CONFLICT PREVENTION AND MANAGEMENT

A Survival Kit for Small Workplaces

CONTENT

PREFACE

Badly managed conflicts and bullying at workplaces represents a big problem for many employers and employees. 'The impact of bullying across the UK is enormous. The Government has estimated that employers' failure to tackle the root causes of bullying in the workplace costs the UK economy £13.75 billion a year. This research has suggested that in 2007 almost 200,000 employees left their jobs after experiencing or witnessing bullying at work, with the equivalent of 100m days' lost as a result' [1]. There are serious negative consequences from bullying, for the victims, as well as for their colleagues and the enterprise they are employed in. Bullying and badly managed conflicts lowers productivity in workplaces and impairs the quality of the psychological work environment.

There is a need for guidelines and procedures for how to prevent and manage conflicts at workplace level.

Nine out of ten enterprises in the EU employ less than ten employees. Small enterprises are the backbone of European business economy. In general, the material, guidelines and procedures for how to prevent and manage conflicts and bullying in the workplace, is targeted at the needs of large companies, while small companies tend to be forgotten. This booklet aims to address the needs of the smaller companies providing simple guidelines and basic introductory information about how to prevent and handle conflicts and bullying at the workplace.

[1] Giga, S. Hole, H. and Lewis, D. (2008) The costs of workplace bullying Unite/ Department for Business, Enterprise and Regulatory Reform

This booklet is produced by a project funded by the European Commission under the Life Long Learning program Leonardo da Vinci - Transfer of Innovations. It was launched in December 2010 and lasted until December 2012. The name of the project was "Conflict management in SMEs" (CONFLICTMAN). It was inspired by a previous Norwegian project called "Jobbing uten mobbing" (The Bully Free Workplace) which took place from 2005-2007.

CONFLICTS ARE NEITHER GOOD NOR BAD

There is always a risk that a conflict will evolve whenever there are differences and dependencies between the parties. In conflicts there are always questions about power, interests and needs, and conflicts create tension and negative emotions.

Conflicts, by themselves, may be neither destructive nor constructive; it is how they are managed that often determines their consequences. Conflicts, if properly managed, may improve the team spirit, create work engagement and support learning among employees. Highlighting of problems, greater transparency, better decision-making and better collaboration can be some of the positive outcomes of conflicts. If, on the other hand, conflicts are handled inappropriately impaired collaboration, dissatisfaction, inefficiency, absenteeism and increased employee turnover may be the negative outcomes.

A workplace without differences of opinion can quickly become dull and boring. Therefore the question is; what kind of conflicts should be nurtured and what kind should be eliminated? Discussions and disagreements about how work should be done, how it should be organized, which quality standards should be applied, resource spending and the like, can be a source of learning, development, productivity and creativity. An appropriate proportion of what is commonly called subject-oriented or task-related conflict can help to create a dynamic work environment where employees thrive. The problem is that the task-related conflicts can give rise to what is called socio-emotional conflicts or person-to-person conflicts. Conflicts in the work environment are therefore something that must be managed carefully.

Conflicts always have this potential for developing into vicious, escalating spirals. Risk or conflict management required monitoring of ongoing conflicts and early intervention if signs of escalation emerge. To be prepared to cope with the explosive power of conflict escalation an organisation has to develop procedures and methods for conflict management. Such development is easier to undertake and more effective if carried out before conflict arises and this is what this booklet is about.

EUROPEAN AND NATIONAL LAWS AND REGULATIONS

EU regulations

Conflicts are a natural part of human interaction, and they are not within themselves either constructive or destructive; it is the handling of conflicts that determine their outcomes. Conflicts at work are hardly regulated by EU directives. An exception is that harassment and bullying, which often occurs when conflicts escalate, is prohibited by Directive 2004/113/EC, Article 2 and 4. On the other hand, it is well known that conflicts can put a strain on employee's health and according to Directive 89/391/EEC, Article 6, "the employer shall take the measures necessary for the safety and health protection of workers, including prevention of occupational risks and provision of information and training, as well as provision of the necessary organization and means". This obligates employers to prevent and deal with destructive conflict. The best opportunity to develop procedures for conflict management is before they occur, that is, at the 'green light' stage (see page 8).

