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An old problem that keeps re-emerging without a clear solution

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Abstract

Bullying and harassment in the workplace is an old problem. According to the charted Institute of Personnel and Development (CIPD), over the last 20 years, organisations have moved from the perception that it does not happen here to acceptance that it does and the introduction of policies to address the problem. Work place bullying and harassment have been recognised in all sectors of the workforce, particularly in a hospital's setting.It has been suggested that bullying and harassment in the National Health Services (NHS) is indeed a widespread and serious problem which needs to be viewed in the context of various organisational settings and manifestations. Evidence suggests that the prevalence of bullying and harassment in both medicine and the NHS more generally is high. One of

10 callers to the UK National Bullying advice line are health care professionals, including nurses and GPs; the result of one survey for example found that more than a third of NHS staff had been bullied, harassed and abused, usually by a senior member of the staff, managers or even patients and their relatives.*A useful definition of bullying is 'persistent, offensive, intimidating, malicious or insulting behaviour, abuse of power or unfair panel sanctions, which makes the recipient feel upset, threatened, humiliated or vulnerable, which undermine their self-confidence and which may cause them to suffer stress'.*Whilst various types of harassment are covered by UK legalisation, there is currently no specific legalisation dealing directly with the issue of workforce bullying. However, other parts of the law may be applicable. Contract law is one example, as it includes an implied duty on the part of the employer to provide an appropriate and safe working environment for staff. This is even more explicit in the Health and Safety at Work Act, which places a general duty on employers to protect the health, safety and welfare for their employers. Equality legalisation can be applicable in cases concerning gender, race, sexual orientation and recently religion. Age will also be covered as from last December 2006. The Criminal Justice and Public Order and the Protection from Harassment Acts may also be useful in some cases.Foe example, in an unpublished survey from Departments of Histopathology in 9 District General Hospitals and 5 Teaching Hospitals, 47.3% of SpRs had been subjected to different sorts of harassment. Therefore a robust, supportive system for trainees in Histopathology should be easily accessible, confidential and constructive.We think it is important to remind doctors working in the UK of their rights.Doctor's rights in the UK are: Employment rights under law, access to complaints procedures, protection when 'whistle blowing', right to freedom from interference, harassment and unmeritorious complaints and equally important freedom from bullying and harassment in the work place namely: threat to professional status (belittling opinion, public humiliation and accusation of poor effort), threat to personal standing (insults, verbal abuse and teasing by seniors), isolation (denying teaching opportunities and withholding information), overwork and continuous subjection to unnecessary interruption, destabilization for example by failing to give credit, by giving meaningless tasks, removing responsibility and shifting 'goal posts'.This review covers in depth harassment and bullying and discuss in detail anti-harassment and bullying mechanisms.

Introduction

The Human Rights Act 1998 enacted in the UK law October 2000 and the European Community Recommendations and code of Practice on Harassment said: " harassment is any conduct based on age, disability, HIV status, domestic circumstances, race, colour, language, religion, political, trade union or other opinion or belief, national or social origin, association with a minority property, birth or other status which is unreciprocated or unwanted and which affects the dignity of men and women at work"[1-7].

The last word is indeed a key word "at work", because it includes any place where the occasion can be identified with either the requirement, or with social events linked to that employment. For example, for NHS employers it includes any place where NHS care is delivered.

So what are the features of harassing behaviour? Well, it can take many different forms such as unwanted physical contact, verbal abuse such as offensive language or innuendo, anonymous answer phone messages, name calling or spreading malicious rumours, telling offensive jokes, written abuse such as letters, faxes or graffiti (these may be anonymous), or displaying offensive posters or pictures, persistent incidents, or importantly a single serious incident. These features are unacceptable if it is unwanted, unreasonable and offensive to the recipient, used as basis for employment decisions or if it creates a hostile or ineffective working environment.

