

Scotland's largest  
and most effective  
education trade union



EIS Policy / Advice for members

# Bullying & Harassment

February 2020



## **EIS ADVICE: BULLYING & HARASSMENT**

**January 2020**

Contents:

Quick Read Summary	Page 2
Introduction	Page 3
Definitions	Page 3
Legislation	Page 4
Bullying	Page 5
Harassment	Page 9
Preventing Bullying and Harassment	Page 14
An Effective Policy	Page 15
Advice to Members	Page 16
Advice to Representatives	Page 19

## QUICK READ SUMMARY

We know that EIS members are busy people with heavy workloads. You may not feel you have time to read the detail of this policy. The following is a summary of the essential points. For more information contact your EIS Representative.

**Bullying** is defined by ACAS as behaviour from a person or group that's unwanted and which makes individuals feel uncomfortable, upset, intimidated, degraded, humiliated or offended.

**Bullying** can be:

- persistent or one-off behaviour
- overt or much more subtle and insidious behaviour
- devastating to experience
- face to face or via other communication channels e.g. text, social media
- perpetrated by colleagues, parents, pupils or members of the public.

**Harassment is defined in the 2010 Equality Act as** "Unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual".

**You have the legal right to protection from bullying and harassment.**

The Equality Act covers people with protected characteristics; Health and Safety at Work law puts a duty of care on employers to ensure the health, safety and welfare at work of their employees.

**If you are being bullied or harassed, you should:**

1. Not ignore it.
2. Seek advice from your rep. If you don't have a rep seek advice from your Local Association Secretary.
3. Keep records of behaviour – emails, messages, remarks, screenshots, notes – and keep dates and times; try not to delete what might be useful evidence in a moment of stress.
4. Use both informal and formal processes to seek an end to the unacceptable behaviour.

**You can find out who to contact here:**

<https://www.eis.org.uk/Contacts/Who>

(0131) 225 6244

## INTRODUCTION

All employees have a legal right to work in an environment that is safe and to be protected from all forms of abuse, violence and harassment. Among the array of pressures facing teachers and lecturers none is so insidious or so sapping of self-esteem as the threat of violence, intimidation or harassment which many members face on a daily basis.

The EIS view is that pressures in the education system can often be drivers of bullying behaviour; and that more needs to be done to ensure that educational establishments are safe and healthy workplaces.

EIS strategy to promote equality for all members in the workplace includes the development of policies and training on bullying and harassment. Behaviour which excludes, intimidates, threatens or affects the dignity of individuals at work is unacceptable and should not be tolerated.

It is in the interests of all employers to have a clearly stated set of aims and objectives regarding equality of opportunity and prevention of discrimination.

## DEFINITIONS

The terms 'bullying' and 'harassment' are often used interchangeably in the workplace to describe behaviour that causes distress, harm, offence or humiliation. There is, however, an important difference between them in law.

**Harassment** has a legal definition under the Equality Act 2010 that links this kind of unwanted behaviour to 'protected characteristics' and defines it as 'prohibited conduct'. At an Employment Tribunal, a claim for harassment is possible.

**Bullying** may involve the same or similar kinds of behaviour as harassment, but it is not specifically defined in law, and has no legal relationship to protected characteristics. For this reason, it's not possible to make a direct complaint to an Employment Tribunal about bullying itself.

Cases of bullying may be covered by Health and Safety at Work legislation. Health and Safety at Work legislation places a duty of care on employers, as far as is reasonably practicable, to ensure the health, safety and welfare at work of all their employees, and prevent work-related stress. The Health and Safety Executive (HSE) [defines stress](#) as "the adverse reaction a person has to excessive pressure or other types of demand placed upon them". In tackling work-related stress, including that which might occur as a result of bullying, HSE reminds employers that looking after the health of employees includes "taking steps to make sure that employees do not suffer stress-related illness as a result of work".

Another potential course of action in response to bullying via an Employment Tribunal is making a claim for 'constructive unfair dismissal'. If trust and confidence between employer and employee breaks down because of bullying at work, an employee could resign and may be able to claim 'constructive unfair dismissal' on the grounds of breach of contract. To do so, an employee would

also have to have fulfilled the relevant qualifying period of continuous employment. Although a potential course of action, it is difficult to achieve success with a claim for constructive unfair dismissal and it is not the best course of action in every case; therefore individuals should always seek the advice of their union before resigning, with a view to ensuring that all established informal and formal processes have been considered and adhered to as appropriate.

More detailed information on the definitions and nature of both bullying and harassment follows on pages 5 and 9.