Bullying and Harassment – the UK legal position

The UK has long recognised the existence of harassment in the workplace. Over the last twenty or more years case law has developed a clear method for assessing workplace behaviour and its acceptability in terms of the law. Latterly bullying has become a key workplace issue, although the legal position is different to that of harassment.

Harassment – the law

Section 26 of the Equality Act 2010 specifically deems harassment to be unlawful:

A person (A) harasses another (B) if – A engages in unwanted conduct related to a relevant protected characteristic, and the conduct has the purpose or effect of – violating B's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for B'

The protected characteristics are: sex, pregnancy and maternity, marital status, civil partnership, race, ethnicity, national origin, colour, nationality, disability, sexual orientation, gender reassignment, religion or belief, age.

An employment tribunal will consider both the complainant's perception of their treatment and whether it is reasonable in the circumstances to construe this treatment as harassment.

The employer is liable for the acts of his/her employees undertaken in the course of employment. As damages in discrimination cases are uncapped, it could be very expensive to be found in breach of this legislation. There may also be liability for harassment from third parties, for instance, customers, service users, contractors and contracting organisations.

Additionally, it should be noted that the Protection from Harassment Act 1997 may have effect in the workplace. Although the intention of the Act was to prevent 'stalking', if, on two or more occasions, harassment occurs it may be possible to use this criminal legislation to take a case. This Act can also be used where the harassment occurs as a result of the actions of customers or clients of the employer.

Bullying – the law

There is no specific legislation on bullying in the UK. However, the Health and Safety at Work Act 1974 and the subsequent amendments to legislation in European regulations make it clear that employers have a responsibility to provide a safe and healthy working environment. This applies to both physical and mental health. In this regard, stress has become a pressing issue in UK industry and the prevention of bullying is regarded as one aspect of removing stress from the workplace.

This does not mean there is no legal redress for employees claiming to have been bullied. There are, in fact, two legal routes open to claimants where they cannot bring their unfavourable treatment into a protected characteristic as described above.

The first is that if an employee seeks to raise a grievance about their treatment and it is ignored and the treatment continues, there is the possibility that the individual could leave and claim constructive dismissal – a form of unfair dismissal. While compensation under this legislation is capped, it is (at the time of writing) currently over £60,000 at the upper limit.

Another route that can reap even higher levels of compensation is to take a personal injury claim. This is linked to health and safety legislation and occurs where the individual claims that they have suffered psychological and/or physical injury at work and that no action was taken to prevent it.

It is far better to avoid the complications and costs of legal claims through the adoption of good procedures and ensuring that they are used. The aim of this project is to assist small organisations in producing a workable system to promote good working relations and prevent legal claims arising.

Characteristics of small enterprises

Bullying and harassment is often regarded as a health and safety issue because it compromises mental and sometimes even physical health and well being. Compared to companies with 50 employees or more, small organisations are often characterized by a low degree of formalization. Prescribed procedures and plans for health, safety and environment (HSE) are rarely found. Work planning is often done on the basis of short time-horizons and in informal ways and forums. There is rarely any great degree of specialization when it comes to jobs. In general, the degree of union density and employer organization are significantly lower in small rather than large firms. Therefore, common channels of work related information do not work as well in small businesses, helping to maintain a lower level of knowledge about HSE. Studies show that small businesses are less likely to be unionised preferring to solve problems in informal and direct ways.

When it comes to organization of work, small businesses are less likely to use methods such as team organization, problem solving groups and functional flexibility. However, studies have shown that lack of formal procedures is often given great positive importance by many employees and can be seen as a factor that can help to increase job satisfaction. Studies also indicate that employees in small businesses often assess job quality as higher than employees in large firms. They point to factors such as a greater degree of autonomy in work, less work pressure and better job satisfaction and well being.

Small businesses, however, in general spend less time and resources on health, environment and safety than larger businesses do. They are also less likely to be enrolled in an occupational health service scheme. Occupational injury rates are often higher in smaller firms in certain sectors (eg construction industry). Studies indicate that there is a correlation between lack of connection to an occupational health service, poor monitoring of their working environment and increased risk of health problems. These factors may contribute to exclusion of workers from the labour market and thus has an impact on the frequency of health problems in small businesses and the possibilities of rehabilitation and provision for people with disabilities.