It might be important, in certain circumstances, to distinguish harassment and bullying. Bullying is the misuse of power or position that undermines a person's ability, or leaves them feeling angry, powerless, frightened, hurt or depressed.

So what are the features of bullying behaviour? Again, it can take many different forms such as sadistic or aggressive behaviour over time, humiliating or ridiculing, criticism in public (such as Multi Disciplinary Team Meetings, MDT meetings) that is designed to humiliate rather than educate, exclusion from meetings, persistent, unwanted, unneeded criticism in private, treating colleagues (definitely including trainees) as children and not as adults. In addition, undermining staff by replacing their areas of responsibility unreasonably or without justification, withholding

information to deliberately affect a colleague's performance, constantly changing work deadlines or work guidelines are features of bullying.[1-14]

Undoubtedly, Bullying and harassment is morally, legally and professionally unacceptable. Team working is undermined and staff morale is reduced. This in turn lowers productivity, and increases staff sickness absence and turnover. This also costs time and money, affects quality of service delivery, and subsequently damages organisations reputation.

The organisations recognise that to deliver best services to the best of their abilities employee need an environment that is free from harassment and bullying in all previously mentioned forms.

For all these reasons harassment and bullying will not be tolerated and should lead to a disciplinary action.

The following proposal "Road map" can be used as a template in order to develop anti-bullying and harassment policies applicable in Histopathology Departments in the UK.

Principles of the" Road Map"

Organisational culture: All staff must treat colleagues (whether they were in training, secretaries or BMS) with both respect and dignity. Anyone who supports or encourages harassment or bullying by others may be liable to disciplinary action.

Fair treatment: Both parties to a complaint should be treated fairly. They will both offered support and guidance throughout the investigation and/or grievance/disciplinary procedures.

Self-definition: It is essential to remember that harassment and bullying are not determined by the intention of the person who caused offence, but by the affect it has on the recipient. Then, it is up to that person to decide if they are being bullied or harassed because they find the behaviour unacceptable.

Neutrality: independent procedures are available to establish what happened in any alleged incidents as far as that is possible.

Non-Victimisations: Employees should be critically protected from victimisation for making or being involved in a complaint.

Confidentiality: As much as possible, confidentiality should be maintained, but cannot be guaranteed once the investigation process is in action.

Aims of "Road Map"

Minimise the risk of bullying and harassing behaviour.

Resolve such conflicts effectively and speedily if they occur.

Encourage a proactive approach to the early recognition of bullying and harassment, which will inevitably improve the overall environment at work place.

Most organisations now have policies and procedures for dealing with bullying and harassment. These are important steps for dealing with these serious workplace conflicts. However, the effectiveness of anti-bullying and harassment initiative, and the development of a healthy workplace culture, require more than policy statements and/or agreed procedures. A written policy should be developed **jointly** by managers in full consultation with staff and staffside, and should apply to **all** grades and levels of employees. It is essential that consultation must be genuine and transparent, and must include the views of wide range of staff. Final approval of the policy should be carried out through the agreed joint negotiation arrangements. The process of policy development is as important as applying this policy statement. Collaboration between staff and managers without doubt helps to demonstrate and show what causes bullying and harassment behaviour, and subsequently how this should be tackled. Involving staff will ensure shared ownership of the problem and its resolution, and develops trust and confidence between staff and managers.

Although many organisations already have excellent written bullying and harassment policies, employment tribunals have frequently commented that organisations fail to take the steps that ensure these policies are translated into practice. Key among these is the requirement for policies and procedures to be regularly promoted. The benefits of this include increased awareness of individual responsibilities, recognition of continued commitment by senior management, and importantly familiarity and understanding of acceptable behaviour.[1-14]

For example, information about the policy should be given to new staff as

part of their introduction. Other approaches to promote awareness range from including the policy or even a summary in the staff handbook, feedback from annual attitude surveys, poster display, presentations and newsletters will do. Team discussion around policy and procedures awareness are useful mechanisms foe further exploring of key issues at local level, and creating joint ownership of the policy aims.[14-26]

Training

The success of any anti-harassment and bullying initiative depends on planned and systematic education and training programme supported by a realistic budget. A training strategy should identify the training purpose, highlight training techniques, and analyse training needs. The content of training programmes should be tailored to fit the needs of particular employees. Careful consideration should be given to who can best provide the training and how this should be assessed.

