

Bullying at work

Your guide from ATL – the education union

Legal advice series



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Contents

01 Introduction	2
02 What is bullying?	3
The friend	4
The refrigerator	4
The loudmouth	4
The allocator	4
The changeling	4
The snide critic	4
The reporter	4
The 'proceduralist'	4
Is it bullying?	5
Dealing with bullying	6
Recognising the problem	6
03 Putting a stop to bullying	7
Informal action	7
Formal action	7
04 Policy and procedure	8
Using the grievance procedure	9
05 Using the law	10
Constructive dismissal	10
Misuse of procedures – unfair dismissal	10
Anti-discrimination legislation	11
Criminal harassment	11
Health and safety law	11
Personal injury	12
06 Conclusions	13
How can ATL reps help?	13
07 Appendix	14
Bullying/harassment at work policy and procedure	14
Statement of intent	14
Equal opportunities statement of commitment	14
To whom does this policy apply?	14
Characteristics and effects of bullying/harassment	15
Approach to bullying/harassment	15
How to complain about bullying/harassment	15
Responsibilities of governors and staff (including complainants)	16

01

Introduction

Schools and colleges should provide a caring, constructive learning environment for pupils/ students and safe, supportive working conditions for staff. Members of ATL have the right to work in a climate of respect; they should not be subject to intimidating, hostile or humiliating treatment. Regrettably, ATL's casework confirms that bullying has been identified by our members as a problem in their workplaces.

ATL recommends that all schools/colleges should consult their employees and their unions to draw up a policy and procedure to address bullying of staff. A recommended policy and procedure is shown in the Appendix on page 14.

This guidance is intended to help members who are being bullied. It outlines the nature of bullying, identifies some of the causes and suggests ways to handle bullying and prevent its repetition. The advice deals mainly with bullying by managers, some of whom may be under great pressure to produce results within constraints or resources and as a result, resort to bullying tactics. Members may also face bullying from other colleagues, parents and governors. ATL has also produced specific advice on cyberbullying as a factsheet which is available for download from ATL's website at www.atl.org.uk. However, whatever the source, schools/colleges should take active measures to stop bullying.

What is bullying? 02

There is no legal definition of bullying. The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as ‘offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient’.

There is a subjective element to whether someone has been bullied which is directly related to how they feel and their perception of a situation, or an action or of a series of actions.

Bullying can be defined as the persistent and normally deliberate misuse of power or position to intimidate, humiliate or undermine. This definition is most relevant to members where their managers are misusing their authority. However, our casework indicates that bullying may arise at all levels in schools/colleges; a lecturer may bully another lecturer, a teacher may intimidate a line manager or support colleague and a governor/parent/student may harass a member of staff.

The common theme in all these examples is that for our members something has happened to them that is unwelcome, unwarranted and causes a detrimental effect¹.

Bullying has no place in the management of people. Indeed, a positive, constructive management style motivates everyone to make greater efforts. Ideally, your achievements and successes should be acknowledged and celebrated, but the fact that they are not does not of itself constitute bullying. Equally, the occasional reprimand or dash of sarcasm can be unpleasant, particularly if you feel that it is undeserved, but this is not necessarily bullying either. ACAS guidance is again relevant here: ‘Behaviour that is considered bullying by one person may be considered firm management by another.’

Bullying can take many forms. It can be:

- physical – at worst, an assault
- verbal – shouting, swearing, public reprimands
- non-verbal – ostracising, setting unachievable targets and objectives, persistent, unplanned intrusion into lessons, unreasonable allocation of duties, or even inappropriate eye contact.

ACAS gives the following examples of unacceptable behaviour:

- spreading malicious rumours
- insulting someone
- copying memos that are critical about someone to others who do not need to know
- ridiculing or demeaning someone, picking on them or setting them up to fail
- exclusion
- victimisation
- unfair treatment
- overbearing supervision
- unwelcome sexual advances
- touching or standing too close
- displaying offensive materials
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and constant criticism
- preventing individuals from progressing by intentionally blocking promotion or training opportunities.

For some ATL members bullying may have become such an inherent part of their workplace that it can be difficult to recognise. Colleagues may feel intimidated about making a stand and challenging such behaviour. They feel that if they do not keep their head down they might be targeted. There is also the understandable concern that any challenge to such behaviour might be seen as a weakness and an admission that they are failing in their job.

