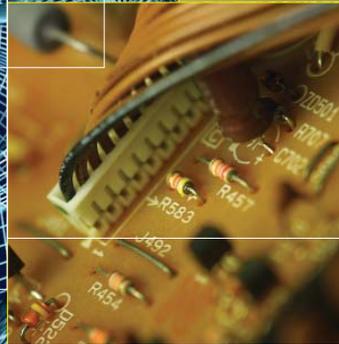
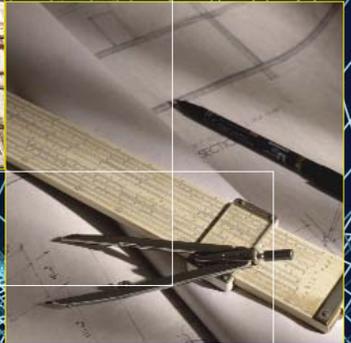


UNACCEPTABLE BEHAVIOUR

UNDERSTANDING WORKPLACE BULLYING



TECHNICAL ENGINEERING & ELECTRICAL UNION



Foreword

Colleagues

As General Secretary I am pleased to be able to provide you with this new TEEU publication dealing with the issue of workplace bullying. Bullying in any form and from any person is “Unacceptable Behaviour” which, as a union should not be tolerated. However regrettably, the need to provide TEEU Full Time Officials, Branch Officers, Shop Stewards and Members with this publication remains a fact of life.

This publication is a valuable addition to the growing resources, which has been developed by ETOS (our Educations & Training Services) to add to our previous publications, *The TUF Guide to Labour Law for Union Representatives*, *Guidelines for Workplace Partnership and Shop Stewards Resource Manual*, for TEEU Full Time Officials, Branch Officers, Shop Stewards and members.

The booklet I hope will be a useful aid to understanding bullying in the workplace and how we as a union can assist members and provide effective support.

Finally I would like to thank Padraig O’Morain who agreed to write the booklet and Sean Heading Manager, ETOS who has coordinated the publication.



Owen Wills

General Secretary/Treasurer

May 2007

Introduction

The aim of this booklet is to help union representatives to develop their understanding of bullying in the workplace.

In particular, it sets out to assist the reader in recognising workplace bullying and in providing effective support to members who are subjected to this behaviour.

The booklet does not describe the bullying complaints procedure that some employers have put in place, nor does it seek to outline the law as it relates to workplace bullying. Members already have access to previously published information on these topics.

Instead, the booklet aims to deepen your understanding of workplace bullying so that you and your union colleagues will be well placed to deal with it when you encounter it.

Note that throughout this booklet we use the word “target” rather than “victim” to describe the person being bullied. This is because not everybody who is bullied wishes to see himself or herself as a victim. But whether workers in this situation feel like victims or not, they are still entitled to dignity in the workplace.

We hope that this booklet will make a contribution towards vindicating that right to dignity for all workers.

Note

Agreements between employers and trade unions frequently group bullying, harassment (which refers to discriminatory treatment on grounds such as race and gender) and sexual harassment under the same heading. While all three are legitimate and ongoing subjects of concern for trade unions, this booklet focuses on one of those topics, namely bullying.

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Padraig O’Morain is a counsellor, trainer and journalist who has run a number of one-day courses on workplace bullying for the TEEU, ICTU and other unions. He has counselled clients who have been bullied at work and has written on the topic in The Irish Times and in his book *Like a Man - a guide to men’s emotional wellbeing* (Veritas, 2007). He was an officer of the National Union of Journalists for twenty years.

1 What is bullying?

A widely-accepted definition of workplace bullying, drawn up by the Taskforce on the Prevention of Workplace Bullying, is as follows:

“Workplace Bullying is repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment, which could reasonably be regarded as undermining the individual’s right to dignity at work. An isolated incident of the behaviour described in this definition may be an affront to dignity at work but, as a once off incident, is not considered to be bullying.”

Note especially that the behaviour must be repeated to qualify as bullying under this definition. As the section on What Is Not Bullying? suggests, once-off incidents can be damaging and may need to be dealt with under other procedures.

TYPES OF BULLYING

The following are examples of behaviours which, if repeated, could constitute bullying:

Setting the person up for failure by making impossible demands. This can include setting impossible deadlines or demanding that the person work through an illness or through holidays.