## LEGISLATION

### ***The Equality Act 2010***

Employers have a duty to prevent unlawful discrimination and harassment. The principal legislation under which cases can be taken is the [Equality Act 2010](#). Protection is provided by the Equality Act in relation to the following protected characteristics:

Age	Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).
Disability	A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.
Gender reassignment	This applies to anyone proposing to undergo, undergoing or having undergone a process for the purpose of changing gender.
Marriage and civil partnership	A person has the protected characteristic of marriage and civil partnership if the person is married or is a civil partner.
Pregnancy and maternity	Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after birth; this includes treating a woman unfavourably because she is breastfeeding.
Race	Race refers to a group of people defined by their race, colour, nationality (including citizenship) and ethnic or national origins.
Religion and belief	Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.
Sex	A man or a woman.
Sexual orientation	Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

The Equality Act also protects people from discrimination on the basis of:

- **perception** related to the protected characteristics - for example, if you are perceived to be gay (whether or not you are); and
- **association**, if your association with a person with a protected characteristic leads to discrimination (for example, if you are treated unfavourably because you have a disabled child); and
- **victimisation**, if you are targeted for harassment because of making a complaint under the Equality Act or carrying out a protected act, such as giving evidence or information in connection with proceedings under the Act.

## **BULLYING**

### **What is Bullying?**

The most widely used definition of bullying at work is as follows:

*"Persistent, offensive, abusive, intimidating, malicious or insulting behaviour, abuse of power or unfair sanctions, which makes the recipient feel upset, threatened, humiliated or vulnerable, which undermines their self-confidence, and which may cause them to suffer stress."*

As strong as these words may be, they do not convey the sense of devastation of an individual, and their family and friends which can result from workplace bullying.

Examples of bullying behaviour include:

- making disparaging comments or remarks, often in front of others
- subtle non-verbal communication designed to humiliate, undermine or intimidate, for example, through facial expression, gesture or physical posturing such as turning one's back
- deliberate social exclusion
- intimidation and aggression
- withholding information
- setting impossible deadlines or tasks
- constantly changing objectives and goals
- taking credit for others' achievements or initiatives
- constantly changing others' remits and responsibilities
- isolating certain individuals and limiting consultation on important issues
- blocking promotion or access to staff development opportunities.

This is not an exhaustive list. There is a whole range of subtle, insidious behaviour which may constitute bullying. It may be persistent or an isolated incident. It can also occur in written communications, by phone or through email or social media, not just face-to-face.

Bullying behaviour can be directed at individuals one at a time or at groups. People are often too afraid of becoming the next target to do anything to support the person(s) being bullied. They may be afraid also that a complaint

will be construed as an inability to cope. A number of factors can combine to make it difficult to challenge at times.

### **Bullying is Poor Management**

Bullying behaviours may in part be due to the personality of a bullying manager. It can also become institutionalised through badly formed and ill thought out procedures used to monitor workplace performance, for example, an ill-conceived development planning process.

Often it is attributable to a workplace culture which provides organisational justification for bullying behaviour. Workplaces where bullying is likely to occur have certain characteristics which may include the following:

- organisational change and uncertainty
- insecure, aggressive management
- envy fostered among colleagues
- lack of respect for people's work or opinions
- fear of alternative views
- lack of opportunity or a forum to voice opinions collectively
- no opportunity to discuss or resolve problems
- excessive, demanding workloads
- insecurity deliberately fostered
- poor working relationships.

### **The psychology of bullying**

The human dynamics of bullying are complex, but ultimately bullying is usually about power. Bullying behaviour is often an assertion of power over someone else. Someone who bullies may lack confidence in their ability to negotiate, influence or gain the cooperation, understanding, approval or help of others. Mostly such behaviour is intended to say, "I am more important than you" or "I know better than you".

'In-group' and 'out-group' behaviour can also come into play. Bullying in educational establishments can be a group behaviour, whereby more than one person is targeted and/ or where a group of people bully one or more than one other people. Bullies often seek to draw others in who then encourage the behaviour or signal support by smiling, laughing or dismissing concerns about the behaviour; others may impassively watch the interaction without openly objecting, sometimes for fear of being the next victim.

Some bullying is so subtle, being conveyed via, for example, body language, facial expression or vocal tone, that it can make the recipient doubt what they are experiencing, which further adds to the distress of being on the receiving end of this behaviour.