This is where ATL can assist. ATL can provide you with guidance from someone who is not connected to your workplace. We can approach the issues objectively and confidentially and give you clear advice on the way forward. Our advice may be to talk through strategies to allow you to work through your concerns yourself; contacting us does not have to lead to an intervention on your behalf at your place of work. We will, of course, be able to make contact with your employer, with your agreement, if this is how you wish to take things

¹*Bullying and Harassment at work: A guide for managers and employers, ACAS. Bullying and Harassment at work: Guidance for employees, ACAS.*

forward. We will also assist you should you need to go through a formal procedure.

The most common forms of bullying are described below. This is not intended to represent an exhaustive list and some people who bully use a mixture of tactics.

The friend

Some managers appear to cultivate a close friendship with a member of their department. You may find it embarrassing to be singled out for private chats, particularly if they are not directly related to your special professional interests and accountabilities. You may be praised in front of your colleagues, often alienating them if they think you are receiving special consideration or favours. Then, just as suddenly, your manager drops any pretence of friendship, becomes hypercritical and treats you unfairly. You find yourself the subject of open and unjust criticism, and self-doubt follows. This can be so demoralising that your efficiency and effectiveness do actually decrease.

The refrigerator

The 'refrigerator' makes it plain that s/he is unwilling to have anything to do with you. Your opinion is never invited and your contributions at meetings are completely ignored. If you complete a valuable piece of work, praise goes to someone else, or your success is not even mentioned. Treating someone as though s/he is not there and giving the impression that her or his views are not worth hearing can be very damaging to morale. This is undoubtedly a form of bullying. Ask yourself whether you are on the receiving end because the bully regards your ability as a threat.

The loudmouth

Some managers attempt to undermine colleagues in the most subtle ways. They bawl people out, not only in the privacy of an office but also in front of other colleagues and/or, even worse, in front of pupils/students. It can be very intimidating to be subjected to a tirade of abuse. This may be presented as justified criticism, but you have no real opportunity to respond in a calm and collected manner.

The allocator

Some managers have wide-ranging powers to allocate tasks and resources. It is important that they should be seen to do so fairly and reasonably. For example, the timetable can be used to make one's life tolerable or unbearable. It is therefore essential for all staff to feel that they have been

given a fair crack of the whip and that they are not facing a disproportionate withdrawal of resources or an unfair allocation of the difficult classes. Allocating the worst jobs to particular individuals can amount to bullying; often this tactic affects junior and/or least experienced members of staff. If they protest against such treatment, their competence may be called into question.

The changeling

Good managers treat all employees consistently, fairly and equally. Not knowing what your manager's reaction will be in any given situation can be exceptionally stressful; one day all is well, the next you are criticised ruthlessly and undeservedly. Your self-confidence is inevitably jeopardised.

The snide critic

Members know that the one weapon to avoid with colleagues is sneering and snide criticism. Nonetheless, some managers often use this tactic. The sharp 'clever, clever' barb can deflate and wound so effectively and damagingly that it should never be used.

The reporter

Reporting other people's opinions is a common form of bullying, for example, 'I hear from X that... What have you got to say for yourself?' Without any warning that anything is wrong, it may be just as stressful to be confronted by your manager telling you: 'I am swamped with complaints about you from parents and now even from the children. No, you may not know whether the complaints came by telephone or letter, and there is no question of your knowing who made the complaints or any specific details of them'.

The 'proceduralist'

This is a particularly nasty form of bullying where a manager uses school/college procedures exhaustively to undermine morale. For example, you may have made a minor error. Instead of listening to your side of the story and accepting an apology in the knowledge that there is no risk of repetition, the manager initiates full use of the available procedures before deciding what is to be done. The great weapon here is suspense. It is difficult to avoid becoming increasingly stressed and worried as the days drag out into weeks and months. A lively member of staff can be reduced to a nervous wreck, yet those in authority can claim that, by carrying out an exhaustive investigation in accordance with agreed procedures, they are giving him/her every opportunity to present her/his case fairly.

Is it bullying?

If your manager uses tactics like those listed overleaf, it does not necessarily constitute bullying. **A key factor in ATL's definition of bullying is that the behaviour is persistent and normally deliberate.**

The following examples may help you decide whether your manager's behaviour falls into the category of bullying.

1

One foggy morning you arrive 15 minutes late and are accused of habitual unpunctuality by your manager.

The accusation is unreasonable, but the behaviour would only constitute bullying if it happened on a recurring and unjustified basis.