It is essential that the core elements include:

Knowledge:

Explain the theories and definitions of harassment and bullying

Spell out the organisation's policy and procedures

Explain the legal framework

Demonstrate the effects of bullying and harassment

Personal

Organisational and social attitudes towards different behaviour

Self-awareness of different aspects of behaviour

Skills

How to defuse potential conflict

How to provide support to both compliment and perpetrator

How to recognise harassment and bullying

In addition, line managers have specific responsibility for ensuring staff are available to attend training programmes and importantly turning policy into practice.

Heath and safety legalisation requires that a risk assessment to be taken on all workforce hazards. Thus, action can be taken to prevent them. The assessment applies both to physical and psychological problems, and its aim is to highlight the steps needed to control risk and protect employee. The employer has duty to take any necessary action and to eliminate the risks. Ill health caused by bullying and harassment must be treated in the same way as ill-health due to organic causes.

Access to information is a critical part of the process of accessing risk. For example sings that might need further investigation include: sickness absence, increase in grievances, poor work relationship, poor time keeping, conflict between colleagues and increase number of employee seeking counselling. These indications do not have a single path, and a specific audit should be providing more recent accurate information to tackle the underlying causes. Therefore, interventions are more likely to be more effective. Asking individual stuff directly is the best way to assess the risks of bullying and harassment in the workplace. The latter could be achieved by, questionnaire, interviews, focus groups and a combination approach.

This is not new, since, there are a number of standard questionnaires designed to provide data on employee health and well being. But a better approach to adjust the questionnaire to the organisation to demonstrate links between poor health and stress in the workforce, if this is important, which it is, to respect the confidentiality of the staff.

Surveys provide numerical data on incidents of bullying and harassment but this is only a snapshot of the level of incidents at the time over the survey. Other reporting systems could be established and improve monitoring such as setting up a confidential telephone reporting system, introducing a special form for bullying or harassment incidents or even the use of existing accident forms and reassuring the staff about the confidentiality is of particular importance to encourage them to report incidents.[14-26]

Counselling:

This lead to the importance of counselling and staff support, as experience has shown that complaints and investigations of bullying and harassment do induce stress and anxiety to all parties involved. As well as the person complaining and the alleged harasser, this may include witness, investigators, staff representatives and supporters. Many healthcare employers now offer independent counselling in the workplace to all staff, such a move that should be welcomed and encouraged. Such services are increasingly recognised as valuable services. For example, NHS organisations in England are required by the Human Resources Strategy for England, *Working together* to have in place occupational health services and counselling available to all staff. The Occupational Health Strategy in Scotland, *towards a safer, healthier workplace*, also recommends comprehensive counselling and advice services for all NHS in Scotland staff. Thus they can give everyone involved in a complaint much needed support and help people to identify the best course of action for them.

How to promote a healthy workplace environment?

Minor tension can and does occur in any work team, and in the health organisational cultures those tensions can be valuable force for initiating damage. But if unhealthy tensions are more resolved swiftly, bullying and harassing behaviour can start to occur. Over reliance on existence of policy and procedures does not always lead to an early resolution of the problem, particularly if the people are reluctant to complain or to decide to leave or take long-term sickness absence. The longer duration of unacceptable attitude continues, the more the whole work team experiences the negative effects and it can take many months to recover. Managers play an important role in implementing an organisation's anti-harassment and bullying strategy, and need to take proactive approach to resolving conflict/s. But many managers avoid direct approach simply because they lack confidence in their own skills to deal with the situation, and fear that they could make the situation worse rather than better. To implement the organisation's anti-harassment and bullying strategy managers need to understand: their legal responsibilities as the employer's representative under health and safety and discrimination legalisation and they need to understand the harmful effects on the organisation failing to resolve bullying and harassment both efficiently and effectively. Furthermore,

managers need to understand the importance of standards of behaviour. However, in order to carry out such responsibilities, managers need skills in general management training in coaching and meditation, delegation and performance reviews and appraisals and needs also skills in conflict resolution-related training and education.