Verbal aggression or harassment. This can range from making “cutting” remarks to persistently shouting at the person, perhaps in front of customers or other colleagues.

Physical misbehaviour. Includes “accidentally” bumping into the person, refusing to make way for them or running after them in a threatening way.

Damage to property. Unexplained damage and sabotage to machinery, tools, computers and other items can be done as an act of bullying.

Gestures and threats. One of the most insidious forms of bullying is the gesture, the contemptuous look, the sneer. Because nothing is said, it can be difficult for the target to prove that bullying is going on.

Practical jokes. A series of practical jokes which goes on for too long can cause great distress.

Isolation. This happens where a group of colleagues isolates a particular person, shunning them, for instance, in the canteen, never speaking to them in the workplace, sneering at them behind their back and so on

Demoralisation through criticism. The person is criticised even for trivial mistakes which would be ignored if they were made by anybody else. The person may also be criticised for mistakes he or she never made.

Abuse of the bully's position. A bully abusing his or her position may see to it that the person is persistently rostered for unfavourable shifts or is consistently chosen for unfavourable transfers or unpopular jobs.

Keeping the person in the dark. This includes not telling the target about workplace meetings that he or she should attend and not passing on messages - or even passing on the wrong information deliberately.

WHO CAN BULLY?

Most workplace bullying is done by supervisors, managers or other people who are higher in the hierarchy than the person who is being bullied.

However, people can also be bullied by colleagues working on the same level.

There have also been cases of people being bullied by persons whom they are managing or supervising.

People can also be bullied by customers or by persons supplying goods or services to their workplace.

Bullying can be motivated by fear, resentment, revenge or by a desire to force one person out of a job in order to make way for somebody else. Sometimes a bullying attitude is rewarded within a particular workplace in which bullies are promoted. For more on this see **Signs of possible bullying** on page 10.

WHO CAN BE BULLIED?

Anybody can be bullied. Bullying occurs everywhere from the shop floor to the boardroom.

Men and women are equally likely to be bullied.

One of the most common profiles of the target of bullying is that of a person who is competent, principled and hard-working. It may be that competent people are seen as a threat by the bully or resented for some other reason.

People who are vulnerable, such as people with disabilities, can also be targets of workplace bullying.

2 How bullying affects its targets

Bullying can have a profoundly damaging effect physically, emotionally and in other ways. The effects can include the following:

EMOTIONAL

Emotional effects can include, at the beginning, a feeling of disbelief followed by a sense of insecurity, anger and anxiety. The target of bullying can live in fear of future incidents while thinking obsessively about the bullying that has already taken place. He or she may feel depressed and find it very difficult to get through the day. The target may become very angry. The person becomes so alert to bullying that insignificant events can come to be seen as part of a pattern of bullying. This further increases the person's sense of distress and of helplessness.

PHYSICAL

Given the emotional distress described above it is hardly surprising that people who are bullied suffer from very disturbed sleep. As a result they may be physically exhausted or irritable during the day. Some people can develop panic attacks which may involve palpitations, nausea, shortness of breath and other symptoms. People who are bullied may develop stomach problems because of continuous stress and their blood pressure can be high. Some people get sick practically every day before they enter the workplace.

GENERAL WELL-BEING

The person's sense of well-being can be quickly shaken by bullying in the workplace. Part of our sense of well-being is derived from the belief that we live in a fairly predictable world in which we can handle whatever comes along. Most of us do not expect to be

bullied and therefore the target of workplace bullying can easily lose that sense of living in a predictable world. Moreover, bullies can themselves act in unpredictable ways: they may bully the person at certain times and not at others.

In addition, the target's attempts to get the bullying to stop may fail or may take a long time to bear fruit. Therefore the sense of being able to handle whatever comes along is also compromised.

All of these factors, together with the physical and emotional effects already described, damage the well-being of the person who is bullied.

RELATIONSHIPS

The target's relationships inside and outside the workplace can become casualties of bullying on the job. Within the workplace, the target may become suspicious of others and resentful that they do not do more to stop what is going on. Others, who feel bad about not being able to get the bullying stopped, may for this reason avoid talking to the target. Outside the workplace, relationships can be damaged if the target becomes irritable, talks obsessively about the situation, or uses drink or drugs to self-medicate.

