a duty on all public sector authorities (including colleges and universities) to eliminate discrimination and harassment and to promote disability equality.
- **The Employment Equality [Religion or Belief] Regulations 2003** outlaw discrimination in employment and vocational training on the grounds of religion or belief including harassment on such grounds. The Equality Act 2006 extended these regulations to cover goods and services.

- **The Employment Equality [Age] Regulations 2006** outlaw age discrimination in employment and vocational training, including harassment on the grounds of age.
- **The Protection from Harassment Act 1997** generally prohibits harassment but recent case law has established that there may be very limited circumstances where its provisions include workplace harassment.
- **The Trade Union and Labour Relations (Consolidation) Act 1992** gives specific protection to trade union representatives who are victimised as a result of trade union activities, which may include challenging bullying and harassment.

Don't attempt to use, or threaten to use, any of these legal sanctions before you have taken advice from your union representative who in turn should seek advice from their regional office.

UCU regards all forms of bullying as unacceptable whether or not they are unlawful. Your institution's own anti-bullying and harassment procedures should take the same approach.

**Remember**, threatening to use legal rights may be helpful; **relying** on them instead of trying to resolve issues at work is unwise. The law is, unfortunately, not very helpful in cases of bullying though a little more helpful when dealing with harassment.

### The courts continue to be unhelpful

The legal remedies for someone who has experienced bullying at work are largely ineffective, unless they can attach the claim to a ground of unlawful discrimination. Bullying can be a breach of the implied term of trust and confidence, but, on the current state of the law, the employee cannot base a claim in respect of this breach unless they resign.

An employer has a duty at common law to take reasonable steps to protect the employee from harm to their physical and mental health, but this duty is limited to harm which is foreseeable.

Trade unions had hoped that the case of *Majrowski v Guy's and St Thomas's NHS Trust*, which used the Protection from Harassment Act, might offer a remedy for employees being bullied at work. Unfortunately another case, involving Sunderland City Council in 2006-7, suggests this is unlikely to be of wide use. The Court of Appeal decided that the test of what constituted 'harassment' for the purposes of the Protection from Harassment Act is whether the conduct is so serious as to justify the sanctions of the criminal law, a steep test, especially as the Act requires more than one such act to be suffered.

## A collective and institutional issue

It is very unusual for bullying cases to be a one-off phenomenon. Good policies on preventing bullying and harassment recognise that, and regular effective monitoring and surveys will generally confirm that is the case.

Bullying and harassment arise when the institution does not make it clear that bullying and harassment are unacceptable and serious offences which can result in disciplinary action. The changing management culture within both further and higher education in response to

incorporation, the emphasis on 'performance management', the pressure from competition with other institutions for resources and students, the pressure from external inspections and audits, and the adoption of an inappropriate governance and management culture have combined to make bullying a major concern for staff and for UCU.

The Health and Safety Executive identifies bullying as a key cause of stress at work in education. The financial and 'market' pressures on colleges and universities together with the use of inappropriate management methods place middle managers in particular in a difficult position where they have to deliver a range of inappropriate or unattainable 'targets' – and to do so they are bullied and in turn bully their staff.

Responding to a stream of individual cases of bullying can be an exhausting undertaking for UCU reps and a frustrating one for members. It is much more effective to seek to prevent bullying by having in place effective, monitored policies that are implemented from the top of the institution than by trying to represent an individual member who has already suffered bullying. To be effective such policies must include effective means for detecting, recording, reporting and dealing with breaches of the policy.

Surveys, especially if they are jointly undertaken, can be very useful in establishing the scale of bullying and drive action to improve matters. Advice and support could be obtained from the Health and Safety Executive. The survey could part of a wider survey on stress using the HSE's stress management tools (see [www.hse.gov.uk/stress/index.htm](http://www.hse.gov.uk/stress/index.htm)).

Moreover where a survey has established bullying is a significant problem, it enables UCU reps to underpin and make more credible individual complaints of bullying by arguing they are part of a wider bullying culture.

That's why UCU branches should always try to:

- Have an effective, **agreed**, monitored policy on bullying and harassment in place.
- Ensure a local institutional survey takes place, and is repeated at regular intervals (say every two years) to establish the scale of bullying and harassment, including 'hotspots'. These can help demonstrate the scale of the problem and that bullying and harassment is not confined to an individual case.
- Treat bullying as a health and safety hazard using 'risk assessment' methods to prevent and control it.
- Ensure the most senior staff in the institution state clearly their opposition to bullying and harassment and set a personal example, taking personal responsibility for ensuring the findings of surveys and remedial action are publicised and drawn to the attention of the governing body and effective preventative action is taken.

## A health and safety issue

People who continually undermine, verbally abuse, threaten and denigrate those they manage or work with, causing stress and other ill health, are a **health and safety hazard**.

The Health and Safety at Work Act 1974 sets out the general duty of care of employers towards staff and the obligations employers have towards employees and members of the public and that employees have to themselves and to each other. The Management of Health

and Safety at Work Regulations 1999 require employers to carry out risk assessments. In 2004 the HSE published Management Standards for work-related stress which provide a useful framework for identifying problems.