2

At a planning meeting, your suggestions are accepted but a colleague receives the credit.

It's unfair, but only worth pursuing if the pattern is sustained.

3

You forget to go to a meeting. As a result, you receive first a very sharp email and then, three weeks later, a summons to a formal meeting.

This looks like an unduly severe approach, verging on bullying if it is part of a pattern.

4

Meeting you in a corridor full of pupils/students, your manager starts to discuss complaints about your work.

This could be the beginning of bullying, but it could just be tactless management.

5

You look at the new timetable. You again seem to have an unfair share of more difficult groups.

This may be bullying but investigate other allocations before taking action.

6

In a series of private conversations with you, your manager keeps referring to the likelihood that there will need to be staffing cuts next year.

While this is certainly not an appropriate method of consultation over possible redundancies, it is not necessarily bullying.

7

Your lessons/lectures are being disrupted on a regular basis by a particular pupil/student. Your attempts to gain support have been rebuffed with the comment that you should resolve your problems yourself.

You are entitled to support from management in this matter. Persistent failure to provide appropriate support could constitute bullying.

8

According to your manager, nothing you do seems to be right. You are frequently subjected to criticism, both in public and in private.

This is bullying.

9

You are told that your job description has been changed without any consultation.

This is unacceptable management practice. It may be regarded as bullying if the changes are frequent.

10

Your last four requests for training have been turned down. A colleague has had half a dozen requests agreed.

This may be bullying but, before asking for reasons, make sure that there is not an acceptable explanation.

11

An angry parent has obtained your phone number and is making frequent and prolonged calls to your home.

This is bullying. You are entitled to call for support from the school/college.

12

A governor is spending a lot of time at your workplace, frequently comes into your lessons unannounced and often criticises your teaching methods.

This is a form of bullying. Assessing your professional competence is the job of the head/principal, but this can be a difficult situation to deal with, especially if the governors are putting pressure on him/her.

Dealing with bullying

If you are being bullied, how you decide to proceed will depend on the seriousness of the situation and your assessment of the help you need to resolve the problem. Sources of help include:

- colleagues
- your ATL representative
- your ATL branch secretary, or Regional Official
- your ATL Officials based at ATL's regional offices.

Recognising the problem

You may be the last person to realise that you are being bullied. You feel stressed but put this down to the pressures of dealing with pupils/students rather than the behaviour of the perpetrator. It may only be when a colleague discusses the matter with you that you realise what is going on. Signs indicating that you may be on the receiving end of bullying include:

- excessive fear of meeting or speaking to the perpetrator
- loss of confidence, self-worth and self-belief
- reluctance to voice an opinion in case the perpetrator misinterprets it as hostile criticism or treats it with derision/suspicion
- a gradual realisation that you are afraid to go into work because you feel threatened by his/her behaviour
- physical ill-health, such as unintended weight loss, disrupted sleep patterns, nausea, crying fits, indigestion, irritable bowel syndrome, headaches, back pains and skin complaints.
At its most extreme, the physical reaction to the stress of bullying can include ulcers, depression and panic attacks.

A significant increase in sick leave can lead to more threats from the perpetrator and even more stress. Equally damaging is that members may feel compelled to keep going at all costs 'for the sake' of the pupils/students. At this point, some members think about leaving their jobs, but they face the problem that the person who is bullying them may be the very person who will write their reference. They may also fear that, even if the written reference is good, it will be followed up by a telephone call which will ensure that they are not short-listed.

ATL can approach the issues objectively and confidentially and give you clear advice on the way forward.

Putting a stop to bullying **03**

If you are being bullied, you will probably feel completely powerless; your usual self-confidence has been undermined. That may be exactly how the bully intends you to feel because it means you will be less likely to initiate any action against her/him. Remind yourself that you do not have to tolerate intimidatory behaviour. You are employed to perform your duties to the best of your ability. This obviously means working under the direction of people more senior than you. It also means accepting reasonable instructions, but you do not have to accept harassing and intimidating behaviour.

There is no excuse for bullying. Where there is a genuine need for improvement in performance, positive and creative support should precede any recourse to, for example, disciplinary or competence procedures.