INSECURITY

The target of bullying can become very insecure about his or her own competence. Even though the person may be a good worker, he or she may suffer a complete loss of confidence, may be afraid to take on complicated tasks and may ask friendly colleagues to check even the simplest pieces of work.

UNEMPLOYMENT

Where a person leaves the workplace because of bullying, he or she can find it very difficult to take up new employment. This is because their confidence that they will not be bullied has been shattered. As a result of experience, the person fears that the same thing will happen again and this fear can be very strong.

3 Signs of possible bullying

It is helpful for union representatives to be aware of signs that bullying may be taking place. These signs, if present in the workplace, do not necessarily mean that bullying is actually happening but if you notice them you would do well to be aware of the possibility and to familiarise yourself with bullying procedures.

ABSENTEEISM

Bullying in the workplace is increasingly recognised as a cause of absenteeism. Therefore the possibility that the person is being bullied should be borne in mind if he or she is absent from work a good deal. This is especially so in the case of a person whose attendance record had previously been good.

STRESS

People who attend their GP to complain about the effects of bullying are commonly given a certificate for time off. The certificate usually states that the patient is suffering from stress. If you notice that a good many people in a department are out of work with stress-related illnesses, be aware that bullying may be going on.

CONSTANT COMPLAINTS

The person who seems to be complaining a lot may well have a legitimate complaint. Don't discount the complaints without considering the possibility that he or she is being bullied. Sometimes you will find that the person's reputation has been damaged by bullies to make it more difficult for that person to be believed.

CHANGE IN THE ORGANISATION

Change does not in itself constitute a form of bullying. However, periods during which organisations are undergoing significant change often coincide with periods during which

bullying takes place. This may be to improve the bully's prospects, to force a reluctant employee into accepting change or to pressurise an employee into leaving the payroll.

HIGH STAFF TURNOVER

High staff turnover can also be a sign of bullying. If you notice that a particular department has a high turnover or that staff working for a particular manager or supervisor tend to leave after a short time, you may be looking at the situation in which workers are being bullied either by colleagues or by a manager.

UNDERMINING OF A MANAGER OR SUPERVISOR

If you have been told, or you hear that others have been told, not to take much notice of a particular manager or supervisor you should suspect that this person is being bullied. If the manager or supervisor in question was recently promoted, he or she may be experiencing bullying due to resentment from other managers or from his or her new staff.

MAKING MISTAKES

If a person who was previously very good at his or her job begins to make a lot of mistakes, it is possible that he or she is being bullied. Many people will tend to make mistakes if they are being subjected to continuous, unfair criticism.

EXCESSIVE SLAGGING

If a particular person is constantly being "slagged off" by his or her colleagues, this could constitute bullying. The target may put a brave face on what is going on but hardly anybody enjoys being the constant butt of jokes.

EXCESSIVE CRITICISM

If a group of people is consistently criticising a colleague the possibility always exists that this criticism will develop into bullying. Indeed, the criticism itself may be a form of bullying.

4 Advising bullied members

Helpful advice for people who are being bullied falls into two categories. First, you should inform them about the procedures and options available to them and about actions - such as noting incidents - which will later help them to make a case. Second, the target of bullying may benefit from being encouraged to see their GP or to seek counselling.

EXPLAIN PROCEDURES AND OPTIONS

In most large workplaces there are informal and formal procedures for dealing with bullying complaints. It is important to be familiar with these procedures. If they are written down it is worth having extra copies to give to complainants.

EXPLAIN CONSEQUENCES

Informal procedures are usually less stressful than formal procedures. Explain this to the member. Inform him or her of what is involved in each type of procedure. Ideally, this should be available in a leaflet or booklet, as mentioned above.

ENCOURAGE NOTE-TAKING

A written account of bullying incidents, made as soon as practicable after they happen, will be an important piece of evidence in any formal procedure that may take place. This is especially so if there are no witnesses to the bullying. The written account should give dates and times; a description of what was said and done, of the location and of any witnesses present. The target should note how he or she felt after the incident and how it affected his or her wellbeing in terms of sleeplessness, anxiety and so on.