UCU believes the safe risk management approach should be used with bullying as with any other health and safety hazard.

### **Step one: Identify the hazard.**

Anyone who humiliates or undermines staff, sets unreasonable deadlines or targets, shouts at staff or makes veiled threats or commits other acts characteristic of bullying and harassment is a workplace hazard.

### **Step two: Identify who might be harmed and how**

The staff at risk are those on the receiving end of this behaviour who may start to show the usual symptoms of bullying and harassment-induced stress and anxiety.

### **Step three: Evaluate the risk**

The risks to those affected will increase over time if the bullying and harassment is not challenged and staff remain unsupported by their employer's failure to recognise the hazard and respond appropriately. Staff concentration will suffer, sickness absence will rise and long term health effects can result. There is a growing body of evidence as to the health hazards of bullying and the HSE regard it as a major cause of workplace stress. Moreover such effects can have a knock on effect on teaching, research and support to students.

### **Step four: Record the findings from the evaluation and tackle the hazard**

Staff affected by bullying or harassment should record it. UCU reps should collate it and consider a survey either of the department, faculty or site affected or of the institution as a whole, identifying 'hot spots'.

Most education institutions have a policy on 'bullying and harassment' or on 'dignity at work'. It should set out how those being bullied can raise their concerns and how those accused of bullying should be treated, including awareness training for all managers and disciplinary action for staff where appropriate. It should set out procedures for monitoring bullying and harassment and the sanctions those inflicting such detrimental action on staff will face.

Harassment is often linked to discrimination on the basis of gender, race and ethnicity, disability, sexual orientation religion/ belief or age so equality policies may also be relevant.

Those procedures should be applied and appropriate sanctions implemented against those causing distress and ill health to staff.

### **Step five: Review the risk assessment**

A few months after the incidents (or incidence) of bullying have been identified, evaluated, and action taken to prevent the hazard, it is important to review whether, in the department of group of staff affected, sickness absence has reduced and bullying ceased. If it has not then it will be necessary to return to step one again.

## What to do if you are being bullied or harassed

(This advice is also available as a separate sheet to give to members and can be downloaded from the website at [www.ucu.org.uk/harassment](http://www.ucu.org.uk/harassment).)

### **Do not ignore it**

If you feel that you are being subjected to bullying or harassment – whether or not it is on the grounds of your gender, race, sexuality, disability, religion or belief, or any other reason, **or for no obvious reason at all - do not** feel that it is your fault or that you have to tolerate it.

Many people ignore bullying and harassment for fear of being labelled a troublemaker but it is unlikely that the conduct will stop if you ignore it. The bully is often doing this to try and exert control, so silence may be interpreted as acquiescence.

### **Check if your institution has a policy on bullying and harassment and read it.**

Get a copy of your employer's published policy on bullying and harassment or on dignity at work. It should be on their web site – or your local rep will have a copy. Read carefully what it says about all managers' responsibilities, and how concerns should be raised. Check whether the agreement or policy has been agreed with UCU.

### **Insist that the person responsible for bullying or harassment stops it**

In some circumstances you might be able to ask the perpetrator to stop. If you wish, take a UCU representative or friend with you. It is important that you accompany your union representative even if you do not say anything. This will prevent the person responsible for the offensive behaviour claiming that you did not complain personally, leading them to believe that you did not object. You can do this in writing – outline as clearly as possible what behaviour you find offensive and the effect it has on you. If you feel unable to directly tackle the person concerned, this does not imply that you consent to the behaviour nor will it prejudice any complaint you may wish to bring.

### **Get support**

Talk about the problem with a friend, a colleague and UCU representative. Do not hesitate to contact someone even when an incident occurs only once. They may be able to suggest ways of resolving the problem.

### **Collect evidence of the bullying or harassment**

It is important to keep a note of all relevant incidents including dates, times, places. This will be invaluable in proving your case if you make a complaint. Wherever possible get witnesses to provide factual evidence. If there are no witnesses to an incident, tell a colleague or representative and make a note. Make sure you keep copies of any relevant documents including emails and other electronic information.

### **Find out if the same person is bullying or harassing anyone else**

Often a bully will have a history of such behaviour. You will gain confidence from discovering you are not alone. Some UCU branches and LAs have carried out institution-wide surveys. These can be very effective in demonstrating that there are wider issues which the employer must address – and will make your claims more difficult to dispute.

### **Complain to your UCU representative**

Report the problem to your UCU branch/local association (LA) secretary, branch/LA equality officer, Health and Safety representative or other representative as soon as possible. Even if you decide not to pursue the case, it is important that the union is aware of any incidents of bullying or harassment.

There will be informal and formal procedures for dealing with the situation. The decision on how to progress the complaint rests with the complainant.

If the person responsible for the bullying or harassment is a union representative, discuss with another branch/LA officer the best way to proceed.

Any discussions will be confidential and further action involving you will not normally be taken without your express permission. Nor will the person you are complaining about be given your name as complainant without your permission.