## **Bullying in the educational context**

The education system has been experiencing significant pressures in recent years which can unfortunately be drivers of bullying behaviours. These include (but are not limited to):

- changes to management structures, for example, the development of faculties, which can lead to pressure on unpromoted staff to take on work that would previously have been carried out by a designated subject Principal Teacher
- some schools being run more like businesses than public services
- some challenges in recruiting enough people to senior leadership posts, this reportedly leading to a greater number of people who lack the requisite experience and professional self-confidence being in senior leadership roles
- staff being promoted quickly, and having insufficient experience in the classroom to inform their practice as a manager
- a failure to recognise that every member of the whole school community matters equally, with some schools having more focus on the children and young people's experience than the staff experience
- the ongoing cover crisis making it challenging to have time for professional learning, reflection, collegiate discussion, etc.
- increased teacher workload and pressure on non class contact time
- greater prevalence of poor mental health among managers
- joint headships, which may mean strain is passed on to DHTs/PTs
- in FE, more cross-campus working, with less face to face contact which could undermine good working relationships
- increased precarity – staff on zero hours contracts, etc.
- intensified scrutiny of attainment data
- generally increased expectations of teaching staff.

These pressures can be more sustained in schools and colleges without a strong EIS representative.

Precarity is an unfortunate aspect of modern life for too many workers. Because bullying is a behaviour rooted in power relations, staff who are or are perceived to be more junior or more vulnerable due to being probationers, newly qualified, or on temporary or zero hours contracts, can be targeted for bullying. Sometimes this is not overt but takes the form of remarks designed to reinforce insecurity.

### **Example:**

*A probationer in a primary school is told by a senior manager to take on responsibility for improving reading outcomes for a large group of P7 pupils. The probationer already has a heavy workload. They express concern about how manageable this new project will be, and the manager repeatedly makes remarks like "It'll look better for your future career prospects if you do it"; and "All the probationers who've done well in the past have done this kind of thing; you're the only one who's ever questioned it." This could amount to bullying.*



Although there are pressures which can give rise to bullying cultures and behaviours, this is never an excuse. Bullying is always unacceptable. Those who resort to bullying and harassment when stressed are, however difficult the circumstances, still accountable for their actions and behaviours.

### **Social media and the 'virtual workplace'**

Most educational establishments are now active users of social media, using tools such as Twitter, Facebook and WhatsApp to aid communication and publicise achievements and events. Whilst this may bring benefits, it can have the effect of creating the sense that teachers have both a physical and a 'virtual' workplace; that there is constant chatter about work in, for example, online groups; and that there are new forms of scrutiny being unfairly applied to staff, for example, managers checking social media profiles and making inappropriate remarks about someone who 'looked well' during sickness absence.

Schools should have robust policies regarding consent to use photographs of staff; this is not always routinely sought; and some staff can feel that their life is on display to the community in a way that feels uncomfortable and unwelcome.

Over-reliance on social media as a means of demonstrating impact can also creep in, with teachers who don't use it ostracised or overlooked; or assumed to be doing less than those who share more. Ageist and sexist assumptions about who should be engaging with social media have also been reported.

All forms of bullying and harassment which apply to teaching staff and learners also apply to others who learn or work in schools, colleges and universities.

### **Effects of Bullying**

Bullying is described by the national anti-bullying organisation Respect Me (which has a locus around children and young people's experiences of bullying) as "a mixture of behaviours and impacts; what someone does and the impact that it has on you, which affects your ability to feel safe and in control of yourself." This is in recognition of the serious effects of bullying, which they state, "can hurt you physically or emotionally". The EIS recognises that the effects of bullying are significant.

#### ***On the individual***

Workplace bullying can lead to an individual's health being destroyed, family life ruined and career ended. Leading experts on stress suggest the effects of bullying can produce symptoms similar to those suffered by trauma victims.

Stress can cause a variety of physical and emotional symptoms such as headaches, nausea, high blood pressure, sleep disruption, loss of appetite, anxiety, panic attacks, depression, irritability or aggression. It can lead to abuse of or increased use of alcohol, tobacco, and drugs.

These symptoms often lead to further, more serious, physical and mental health problems, not only for the victim but the victim's family.

### ***On the organisation/workplace***

People working in a hostile environment or who are fearful and resentful do not work well. The result may be an increase in the rate of short-term and long-term absences, and deterioration in quality of work and commitment- all symptoms which operate to make a good working environment break down. Teaching and learning suffer. The behaviour, if left unchecked, may lead to grievance and disciplinary procedures being invoked, thus increasing stress in the workplace. There may also be recourse to remedy in law which is time consuming and costly to both employer and employee.

Bullying behaviour which occurs within the workplace but which amounts to a criminal act should be reported to the police.