ASKING THE BULLY TO STOP

Almost all bullying procedures require that the target of bullying ask the alleged bully to stop. You may need to encourage the target to take this step. The target should:

- ▶ ask to meet the alleged bully.
- ▶ try to see the alleged bully in private so that his or her supporters are not around.
- ▶ explain what the alleged bully says that is objectionable.
- ▶ explain the effect that the alleged bully's behaviour is having.
- ▶ be firm but mannerly. If the target "loses the head" he or she could, in turn, be accused of bullying or aggressive behaviour - this may be unfair but it can and does happen.
- ▶ When the target leaves the meeting he or she should write down a brief description of what was said.
- ▶ if the target feels it would be impossible to confront the alleged bully alone, a union representative can attend as well or, depending on local procedures, can confront the alleged bully on their behalf. In some workplaces there are people who are trained as facilitators and who can approach the alleged bully on behalf of the member.

TAKE CARE OF HEALTH

Under the stress of workplace bullying, it is easy to drink too much or eat too much (or too little) in order to get through the experience. Union representatives may feel it is not their place to point this out. However, if you have a concern about the health of the target you can encourage him or her to go to their GP.

The GP will probably provide a certificate for some time off. A week or two off can be helpful but people should beware of taking too much time off. Sometimes it is better to keep busy than to be at home with nothing to do but brood about what is going on.

CONSIDERING COUNSELLING

Talking to a counsellor can help the target to minimise the emotional stress of being bullied. The employer may have a counselling program which is free of charge. If the target prefers, or if there is no employee assistance program, he or she could consider private counselling. Information on trained, accredited private counsellors in any area can be got from the Irish Association for Counselling and Psychotherapy at 01-2300061. Use your discretion as to whether it is wise to suggest counselling: some people have an unfounded fear of counselling and may resent the suggestion.

5 Supporting targets of bullying

How you deal with a person who is being bullied can be of enormous benefit regardless of the outcome of the complaint. Targets of bullying often feel isolated and a friendly voice makes an enormous difference. Here are some ideas that will enable you to provide emotional support at a human level while dealing with the complaint:

LISTEN MORE THAN YOU TALK

People being bullied need to be listened to. It may take them a long time to come forward but when they do they need to have their story heard by another human being who is listening respectfully. A way to do this is to let the other person do most of the talking. When you listen, you will often find that the other person will come up with his or her own solutions. Even if that does not happen, the member will benefit greatly from having been heard. Two tips: make sure you look at the person as he or she is talking; ignore your mobile phone if it rings during the conversation.

EMPATHISE

Empathising simply means letting another person know that you understand how they feel. It does not necessarily mean that you agree with how they feel - what you are doing is simply conveying that you understand how they feel. This is something that targets of bullying very much want. You can convey understanding through questions and remarks which show that you have some knowledge of how bullying affects its targets:

"It must be very hard to get a night's sleep with this going on?"

"How do you concentrate at work under these circumstances?"

"You must be feeling stressed out, are you?"

are examples of remarks or questions that can help to show that you understand what the other person is going through.

BE RELIABLE

Targets of bullying become very sensitive to being let down by those from whom they seek help. Therefore, if you have promised to give an answer about, say, the bullying procedure on a particular day it is very important to contact the person on that day. Even if you have been unable to get the information they need, get in touch and say so. Targets of bullying find it especially upsetting if deadlines built into a bullying procedure are allowed to pass without anybody making contact.

TAKE AN INTEREST

As a bullying situation or procedure progresses, it is helpful to the target of bullying if you show an interest in what is going on for that person. If you have nothing to report from the union side, you may not want to raise the issue - but if you avoid talking about it, the target of bullying may feel more isolated. Showing an interest, even if you have nothing to report, is something the target will appreciate. If you negotiate a severance package for the target, staying in touch after he or she has left the job can be of enormous value in helping that person to come to terms with what has happened and to move on. Even a telephone call every now and then will be helpful.

ONLY PROMISE WHAT YOU KNOW YOU CAN DO

If you make promises you cannot keep, you risk undermining the target's faith in the procedures. Making such promises will also greatly increase the stress on you in dealing with the situation. This is true of industrial relations in general but it is particularly important when dealing with workplace bullying.

"I'll get this stopped," is a promise you don't actually know you can keep.

"I will ask management to get this stopped now" is a promise you know you can keep because all you are promising is to ask management to intervene.

Similarly, *"I'll contact a union official about this,"* is a promise you know you can keep.