You should contact your branch/LA secretary, branch/LA chair, branch/LA equality officer in the first instance. In the rare situation that you feel there is no branch/LA officer that you can approach, perhaps because they are implicated in the bullying or harassment, you should contact your regional office.

Members should bring their concerns to UCU first rather than approaching, for example, outside organisations such as the Equality and Human Rights Commission (EHRC).

### **Make a formal complaint**

If you or your UCU representative cannot resolve the problem by asking the person to stop, you or your representative should make a formal complaint, which should then be investigated by management.

If formal disciplinary proceedings are to be taken against the person responsible for the bullying or harassment, you will be required to give evidence. It may be difficult for you to undertake this but it would not be in your best interests for the case to be considered in your absence. Once the complaint becomes formal, UCU should insist that management conducts a risk assessment as set out on page 9.

**Remember:** if bullying persists it is appropriate to insist on treating the bully as a workplace hazard and insisting on a risk assessment. This is particularly the case if it is not an isolated incident and other staff have been bullied.

### **Use your UCU representative**

Sometimes members are so angry or distressed about bullying that they don't take their concerns to UCU but seek outside support from lawyers or other agencies. Sometimes this is because the member believes UCU has failed to prevent bullying in the past, or because they have a mistaken view that there are effective legal remedies which can short cut internal procedures.

Unfortunately, the law is not nearly as helpful as it should be, and it is better to try to resolve bullying using UCU to trigger the internal procedures, where possible linked to a wider campaign about bullying within the institution.

Where members go to outside agencies or lawyers and then seek to use UCU when this doesn't work, it makes things more difficult.

Tackling bullying and harassment is now a priority for UCU and whilst we recognise this is not an easy challenge, we are putting in place training and arrangements to give the best possible support to members.

## **What to do if you witness bullying or harassment**

(This advice is also available as a separate sheet to give to members and can be downloaded from the website at [www.ucu.org.uk/harassment](http://www.ucu.org.uk/harassment).)

Witnesses are the third party to incidents and may feel vulnerable like the victim, particularly if the person accused of bullying or harassment is employed on a higher grade. It is often difficult to know what to do if the victim appears to be ignoring the bullying or harassment.

If support and advice is needed, approach your UCU representative. In some institutions, with union agreement, there is also a procedure providing for a 'named person', who has volunteered to offer support to staff and students in cases regarding bullying or harassment. They should have been carefully selected and trained to provide information and advice and to offer support in such situations to the complainant or the accused.

There are several steps you could take if you observe someone being bullied or harassed:

- Speak to the person who is being bullied or harassed informally and confidentially and tell them what you have observed.
- Ask if they feel able to discuss the situation. Do not underestimate the effects of the bullying or harassment on them since they may be upset or unable to talk to anyone. Do not press for information.
- If they wish to discuss the incident, listen sympathetically and, if permitted, take notes as these may be useful at a later stage. You must respect the person's privacy and need for confidentiality.
- If they are unable to discuss the matter with you, encourage them to talk to someone they trust, a 'named person' or contact. Offer to contact the person they choose on their behalf and make arrangements for a meeting.

Remember that if a formal complaint is made, you may be called upon to give evidence.

## **Guidance for those accused of bullying or harassment**

(This advice is also available as a separate sheet to give to members and can be downloaded from the website at [www.ucu.org.uk/harassment](http://www.ucu.org.uk/harassment).)

If you have been told that your behaviour makes someone feel uncomfortable, then you should stop and reflect on what you are doing. Even though your behaviour may seem innocent to you, it is important to consider its effect on others. Referring to someone in a derogatory way, making sexist, racist, homophobic or other offensive remarks, putting your arm around another person's shoulders etc may seem trivial to you but may well be offensive and harassing to others.

If you are told that your behaviour is offensive, you should consider the following points:

**Remember it is the other person's reaction to your behaviour, which is important, not your intention nor the reaction you think they should have.**

Listen carefully to the complaint and to the particular concerns expressed.

- Stop the behaviour complained of and review what you are doing. It may be you have upset other colleagues who have not complained.
- If you do not understand the complaint, discuss the matter with your UCU representative or someone else you trust.
- If you are found to have bullied or harassed someone after their objection to your behaviour was made known to you, the fact that you persisted will make the offence more serious if disciplinary proceedings commence.
- If you are convinced that you are being unjustly accused, and/or that the complaint is malicious, you should:
  - Contact a branch/local association (LA) officer. It may be that an informal discussion between you, the person alleging ill-treatment, and a third party will solve the problem.
  - If this does not occur, and it is clear that formal proceedings will ensue, ask for UCU representation. A branch/LA officer or official may agree to advise you though if your actions were as a manager it may be more appropriate that HR initially advise you.
  - You should gather evidence in your defence, including witnesses.

If the outcome of a formal hearing is to find you guilty of bullying or harassment, UCU may then represent you through any internal procedures for appeal. However, you should be aware that UCU may decide not to support you further (unless the representatives are convinced that a miscarriage of justice has occurred) beyond advising you of your legal rights.