## **HARASSMENT**

*What is Harassment?*

Harassment is defined in the Equality Act 2010 as:

*"Unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual".*

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

Harassment can come from colleagues, including colleagues in promoted/management posts; students and pupils; members of the public; or parents. It can happen because of the sex of the victim, race, ethnic origin or nationality, age, sexual orientation, gender reassignment status, religious, political or trade union beliefs and activities, physical or mental ability or disability.

Harassment can happen in person; but technology is often used. There have been numerous reports on the use of text messaging, e-mail and social media to bully and harass.

### **Harassment by parents**

Teachers are increasingly experiencing harassment by parents. Sometimes parents can organise concerted attacks on a teacher's practice or character, often using social media. EIS members have reported incidents of parents going so far as to create online groups or social media pages to harass teachers.

Because of the nature of a teacher's role, as someone with strong community links, a teacher can sometimes be harassed in the community, for example, at the local supermarket.

Harassment by parents is never acceptable. It should be reported to the Headteacher with a view to the local authority taking swift and strong action to address such behaviour, for example, by denying parents access to school premises or notifying the police in cases where behaviour is judged to be criminal.

**Example:**

*A parent persistently posts about their child's teacher on social media, making derogatory comments about their teaching ability and also their sexuality, causing distress and upset to the teacher. The comments continue, and false allegations are made online about inappropriate sexual conduct on the part of the teacher.*

*The teacher contacts the police to report the conduct. They are also supported by their EIS Rep to report the incidents to the local authority and to press for strong action to be taken in support of them and their position.*

## **Harassment by pupils**

Bullying and harassment of teaching staff by pupils and students is equally unacceptable. Very often teachers are reluctant to admit to bullying or harassment by pupils, either within or outwith the school environment, for fear of being considered incompetent by colleagues or fear of reprisal.

The growth of social media has created new opportunities for pupils to harass teachers. Online groups or social media pages or accounts (including fake accounts) can be used to mock, abuse, and criticise teachers causing them significant distress. Unsolicited contact by pupils is another feature of the current climate. There are reports of teachers receiving sexually explicit messages.

Distress can be amplified by the fact that the reach of posts or pages created on social media can be significant, and remarks or images can quickly spread, with difficulty then arising when a person seeks to delete or remove the content from the internet, especially when pupils have them stored on personal devices.

Someone who is being bullied or harassed in this way may in a moment of great stress or anxiety delete content, but it is strongly advised that unacceptable messages, social media posts, images, etc. are retained in some way (for example, a screenshot) as evidence.

In recent years, as smartphones have become nearly ubiquitous, pupils have been reported as taking photos of teachers without consent, or covertly filming them. This is completely unacceptable. When harassment by pupils is identified,

school management teams should act swiftly and take decisive action. (More detailed advice follows later within this guidance document.)

The EIS has [comprehensive guidance](#) on the appropriate use and potential misuse of communication technologies, including social networking media.

**Example:**

*A teacher who wears a hijab learns that pupils have created a fake social media profile for her which mocks her religion and ethnicity. This may amount to harassment.*

### **Harassment as defined in Equality Law**

For behaviour to count as harassment in equality law, it has to be one of three types:

- unwanted behaviour related to the protected characteristics (listed previously on page 4)
- sexual harassment, about which the EIS has discrete advice: see <https://www.eis.org.uk/Gender-Equality/TacklingSexualHarassment>
- unwanted conduct of a sexual nature or that is related to sex or to gender reassignment which leads to less favourable treatment because of submission to or rejection of the conduct.

### **Unwanted behaviour related to the protected characteristics**

This is related to age, disability, race, sex, gender reassignment, religion or belief or sexual orientation. 'Related to' a protected characteristic covers situations:

- where the harassment is related to the worker's own protected characteristic- i.e. where a person is abusive to other workers generally, but a particular worker feels harassed because they have a protected characteristic.
- where the worker who is harassed does not have the relevant protected characteristic. For example, a worker might be incorrectly perceived to have a characteristic or they may be associated with a person who has a characteristic, such as a family member. Similarly, a worker is known not to have the protected characteristic, but nevertheless is subjected to harassment related to that characteristic.

**Examples:**

- *Paula is disabled and is claiming harassment against her Principal Teacher after she frequently teased and humiliated her about her disability.*
- *During a training session attended by male and female staff, a male trainer directs a number of remarks of a sexual nature to the group as a*

*whole. A female member of staff finds the comments offensive and humiliating to her as a woman. She can claim harassment even though the remarks were not specifically directed at her.*

- *A member of staff is subjected to homophobic 'banter' and name calling, even though his colleagues know he is not gay. Because the form of the abuse relates to a protected characteristic, i.e. sexual orientation, this could amount to harassment.*

The unwanted behaviour does not have to be specifically aimed at the person who finds it violates their dignity or creates for them an intimidating, hostile, degrading, humiliating or offensive environment.