6 What is not bullying?

People who feel they are being bullied are sometimes mistaken, so it is important to be aware of what does not constitute bullying. Initiating a bullying complaint where bullying has not taken place does more harm than good. It is also grossly unfair to the person against whom the complaint is made.

Let's look more closely at actions which do not, or probably do not, constitute bullying:

LEGITIMATE MANAGEMENT INSTRUCTIONS:

Such instructions could concern timekeeping, transfers between sites or requests to a member to improve the quality of his or her work. So long as the worker is not being unfairly and repeatedly targeted, such instructions do not constitute bullying in the industrial relations sense of the word.

Generally speaking you, as a third party, will have little difficulty in distinguishing between legitimate instructions and bullying.

INDIVIDUAL BREACHES OF AGREEMENTS:

Individual managers often engage in actions which constitute a breach of established agreements. These can concern rosters, demarcation lines, staffing levels and so on. Unless these breaches are targeted repeatedly at particular individuals, they are unlikely to constitute bullying.

In almost all cases they can be dealt with more effectively under other industrial relations procedures.

SINGLE INSTANCES OF RUDE BEHAVIOUR:

These include:

Shouting.

Swearing.

Kicking furniture. Slamming doors.

Throwing files.

Sighing and looking up to heaven.

These behaviours do not constitute bullying unless they are repeated and targeted at an individual or a group of individuals.

This does not mean that they are acceptable: single incidents can be quite shocking and intimidating and can have a long-term effect on the person who is at the receiving end.

But where they do not constitute bullying as defined by the LRC, to attempt to deal with them under an anti-bullying procedure will simply mean further distress and disappointment for the person affected. It may be necessary instead to speak directly to the individual who has behaved in this way, to raise the matter with management or to have it dealt with through normal grievance procedures.

7 Checklist: Has bullying happened?

Assessing whether bullying has actually taken place is among the most difficult tasks with which trade union representatives are faced.

For instance, a person may be subjected to unacceptable once-off incidents of bad behaviour and may need help from the union. But if that behaviour does not fall within the definition of bullying (see **What is bullying** on page 5) then triggering a bullying procedure will achieve nothing except more distress for all involved. Instead the behaviour may need to be addressed through other procedures.

Legitimate disciplinary measures can also sometimes be experienced by a member as bullying. In such a case, it is very important for your own peace of mind, and in the member's interests, not to go along with the idea that what is happening is bullying.

The checklist below will help you in assessing whether the member is being bullied or whether something else is going on. When in doubt, it is always worth your while to check with a full-time union official who would have a good deal of experience on this issue across a wider range of workplaces.

FREQUENCY

Bullying, as defined by the Labour Relations Commission, involves repeated, inappropriate behaviour. Is your member complaining about a single instance of rude and ignorant behaviour or is the complaint about persistent targeting? If it was a single instance of bad behaviour, it may not be bullying in the accepted sense because it was not repeated. This doesn't make it acceptable, though and you may want to raise the matter with management or directly with the alleged bully outside the bullying procedure.

LEGITIMACY

Did the behaviour complained of involve a manager making a legitimate request to a member? Sometimes, for instance, insistence by a manager that a member begin work at the time laid down in the contract of employment is seen by the member as bullying. However, managers are entitled to make persistent legitimate requests. If only one person is being required to turn up on time this could form part of a pattern of bullying but, in general, legitimate management actions are not bullying.

PHYSICAL INTERFERENCE

Has the person been subjected to hitting, pushing or some other form of physical assault? A series of such instances constitutes bullying. A single such incident would, in any reasonable workplace, constitute unacceptable behaviour and should be addressed quickly by the union.

HAS THE RIGHT TO DIGNITY IN THE WORKPLACE BEEN UNDERMINED?

If a person's right to dignity in the workplace is undermined by persistent, inappropriate behaviour on the part of someone else, then they are being bullied according to the LRC's definition.

WHAT ARE THE SPECIFIC FACTS?

In order to form an opinion as to whether what happened was bullying, you need specific facts. What happened, where and when? How many people were involved, either as bully or target? Were there witnesses? What do they say?

Useful Contacts

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EAMON DEVOY,
Assistant General Secretary

Branches:
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Wicklow, Kildare, Portlaoise.

