

Equality Commission

FOR NORTHERN IRELAND

**Labour  
Relations**  
agency  
improving employment relations

# Harassment and Bullying at Work

Promoting an Inclusive Workplace





# Promoting an Inclusive Workplace

Harassment and bullying at work continue to be an unpleasant fact of life for many employees. Employers can work to change this by putting in place policies and procedures to create and help sustain inclusive workplaces.

This guide outlines some steps that you can take to help build an inclusive workplace and includes signposts to other guidance published by the Equality Commission (ECNI) and the Labour Relations Agency (LRA).

The guidance is designed to be of practical use to employers, trade unions or employee representatives when developing and implementing policies in the areas of harassment and bullying.

## What is Harassment and Bullying?

Harassment and bullying are commonly recognised as being behaviour of an offensive, oppressive or intimidatory kind that, whether deliberately or not, cause their victims to feel physically and/or emotionally hurt or distressed.

In legal terms there are subtle differences between the terms *harassment* and *bullying*. In summary -

- **Harassment** refers to offensive, oppressive or intimidatory behaviour that is connected to a **protected equality ground**.<sup>1</sup> It is a form of discrimination that is prohibited by the [anti-discrimination laws](#).
- **Bullying** is similar in that it too is offensive, oppressive or intimidatory behaviour, but is **not** connected to a protected equality ground. It is not deemed to be a form of unlawful discrimination under the anti-discrimination laws, although there may be legal remedies for it under other areas of employment law.

Recognising that this list is not exhaustive, the following are examples of harassment and bullying.

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<sup>1</sup> The protected equality grounds are: sex; pregnancy and maternity; gender reassignment; marital or civil partnership status; religious or similar philosophical belief; political opinion; race, colour, ethnic or national origins, nationality; sexual orientation; disability; age.

## Types of Misconduct

- Physical misconduct such as assaulting a person, sexually or otherwise, or making obscene gestures.
- Verbal misconduct such as making racist, sexist, sectarian or homophobic remarks; making derogatory comments about a person's age or disability; or singing songs of this nature.
- Visual or written material containing racist, sexist, sectarian, homophobic or other derogatory words or pictures (e.g. in posters, graffiti, letters, emails, text messages or on social media posts).
- Isolating a person by refusing to co-operate or help them at work or by excluding them from work-related social activities.
- Forcing a person to offer sexual favours, or to take part in religious or political activities, and penalising them for rejecting such requests.
- Intruding on a person's private space by pestering, stalking or spying on them whether on or off the business premises.

## Locations

Employers' policies should be designed to protect employees from being harassed or bullied in the course of their employment. It should be recognised that such policies apply to misconduct that might occur in various locations, for example, but not necessarily limited to:

- The business premises during or outside working hours.
- Work-related activities outside the business premises.
- Work-related social events (e.g. Christmas parties), whether on the business premises or outside them.
- The internet or other telecommunication devices, such as social media, during or outside working hours.

## Harassment or Bullying by Third Parties

Although employers' policies and associated grievance procedures are generally directed at protecting their employees from harassment and bullying by employers and co-workers, it should be recognised that employees could also be exposed to the same or similar misconduct from third-parties; i.e. people who are not employees of the organisation but who employees may encounter during the course of their work, such as customers, clients, residents, patients or their visitors. Employers should seek to protect their employees from such third-party harassment or bullying.

# What is an Inclusive Workplace?

An inclusive workplace is one where all employees feel welcome, valued and respected. In such a workplace:

- Managers and supervisors are aware of their responsibilities to challenge harassment and bullying and have the necessary skills to effectively implement relevant policies and procedures.
- Appropriate measures to prevent harassment and bullying are taken in a timely and professional manner.
- The employer engages with staff, trade unions or employee representatives to develop an inclusive workplace.
- Employees are aware of the different types of unacceptable behaviour and the potential consequences of engaging in such behaviour or allowing such behaviour to go unreported.
- Employees are confident they can raise a complaint without fear of being penalised and that their complaint will be dealt with according to the policy and procedure in place.