### **If one UCU member accuses another UCU member**

A particularly difficult situation may arise where one UCU member is making allegations against another UCU member. In those situations both members may be entitled to representation from UCU. In some situations – for example where a manager is accused of bullying - it is important to be clear what role HR (rather than the union) ought to play in providing advice to a member who in their managerial role is accused of bullying. Advice from your regional office ought to be sought in such circumstances.

### **If a UCU representative is accused of bullying and harassment**

It is not unknown for UCU representatives to be accused of bullying when what they are actually doing is vigorously defending members or challenging false allegations or unfair process. If a member is facing disciplinary action on the basis of allegations which the member and representative believe or know are false, then challenging them can necessarily involve questioning the veracity of the person making them.

Moreover, colleges and universities must always be places where honest (often vigorous) intellectual debate, takes place. In making such challenges, of course, gratuitous personal insults or threats are not appropriate.

If an allegation of bullying or harassment is made which concerns how you as a UCU representative are conducting a grievance, a disciplinary case or other negotiations you should take immediate advice from a senior branch or LA official, or the regional office. If there is any suggestion that you face any allegations arising out of your role as a UCU representative you should immediately contact your UCU regional office.

If the allegation is made during a meeting you may need to adjourn the meeting to take such advice. Inappropriate behaviour by a UCU representative is not acceptable but the vigorous defence of a member, advocacy of a case, or challenge to management is certainly not bullying, though it is unfortunately not unknown for such allegations to be made to deliberately undermine a representative's credibility. It is unlawful to victimise a UCU representative as a result of them undertaking their duties in representing members.

### **The real face of bullying**

The following is an extract from an article in the Guardian newspaper in 2007. The full article is at <http://education.guardian.co.uk/egweekly/story/0,,2205546,00.html>.

Julia O'Dell, who used to teach fine art at Leeds Metropolitan University's Harrogate campus specialising in sculpture, claimed she had a stress-related breakdown caused by a manager's bullying. O'Dell worked in a department where few staff were union members as they lived in a culture of bullying and fear.

She explains: 'I had warned management about the numbers of staff in my department being made seriously ill. I had to do something. I faced public humiliation and then never-ending delays in my complaint being heard.' Despite O'Dell's detailed evidence, management dismissed her claims, but her stand was vindicated when the university settled just before an employment tribunal hearing.

O'Dell's treatment was not a one-off. Her original complaint coincided with a management survey at the Harrogate campus that identified the top staff concern as 'whether the college genuinely cares about the welfare of its staff'. One respondent pleaded: 'Stop the culture of bullying - treat the workforce as valuable, worthwhile individuals. Develop a culture of care'.

The university denied then, and denies now, that it condones bullying. However, a letter sent in March this year to the university health and safety committee from its occupational health doctor warned:

'I have been providing occupational physician consultancy services to the university for some years, during which time I have noticed an ever-increasing number of staff presenting to the department complaining of symptoms of psychological ill-health. In the majority of cases, the member of staff has attributed onset and maintenance of their illness to work factors exclusively or has regarded work factors as a very potent and significant contributory factor.'

## Section 2

# Action for branches and LAs

This section contains useful information for branches and local associations working to eradicate bullying and to raise awareness within the workplace.

### Policy and procedures

- Raise the issues formally with management drawing attention to both their health and safety and equality obligations
- Ensure your institution has an agreed policy in place which matches best practice in the sector. Use the AoC agreement as a starting point. If the policy needs improving insist on doing so.
- Ensure the implementation of the statutory equality duties within your institution to include training and regular monitoring of harassment cases. As the public sector equality duties currently only cover gender, race and disability, ensure the policy also covers sexual orientation, religion or belief and age. You will find UCU's toolkit *Implementing the Equality Duties* useful - available at [www.ucu.org.uk/eqres](http://www.ucu.org.uk/eqres).
- Conduct a bullying survey, either jointly with management, with the HSE or as UCU, possibly using the draft survey to be found at page 25 of this guide. The survey should help establish the scale of the problem, its prime causes and particular 'hot spots'. It will be invaluable in demonstrating there really is a problem and add credibility to individual complaints.

### Publicity

Use posters and leaflets to raise the issue with members and by doing so encourage members to speak up if they feel they are the victim of bullying. Sample materials can be found on the UCU web site and you should make sure the leaflet:

- is as accessible as possible for your members for example making copies available in large print
- highlights useful links on the UCU web site on bullying and harassment with additional information.
- gives details of how to contact local UCU representatives.
- gives a link to the institution's bullying and harassment policy
- lists any UCU training dates for bullying and harassment that are offered to staff at your college or university (contact the training administration officer, [training@ucu.org.uk](mailto:training@ucu.org.uk), for details of any national/regional training related to bullying and harassment)
- gives details of your college/university external confidential counselling service if it is well rated by members but also make sure you include a reference to the excellent College and University Support Network ([www.ucu.org.uk/cusn](http://www.ucu.org.uk/cusn)) which UCU supports

Use your branch/LA email network to send the leaflet to all members asking them to forward to any non members. You may also want to get some printed for use on noticeboards.