**Example:**

*A white teacher in a staffroom where most of the other teachers are also white finds the habitual racist comments of another member of staff also create a hostile and intimidating environment for them. This may amount to harassment.*

It may also be harassment where the unwanted conduct is related to the protected characteristic, but does not take place because of the protected characteristic.

**Example:**

*A male teacher has a relationship with his female Principal Teacher. On seeing him with another female colleague, the Principal Teacher suspects he is having an affair. As a result, the Principal Teacher makes his working life difficult by continually criticising his work in an offensive manner. The behaviour is not because of the sex of the male teacher, but because of the suspected affair, which is related to his sex. This could amount to harassment related to sex.*

## **Sexual Harassment**

Sexual harassment is prohibited under the law (the Equality Act 2010) and it is unacceptable conduct at work. Such harmful, disrespectful and often misogynistic conduct has no place in an education setting.

The term 'sexual harassment' covers a wide range of behaviour, ranging from inappropriate jokes right through to serious sexual assault; essentially it means subjecting someone to unwelcome and unwanted sexual behaviour.

The EIS has comprehensive guidance on sexual harassment. See: <https://www.eis.org.uk/Gender-Equality/TacklingSexualHarassment>

Any incident of sexual assault, rape or stalking is a criminal offence and should be reported to the police.

### **Less Favourable Treatment Because of Submission to or Rejection of Previous Sex**

This type of harassment is best illustrated by example.

**Example:**

*A Secondary Depute Head propositions an Acting Principal Teacher of one of the departments that he links with. She rejects his advances and is then blocked from promotion to the substantive post, which she believes she would have got if she had accepted her line manager's advances. This kind of harassment also applies where the person who treats the individual badly is someone different from the person carrying out the original harassment.*

### **Gender Reassignment Harassment**

**Example:**

*A teacher undergoing male to female gender reassignment is frequently subjected to staffroom jibes about their appearance and sexual orientation by a group of male and female teachers.*

### **For All Types of Harassment**

The following should be borne in mind:

1. The word 'unwanted' means 'unwelcome' or 'uninvited'. This does not mean that express objection must be made before the conduct can be considered unwanted. A teacher does not need to make it clear in advance that, for example, offensive or stereotyped remarks are unwanted.

**Example:**

*A teacher of Indian ethnic origin has lived in Scotland all her life. After she gives notice that she intends to resign from her job, the Principal Teacher comments, 'We will probably bump into each other in future, unless you are married off in India'. This remark is unwanted conduct related to her ethnic origin which, though perhaps unintended, has the effect of violating her dignity. It is reasonable for her to take what was said as a stereotypical view of Indian women and to be offended.*

2. In some situations, a woman may need to make clear that unexceptional behaviour is unwanted, before it can be considered harassment.

**Example:**

*A woman is asked for a drink after work on a few occasions by her colleague. She makes an excuse and says she cannot come. On the third occasion, she explicitly states that she does not want to go for a drink with him at all. Her colleague continues to ask her. His continued invitations after she has stated clearly that she does not want to go out with him may be harassment. On the first few occasions, before this was clear, his invitations may be unlikely to be considered harassment.*

3. A serious one-off incident may also amount to harassment.
4. If the person carrying out the unwanted behaviour actually intends to violate the other person's dignity or create an intimidating, hostile, degrading, humiliating or offensive environment for them, this will of itself amount to harassment and you will not have to consider the effect on the individual.
5. People should not be discriminated against or victimised because of trade union membership or for supporting people who make complaints about harassment.

### **Effects of Harassment**

People who experience harassment may feel guilty, humiliated and too embarrassed to complain. They may also experience anger and other unsettling emotions. Stress may lead to loss of sleep, headaches and other physical symptoms. In turn, this may lead to increased absences, loss of performance or interest in work which will have a long-term effect on the person as well as their colleagues. (See also section on 'Effects of Bullying' on page 8.)

It is important to establish the origins of workplace stress. These can be rooted in unacceptable workload, deadlines or targets; in poor, untrained or over stretched managers; or in a workplace culture which encourages blame or is subject to constant and unnecessary change.

If harassment is allowed to continue, there may be formal complaints and, therefore, heavy costs involved.

### **PREVENTING BULLYING AND HARASSMENT**

Bullying and harassment should not be tolerated in the workplace. Employees have a right to work in an environment in which they can contribute, have their opinions and work respected, and where diversity is valued.