National Responsibilities:
TEEU Training and Education,
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Trade Union Groups:
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Airport Authorities, Aer Lingus, FLS
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REGION 3

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Head Office

TOMMY WHITE
Assistant General Secretary

Branches:
Dublin No. 2, Dublin No. 6, Dublin No. 9

National Responsibilities:
MEBSCA / Plumbers

Trade Union Groups:
Bord na Mona

Phone: 01 874 7047
Fax: 01 874 7048
Email: thomas_w@teeu.ie

REGION 4

South / East

Regional Office:

83 Lower Yellow Road, Waterford

FINBARR DORGAN

Assistant General Secretary

Branches:

Carlow, Kilkenny, Waterford No.1,
Waterford No. 2, Wexford.

National Responsibilities:

Local Authorities and
Government Departments

Phone: 051 857 030

Fax: 051 857 036

Email: waterford@teeu.ie

REGION 5

South / West

Regional Office:

23 Sullivan's Quay, Cork

PAT GUILLFOYLE

Regional Secretary

Branches:

Cork, Kerry

Nation Responsibilities:

MECA & Refrigeration

Trade Union Groups:

Irish Sugar

Phone: 021 4319 033

Fax: 021 4319 038

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Mid West

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Limerick

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Irish Cement

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Fax: 061 412 434

Email: limerick@teeu.ie

REGION 7

North West

Regional Office:

Forster Court, Forster Place, Galway

PAT KEANE

Regional Secretary

Branches:

Athlone, Galway, North Western

Trade Union Groups:

Irish Rail, Bus Eireann

Phone: 091 533 606

Fax: 091 533 607

Email: galway@teeu.ie

ESB National Industrial Officer

Head Office

DAVE NAUGHTON

ESB National Industrial Officer

Branches:

Dublin No. 3 (ESB), Limerick No. 2 (ESB),
Technical Supervisors (ESB)

National Responsibilities:

ESB, ENJIC

Phone: 01 874 7047

Fax: 01 874 7048

Email: dave_n@teeu.ie

Industrial Officer

Head Office

CHARLIE PRIZEMAN

Industrial Officer

Branches:

Dublin No. 8, Dublin No. 10

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ETOS

TEEU Training & Development
5 Cavendish Row, Dublin 1

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Email: info@etos.ie

Web: www.etos.ie

IRISH CONGRESS OF TRADE UNIONS

31-32 Parnell Square, Dublin 1

Phone: 01 889 7777

Email: congress@ictu.ie

Web: www.ictu.ie

DEPT OF ENTERPRISE, TRADE & EMPLOYMENT

Davitt House, 65A Adelaide Rd, Dublin 2

Phone: 01 631 2121

Email: info@entemp.ie

Web: www.entemp.ie

EMPLOYMENT RIGHTS INFORMATION UNIT

Davitt House, 65A Adelaide Rd, Dublin 2

Phone: 01 631 3131

Email: erinfo@entemp.ie

Web: www.entemp.ie

LABOUR INSPECTORATE

Employment Rights and Industrial Relations Division, Department of Enterprise, Trade and Employment, Kildare Street, Dublin 2.

Tel: 1890 220222
(LoCall), 631 2121

Web: www.entemp.ie

EMPLOYMENT APPEALS TRIBUNAL

Davitt House, 65A Adelaide Rd, Dublin 2

Phone: 01 613 6700
Lo-Call 1890 220 222

Email: info@entemp.ie

Web: www.entemp.ie

EQUALITY AUTHORITY

2 Clonmel Street, Dublin 2

Phone: 01 417 3333
Lo-Call 1890 245 545

Email: info@equality.ie

Web: www.equality.ie

LABOUR COURT

Tom Johnson House, Haddington Road, Dublin 4

Phone: 01 613 6666
Lo-Call 1890 220 228

Email: info@labourcourt.ie

Web: www.labourcourt.ie

LABOUR RELATIONS COMMISSION

Tom Johnson House, Haddington Road, Dublin 4

Phone: 01 613 6700
Lo-Call 1890 220 227

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Web: www.lrc.ie

RIGHTS COMMISSIONERS

Tom Johnson House, Haddington Road, Dublin 4

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Lo-Call 1890 220 227

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HEALTH & SAFETY AUTHORITY

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PENSION BOARD

Verschoyle House, 28-30 Lower Mount Street, Dublin 2

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Web: www.odca.ie

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27-33 Upper Baggot Street, Dublin 4.