## The role of the safety representative

Safety representatives have a particularly useful role in challenging bullying and harassment.

The Safety Representatives and Safety Committees Regulations 1977 give safety representatives the right to:

- represent employees in discussions with the employer on health, safety or welfare issues and in discussions with HSE or other enforcing authorities
- be consulted 'in good time' over a large range of health and safety issues
- be involved with risk assessment procedures
- attend safety committee meetings
- have access to relevant health and safety information
- inspect the workplace and investigate potential hazards
- investigate notifiable accidents, cases of diseases or ill health, and dangerous occurrences and investigate employees' complaints
- receive information from health and safety inspectors including any reports on stress
- be given paid time off their normal work to carry out their functions and undergo training
- have access to suitable facilities and assistance to carry out their functions.

Several of these functions, of course, are directly relevant to bullying and harassment.

## The role of the equality representative

As yet, equality representatives do not have the same statutory rights as safety representatives. The role of equality representatives is to keep up to date with changes to relevant legislation and ensure that branch negotiations with management on relevant policies reflect the current legal position or go further. Their role should include advising the branch/LA on individual cases with equality implications as well as the negotiation of policies and procedures on bullying and harassment.

## A bullying and harassment policy

UCU is currently negotiating a new national agreement on bullying and harassment with the Association of Colleges (AoC) and all the recognised FE unions. Final agreement was about to be reached as we went to publication. Further education institutions in particular should implement this agreement. A copy will be found at [www.ucu.org.uk/harassment](http://www.ucu.org.uk/harassment) as soon as it is available.

Higher education institutions can also use the AoC agreement as a template since the issues are common. Higher education institutions will also find the Equality Challenge Unit document on dignity at work an excellent resource (see links in the resources section on page 28).

While it is easy to follow a model policy, we believe that it is important that your college or university policy reflects the ethos of your organisation. The following guidance is intended to assist you in preparing and negotiating your bullying and harassment policy.

**Negotiating a bullying and harassment policy** The responsibility for bullying and harassment lies with management and ultimately with the principal or vice chancellor and the governing body. Bullying must be seen as an organisational issue if it is to be dealt with effectively and action must focus on preventing bullying and harassment, not simply on responding to it. If an employer simply concentrates on individual acts of bullying by blaming individuals, the

underlying cause, which is often a management culture of bullying, will not be tackled.

In negotiating your policy, you should also check the following points.

### Procedure

- Is it jointly agreed by the employer and recognised trade unions?
- It should include a statement of commitment from the employer at the most senior level to tackle bullying and harassment.
- Does it cover all staff, including temporary staff and contractors?
- Does it include a clear definition of both bullying and harassment?
- It should include a clear statement that bullying and harassment in the workplace are unacceptable behaviour and will not be tolerated. Any complaints will be taken seriously and may be treated as a disciplinary offence.
- Does it recognise bullying as a workplace health hazard for which risk assessment is an appropriate tool as well recognising it as a potentially discriminatory action?
- Is it cross-referenced with the disciplinary procedures and state that dependant on the level of bullying, it will be treated as either misconduct or gross misconduct?
- Is it cross referenced with grievance procedures to ensure that a complaint of bullying can, if requested, go to as high a level within the institution as a grievance would, and not be confined within the particular work area where it was originally raised?

### Definitions

- A definition of bullying and harassment - it is important that staff are clear what will not be tolerated - see page 3 for the definitions used there. It is important that the policy includes new forms of bullying and harassment such as cyber-bullying, texting and the use of social network sites.
- Clear statements about what constitutes unacceptable behaviour

### Legal framework

The policy should remind managers and that staff that there is a legal framework applicable to bullying and harassment cases but also that the institution expects to go beyond the legal minimum standards.

### Responsibilities

Any policy should make clear that all staff have a responsibility for preventing or eliminating bullying and harassment. The policy should also set out clear responsibilities for:

- all members of governing bodies
- all managers
- all other staff
- mediators/advisors where these exist
- trade union representatives
- HR departments.
- Students - a separate procedure should clearly set out the rights and responsibilities of students in respect of harassment and bullying and the consequences for students of harassing or bullying staff.

### **Prevention measures**

The policy should outline what action will be taken to help prevent bullying and harassment at work including training of managers, support networks and information to staff.

### **Bullying advisers**

Some institutions have appointed specialist 'bullying advisers' as a source of advice and support to bullied staff. Such staff may play a useful role but must not be regarded as an alternative to trade unions as a source of advice, support and representation. A clear protocol on their role is needed and it may be appropriate for trade unions to sit in on their appointment interview panels.

### **Monitoring**

Does it include clear arrangement for the recording and monitoring of bullying and harassment incidents, including any grievances and disciplinary action arising from them, and ensure such information is kept for at least six years? Such information should be recorded by area of work as well as by gender, ethnicity, sexual orientation and disability. It should be routinely shared with recognised trade unions.