You can take steps to address the problem and to ensure that the unacceptable behaviour ceases. Bullies can be managed, but it may need a major effort of determination on your part. People who are bullied are often reluctant to take action because they fear that this will only make matters worse. They suspect that they will be regarded as the problem and that their career prospects will be blighted. A good employer will provide reassurance that, whatever the outcome of any investigation into the matter, the complainant will not be penalised. If you are worried about your employer's reaction, remember that ATL is a strong and resourceful union that will back you. And, of course, all your dealings with ATL are confidential.

Informal action

Whilst recognising that formal action may be required, ATL prefers to pursue an informal resolution of disputes if at all possible. This is because you and the person whose behaviour is of concern may have to continue working together. An informal resolution in these circumstances makes sense. Your colleague may be unaware of the implications of their behaviour and, once informed, will adjust their conduct accordingly. There may be a breakdown in communication, which an informal discussion can resolve. This might be with the assistance of a workplace colleague or with the help of an ATL official. It is reasonable for you to be allowed to have this support at any meeting, whether formal or informal.

You should keep a private written record of bullying incidents as they occur, noting as objectively as you can the basic facts and circumstances, including time and date. This record, which you should keep at home, could be useful later should you decide to take formal action against the perpetrator. If there have been adult witnesses to such incidents, consider asking if they would be willing to record their observations of events; they may also be willing to appear as witnesses later.

If you feel able to speak directly to the person who is bullying you, state that his/her behaviour is unhelpful, and ask for it to stop immediately. It may be appropriate to add that, if the bullying persists, you will have no alternative but to register a formal complaint. Try to do this in a quiet, non-confrontational manner; be assertive but not aggressive. If you prefer not to speak directly to him/her, you could express your views in writing, retaining a copy of it yourself. Do not hesitate to contact ATL for a confidential discussion and advice if you feel uncertain about such communications.

Formal action

Problems can often be resolved without recourse to formal procedures. Should your attempts to address the issue informally prove unsuccessful, have a confidential discussion with a senior colleague you can trust or contact ATL for help. It will be useful to establish whether other colleagues are having similar problems; if so, you might consider taking collective action on the matter.

If you need to take formal action to put a stop to bullying, there are various strategies you can use, with help and support available from ATL. We have helped many members deal with bullies. If a 'softly, softly' approach does not work, a more formal approach may be needed.

04 Policy and procedure

Every educational establishment should have a policy and procedure to deal with issues arising from bullying/harassment of staff, which should comply with the following:

- written in clear, plain language
- explain each stage of the process so that the person wishing to make a complaint knows what to do and whom to approach
- staff should know to whom they can turn if they wish to discuss a problem informally and in confidence
- time limits set at each stage, this is particularly important if the formal procedure has been implemented
- include a clear statement of how complaints will be investigated
- prompt action taken once a complaint has been received
- confirm the responsibilities of those conducting any investigation. The complaint should be fully investigated by someone with appropriate experience and integrity who is able to produce an objective report and recommendations.

Good standards for handling complaints include:

- making sure that there are written records of the investigation
- ensuring all parties are fully informed of all the allegations against them
- giving the parties a reasonable amount of time to prepare for meetings/hearings
- enabling the parties to be represented at meetings/hearings
- confirming how meetings/hearings are to be conducted and the procedure to be followed
- informing the parties involved of the outcome as soon as possible.

The policy and procedure will only be useful and effective if the staff know about it, understand it and, if necessary, use it. Training on the contents of the policy, and any refresher training, is also important and should form part of the induction of all new members of staff.

This comprehensive approach promotes fairness and equality in the workplace. It is also a safeguard for employers who are vicariously liable for the actions of their staff, even when they have no personal knowledge of the unlawful behaviour.

If the school/college has a bullying/ harassment procedure which is separate from a disciplinary one, it must be clear which will take precedence. In most cases it is likely that the bullying and harassment procedure will take precedence and pending its completion, any disciplinary procedure should be suspended.

The complaint should be heard as quickly as possible either by a manager or by an independent governor/person or panel of governors, who have had no previous involvement in the matter.

If disciplinary action for bullying is considered appropriate it should be taken as quickly as possible after the completion of the investigation. The disciplinary procedure should be followed.

Consideration should be given to separating the parties to the complaint. In this event, it is the perpetrator who should be moved, transferred or suspended and not the complainant.

The employer must take steps to ensure that there is no further bullying/harassment and that the complainant is not victimised.

Those attending disciplinary or grievance meetings/hearings have a legal right to be accompanied by a colleague or trade union representative.

The Appendix on page 14 suggests a model text for bullying/harassment policy and procedure.