Tel: 01 607 0500

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ENVIRONMENT PROTECTION AUTHORITY

PO Box 3000,

Johnstown Castle Estate, Co Wexford

Tel: 1890 335599

(LoCall), 053 916 0600

List of regional numbers in telephone directory and on website

Web: www.epa.ie

Email: info@epa.ie

DATA PROTECTION COMMISSIONER

Block 6, Irish Life Centre,
Lower Abbey Street, Dublin 1.

Tel: 01 874 8544

Email: info@dataprotection.ie

Web: www.dataprotection.ie

FREEDOM OF INFORMATION OMBUDSMAN,

18 Lower Leeson Street, Dublin 2

Tel: 1890 223030

(LoCall), 01 639 5600

Web: www.ombudsman.ie

Email: ombudsman@ombudsman.gov.ie

Labour Relations Commission

Procedures for Addressing Bullying in the Workplace

1. INTRODUCTION

1. Section 42 of the Industrial Relations Act 1990 provides inter alia, for the preparation of draft Codes of Practice by the Labour Relations Commission for submission to the Minister and for the making by the Minister of an order declaring that the code received under Section 42 and scheduled to the order shall be a Code of Practice for the purposes of the said Act.
2. In September 1999, the Minister for Labour Affairs Mr Tom Kitt T.D. established the Task Force on the Prevention of Workplace Bullying. In March 2001 the Task Force issued its report entitled Dignity at Work the Challenge of Workplace Bullying. In line with a recommendation of the report the Labour Relations Commission has prepared this code of Practice on Workplace Bullying.
3. In accordance with the provisions of the legislation when preparing this Code of Practice the Commission consulted with representative organisations including the Irish Congress of Trade Unions the Irish Business and Employers Confederation, Equality Authority, Employment Appeals Tribunal, Labour Court, Health and Safety Authority and a number of Government Departments. The Commission has taken account of the views expressed by these organisations to the maximum extent possible. The Commission has also consulted with the Implementation Advisory Committee on the Prevention of Workplace Bullying.
4. Other relevant Codes of Practice have been made under the Safety Health and Welfare at Work Act 1989 (Code of Practice on the Prevention of Bullying) and under the Employment Equality Act 1998 (Code of Practice on Sexual Harassment and Harassment at Work).

2. DEFINITION

5. For the purpose of this Code of Practice the definition of workplace bullying is as follows:

“Workplace Bullying is repeated inappropriate behaviour direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others at the place of work and/or in the course of employment, which could reasonably be regarded as undermining the individual’s right to dignity at work. An isolated incident of the behaviour described in this definition may be an affront to dignity at work but, as a once off incident, is not considered to be bullying.”¹

General Provisions

6. The main purpose of this Code of Practice is to set out, for the guidance of employers, employees and their representatives effective procedures for addressing allegations of workplace bullying. The Code sets out both an informal and formal procedure.

3. PROCEDURES

7. Informal Procedure

While in no way diminishing the issue or the effects on individuals, an informal approach can often resolve matters. As a general rule therefore, an attempt should be made to address an allegation of bullying as informally as possible by means of an agreed informal procedure. The objective of this approach is to resolve the difficulty with the minimum of conflict and stress for the individuals involved.

- a) Any employee who believes he or she is being bullied should explain clearly to the alleged perpetrator(s) that the behaviour in question is unacceptable. In circumstances where the complainant finds it difficult to approach the alleged perpetrator(s) directly, he or she should seek help and advice, on a strictly

¹ Recommended by the Report by the Task Force on the Prevention of Workplace Bullying published by the Stationery Office, March 2001

confidential basis, from a contact person. A contact person could, for example, be one of the following:

- a work colleague
- a supervisor or line manager
- any manager in the workplace
- human resource/personnel officer
- employee/trade union representative.

In this situation the contact person should listen patiently, be supportive and discuss the various options open to the employee concerned.

- Having consulted with the contact person, the complainant may request the assistance of the contact person in raising the issue with the alleged perpetrator(s). In this situation the approach of the contact person should be by way of a confidential, non-confrontational discussion with a view to resolving the issue in an informal low-key manner.
- A complainant may decide, for whatever reason, to bypass the informal procedure. Choosing not to use the informal procedure should not reflect negatively on a complainant in the formal procedure.