### **A procedure for complaints**

There must be, within the policy, a procedure to deal with complaints. This may be part of the normal grievance procedure, or separate from it. However in many cases the normal grievance procedure may not be sufficient, particularly if the line manager is the person alleged to be the bully. Therefore the procedure must allow complaints to be heard at a level above the line manager and/or through a specific fast track procedure. The procedure should also ensure that where an allegation is made, the person who is alleging they are being bullied, is not moved unless at their own request. Instead the alleged bully should be moved if such action is deemed necessary.

- The policy should include a formal and an informal complaints procedure.
- The policy should make clear what the arrangements will be for investigating any complaints against senior post holders or the chief executive.
- The policy should make clear that those who bring complaints of bullying and harassment will be protected from victimisation.

### **Groups**

The policy should also include how complaints are to be dealt with if they are raised by more than one person. It should consider:

- How is the complaint to be raised individually or collectively?
- How will the outcome of any investigation be reported back - individually or collectively?

### **Appeals process**

What is the process for appealing against a decision following investigation?

The procedure should ensure that, where an allegation is made, the alleged bully or harasser is given the opportunity of changing their behaviour. A bully may be completely unaware that their behaviour may be seen to be unacceptable and the procedure should be flexible enough to allow matters to be raised informally at an early stage to see whether there can be

a behaviour change without more formal measures being used.

### **Victimisation**

It is good practice to include a section on the protection against victimisation of anyone who makes a complaint or acts as a witness to bullying. It should include the steps to be followed should the complainant be treated less favourably because they have exercised their right to use the procedure.

### **Malicious allegations**

The procedure should also state what action will be taken where it is clear that the accusation was malicious.

### **Confidentiality**

The policy should also have a clear statement on the confidentiality of each case with specific reference to the:

- nature of the bullying/harassment
- parties involved
- documents held.

### **Information and training**

Any policy must be notified to all staff including contract staff. It should also be raised at induction training. It is also good practice for the policy to be accessible (via staff intranet, handbooks, and library) as well as being in accessible formats.

### **Training**

It is important that all managers and staff are trained in what may constitute bullying, identifying it, and the employer's procedures. They should also be made aware of their responsibilities in preventing or eliminating bullying. Ideally, this should be built into the organisation's staff development training plan.

### **The role of trade unions**

The policy should encourage anyone who feels they may be being bullied or harassed to contact their trade union immediately. It is good practice for management to allow union representatives specific time off for training on bullying and harassment issues.

### **Access to support**

Many employers have arranged access for staff to an independent professional counselling service that can provide confidential advice to any person who feels they may be being bullied or harassed. Staff should be encouraged to seek support and the counselling service should be aware of the employer's procedures for dealing with bullying.

The **College and University Support Network** is a national charity set up to support all adult, further and higher education staff and their families, regardless of age, length of service or union affiliations, to improve their wellbeing and effectiveness.

CUSN has been established by the Teacher Support Network in collaboration with the University and College Union, to meet the specific needs of those working in further and higher education.



## Section 3

# Tools and resources

This section contains the following resources to aid branch/LA officers in combatting bullying and harassment in their institution.

- A union representatives' checklist for interviewing a member regarding a bullying or harassment issue.
- A model letter raising concerns regarding bullying and harassment with management. This letter is also available in digital format (as a Word document) from the website at [www.ucu.org.uk/harassment](http://www.ucu.org.uk/harassment), for easy editing.
- Guidelines on producing a model leaflet, 'Am I being bullied?', for members (and potential members) to raise awareness of the issue.
- Model survey on bullying and harassment. This survey is also available from the UCU website as a Word document that can be filled in on screen or printed off, at [www.ucu.org.uk/harassment](http://www.ucu.org.uk/harassment).
- A list of useful organisations and resources.

Please note that the UCU agreement with the Association of Colleges on harassment will be found on the UCU website at [www.ucu.org.uk/harassment](http://www.ucu.org.uk/harassment) and is a good starting point for negotiations.

## Interviewing a member - a checklist for union reps

### Before

- Check the membership of the person you are asked to represent.
- Has the case been raised with another rep already?
- Print off and read the college's anti-bullying & harassment policy (take to the interview).

### At the interview

- Switch mobile phones off.
- Introduce yourself and set member at ease.
- Use open questions to help member settle/get things off his/her chest.
- What form does the bullying take (physical, verbal, unfair treatment)?
- What aspects of the institution's policy and procedure on bullying and harassment does the action complained of appear to breach?
- Check the details/facts of incidents – who, when, where, how often, etc.
- Clarify anything you're unclear about in the member's account.
- Does it happen to others as well?
- Are there any witnesses (ask for details, do you think they would be willing to come forward/complain)?
- Has the member documented the bullying incidents (dates, times, what happened, what was said, etc)? If not, recommend they start keeping a diary.
- Have there been any ill health effects – time off, doctor's notes?
- What does the member want to happen? (And is it realistic?)
- Are they prepared to make a formal complaint or grievance?
- Is the member aware of other members who have experienced or witnessed bullying?
- Has the member approached the bully? What was the response?
- Would it be appropriate for the rep to do this?
- Would counselling be appropriate (as college/university policy)?
- Would contacting a harassment adviser be appropriate? Is it college/university policy – they can act as mediators?