Small businesses can be very vulnerable to sickness among employees. This will often result in a greater workload on the others in the company.

What are the consequences of these factors for the ways small businesses manage conflicts? Lack of formal procedures, lack of access to occupational health services, lack of adequate competencies, lack of information and low degree of unionization and employer organization are all factors that suggest a need for outside help. This can come from relevant public bodies, (e.g. ACAS, HSE) occupational health services, trade unions, employers' associations, consultancy firms or others.

But better than asking for help when the handling of conflicts has failed, is to build preventive systems before problems arise.

MODEL PROCESS FOR AVOIDING CONFLICT

The Traffic Light Model

This model represents a systematic approach to the promotion of healthy workplaces and the prevention of conflict and bullying at work. The model is based on the metaphor of traffic lights. The Green light represents the prevention level, the yellow light represents the risk level, and the red light represents the formal level.

A 'green' working environment recognises that conflict is a part of working life, but managers should have the knowledge skills and tools to avoid the escalation of unhealthy conflicts. Part of working at the green level is the preparation of procedures.

A 'yellow' working environment is characterized by increased tension. Methods of working at the yellow light level include encouraging support from colleagues, informal discussions and mediation with the intention of returning to the green light level.

A 'red working' environment concerns those organisations faced with seemingly intractable problems that cannot be solved with "yellow methods". Methods of working at the red level will involve conducting investigations, formal meetings with a view to reaching a decision and taking action to resolve the conflict.

The model is intended as an aid to create:
*   Awareness of the problem, i.e. recognition that serious conflicts and bullying can happen in any workplace.
*   Responsibility, i.e. awareness of roles and responsibilities.
*   Skills, e.g. confidence, knowledge and ability to prevent or deal with serious conflicts in an appropriate way.
*   Creating a healthy workplace culture, promoting dignity and respect and collaborative attitudes, e.g. motivation and inspiration to take the initiative in serious conflicts.

Guidelines for creating a green working environment

1. Make a systematic effort to create a safe and healthy working environment.

2. Create a policy and procedure within the workplace for the prevention of harassment and bullying

3. Ensure dignity and respect are promoted at all opportunities.

4. Ensure managers have the skills, knowledge and confidence to deal with conflict as it arises.

5. Create a culture that tolerates disagreement and discussion, but not personal attacks or ridicule of other people's opinions.

6. Encourage high levels of communication openness and transparency thereby reducing rumours and malicious gossip.

7. Build sound working relationships with employees and their representatives. This helps to build trust and confidence at the workplace

8. Strive to build an inclusive culture that values difference.

9. Have measures in place to avoid prolonged workplace stress as this is a factor known to contribute to conflict at work

10. Have procedures, such as back-to-work interviews, for following up sick leave as absence may indicate unaddressed levels of bullying.

STEPS IN CONFLICT PREVENTION AND MANAGEMENT

THE GREEN LIGHT

Strategy

When designing the procedure, the size of the organisation, its structure and resources must be taken into account. These guidelines are not therefore prescriptive but are intended to provide a model that can be adapted to the particular workplace.

When developing policies and procedures it is important to link them to the visions and values of the organisation and make clear the types of behaviour that is acceptable/unacceptable.
The existence of a procedure will help to create an orderly process that may also limit emotional outbursts and the number of people involved. Good procedures not only help to safeguard those involved, but by creating a positive culture and solving problems internally, promote the good reputation of the organisation. Non-existent or unsatisfactory procedures may result in both undesirable media attention and legal action.

Using procedures

Procedures should be prepared through cooperation between the management, the employees and where applicable, their representatives, and should be part of the organisation's day to day running.

A procedure should fulfil the following:

- A definition of bullying and harassment.
- How to report a conflict and to whom.
- Who will be responsible for resolving the conflict? N.B. It is important to note that the person responsible for processing the complaint is not party to the original complaint.
- Distinguish between personal matters and work issues*.
- Ensure confidentiality, including who will have the information and about what.
- Ensure that all relevant parties are heard.
- The role of any representatives (e.g. the safety representative/the union representative) is clear.
- Opportunities for external assistance, such as the occupational health service, ACAS.
- Processes and stages for resolving the complaint.
- How and when records should be kept.

