Bullying - Taking Formal Action

The first step in addressing an allegation of bullying should be an informal investigation and discussion (which does not prejudge the situation) where the perpetrator is made aware of their actions and their impact on others. However, where this has failed, or an allegation of bullying is serious,[1] a formal approach should be adopted. If you are involved in the formal investigation of bullying, this article offers advice on the process you should follow to reach an objective conclusion and a fair outcome for all parties.[2]

Addressing bullying – what should you do?

As a manager, you have a duty of care to provide a safe and supportive environment for your team, where people feel able to come forward if they are being bullied. If you receive a complaint of bullying you should investigate it promptly, thoroughly and fairly. The legal implications of not addressing bullying effectively can be considerable, and can also result in:

- reduced team morale and employee disengagement
- poor performance (individuals and teams)
- higher turnover
- loss of respect and trust in management
- greater absence due to stress and/or depression
- negative publicity and damage to your organisation’s reputation resulting from lost tribunal claims

Your organisation may have an anti-bullying policy, dignity at work policy or grievance procedure which is used to investigate and address bullying formally. Before investigating bullying formally you should seek advice from your organisation’s HR department and take legal advice as appropriate. Your organisation’s formal process may contain more steps than the following, but as a minimum you should undertake the following steps:

Step 1 - Inform the employee of the problem in writing

- Let the employee know, in writing, the basis of the allegation(s) made against them.
- Invite the individual to a meeting to discuss the problem and ensure that they are notified of their right to be accompanied to the meeting.[3]
- Give reasonable notice of the meeting date and include copies of any supporting evidence or documentation.[4]

Step 2 – Hold a meeting to discuss the problem

- Hold the meeting in a suitable location, ensuring that there will be no interruptions. You may find it helpful to provide a break out room nearby, which individuals can use if they become upset and need to gather their thoughts.
- Explain the basis of the allegation(s) to the employee, referring to the evidence as appropriate.
- Allow the employee to respond, ask questions and raise points about any of the information that has been presented.

Step 3 – Determine course of action and offer right of appeal

- After the meeting you should consider all the information and decide what course of action is appropriate in the circumstances. You may find it helpful to take into account:
  - previous disciplinary record, any mitigating circumstances and action(s) taken in similar cases
  - general employment record
  - length of service
  - whether the intended action is reasonable in the circumstances
- Depending on the nature of the conduct, you may decide that some form of disciplinary action is necessary. This might take the form of:
  - a written warning
  - final written warning
  - dismissal
  - other sanction such as a demotion, suspension or transfer to another area of the business
  - training and counselling for the target of bullying and the individual accused of bullying behaviours
- You should then notify the employee of the decision, in writing, and offer a right of appeal. If the employee wishes to appeal, you should send a written invitation to an appeal hearing.
• The appeal should be conducted by a more senior manager who has had no prior involvement in the previous process.
• Remember to advise the employee of the right to be accompanied to the appeal meeting.
• Conduct the appeal meeting, consider their case and advise the employee of the final decision following the meeting.

Summary

If those responsible for investigating and addressing instances of bullying fail to conduct the process properly, this can create serious long-term problems not only for the targets of bullying, but whole teams and organisations. The process outlined above will help you investigate and deal with allegations of bullying in a fair and consistent way, and will encourage the development of a culture where bullying is not tolerated.

Find out more

The CIPD has conducted in-depth research into workplace bullying and has produced a practical tool to help managers address bullying effectively. The Tackling Bullying at Work: A Good-Practice Framework is available at: www.cipd.co.uk/subjects/dvsequl/harassmt/_tckbllyng.htm

[1] Serious bullying includes repeated physical or verbal abuse which humiliates or intimidates an individual and undermines their confidence.

[2] The information provided in this article forms the basis of the statutory minimum three-step procedure for resolving grievances as set out by the Employment Act 2002 (Dispute Resolution) Regulations 2004.

[3] Employees have a statutory right to be accompanied at a grievance or disciplinary meeting by a fellow worker or trade union official.

[4] Evidence might include emails, letters, witness statements or a report which summarises the time, place, witnesses and key facts of each incident.