Employers have a duty of care towards their employees and a duty not to discriminate. Whilst there may be remedy in law for some people who are subjected to offensive behaviour, reliance on the law alone will not always

provide protection for those who have been bullied or harassed, nor can it prevent bullying and harassment from occurring.

A distinguishing characteristic of bullying and harassment is that those subjected to it are often vulnerable and reluctant to complain. They may be too embarrassed or intimidated, or feel their complaint will be trivialised. They may also fear reprisal. Usually, what most people want is for the behaviour to stop.

It is better to challenge the root causes of bullying and harassment through effective policies and practice. Promoting good management and workplace practices can be more effective than attempting to remedy the effects of a hostile and threatening workplace culture once the damage is done.

One of the defences which may be used by an employer in cases of harassment is that all steps which could be reasonably taken to prevent the behaviour were taken. It is, therefore, in their interests to have policies which are operational. This will include training, not solely on the reasons for, definitions and effects of bullying and harassment, but interpersonal, behavioural, workplace organisational and management skills. Professional learning opportunities should be provided for all employees.

### **AN EFFECTIVE POLICY**

An effective policy is one that is agreed as a result of proper consultation and negotiation between unions and employers, and is widely known and put into practice.

The legal basis of the policy should be made clear as well as the intention to provide a workplace in which equality of opportunity for all employees is achievable.

Having a policy that works makes sense. It can promote:

- good relationships in the workplace;
- equality of opportunity and social justice;
- the avoidance of stress, hostility and breakdown of good working relationships leading to greater resort to formal procedures;
- a safer, healthier teaching and learning environment.

An effective policy should include:

- a declaration as to the type of working environment that is to be achieved
- definitions of bullying and harassment
- a statement that bullying and harassment are not acceptable and will not be tolerated
- a statement that every employee will be treated with dignity and respect
- a statement that every employee will be made aware of their rights to fair treatment
- that bullying and harassment are disciplinary offences.

There should also be:



- a clear indication of the responsibilities of employers, management and employees under health and safety at work legislation
- a commitment to review and monitor the policy including any complaints made
- a formal employer's agreed procedure for pursuing a complaint.

As well as a high-profile commitment to the policy other measures may include:

- appropriate training of employees at all levels
- training for managers in the conduct of hearings
- provision of trained counsellors
- review of management practices and structures
- monitoring workplace stress
- inclusion of the policy in recruitment or induction packs.

### **A Formal Workplace Complaint using your Employer's Agreed Procedures**

The agreed procedure should include:

- a statement regarding the purpose of the procedure
- definitions of bullying and harassment
- an informal stage where a complaint may be discussed
- the opportunity for confidential discussion of a complaint
- a formal stage
- a clear guide to the steps to be taken in the event of a formal complaint being made
- guidelines regarding steps used during the procedures including time limits
- advice on disciplinary action or alternatives to disciplinary action
- advice regarding the rights to representation
- a statement regarding victimisation of those making a complaint
- a commitment to provide a same sex officer where required
- a clear statement that the procedure does not alter rights relating to formal grievance procedure or further action of a legal nature.

### **ADVICE TO MEMBERS**

It is in your best interests to seek advice from your EIS representative if you are affected by bullying and/or harassment.

#### **When to contact your Local Association Secretary**

You should contact your LA Secretary for advice on this issue if you are a member who is school-based and:

- you do not have a school-based representative;
- you are a representative and you feel the situation is too difficult or serious for you to deal with;

- you are a representative and both parties involved are members and have requested support or representation.

This section offers advice to members:

1. experiencing bullying and harassment; or
2. witnessing bullying and harassment; or
3. accused of bullying and harassment.

## **Advice to members experiencing bullying and harassment**

### **Do not ignore it.**

- If you feel you are being subjected to bullying or harassment, do not feel that you have to ignore it or that it is your fault.
- Your employer is obliged to have good policies to deal effectively with bullying and harassment.

### **Seek help and support.**

- Seek advice from an EIS Representative. They will be able to offer support and advise you of the best course of action.
- Seek information about what informal processes your Local Authority recommends or, in the case of many local authorities, expects to occur, before any formal process would be initiated.
- Talk things over with supportive colleagues.

### **Keep records.**

- Keep a note of incidents, including dates, times and places, and the effects on you, as soon as possible after the event. This will be valuable if you decide to pursue your complaint formally.
- Wherever possible, get witnesses and/or medical evidence if appropriate.
- Keep electronic information, for example, screenshots of social media posts or offensive text messages received.
- Try not to delete anything that could be useful as evidence – in a moment of high stress and anxiety that may be your first instinct.
- Record any tasks that a bullying manager may ask you to do and timescales.
- Keep a note of any positive feedback about your work.
- Consider whether or not you are alone, or if other people feel the same way, or have been subjected to similar behaviour. You may well find you are not alone.