Using the grievance procedure

Some ATL members may wish to invoke the grievance procedure. We advise that you consult us before doing so.

There may be a meeting to discuss the problem informally, in which case you should ask to be accompanied by a representative from ATL, as it is usually advisable to call in someone from outside.

A grievance procedure may provide a solution, although this may not completely resolve the situation. Both parties will often have to continue working together, even though one has 'lost' and the other has 'won'. Sometimes a remedial strategy attempts to find a balance between both sides of the argument and important issues are fudged. At worst, a victory for the bully could even reinforce the acceptability of the behaviour at issue.

Whatever the outcome, tensions are likely to remain. ATL can provide support during this traumatic time, but the pressure on the person who has invoked the grievance can be intense. ATL therefore makes every effort to resolve matters without recourse to formal procedures.

Some members may be reluctant to approach us for advice for fear of reprisals. If this is worrying you, bear in mind that all employees have the right to join a union, that you do not have to disclose your union membership to your employer and that any discussion with ATL is confidential.

If you are worried about your employer's reaction, remember that ATL is a strong and resourceful union that will back you.

05 Using the law

There are no statutory provisions that provide employees with specific protection from bullying at work. There are, however, a number of legal avenues that can be of assistance to the bullied employee. It is essential to seek advice from ATL on your position at the earliest possible stage.

The following is an outline of the laws covering bullying/harassment.

Constructive dismissal

Employees who are being bullied often refer to constructive dismissal without fully understanding what it means. Constructive dismissal occurs where an employee resigns, either immediately or after giving notice, as a result of a serious breach of contract.

Employers have a duty of care to all their employees. There is also an implied duty that employers should not conduct themselves in a manner which is calculated or is likely to destroy or seriously damage the relationship of confidence and trust which should exist between them and their employees. A breach of these duties can result in bullying. The employer is vicariously liable for the actions of its employees.

To succeed in a claim for constructive dismissal the following four conditions must be met:

- there must be a breach of contract by the employer
- that breach must be sufficiently serious or it must be the last in a series of incidents which justify the employee resigning
- the employee must resign in response to the breach
- s/he must not delay too long before resigning, otherwise s/he may be deemed to have waived the breach.

A claim to the employment/industrial tribunal ('the tribunal') for constructive dismissal must be lodged within three months of the date on which the employment ended. In addition, by that date, the employee must have worked continuously for the employer for at least one year.

It is important for employees to show that they have drawn their management's attention to the bullying and that there was a failure to deal with it at all or adequately. Moreover, the reasons(s) for departure should be made clear in the letter or resignation.

Resignation is an extremely serious step to take and should be a last resort. As constructive dismissal claims are notoriously difficult, you must seek ATL's advice before resigning.

Misuse of procedures – unfair dismissal

ATL has dealt with cases where the disciplinary and competence procedures have been invoked against the person who is making allegations of bullying. If this results in dismissal, provided the employee has worked continuously for the employer for at least one year by the date on which the employment ended, a potential means of redress is a claim for unfair dismissal. A tribunal may conclude that the dismissal was unfair, but the outcome of any legal proceedings is often difficult to predict.

Regardless of the treatment that you have received, in unfair/constructive dismissal cases the tribunal cannot order the employer to pay you compensation for the injury to feelings you have suffered. However, an award of this nature can be made in discrimination cases (see overleaf).

Anti-discrimination legislation

You cannot make a claim in a tribunal based on being ‘bullied’ alone. The law does not recognise bullying as a stand-alone claim. However, in some circumstances, such behaviour may contravene laws covering discrimination and harassment on the grounds of sex, race, ethnic or national origin, disability, sexual orientation, religion or belief, gender reassignment or age.

The definition of harassment makes it clear that conduct is unlawful if it is:

- unwanted
- violates another person’s dignity
- creates an intimidating, hostile, degrading, humiliating or offensive environment.

If you wish to pursue a claim, it must be lodged at the tribunal within three months of the discriminatory act.

Discrimination law is complex. Therefore, should you feel that you have suffered unlawful discrimination at work you are advised to contact ATL at the earliest opportunity for advice and guidance.

Criminal harassment

The Protection from Harassment Act 1997 can be used to deal with bullying/harassment at work under the criminal law. To fall within its ambit, the perpetrator must have on at least two occasions subjected someone to a ‘course of conduct’ which s/he knew or ought to have known amount to harassment. If found guilty, the perpetrator may be fined or imprisoned.