# Steps to Creating an Inclusive Workplace

## Step 1: Corporate Commitment

Ensure ongoing Senior Management and/or Board communication of your commitment to an inclusive workplace.

This will include a vision for an inclusive workplace, how it will be achieved and/or maintained, corporate values which form the basis of your inclusive workplace and how these will be embedded.

Your associated policy should underpin these commitments.

Employers commonly express these commitments in policies that are variously named: Equal Opportunities Policy; Harassment Policy; Dignity at Work Policy; Diversity Policy. The name itself is not particularly important, but their content is.

To assist with drafting your own policy, the ECNI have created a number of model policies and procedures, available on its website at: [Model Policies](#).

## Step 2: Assess the Current Situation

It is important to assess how you are currently performing in terms of achieving an inclusive workplace. You should firstly determine the current situation.

## Do you...

- Commit to an inclusive workplace during induction training?
- Train staff on their rights and responsibilities, that is, what are acceptable and unacceptable behaviours and what to do when these are not met?
- Provide additional training to managers and supervisors on their specific responsibilities?
- Ensure staff training is provided regularly and is evaluated?
- Have relevant policies and procedures that are reviewed periodically and engage on appropriate consultation with staff, trade union(s) or employee representatives on these?
- Monitor the number and type of complaints and tribunal cases, reviewing any trends and learning points?
- Take opportunities to listen to staff views and experiences, for example during exit interviews and through staff forums?
- Ensure that learning from grievances, exit interviews, etc., is translated into relevant actions to promote inclusion?

A good way to involve staff and their trade union(s) in these processes and ensure their “buy-in” is to jointly develop and issue a Joint Declaration of Protection, a document that declares your shared commitment to jointly creating an inclusive workplace.

To assist you with drafting your own Joint Declaration of Protection, a model declaration published by the Northern Ireland Employment Relations Roundtable, an association of employers’ representatives and the trade unions is available on the [LRA website](#) and also on the ECNI website at: [Model Policies](#). The model Declaration is endorsed by the LRA and ECNI.

### **Step 3: Communicate your Commitment**

Clearly communicate your commitment to all staff including management, on an ongoing basis, using the most suitable methods of communication for your own workplace.

Detailed information and sources of support should be available to staff through your company intranet, from managers and/or human resources.

Managers and those with responsibility for implementing procedures may require more detailed guidance. They should be aware where further guidance can be obtained to enable them to effectively challenge unacceptable behaviours and ensure harassment and bullying policies and procedures are implemented.

### **Step 4: Train Staff and Managers**

Staff training ensures that employees, trade union or employee representatives are aware of and understand what behaviours are acceptable in the workplace, their responsibilities to adhere to workplace policies, the consequences of unacceptable behaviours, and that employees have the confidence to make a complaint if they feel they have been harassed or bullied.

Training for senior managers/board members, managers and supervisors should enable them to meet their specific responsibilities of effectively challenging harassment and bullying and implementing your policies and procedures.

Without appropriate training, other actions, such as developing new policies and procedures, are likely to be ineffective. Employment tribunals have clearly established the need not only for good policies and procedures to exist but also that employees are aware they exist, know how to use them and that they are put into visible practice.

### **Harassment Advisors**

Many employers appoint harassment advisors to support an employee who feels that they have been subjected to bullying and/or harassment. It is important that the role and remit of harassment advisors are set out in your policy and procedure and that the persons appointed to be advisors have received appropriate training to ensure that they can fulfil their role with sensitivity and awareness of the processes.

## Step 5: Implement Policies and Procedures

Employers should have effective procedures for dealing with harassment and bullying. You may develop stand-alone harassment and bullying procedures, or you may prefer to use your grievance procedure to investigate alleged instances of harassment and bullying. Whichever approach is taken must be clearly communicated.