8. Formal Procedure

If an informal approach is inappropriate or if after the informal stage, the bullying persists, the following formal procedures should be invoked:

- The complainant should make a formal complaint in writing to his/her immediate supervisor, or if preferred, any member of management. The complaint should be confined to precise details of actual incidents of bullying.
- The alleged perpetrator(s) should be notified in writing that an allegation of bullying has been made against them. They should be given a copy of the complainant's statement and advised that they shall be afforded a fair opportunity to respond to the allegation(s).

- c) The complaint should be subject to an initial examination by a designated member of management, who can be considered impartial, with a view to determining an appropriate course of action. An appropriate course of action at this stage, for example, could be exploring a mediated solution or a view that the issue can be resolved informally. Should either of these approaches be deemed inappropriate or inconclusive, a formal investigation of the complaint should take place with a view to determining the facts and the credibility or otherwise of the allegation(s).

Investigation

- d) The investigation should be conducted by either a designated member or members of management if deemed appropriate, or an agreed third party. The investigation should be conducted thoroughly, objectively, utmost confidentiality and with due respect for the rights of both the complainant and the alleged perpetrator(s).
- e) The investigation should be governed by terms of reference, preferably agreed between the parties in advance.
- f) The investigation should meet with the complainant and alleged perpetrator(s) and any witnesses or relevant persons on an individual, confidential basis with a view to establishing the facts surrounding the allegation(s). Both the complainant and alleged perpetrator(s) may be accompanied by a work colleague or employee/trade union representative if so desired.
- g) Every effort should be made to carry out and complete the investigation as quickly as possible and preferably within an agreed timeframe. On completion of the investigation the investigator(s) should submit a written report to management containing the findings of the investigation.
- h) Both parties should be given the opportunity to comment on the findings before any action is decided upon by management.
- i) The complainant and the alleged perpetrator(s) should be informed in writing of the findings of the investigation.

Outcome

- j) Should management decide that the complaint is well founded, the alleged perpetrator(s) should be given a formal interview to determine an appropriate course of action. Such action could, for example, involve counselling and/or monitoring or progressing the issue through the disciplinary and grievance procedure of the employment.²
- k) If either party is unhappy with the outcome of the investigation, the issue may be processed through the normal industrial relations mechanisms.

4. CONFIDENTIALITY:

- 9. All individuals involved in the procedures referred to above should maintain absolute confidentiality on the subject.

5. TRAINING/AWARENESS:

- 10. It is considered that all personnel who have a role in either the informal or formal procedure – e.g. designated members of management, worker representatives, union representatives etc. should be made aware of appropriate policies and procedures which should, if possible, include appropriate training.

² See the Labour Relations Commission's Codes of Practice on
- Grievance and Disciplinary Procedures and
- Voluntary Dispute Resolution.

APPENDIX I

S.I. No. 17 of 2002

Industrial Relations Act 1990 Code of Practice detailing Procedures for Addressing Bullying in the Workplace (Declaration) Order 2002

WHEREAS the Labour Relations Commission has prepared, under subsection (1) of section 42 of the Industrial Relations Act 1990 (No. 19 of 1990), a draft Code of Practice detailing procedures for addressing bullying in the workplace;

AND WHEREAS the Labour Relations Commission has complied with subsection (2) of that section and has submitted the draft Code of Practice to the Minister for Enterprise, Trade and Employment;

NOW THEREFORE, I, Mary Harney, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by subsection (3) of that section, the Labour (Transfer of Departmental Administration and Ministerial Functions) Order 1993 (S. I. No. 18 of 1993), and the Enterprise and Employment (Alteration of Name of Department and Title of Minister) Order 1997 (S.I. No. 305 of 1997), hereby order as follows:

1. This Order may be cited as the Industrial Relations Act 1990 (Code of Practice detailing Procedures for Addressing Bullying in the Workplace) (Declaration) Order 2002.
2. It is hereby declared that the Code of Practice set out in the Schedule to this Order shall be a Code of Practice for the purposes of the Industrial Relations Act 1990 (No. 19 of 1990).

GIVEN under my Official Seal
25 January 2002.

Mary Harney
Minister for Enterprise, Trade and Employment

Explanatory Note

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The effect of this Order is to declare that the Code of Practice set out in the Schedule to this Order is a Code of Practice for the purposes of the Industrial Relations Act 1990.