### After the interview

- Take advice from other/senior safety reps and/or branch officers.
- Make sure procedures are followed.
- Inform branch/LA officers and member(s) of progress.
- Check any approach to management has been agreed with member.
- Consider whether more systematic attempts to gain supporting evidence – including if necessary a survey – is possible.

(Thanks to City of Bristol College UCU branch for an earlier version of this checklist)

## Model letter

Your address

Their address

Date

Dear [manager as identified in institutional policy or more senior manager if a collective letter]

**Concerns re bullying and harassment**

I am writing to register the following concerns which I believe are potential breaches of [the institution's] dignity at work policy [or other name for the bullying and harassment policy]:

List a summary of concerns either of the individual or a collective concern

Summarise some of the evidence [specific incidents or a survey]

I believe the concerns identified may be in breach of the [the institution's] dignity at work policy. I believe the behaviour complained of may also constitute a hazard which ought to be risk assessed under the Management of Health and Safety at Work Regulations 1999 and its Code of Practice which requires an employer to identify a hazard which has the potential to cause harm or injury and assess the likelihood of such harm or injury arising from that hazard.

I believe that the actions of [individual manager or senior management if this is a wider problem] may constitute such a hazard and that the risks they may pose should be controlled.

I would appreciate confirmation that you will arrange a meeting in accordance with our dignity at work policy [or other name for the bullying and harassment policy] and that this meeting will consider my/our concerns and supporting evidence, and the health and safety aspects of our concerns. I would also appreciate if you could provide me with the monitoring information for the last five years [or for the period conducted] on bullying and harassment incidents within the institution broken down by department and by gender, ethnic origin, sexual orientation and disability of the complainant.

Yours sincerely

[insert your name]

cc Branch/LA H&S rep, equality rep, secretary or president or regional office as appropriate

This letter can be downloaded as a Word document from [www.ucu.org.uk/harassment](http://www.ucu.org.uk/harassment).

## Model leaflet: Am I being bullied?

To help raise awareness of bullying and harassment, your branch or local association can use this template to produce a model leaflet that reflects the ethos of your organisation. You may want to send this out as part of a campaign which includes a local bullying survey.

The following are ideas to help you design your leaflet.

### Accessibility

It is important that you make your leaflet as accessible as possible for your members for example making copies available in large print.

### Further information

Make sure the leaflet highlights useful links on the UCU web site on bullying and harassment with additional information. Give details of how to contact local UCU representatives.

### The institution's policy

Explain how members can obtain a copy of the local bullying and harassment policy – it should be on the institution's web site

### Training

List any training dates for bullying and harassment that is offered to staff at your college or university. Contact the training administrator at UCU head office, [training@ucu.org.uk](mailto:training@ucu.org.uk) for details of any national/regional training.

### Access to support

Give details of your college/university external confidential counselling service if it is well rated by members but also make sure you include a reference to the excellent **College and University Support Network** ([www.ucu.org.uk/cusn](http://www.ucu.org.uk/cusn)) which UCU supports.

### Distribution

Use your branch/LA email network to send the leaflet to all members asking them to forward to any non members. You may also want to get some printed in colour for use on notice boards

## Model survey: How serious is bullying at your college or university?

Surveys can assist in establishing that there really is an issue and be a useful tool for use with management on negotiating processes to deal with incidents of bullying. They can also identify 'hotspots' and provide a talking point for members to take action on the topic. Evidence from a survey that bullying is widespread can help make individual complaints more credible.

If bullying is also a problem for other unions, you may find it helpful to do a joint survey thus promoting a united front amongst the trade unions in your institutions.

You may also want to consider bringing in the HSE to use their management of stress standards questionnaire which includes bullying as a key cause of stress [see model letter above]

If management offer to conduct a joint survey that can be very helpful as long as the content and analysis is jointly agreed and it doesn't lead to delays in publishing the outcomes.

We include a survey you can use or adapt for local use, which can be downloaded as a Word document from [www.ucu.org.uk/harassment](http://www.ucu.org.uk/harassment). Other examples of surveys provided by branches/LAs can also be found at this location.

Remember it may be useful to consider a full scale stress survey using the HSE Management Standards on stress which includes bullying.

Don't forget to ensure complaints of bullying and harassment are included with the annual equality monitoring process of your institution

This survey is also available from the UCU website as a Word document that can be filled in on screen or printed off, at [www.ucu.org.uk/harassment](http://www.ucu.org.uk/harassment).

## Trade union survey on bullying & harassment

[Name of Branch/Local Association]

[Date of survey]

This survey is being conducted to ascertain the extent to which bullying and harassment may exist at [enter name of institution]. This is an initial survey to get the views of staff prior to a meeting with management to address the issues. The survey is totally anonymous.