### **Ask for the behaviour to stop/make a complaint.**

- You may feel confident enough to ask those responsible for this behaviour to stop or you may wish to do this with the help of your representative. It is important to let the person know that you do not like the behaviour.
- If you feel you cannot face the person, you may wish to write. If you do decide to put it something in writing, seek advice from your EIS Representative (or the Local Association Secretary where there is no EIS Representative within the establishment). Ensure that you state clearly the behaviour you find objectionable and that you wish it to stop.
- If the behaviour continues after you have asked the person to stop, you may wish to consider, with the assistance of your EIS Representative, pursuing the complaint using your employer's agreed procedures, many of which involve an informal stage before formal processes are enacted.
- Some incidents may be so serious that your EIS Representative may wish to refer your case to the Local Association Secretary for your area.

- In the event of disciplinary action being taken with regard to the allegations, you may be required to give evidence at a hearing and your EIS Representative (or the Local Association Secretary, where there is no EIS Rep) will be able to provide you with advice.

### **Advice to members who are a witness to bullying and harassment of a colleague**

- **Don't ignore it.** Remember that everyone has a responsibility to prevent this behaviour. Often inaction encourages the behaviour to continue.
- **Seek advice** on what to do from your EIS Representative (or Local Association Secretary where there is no Rep in place).
- **Give evidence if needed.** If the victim decides to pursue a formal complaint, you may be called upon to give oral or written evidence. Keep notes or records of what you witness, with dates and times.
- **Report victimisation.** Members should not experience bullying/harassment as a result of taking part in trade union activities or supporting or giving evidence on behalf of a colleague. If this occurs, members should seek advice from their EIS Representative as soon as possible.
- **Report serious incidents.** Any incident of assault or violence should be reported to the police.

### **Advice to members accused of bullying or harassment**

- **Take it seriously.** Bullying and harassment are serious matters. Most authorities, colleges and universities have agreed policies on bullying and harassment. Employers have a duty of care towards their employees and a duty not to discriminate on grounds of any of the protected characteristics.
- **Listen.** If you are advised that your behaviour is causing distress or upset to a colleague, then you should stop and consider why this is the case. What you consider to be harmless fun, strong management or a personality trait, may be causing distress to others. Listen carefully to the complaint. It may be that this is an informal approach alerting you to unacceptable behaviour.
- **Take responsibility.** Do not assume the person complaining is overreacting. People rarely make such complaints frivolously.
- **Stop the behaviour at once.** Consider what has been said and try to put yourself in the position of the other person. You may not realise that your behaviour has caused distress.
- **Seek advice.** If you do not understand the complaint seek advice from your EIS Representative. If you were acting in a management capacity, consult the authority of college/university management. If your

employer fails to provide advice and assistance, you should seek advice from your EIS Representative.

- **If you feel the complaint is unjust or malicious**, seek advice from your Representative. Ensure you are familiar with the existing agreed procedures. In the event of any formal proceedings ensure you have proper advice and representation.

## Advice to EIS Representatives and Local Association Secretaries

### Advice to School/Branch Representatives and Local Association Secretaries

1. Be aware that **all members are entitled to advice**, support and help from the EIS.
2. **Familiarise yourself with policies and procedures.** Employment legislation requires that internal procedures are exhausted before proceeding further, and therefore:
  - ensure you are conversant with existing agreed policies on equality, bullying and harassment
  - support and publicise EIS policies against bullying and harassment
  - ensure you know grievance and disciplinary procedure
  - refer to [EIS Representative's handbook/Health and Safety handbook](#).
3. **If approached by a member who feels they have been subjected to harassment or bullying:**
  - treat cases of bullying and harassment sensitively and seriously
  - consider if one complaint is an indication of a widespread problem
  - ensure confidentiality
  - advise the member(s) of existing procedures
  - advise the member(s) to keep records/evidence
  - accompany the member(s) to meetings if called
  - take notes of meetings
  - remember that people are reluctant to complain about such behaviour and very often approach you after having tolerated it for a long time; they will be feeling very vulnerable
  - do not judge or minimise the complaint
  - do not exert pressure on the member.
4. **If approached by a member who has been accused of this type of behaviour** (who may either deny the behaviour took place or not recognise that the behaviour is unacceptable) ensure that the member is fully aware of policies and advice relating to this issue.
5. Complex cases, including those involving two EIS Reps, are likely to require the assistance of Local Association Secretaries and/or EIS Area Officers, dependent on context.