A breach of the Act can lead to a claim in the civil courts where compensation can be awarded for (amongst other things) anxiety and financial loss arising from the bullying/harassment.

Under the Act, an employer can be legally liable for an employee’s actions. A claim must commence within six years of the date of the harassment.

Health and safety law

The Health and Safety at Work Act 1974 obliges employers to protect, as far as is reasonably practicable, the health, safety and welfare at work of their employees and to provide a safe working environment. This definition includes taking steps to prevent stress-related illnesses. Employers also have a duty under the Management of Health and Safety at Work Regulations 1999 to carry out an assessment of the risks to health and safety of their employees. The assessment involves identifying the risks, taking preventative and protective measures to deal with them, and reviewing the assessment periodically to ensure that it is still effective. The legislation therefore makes it clear that employers must take account of risks to injury and applies equally to physical as well as mental health.

The Health and Safety Executive (HSE) identifies bullying at work as a cause of stress. It defines stress as ‘the adverse reaction a person has to excessive pressure or other types of demand placed upon them’. In its guidance on work-related stress, the HSE advises employers that steps must be taken to ensure that workers do not suffer from stress-related illness.

Health and safety reps have a right under the Safety Representatives and Safety Committees Regulations 1977 to investigate sources of stress such as bullying. They are appointed by trade unions to take up members’ health and safety concerns. Health and safety reps can therefore raise bullying as a health and safety issue in their workplaces.

Health and safety reps also have the right not to be dismissed or to be subjected to any detriment in carrying out their functions.

Employees have a duty to take reasonable care of their own health (physical and mental) and safety and that of others who may be affected by their acts or omissions at work. Whenever possible, advice and assistance should be sought early to help reduce the impact that bullying can have on one’s health.

Personal injury

In addition to statutory health and safety obligations, employers are under common law duties to ensure the health and safety of their employees. If the employer has breached its 'duty of care' to protect the employee, it may be possible to issue legal proceedings in the courts for personal injury (based on negligence) if:

- s/he gave the employer appropriate warning that their health was being adversely affected by bullying
- the indications of impending harm to health were reasonably foreseeable
- the employer failed to take reasonable steps to prevent it; and
- s/he suffers a physical or psychiatric injury as a result.

In ATL's experience, the aspect of the negligence test on which stress claims stand or fall is whether the employee's ill health was reasonably foreseeable by the employer. Success in these claims is extremely difficult to achieve.

Legal proceedings for personal injury must be commenced no later than three years from the date of injury (or the date of knowledge of the injury).

If you wish to seek advice on a possible personal injury claim, you should contact ATL's solicitors, Morrish Solicitors:

Tel: 0113 245 0733

Oxford House fax: 0113 242 5168

Oxford Row email: info@morrishsolicitors.com

Leeds LS1 3BE website: www.atlinjuryclaims.org.uk

Alternatively, you can telephone ATL's Injury Claims Line on 0800 083 7285.

Above all, contact ATL for advice and help as soon as it is clear that there is a problem. ATL is always ready to support members who are being bullied. This applies equally to individuals and groups of members. For further information on the support offered by ATL, please see our publication *Legal advice and professional help*, our Member's Charter and ATL's Code of Professional Conduct available at www.atl.org.uk.

If you wish to pursue a claim, it must be lodged at the tribunal within three months of the discriminatory act.

Conclusions 06

ATL urges members who are being bullied to put themselves and their wellbeing first. Look after yourself and pay particular attention to your health. If your doctor advises you to take sick leave, take it.

It is always preferable to arrive at a professionally negotiated and agreed settlement within the workplace, but ATL will use every means at its disposal to protect members who are being bullied.

How can ATL reps help?

ATL reps may find bullying one of the most sensitive subjects which requires their assistance. Complaints should always be taken seriously.

If you are approached by a member saying s/he has been bullied, you should have regard to the following:

- Try to ensure that the member feels supported.
- Arrange to meet him/her off-site or somewhere private.
- Reassure the member that if s/he wishes, the matter will be kept confidential.
- Listen carefully to what s/he has to say, consider taking notes, as these may be helpful at a later stage.
- Discuss with the member how s/he wishes the matter to be pursued.
- Obtain a copy of your employer's policy and make sure that the procedure is followed carefully.
- Advise the member to write down details of each occurrence of bullying, including what was said, the date, time and who was present.
- If the member agrees, approach in confidence, adult witnesses to any incident or colleagues who may have experienced similar problems. Consider asking those persons if they would be willing to put their recollection of events in writing and/or appear as witnesses at a later stage.
- Advise the member to report the matter to the appropriate manager and offer to assist him/her to do so.