The value of such skills cannot be underestimated or overlooked. Studies into the incidence of bullying and harassment have reported (in Beat bullying at work: a guide for trade union representatives and personal managers (1998) TUC, London) that managers frequently perpetrate bullying and harassment behaviour. Clearly, there is a world of difference between the existence of authority, and the persistent treatment of a staff in a harmful way.[14-26]

How to investigate complaints?

Preparation and planning

The aim of an investigation is to discover what took place and why, and to propose steps to resolve the conflict. Investigations are a vital part of any anti-harassment initiative, and the way they are conducted sends clear messages about toe organisations commitment to promoting a healthy workplace culture. They should begin at the earliest opportunity after a complaint has been made, but certainly within five days.

Investigations are not easy to conduct, but with careful preparation and dear and agreed procedures the challenges can be minimised.

Consider the following set of questions before drawing up an action plan:

Who will lead the investigation and who will make up a panel if this is required the policy?

Panel membership should be determined by the needs of the particular case. For example, it may be appropriate to consider the ethnic background and gender mix of panel members.

People involved in the conduct of an investigation must:

Be neutral, not part of the line management and reporting arrangements of either party to the complaint, and not close colleagues or friends and have received dedicated training on the organisations bullying and harassment

policy and procedures

Have received dedicated -training on interviewing skills and how to conduct an investigation.

Who will need to be interviewed? This will usually be the person(s) complaining, alleged harasser/bully and witnesses. As the investigation progresses it may be necessary to expand the list.

What other information may provide supporting evidence? For example, absence records, training provision, development reviews, and copies of local procedures.

What is the anticipated timescale involved, taking account of the number of interviews that need to be conducted? The timescale should be adhered to as far as possible. But if serious slippage occurs everyone involved in the complaint should be informed and told why.

Every effort should be made to complete an investigation as soon as possible. An extended process can cause difficulties. Evidence becomes less reliable as peoples memory of the event fades. The ongoing stress and anxiety experienced by people involved in the investigation can have a devastating effect on their health. In addition, the uncertainty can impact on people not directly involved.

Suspending attendance at work during an investigation

Where a staff member has been suspended from work (see model policy for the circumstances of suspension), clarify the requirements about contact with colleagues in writing. The letter should include instructions not to discuss the complaint with work colleagues, other than their RCN steward or staff representative, hospital counsellor, or occupational health adviser. Point out that contact with colleagues may be interpreted as an attempt to influence the outcome of the investigation, or as further harassment/bullying. The letter may also instruct the suspended person to inform the human resources/personnel department or line manager if they want to visit the workplace/hospital site.

Where relatives and/or close friends are also employees the organisation should not attempt to limit normal social contact with suspended staff.

Conducting interviews:

The rights of all people interviewed must be protected. Both parties to the complaint should be encouraged to have either their trade union representative, or an appropriate friend, or colleague to accompany them. Witnesses may also wish to be accompanied.

At the start of the interview explain the investigation process, emphasise the importance of confidentiality, and clarify the intended time-scales. Interviewees should be reminded of the organisation's commitment to ensure the person/s complaining is/are protected from inappropriate behaviour and victimisation.

It is very important that interviews are conducted in a manner that sets people at ease and gives them support. Nevertheless it is essential to probe and clarify any apparent discrepancies in statements. But the style of questioning should always be objective and non-accusatory.