Procedures for dealing with harassment and bullying should:

- Provide signposts to support internally e.g. human resources, trade union or employee representatives, harassment advisors.
- Include informal and formal processes.
- Outline roles and responsibilities of those involved in the procedure.
- Specify the timeframes.
- Explain possible outcomes.
- Be aligned with your other policies and procedures (e.g. equality of opportunity, discipline, health and safety, safeguarding, whistleblowing, performance management), and not conflict in any way with their principles.
- Make reasonable adjustments for disabled people.

Not only can your employees initiate a complaint of harassment or bullying, you, as the employer, may initiate a formal investigation where you become aware of potential bullying or harassment. This may include where you have become aware of inappropriate behaviour, or where you have become aware of worrying patterns or trends through your periodic monitoring of the operation of your harassment policy and procedure.

The ECNI have developed a range of model procedures that can be adapted to suit specific business needs. These are available on the ECNI website at: [Model Policies](#).



The following points from our model procedures are worth noting:

### **Informal Stage**

- Will enable an individual to take appropriate actions to resolve their complaint outside the formal procedures; and
- Can be extremely valuable, in resolving disputes before attitudes and behaviours become entrenched and established.

**But:**

- The informal procedure will not result in an investigation or disciplinary action and may not be appropriate to use in all circumstances.

### **Formal Stage**

- Will provide details of the investigation process, including arrangements for meetings and hearings. Further information on conducting employment investigations is available in a guide published by the LRA which is available on its website at: [LRA Advisory Guide on Conducting Employment Investigations](#).
- Will provide outcome and appeal provisions and ensure that there is a reference to the disciplinary procedure as a potential outcome. Further information on conducting disciplinary and grievance procedures is available in a code of practice published by the LRA which is available on its website at: [LRA Code of Practice on Disciplinary and Grievance Procedures](#).
- Will ensure protection of complainant from further harassment and victimisation.

## **Step 6: Monitor and Review Progress**

Your policies, practices and procedures for dealing with harassment and bullying should be monitored and evaluated on a regular basis to ensure that they are effective.

You can assess the effectiveness of your current policies, practices and procedures by engaging with your staff, trade union(s) or employee representatives to establish how confident employees are about raising issues and making complaints. Are they listened to and taken seriously? Will their complaints be dealt with subject to the procedure and in a timely and consistent manner?

In addition, you should examine the number and types of harassment and bullying complaints made by your employees both in respect of internal grievances and cases to tribunals.

## **6 Steps to Creating an Inclusive Workplace**

**Step 1** Corporate Commitment

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**Step 2** Assess the Current Situation

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**Step 3** Communicate your Commitment

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**Step 4** Train Staff and Managers

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**Step 5** Implement Policies and Procedures

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**Step 6** Monitor and Review

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## **A Quick Checklist**

- [Anti-discrimination legislation](#) affords protection from harassment on grounds of sex, pregnancy and maternity, marital or civil partnership status, gender reassignment, religious or similar philosophical belief, political opinion, disability, race, colour, ethnic or national origins, nationality, sexual orientation and age.
- Employment rights legislation may afford additional protection, particularly with regard to bullying.
- Commit to an inclusive workplace with a zero tolerance approach to harassment and bullying.
- Develop and implement a workplace policy and procedure to address complaints of harassment and bullying.
- The employer's duty of care extends to everyone, including the alleged victim, perpetrator and others.
- Be aware of the risks for potential legal challenges including claims of discrimination, unfair (constructive) dismissal, breach of contract, personal injury.
- Legal liability, including awards for damages can fall not only on the organisation but also on named individuals.
- Burden of proof in harassment cases is likely to be on the balance of probabilities, i.e. is it more likely than not that it happened.
- Each case will be fact specific and specialist legal advice should be taken in circumstances where this is deemed appropriate.

## **Useful Publications**

- [ECNI: Promoting Equal Opportunities in Employment: A Unified Guide](#)
- [ECNI: Guide to Promoting a Good and Harmonious Working Environment](#)
- [ECNI Model Policies](#)
- [LRA Advisory Guide on Conducting Employment Investigations](#)
- [LRA Code of Practice on Disciplinary and Grievance Procedures](#)
- [LRA Advisory Guide on Handling Discipline and Grievances at Work](#)

# Contact Details

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