6. **If a group of people have a shared complaint**, and/or if the accused is a member of promoted staff, it can be worthwhile holding a meeting with the affected members outwith the establishment.
7. **Refer to** the EIS protocol on casework handling.\*
8. **Do not tolerate** bullying or harassment arising from your trade union duties/activities.

\*The [EIS Case Handling Protocol](#) sets out the circumstances in which an EIS member can request and be provided with support, advice and representation on employment related matters.

An extract is provided below:

### *3. Eligibility for EIS support*

*3.1 The EIS shall provide support, advice and representation to members on employment related matters. The provision of support and representation is subject to the provisos set out below:*

#### *(i) Retired/former members*

*The EIS will normally only provide support to current members. However, the EIS may provide legal support to retired/former members where the matter relates to an occupational disease/illness caused during a period of employment where the retired/former member was a current member. The Employment Relations Committee will consider whether legal support will be provided on a case-by-case basis.*

#### *(ii) Incident pre-dating membership*

*The EIS will not provide legal support (including support during the GTCS referral process) to members in relation to incidents which are alleged to have taken place prior to the member joining the EIS.*

#### *(iii) Alternative representation*

*The EIS will not normally provide legal support to members who have already sought legal advice from an independent adviser without the knowledge and consent of the EIS.*

#### *(iv) Support to management*

*The EIS supports headteachers and managers in relation to employment matters. The only exception to this support is in circumstances where the member is exercising a management*

*function in connection with a grievance or disciplinary process (for example, where a headteacher is acting as disciplinary manager and chairing a disciplinary hearing).*

*It is the duty of the employer to provide advice and assistance where necessary to employees exercising management functions on its behalf. If an employer fails in this duty the EIS will give consideration to the provision of representation to the member on a case-by-case basis.*

*(v) Re-registration and registration conditions*

*The EIS will not support a member who has been removed by the GTCS from the GTCS Register (for whatever reason) and is seeking to be re-registered.*

*In situations where the GTCS has imposed a sanction of a conditional registration order, the EIS will not support a member in complying with conditions. If an application is made by the GTCS for a conditional registration order to be reviewed or a member wishes for a conditional registration order to be reviewed, the EIS will consider supporting a member throughout the process on a case-by-case basis.*

*Source: 'EIS Protocol on Case Handling: Eligibility for EIS Support'*

## **USEFUL CONTACTS / FURTHER READING**

### **EIS guidance on Sexual Harassment**

<https://www.eis.org.uk/Gender-Equality/TacklingSexualHarassment>

### **EIS equality advice and resources**

<https://www.eis.org.uk/Equality/Equality>

### **EIS contacts**

<https://www.eis.org.uk/Contacts/Who>

### **EIS Local Association contacts**

<https://www.eis.org.uk/Contacts/LocalAssociation>

### **Samaritans**

*Support for anyone experiencing distressing or suicidal thoughts.*

For support call **116 123** or email [jo@samaritans.org](mailto:jo@samaritans.org);

<https://www.samaritans.org/>

### **Breathing Space**

*A free confidential helpline for anyone whose thoughts and feelings are overwhelming.*

For support call **0800 83 85 87**; or see <https://breathingspace.scot/>

### **ACAS advice**

*Policy on bullying and harassment from ACAS, (Advisory, Conciliation and Arbitration Service), which provides free, impartial advice on all aspects of workplace relations and employment law*

<https://www.acas.org.uk/index.aspx?articleid=1864>

### **Health and Safety Executive**

*Advice on stress from an independent regulator whose mission is to prevent work-related death, injury and ill health.*

<http://www.hse.gov.uk/stress>

### **TUC advice**

*Advice from the Trades Union Congress.*

<https://www.tuc.org.uk/union-reps/health-safety-and-well-being/bullying-harassment-and-violence>

### **Respect Me**

*Scotland's anti-bullying service, which focuses on learners, not staff; may be useful for learning more about bullying between young people*

<http://respectme.org.uk/>

### **Disability Information Scotland**

*The Scottish Disability Directory provides access to information on thousands of disability organisations and support groups, both local and national.*

<http://www.disabilityscot.org.uk/directory/>



**Equality Network**

*The Equality Network works for lesbian, gay, bisexual, transgender and intersex (LGBTI) equality and human rights in Scotland.*

<https://www.equality-network.org/your-rights/education/>

**Coalition for Racial Equality and Rights (CRER)**

*CRER is a Scottish strategic racial equality charity, based in Glasgow. We are focused on working to eliminate racial discrimination and harassment and promote racial justice across Scotland.*

<https://www.crer.scot/>

**eis**

**[www.eis.org.uk](http://www.eis.org.uk)**