Comprehensive notes of the interviews should be made. They should be signed by the interviewee as accurate and reflecting the discussion. The interviewee must be able to make written comments about any section of die-notes that they do not agree with. A copy of the signed interview note should be given to the interviewee. Tape recorders should only be used it the interviewee gives permission in advance. If this happens the interviewee should be given a copy of the tape

Interviewing the person complaining

The person(s) investigating the compliant should test find out the facts from the point of view of the person complaining. At interview ask questions such as:

What happened?

In what context did this happen?

Who was involved?

When did the incident take place?

How did you react?

Was this the first time this has happened?

Tell me about the ether occasions?

Did anyone see/hear this or a previous incident?

Is there any physical, documentation, or other evidence of the incident?

Have you talked about this incident to anyone?

How has it affected you?

What do you want to happen to resolve this situation?

Questions that should not be asked include:

What, were you wearing at the time?

Did you do anything to lead him/her on?

Surely he/she was only joking?

I know the person you are talking about. 1 can't believe he/she would do something like that.

Are you sure that there hasn't been a misunderstanding'?

Do you really want me to take this complaint further?

Interviewing the alleged harasser or bully

The alleged harasser or bullying must be given a full and fail, opportunity to explain his or her version of tine events that have taken place. It is helpful to know the complainants version of events before seeing the alleged harasser/bully. Questions to the alleged harasser/bully should include:

“X” has described an incident to me and says that you were involved. Can you tell me anything about it?

“X” have told me that he/she asked you not to behave in this way. Why do you think “X” asked you this?

Are there any witnesses who saw what happened?

How did “X” react when this incident took place?

Often in cases of harassment the alleged harasser/bullying may give one of the following explanations:

I did it, but I thought “X” wanted me to I did it,

I did it but 1 didn't think it bothered “X”

I always behave like that with other staff

I did not that I do it:

If the explanation is one of the first two listed, the person investigating should find out what led them to believe this. Harassment and bullying are unwelcome, and no one actively solicits or invites unwelcome conduct. The alleged harasser/bullying may claim that he or she thought that their behaviour was welcome *or* acceptable. He or she may not deny that the conduct or behaviour occurred, and might state that it was freely entered into. He or she may say that the allegation is being made because of a particular action or decision in the workplace that has adversely affected the person complaining. Also that this is ah opportunity to “get back”' at him or her.

In an interview with an alleged bully it is -important to ask why he or she thinks the person complaining feels they are being bullied. The alleged bally may respond that they have a particular style of working that the” person complaining finds difficult to cope with. Find-out what it is about their Behaviour that causes these problems. If the person complaining work performance is the relevant issue:

1. Look back over previous appraisals

2. Establish what the alleged bully has been doing to help the person complaining meet the standards or targets

3. Check that training and support is provided if new tasks are allocated

4. Identify whether the person complaining thinks that die standard of their own work has dropped

5. Check it work is program med with realistic • deadlines arid clear instructions

6. Establish whether goal posts get changed and if the person complaining is criticised for

failing to anticipate this.

There are some warning signs that indicate bullying has taken place. The person investigating should establish:

Has there been a new line manager?

Have jobs changed recently?

Do complaints sound trivial?

Is there a pattern of ill treatment?

Are there accounts of persistent undermining?

Have the complainants' personal standards been consistent?

Does the person complaining believe the mistakes -are their own fault?

Is the person complaining under close scrutiny?

The person investigating must come to a conclusion about which version of events is most credible, and resist any temptation to apply their own standards to the seriousness of the complaint. The person on the receiving end is the judge of whether particular behaviour is offensive.

Evidence

People should be encouraged to keep records of: dates, times, location, time, nature of the incident, their response, their feelings at the time, any action taken by them, the names of any witnesses.