*Work issues mean any matters involving individual work performance, skills, sickness absence, management, conduct/capability.

Accountability

Make managers' responsible for promptly dealing with reports of bullying and other improper conduct. It is the employees' duty to report on bullying and improper conduct.

Training

Define what kind of knowledge is needed to prevent bullying and harassment.
Define what kind of training is needed for the different roles.

THE YELLOW LIGHT

A yellow working environment is characterized by increased tension at the workplace. This may apply to the whole workplace, to specific departments or between individual employees.

Tensions may arise from reorganization, downsizing, and dissatisfaction with decisions, inappropriate use of power, insufficient information, and high levels of stress and communication problems.

On an employee to employee level, tension can arise from professional disagreement, misunderstandings, lack of cooperation, interpretation of roles, duties and responsibilities and; in some cases, an employee's private life.

Working environment from yellow to green
- Focus on the cause of the problem.
- Cooperation between the management and the employees' representatives where appropriate may play an important role in resolving conflict.
- Disclose full information to the relevant parties while protecting confidentiality.

Examples of actions to limit or resolve interpersonal conflicts
- Peer support: have someone to talk to.
- Dialogue: an immediate superior (who is not involved) is given the opportunity to find an informal solution through dialogue with those involved.
- Mediation: those involved in the matter are made responsible for finding a solution. The focus is on finding a solution and not on placing the blame on anyone.

THE RED LIGHT

In a red working environment problems cannot be resolved by means of the methods referred to under yellow. This means that there are factors at the workplace indicating a breach of trust and confidence and employment legislation.

Employers must abide by the appropriate legal requirements at this stage.

Formal procedure
The procedure devised under red is intended to ensure that the matter receives formal and objective treatment. It must be clear who is to be involved in the matter (appropriate managers, employees and any representatives) and their roles.

A plan of action must be based on an investigation of the facts, and all parties involved must be given an opportunity to state their views. Actions may include sanctions for unacceptable acts.

Victims of bullying have a particular need for subsequent support and follow-up.
Organizational changes must also be considered, such as changes in routines, specification of roles, redefining duties in order to avoid similar incidents, dismissal or moving the bully to another part of the workplace where possible. In addition, it may be helpful to supplement with training sessions and seminars.

Experiences of working with small organisations; the case study organisations

In the UK small organisations are not often the subject of research or special attention when it comes to policy development and establishing new ways of working. They often rely on lawyers to draft their human resource management policies, which make the policies very legalistic and off-putting for employees to use. The result is that such policies probably disappear into a drawer and are never referred to until, or unless, a legal case arises, by which time it is too late for the policy to be of much help.

The default position for many small organisations is 'if ain't broke, don't fix it', in other words why worry about something until there is a clear problem to address. This can be costly for organisations because they risk, not only the time, trouble and stress that preparing to defend themselves at a tribunal causes but also the legal costs and risks to reputation that are entailed in such cases. This is particularly true of harassment and bullying cases because the media find these to be 'juicy' stories that they can milk to gain readers. There are also the knock-on consequences of facing a tribunal case – the effects on employee morale, lost productivity and the potential for further cases to follow on from the original one. This is because harassers and bullies rarely indulge in such behaviour as a one-off occurrence. They tend to be serial harassers or bullies. This means there will be other potential complainants in the workplace, who may feel more confident to take a case themselves. These are the dangers of allowing damaging and abusive relationships to take root in the workplace. For this reason a project that can help to prevent bullying and harassment occurring is invaluable for small organisations – they simply cannot afford the disruption it would cause.

The managers who agreed to take part in this project were open to discussing the potential for problems in their own organisations. Two of them already had policies; one had been drafted by lawyers, the other developed in-house. The third organisation had no such policy. However, they all shared a concern that they wished to avoid having such problems develop in their organisatons.

Initial discussions with relevant managers took place at each organisation. These were exploratory meetings, which sought to identify where there was potential for problems to arise. In each organisation it quickly became apparent that the traditional view of bullying in the workplace was inadequate for the multiplicity of new working arrangements that have developed in the UK economy over the last three decades. In that time the traditional full-time, long service employment, while still being more commonplace than is often recognised, has been supplemented by a whole new raft of flexible working arrangements. Added to this, many small organisations have been at the forefront of changes to the type of work commonly undertaken in the UK economy. Manufacturing has declined and service industry employment is now much more common. Small organisations have moved into these areas and now provide services, which bring many more employees into contact with service users, clients and customers than would have been the case with traditional manufacturing jobs.