**1 About yourself**

Male

Female

**2 Your workplace (department, school, faculty – please name)**

---

**3 Please indicate the relevant box regarding your age.**

Under 20

20-29

30-39

40-49

50-59

60+

**4 Have you personally experienced bullying or harassment at work in the last twelve months?**

Yes (go to question 5)

No (go to question 6)

**5. Was the person responsible:**

Your line manager

Another manager

A colleague

A student

Member(s) of the public

Other (give details)

---

**6. Have you witnessed bullying or harassment of other staff at work in the last 12 months?**

Yes (go to question 7)

No (go to question 13)

**7. What form does or did the bullying take?**

Threats

Shouting or verbal abuse

Humiliation

Excessive criticism

Constantly changing instructions

Excessive workloads

Setting unrealistic targets

Refusing reasonable requests (i.e. for leave or training)

Other (please specify)

---

---

**8. How has bullying affected you?**

- |   |  |
|---|--|
| <input type="checkbox"/> Loss of confidence and self esteem | <input type="checkbox"/> Anxiety                       |
| <input type="checkbox"/> Depression                         | <input type="checkbox"/> Headaches                     |
| <input type="checkbox"/> Loss of appetite                   | <input type="checkbox"/> Loss of sleep                 |
| <input type="checkbox"/> Irritability                       | <input type="checkbox"/> Increased alcohol consumption |
| <input type="checkbox"/> Increased use of tobacco           | <input type="checkbox"/> More time off work            |
| <input type="checkbox"/> Fear of going to work              | <input type="checkbox"/> Other (please specify)        |
- 
- 

**9. Have you raised the problem?**  Yes  No**If yes, who with?**

- |  |   |
|--|---|
| <input type="checkbox"/> Line Manager              | <input type="checkbox"/> Other Manager          |
| <input type="checkbox"/> Human Resources/Personnel | <input type="checkbox"/> Union representative   |
| <input type="checkbox"/> Colleagues                | <input type="checkbox"/> Other (please specify) |
- 

**10. Was action taken?**  Yes  No**If so, what action was taken?**


---



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**11. If action was taken, did the situation improve?**  Yes  No**12. Do you feel confident to express your opinion at meetings with senior management, eg staff meetings, conferences etc.?**

- 
- Yes
- 
- No

**13. Do you believe a culture of bullying exists at [Enter name of institution]?**

- 
- Yes
- 
- No

**14. Do you think the college/university has an effective policy on bullying and harassment?**

- 
- Yes
- 
- No

**15. Any other comments?**


---



---



---

Please return your completed survey to [enter name of rep or branch/LA secretary] by [Enter date for return].

**PLEASE BE ASSURED THAT YOUR RESPONSES ARE CONFIDENTIAL**

**Your say counts! Thank you!**

## Model policy on bullying and harassment

At the time of publication this policy is currently under negotiation with the AoC and the recognised FE unions and is very close to agreement. The final agreement will be available from mid 2008 to replace the existing agreement, *Guidelines on harassment in FE*, at [www.ucu.org.uk/harassment](http://www.ucu.org.uk/harassment). This is also applicable to HEIs who should also refer to the ECU Handbook on dignity at work.

## Further information and resources

**University and College Union** [www.ucu.org.uk](http://www.ucu.org.uk), in particular, the online version of this toolkit with additional resources at [www.ucu.org.uk/harassment](http://www.ucu.org.uk/harassment) and the Stress Toolkit at [www.ucu.org.uk.co.uk/stress](http://www.ucu.org.uk.co.uk/stress). Safety representatives, branches and LAs should approach their regional office initially for advice or contact the UCU Health & Safety Advice Centre at [www.ucu.org.uk/healthandsafety](http://www.ucu.org.uk/healthandsafety). See also, UCU's toolkit *Implementing the equality duties*.

### Resources

#### Health and Safety Executive

Rose Court  
2 Southwark Bridge  
London SE1 9HS  
[www.hse.gov.uk](http://www.hse.gov.uk)

Useful publications:

*Management Standards for Work Related Stress*  
*Tackling Work related stress in education*  
*Guidance for Safety Representatives*

#### Equality Challenge Unit

7th floor, Queens House  
55/56 Lincoln's Inn Fields  
London WC2A 3LJ  
[www.ecu.ac.uk](http://www.ecu.ac.uk)

Useful publications:

*Handbook on Dignity at Work for HE Institutions* (this includes input from UCU)

#### Association of Colleges

2-5 Stedham Place  
London WC1A 1HU  
[www.aoc.co.uk](http://www.aoc.co.uk)

Nationally agreed Further Education joint guidance

#### ACAS

Brandon House  
180 Borough High Street  
London SE1 1LW  
[www.acas.org.uk](http://www.acas.org.uk)

Guidance on bullying and harassment

#### Labour Research Department

78 Blackfriars Road  
London SE1 8HF  
[www.lrd.org.uk](http://www.lrd.org.uk)

Useful publications:

*Tackling bullying and harassment - a trade unionist's guide*

#### Trades Union Congress

[www.tuc.org.uk](http://www.tuc.org.uk)

See TUC health and safety pages

#### College and University Support Network

[www.cusn.info](http://www.cusn.info)

Excellent web site and professional counselling and support

#### The Andrea Adams Trust

[www.andreaadamstrust.org](http://www.andreaadamstrust.org)

Leading anti-bullying charity

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