- Offer to accompany/represent the member at any stage of the enquiry into his/her complaint.
- Make sure that both you and the member take all relevant documents to any meetings.
- Ask for a record to be made of meetings and that a copy be sent to you and the member as soon as possible. However, try to make your own notes during each meeting or shortly after it has taken place.
- Try to ensure that the complaint is dealt with as quickly as possible and press for a deadline to complete the investigation.
- Keep the member informed of developments and obtain their agreement to any course of action.
- If the member is unhappy with the decision on their complaint, advise them about appealing against it.
- Should the member wish to consider possible legal avenues, explain that you may well need to refer the case to your regional office. You should also inform them of the time limits for making claims to the tribunals/courts.
- Keep a detailed file on each case.
- If you consider that bullying is widespread in your workplace, seek assistance from ATL.

Assisting members with bullying can be time consuming and traumatic for reps. You should therefore seek support and assistance from ATL at any stage if you feel you are out of your depth or uncomfortable about dealing with a case.

07 Appendix

Bullying/harassment at work policy and procedure

Statement of intent

- 1** Everyone in this school/college is working together to create a community where bullying in any form and of any description will not be tolerated.
- 2** As part of its overall equal opportunities policy, [name] School/College is committed to ensuring that all employees are treated with dignity and respect while at work, irrespective of race, colour, nationality, ethnic or national origins, sex or marital status, disability, sexual orientation, gender reassignment, age, religion or belief.
- 3** The governing body is committed to creating an environment of positive working relationships. To establish and protect such an environment, the governing body has policies and procedures (e.g. on grievance) which enable staff to raise concerns and allow these to be addressed.
- 4** This policy is concerned with the prevention of bullying/harassment in the workplace, and aims to provide a means of challenging unreasonable or unjustifiable behaviour. It is not intended to inhibit reasonable and effective management of staff.
- 5** Bullying/harassment in the workplace will not be permitted or condoned by the governing body and may be treated as a disciplinary offence.
- 6** The governing body will promote and publicise this policy amongst the staff.

Equal opportunities statement of commitment

- 7** The governing body believes firmly in equality of opportunity in employment.
 - 8** It therefore commits itself to developing policies, practices and procedures that promote equality of opportunity and anti-discriminatory practices.
 - 9** To this end, the governing body is committed to ensuring that job applicants and employees receive equal treatment.
 - 10** No applicant or employee will be discriminated against on the grounds of race, colour, nationality, ethnic or national origin, sex or marital status, disability, sexual orientation, gender reassignment, age, religion or belief, nor be disadvantaged by conditions or requirements which cannot be shown to be justifiable.
 - 11** Procedures will be regularly reviewed to ensure that individuals are treated on the basis of their relevant merits and abilities.
 - 12** The governing body will continue to review its personnel policies and practices, and to undertake appropriate action to make its policy fully effective.
- To whom does this policy apply?**
- 13** All governors and employees have a responsibility to comply with this policy. Management has a particular responsibility to implement it by creating a good working environment and by managing people in a professional and caring manner.

Characteristics and effects of bullying/harassment

14 Bullying is characterised as aggressive, intimidating, malicious or insulting behaviour or abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. It does not always derive from manager/subordinate relationships or vice versa; unacceptable peer pressure can also amount to bullying. Examples include:

- displays of rage at a colleague in public and/or in private
- personal insults and name-calling
- persistent unjust criticism and public humiliation
- setting objectives with impossible deadlines
- removing areas of responsibility and inflicting menial tasks instead
- ignoring or excluding an individual, or talking only to a third party to isolate another
- spreading malicious rumours
- insulting someone
- copying critical memos about someone to others who do not need to know
- ridiculing or demeaning someone
- exclusion
- victimisation
- unfair treatment
- overbearing supervision
- unwelcome sexual advances
- touching or standing too close
- displaying offensive materials
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overlooking and constant criticism
- preventing individuals progressing by intentionally blocking promotion or training opportunities.

