



# Bullying at Work



## Introduction

This section explains what employers should do to prevent and control workplace bullying and to meet the standards for adequate policy and procedures under health and safety law. It seeks to give practical advice to employers in complying with the HSA's Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work, 2007 (HSA's Code of Practice on Bullying).

## What is workplace bullying?

Workplace bullying covers a range of different behaviours usually targeting one person with the purpose, often not expressed, of undermining them at work. Wherever bullying occurs, it usually occurs over time, so it is a series of different behaviours rather than a 'one-off' outburst.

People see behaviours in different ways, depending on their perspective. What one person might believe to be bullying, another might not.

## Is there a definition of workplace bullying?

Yes. The HSA's Code of Practice on Bullying gives the following definition:

*Bullying is repeated inappropriate behaviour, direct or indirect, against a person or persons, perpetrated by one or more person(s), which could reasonably be regarded as undermining their right to dignity at work.*

## How do I deal with an employee who is alleged to be a bully?

People accused of bullying must be assumed innocent unless proven guilty. Those who actually behave in a bullying way are likely to be good at covering up what they are doing, as nobody wants to be seen to be a bully. Thus, it can be very difficult to pinpoint and to highlight and if complaints are made, harder still to prove.

Also, there are people who complain of bullying when no bullying is occurring; they may mistakenly believe that an annoying behaviour, or an act they find disturbing, is bullying. Or they may simply misunderstand what bullying refers to. Not all conflict comes from bullying so much care is needed in handling this divisive issue.

## How should I handle a one-off incident?

By definition, someone cannot 'bully' someone once as bullying involves ongoing behaviour and a degree of systematic planning. To say that someone who does something inappropriate, angry or hostile on one occasion is a bully would be unfair as there does not have to be anything planned or systematic in something done once. Therefore, you may indeed have responsibilities and perhaps strong sanctions should be in place for once-off incidents of improper behaviour, but they would not be called bullying as it is defined.



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## What is the difference between harassment and bullying?

Harassment refers to an entirely different set of behaviours. Harassment is outlawed under employment legislation, and refers to discriminatory behaviour due to a person’s race, religion, marital status, family status, sexual orientation, disability, gender, membership of the Traveller community or age. These are ‘the nine grounds’ under which it is specifically illegal to discriminate against someone or treat them less favourably.

Bullying is not linked to any discriminating grounds and bullying is dealt with by various state bodies while harassment and discrimination are dealt with by the Equality Authority.

## Is bullying born out of normal conflict?

Normal conflict tends to involve people of equal status or people who meet the situation ‘head on’. As Figure 11.1 illustrates, an irritation can lead to mutual annoyance, then an expression of anger (anger can be expressed in a functional way) and finally a resolution through either acceptance or, when not managed properly, violence.



Figure 11.1

Many researchers believe that bullying is passive aggressive behaviour; that it is a way of being violent without being seen to be so.

## What can I do to prevent bullying in the workplace?

You cannot entirely control the behaviours of employees. However, you should:

- Create an environment and put procedures in place so that an employee who feels bullied can air and express the issue early on and thus resolve it before it becomes a bigger problem.
- Lead by example and treat all employees respectfully. This means applying courtesy in how you speak to people, the words and the tone of voice used. This does not interfere with the general duty to manage staff and keep discipline.
- Ensure that there is a transparent, independent and fair process for handling more serious complaints and that any behaviours found wanting are monitored afterwards.

Workplace risk assessments ensure that adequate control measures are in place to minimise risk. Where bullying is concerned, control measures include training, monitoring and ensuring that a planned, systematic approach is used for bullying issues in accordance with the HSA’s Code of Practice on the Prevention and Management of Workplace Bullying.

## What if a bullying complaint is made about a manager by his or her staff?

Regardless of whom the complaint is against, if the complaint is presented in such a way that it includes reference to inappropriate behaviours, then it should be given attention. There are a number of options and outcomes. First you must determine whether the complaint is a valid complaint of bullying. It may be that the complaint is not of bullying at all but refers to a one-off incident or a case of entirely appropriate behaviour.

It may be that the manager’s behaviour is appropriate and is part of the normal performance management process. If this is so, that should be recorded and noted and the complainant(s) should be advised that the behaviours complained of are not deemed inappropriate. Some attempt at mediation should also be made so that all parties can work effectively together.

It could be that inappropriate behaviour has occurred, without the manager really recognising that it is not appropriate, in the course of managing. If this is the case, you must advise the manager that the behaviour was inappropriate and that it must be altered along specified lines and monitored into the future.

The manager may deny that the behaviours occurred. In such cases, witnesses should be called where the case is a formal one and a more formal process entered into.

### What is the best approach to handling a complaint?

When a complaint is made, an informal approach should be attempted. This means assessing the complaint in an unbiased way. The person complained of cannot, therefore, assess the complaint and must refer the matter to another manager, who will assess its initial bone fides as an issue of potential workplace bullying. If it is deemed that the complaint has, on the face of it, validity, then issues within it should be talked through in an attempt to find out whether they did occur, and if so, why they occurred, and finally to agree what should be changed or improved. Gaining agreement and buy-in from both parties usually means the problem is solved and, once monitored by you or someone on your behalf, a simple recording of the basics of the situation can let this type of complaint rest. If the informal approach does not work or is not suitable for some other pressing reason, a formal approach must be taken. This may involve mediation and/or an independent investigation into what occurred, when and where. The formal investigation process is arduous but at times it is the only option left. See the HSA's Code of Practice on Bullying for more information on this process.

### Do I have to keep records?

Yes. For informal resolutions, a note can be enough stating what occurred, when it was resolved and that both parties agreed to it. Signatures are a good idea at this stage so that you have a note that you made an attempt to deal with the issue informally.

Where resolution such as mediation has been used, a note should be taken of the basics, who mediated, when and over what period. The details of mediation cannot be accessed by anyone other than the two parties involved and the mediator, in line with codes of conduct for professional mediators, as mediation is a voluntary and confidential process. However, the outcome of mediation should be recorded. If mediation is offered but not accepted, this should also be recorded.

Where formal investigation is utilised, clear and reliable notes should be taken, statements signed and witnessed and all recordings kept for further possible hearings through Rights Commissioners or HSA inspection activity.

### What are the roles of different state agencies?

The Employment Appeals Tribunal is a state adjudication system to which people can apply for a hearing for unfair or constructive dismissal due to a bullying or bullying-related issue. Rights Commissioners work within the Labour Relations Commission and have a role in terms of adjudicating cases brought to their attention under the Industrial Relations Acts, which may include aspects of bullying.

The National Employment Rights Agency (NERA) has a role in all aspects of employment rights for employees in Ireland, including different roles with regard to bullying allegations.

Each of the above has a role directly related to the individual claimant and the individual claimant can take his or her case to these arenas for a hearing. The HSA has a role in ensuring that all workplaces have carried out risk assessments and put control measures in place. The HSA enforces health and safety legislation, it does not act on behalf of claimants.

The Equality Authority covers all aspects of harassment under the nine grounds of discrimination and refers certain cases to the Office of the Director of Equality Investigations.

### Contacts/References

See the HSA's website ([www.hsa.ie](http://www.hsa.ie)) for copies of:

- **Guidelines on Workplace Bullying.**
- **Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work.**

Further information is available from:

- **Equality Authority. Website:** [www.equalityauthority.ie](http://www.equalityauthority.ie).
- **National Employment Rights Authority. Lo-call: 1890 808090. Website:** [www.employmentrights.ie](http://www.employmentrights.ie).

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