There may be other evidence the person investigating could collect:

Have sickness absence levels increased? The reason for absence may be given as stress, anxiety or depression

Has staff turnover increased? People being harassed or bullied may leave, and other staff who "witness the bullying behaviour may also decide to leave

Has the working atmosphere changed? A content and productive workplace may become strained with good working relationships deteriorating

Do appraisal reports show a changed perception about an employee performance? The work' standards an employee sets themselves may not

change, but bullying/harassment may have had an adverse effect on their performance

Are there previous complaints about the alleged bully/harasser that have been disregarded?

Are there any common features to a series of complaints?

Have exit interviews with staff revealed any problems?

The investigation may make use of evidence collected by the person complaining:

Accounts of incidents of harassment

Accounts of meetings or exchanges in which the individual or his/her professional competence were attacked

Dates, times and locations of harassing behaviour

Slurs on their character

Copies of annual appraisals or letters relating to their ability to do their job.

Harassment and bullying often take place without witnesses, so the resolution of a complaint may depend on the credibility of the two parties.

The investigation must reveal what evidence there is to support the version of events given by the person complaining. Supervisory staff and, where appropriate, colleagues should be asked what they know about the alleged harassment/bullying, and if they saw how the person complaining behaved after the incident. If the person complaining discussed the incident with any one else they should be interviewed too.

General points

If the alleged harasser/bully denies that the incident took place, the person investigating must decide whose version of events seems more likely. The case of the person complaining will be stronger if he or she complained at the time, or made notes of die incident and the response. However, take into account that the person complaining may have been too upset or-distressed to do so, or may not have thought of it at the time.

In harassment cases where the alleged harasser says that the behaviour had been welcomed on a previous -occasion, he or she must be able to show how and where this occurred and that the person complaining welcomed it

Someone who is being harassed or bullied may delay complaining fearing repercussions. They may believe that they can sort out the situation themselves. If there has been a delay in complaining, the investigation must find out why.

If the alleged harasser/bully admits “I did it, but I did not think it bothered X, the situation maybe relatively easy to resolve. It could be implied that if they had known that the behaviour or conduct was offensive they would not have acted in that way. This explanation is not acceptable where the person complaining has previously told the alleged harasser/bully that this behaviour is unacceptable.

It may be possible to resolve this type of complaint informally, and for both parties to resume their working relationship without further repercussions. A way of encouraging this is for a manager to explore with both parties why the behaviour was offensive, and the effect it had on the person complaining. With an improved understanding of the Impact of their behaviour, the alleged harasser/bully is less likely to act in a similar way in the future. See page 13 for the type of actions that should be considered following an investigation.

Dealing with stress

Participating in an investigation as the person(s) complaining, alleged harassers (s}/bully(s), or as witnesses creates considerable stress and anxiety. Lack of information and/or understanding of the process add to this stress.

Investigators and staff representatives should address the following issues:

Inadequate preparation for the investigation process

Lack of understanding of the investigation process

Lack of understanding about the use of statements

Lack of understanding of how evidence is interpreted8 and used

The role of the trade union representative

Knowledge of peoples' rights and responsibilities

Timing and duration of interviews

Dealing with group complaints

There are occasions when several complaints are made about a person at the same time.

When a group complaint is locked, each complaint is investigated separately, but they indicate low staff confidence in the organisation's bullying and harassment procedures. Key personnel responsible for policy Implementation should review events in the light of this, and ensure that useful lessons are taken on board, and efforts are made to rebuild confidence.

Concluding Remarks

Many health care organisations recognise the importance of taking a proactive approach to dealing with workplace harassment and bullying. Its effects are harmful to ail concerned - the people directly involved in a complaint, team members and the whole organisation.

The aim of this Editorial/review is to encourage a workplace culture in which everybody treats their colleagues with dignity and respect, and where all steps are taken to minimise the occurrence of bulling and harassment. However, it is also important that organisations policies and procedures to deal effectively with bullying and harassment when it does happen.[1-24,27-52]

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