15 A person who is subject to bullying/harassment may suffer from physical and/or emotional symptoms, e.g. disturbed sleep, feeling sick, sweating, shaking, depression and loss of confidence and motivation. Additionally, they can suffer in other ways, e.g. loss of training and development opportunities, and missed promotion opportunities.

Approach to bullying/harassment

How to complain about bullying/harassment

16 The governing body requires that any allegations of bullying/harassment will be considered seriously and confidentially. Lack of confidentiality can harm both the complainant and the alleged perpetrator. The governing body recognises that employees may fear victimisation for making or being involved in a complaint and so is committed to ensure complainants do not suffer. In some circumstances, confidential informal advice from persons nominated for this purpose by the governing body (e.g. a senior manager or governor) and their trade union or professional association might help an employee who is unsure of how best to proceed.

17 Complaints should be pursued in the following way:

17.1 Employees are encouraged to make clear to the person who is bullying/harassing them that the behaviour is unwelcome and must be stopped. However, it may not be possible to resolve the matter informally.

17.2 Should the behaviour continue, the employee should approach an appropriate manager.

17.3 If these approaches fail or the perpetrator is the headteacher/principal, a complaint should be made to the governor(s) or another person nominated by the governing body to deal with such matters.

18 The person handling the complaint is likely, in the first instance, to discuss the complaint informally with the alleged perpetrator. This should take place without delay.

19 If the matter is not resolved informally, s/he will initiate an investigation.

20 After the investigation, the decision will be confirmed in writing to the complainant and the alleged perpetrator.

21 If the bullying/harassment is deemed to have taken place, the disciplinary procedure will be invoked. Suspension on full pay of the alleged perpetrator might be considered.

22 The complainant has the right of appeal against the decision of the person handling the complaint to a panel of governors. Appeals must be lodged in writing within 10 working days of receipt of the letter confirming the decision, in accordance with arrangements set out in the letter. The decision of the panel is final.

23 Relocation within the school/college may be considered and, if it is feasible, every effort will be made to relocate the alleged perpetrator and not the complainant, subject to consultation with all parties.

24 Employees who feel they have been bullied/harassed or who have been the subject of allegations will be given access to support, e.g. counselling, if this is appropriate.

25 If, after an investigation (which may include medical enquiries), a period of sickness absence is attributed to proven bullying/harassment, no absence shall be recorded against the entitlement to occupational sick pay.

Responsibilities of governors and staff (including complainants)

26 The governing body requires all governors and staff to maintain a high standard of conduct in relationships with colleagues and those who are under their direct authority.

27 The governing body will not tolerate intimidation, victimisation, retaliation or discrimination against an individual for filing a complaint or assisting in an investigation, whether or not the complaint is upheld. Where such action is alleged, the matter will be dealt with in the same way as an allegation of bullying/harassment.

28 Malicious complaints of bullying/harassment will not be condoned and will be regarded as a disciplinary offence. They will be dealt with in accordance with the disciplinary procedure.

29 This policy must not be used as a defence against reasonable management behaviour, e.g. action under the capability or disciplinary procedure. Such procedures may be suspended where a complaint of bullying/harassment is made.

30 This policy also requires all governors and staff to act to eliminate any bullying/harassment in the workplace of which they are aware. Failure to do so will be considered a failure to fulfil all the responsibilities of their position.

31 Bullying/harassment of any kind should not be dismissed by either governors or staff as trivial or insignificant, as a matter of interest only to a minority or as behaviour that can be excused as fun or a joke.

Found this helpful? ATL has lots of other resources, all free to members, which you might be interested in. Visit ATL's website at: www.atl.org.uk to view the full range of legal advice publications and factsheets on offer from ATL, along with a full section of help and advice.

Further relevant publications from ATL include:

Violence, threatening behaviour and abuse
Product code: PE28

Part-time working
Product code: PE31

Taking students off-site
Product code: PED03

Family, work and you
Product code: PE24

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ATL – the education union
7 Northumberland Street
London WC2N 5RD

Tel: 020 7930 6441 Email: info@atl.org.uk
Fax: 020 7930 1359 Website: www.atl.org.uk

ATL product code: PE29
Date: October 2009
Edition: Second
ISBN: 1-902466-63-2
Price: £9.99 (non members)/Free (members)

Cardiff
Tel: 029 2046 5000
Email: cymru@atl.org.uk

Belfast
Tel: 028 9078 2020
Email: ni@atl.org.uk

Edinburgh
Tel: 0131 272 2748
Email: scotland@atl.org.uk