This raises a whole new area of potential sources of bullying and harassment.

The case study organisations exemplify these changes. One was engaged in providing health and safety consultancy services to outside organisations, many of them in the defence sector, where questions of confidentiality and secrecy were paramount. Another of the organisations facilitated focus groups for a wide variety of clients. The third organisation was in the voluntary sector and provided services for a clientele that visited its premises.

The management structures of these organisations were also different from the norm. Five friends, with expertise in their area of operation, started the consultancy. The growth of the business required them to develop more in-depth management skills. This company identified potential problems with bullying and harassment that would be particularly difficult and sensitive to handle, namely, how do you protect employees who are working in client companies, often alone?

The second organisation, facilitating focus groups, had clients visiting the premises to use the facilities and support of the organisation's staff. They were foreign-owned and managed from a distance by people from a different culture. Again there was potential for harassment and bullying to come from clients who could often be demanding and unreasonable. The final organisation was a charity that was run by trustees, a different kind of management structure. The potential for bullying could come from within the workforce and from services users, using the facilities provided on-site. One unusual issue arose in identifying the potential for bullying of superiors by subordinates. In all cases, there was also the potential for bullying from superiors or colleagues too.

Discussions identified these potential problems and ways to amend existing policies to take account of these new areas of concern. It was also necessary to take account of the flatter management structures and differences such as where trustees would fit into the line of reporting where incidents of bullying or harassment occurred.

The project co-ordinators developed drafts of new policies based on these discussions. But, in addition, they conducted a survey to identify whether there were any problems that had not come to light in these organisations. There was some indication of underlying issues in all of the organisations. This evidence helped to focus minds on the need to both develop and implement these policies speedily so that any problems could be dealt with quickly and transparently.

As part of the process, once policies were agreed, the project co-ordinators ran training sessions at each of the organisation's offices. These varied. In some instances, it was just managers that were responsible for implementation who attended the training sessions. In one case the session was opened up to all staff, who were available at that time, to attend. In all cases the organisations found that the opportunity to discuss the policies and their implications in detail was a valuable exercise. They went away feeling more confident that they understood the issues, the potential for problems in their own organisations, but most importantly, they had a method in place for avoiding problems arising but if such problems did occur they felt more able to deal with them.

Responses from all the organisations were positive. They welcomed the expert help they had received and the special attention that focused on their specific issues. It is much more likely that these organisations will be able to stay at the 'green light' level and avoid problems with bullying and harassment as they are now in a position to convince employees that they will take such issues seriously and deal with them speedily. This should have a deterrent effect on anyone tempted to victimise his or her subordinates or colleagues.

WHERE CAN YOU FIND MORE INFORMATION?

ACAS
Acas National (Head Office),
Euston Tower,
286 Euston Road,
London NW1 3JJ.
Helpline on 08457474747
http://www.acas.org.uk

Chartered Institute of Personnel and Development
151, The Broadway
London
SW19 1JQ
Tel: 0208 612 6200
http://www.cipd.co.uk

HSE
Health and Safety Executive
Redgrave Court
Merton Road
Bootle
Merseyside
L20 7HS
http://www.hse.gov.uk/contact/index.htm

Note anything other than fatal incidents has to be reported online

TUC
http://www.tuc.org.uk/
Trades Union Congress
Congress House
Great Russell Street
London
WC1B 3LS
Tel: 020 7636 4030
Fax: 020 7636 0632

Links to literature

ACAS (2010) *Bullying and Harassment at work a guide for managers and employers*, HMSO

Giga, S. Hole, H. and Lewis, D. (2008) *The costs of workplace bullying* Unite/ Department for Business, Enterprise and Regulatory Reform (1)

Woodman, P. Kumar, V. (2008) *Bullying at work:2008 the experience of managers*,
The Chartered Management Insti

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www.afi.no   **www.stami.no**   **www.arbeidstilsynet.no**   **http://ec.europa.eu/education/**
lifelong-learning-programme/