

Unwarranted, unwelcome

Julian Topping, of NHS Employers, considers the issue of bullying and harassment in the NHS, and looks at what can be done to combat it in the future...

Over the last few years, NHS staff surveys have consistently identified staff-on-staff bullying and harassment as a key issue to address. The 2007 survey showed that 8% of staff had experienced bullying, harassment or abuse from their team leader, 18% experienced it from colleagues, and 26% experienced it from patients and their relatives. The NHS has already taken strong steps to eliminate this kind of behaviour in the workplace but it is clear that problems persist.

Bullying and harassment is not just a health service problem; it is being recognised as a problem across all employment sectors. The costs of bullying and harassment, if unchecked, can be high, and include increased sickness absence, low productivity, high staff turnover, costs of potential litigation, and damage to the reputation of the organisation. Add to this the fact that research has indicated that bullying and harassment can have the same negative impact on the observers as it does on the people being bullied, to the extent that observers may choose to leave the employer, and it is understandable why employers are now taking the issue so seriously.

At this stage, it is important to define the terms bullying and harassment, and the difference between them, as this is an area that often causes confusion.

ACAS defines the terms as follows:

Harassment: in general terms, is unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, sexual orientation, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

Bullying: may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

What is often not taken into consideration by employers is that bullying or harassment may be by an individual against an individual or involve groups of people. Also, by its very nature, it may be obvious, or it may be insidious. However, the message is clear: whatever form it takes, it is unwarranted and unwelcome to the individual, and employers have a duty of care to protect staff from it.



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Identifying levels of bullying

Even with these definitions, there is a problem in identifying the real levels of bullying and harassment in an organisation. Levels of bullying identified in staff surveys, such as the annual NHS staff survey, may not only reflect the actual level of bullying but what some employees perceive as being bullying. Some trusts have identified examples where employees who have been part of a re-organisation perceive the re-organisation as a form of bullying, and there have even been cases of staff who were prohibited from working 60 or 70 hours a week claiming that the prohibition was a form of bullying.

There is also evidence that whilst a proportion of what is being reported as bullying is actually something else, a lot of bullying goes unreported by employees. The 2007 NHS staff survey shows more than half of staff saying that they had not reported bullying although they knew how to, and only 40% saying that they believed their trust would take effective action.

Of even more concern in the 2007 survey is the finding that staff with disabilities are more likely to be bullied than able bodied colleagues, particularly by patients and their relatives.

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The legal situation

There is no legislation in the UK that deals specifically with the issue of workplace bullying and harassment. However, there is legislation that protects individuals from discrimination, which may apply in some cases of bullying, and these include the Sex Discrimination Act 1975, Race Relations Act 1976 and the newer legislation on age, sexual orientation, and religion or beliefs.

The general duties of employers 'to ensure as far as is reasonably practicable the health, safety and welfare at work of all their employees' is set down in the Health and Safety at Work etc Act 1974. This can be deemed to cover

bullying, and it is helpful for employers to be able to show that they have policies in place and in use for dealing with these issues.

Finally, the Protection from Harassment Act 1997 states that a person must not pursue a course of conduct that amounts to the harassment of another, and that they know or ought to know amounts to such.

Policy

The aim for all employers should be to place themselves in a position where they are not likely to be prosecuted, and where their employees know that bullying and harassment are not only discouraged but will not be tolerated.

All NHS organisations are recommended to have in place local policies for bullying and harassment. These should be easily accessible to all staff and managers, and monitored on a regular basis by senior managers. NHS Employers has published a model policy on their website at www.nhsemployers.org under the Healthy Workplaces section. This sets out not only the commitment of the organisation to reduce levels of bullying and harassment, but also the procedures for reporting incidents and the processes, both formal and informal, for dealing with them should they arise.

The future

Whilst NHS organisations have taken on board the need to reduce levels of bullying and harassment, it is obvious from the figures in recent staff surveys that there is still more work to be done.

One piece of work that is currently under consideration is some research to look further into the figures collected in the annual staff survey and to see what they actually represent. Alongside this, the occupational health and safety sub group (POSHH) of the NHS Staff Council is taking forward further work on developing advice and guidance for the service, and is looking to hold workshops based on the Royal College of Nursing Toolkit for managing bullying in the workplace. All of this work will be tied to National Ban Bullying Day, which, this year, will be on 7th November.

This is not an issue that is going to disappear quickly and it is likely to take several more years, and a much greater understanding of all the complex issues involved, before we can report that bullying and harassment on the present scale is a thing of the past for the NHS.

NHS EMPLOYERS



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Bullying and harassment

A zero tolerance approach...

Reducing bullying and harassment in the NHS by just 1% would save £9m annually, according to Personnel Today. However, bullying and harassment cases can be difficult to handle sensitively and fairly, so what are the key considerations to manage this growing problem of the modern workplace?

The Healthcare Commission advocates a zero tolerance approach and some of its recommendations to a number of NHS trusts have been met with success. A report in 2006 about bullying at East Sussex Hospitals NHS Trust raised issues that are common to many organisations – a lack of action by senior managers, complaints taking a long time to resolve, and employees being discouraged from making a formal grievance. The trust made significant progress by implementing a staff charter, a dignity at work handbook and training.

The business case for change

As a part of human nature, bullying can occur anywhere in the organisation and at any level. Some areas may have higher incidence levels, whether due to environmental pressures, the culture or clustered around specific individuals. The good news is that it can be tackled effectively, but the consequences of not doing so can be immense.

A survey by the Royal College of Nursing showed that one in six nurses has been bullied and a third planned to leave their job because of it. The public sector has the highest rate of bullying and harassment, 22% compared to a rate of 17% in the private sector, and the annual cost to

the economy is estimated at a staggering £13.75bn.

Bullying can have serious consequences on the wellbeing and morale of staff, showing itself in the organisation through trends such as increased sickness absence and staff turnover, and negatively impacting productivity and the quality of service.

The cold hard facts of the cost of bullying are hard to ignore. Prevention measures such as a robust policy and awareness training need to be standard. Good intervention can resolve cases early and informally, through the use of mediation, coaching, and appropriate and consistent sanctions when needed.

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Case study

One of our public sector clients was keen to implement anti-bullying measures following a recent staff survey and we were asked to provide training for all levels of staff. The training was strongly welcomed, as was the appointment of Contact Officers, seeing it as a move forward from a position a year before when it was felt the organisation denied that bullying happened and individuals had felt unable to speak out.

In short awareness training sessions held at a range of sites, staff came to understand what was considered to be bullying and harassment, where the line crossed between acceptable and unacceptable behaviour, and what they could do through informal and formal routes. We also trained nominated Contact Officers to support and advise individuals suffering from, or accused of, bullying.

More in-depth training was held with managers to look at their role and responsibilities to manage bullying within the organisation. Illustrating the difference between ‘managing’ and ‘bullying’ is important to us, as we recognise that three-quarters of complaints concern the relationship of manager to subordinate. Equally, though, we believe it absolutely key that our training empowers managers to do their job of managing people properly without being accused of bullying.

A strategic review was held with the organisation’s management team by our senior trainer and executive coach Elizabeth Moyles, FCIPD. The session was time to consider bullying and harassment within the organisation, not to treat it as a discrete issue but as part of the bigger picture. Nothing was mute or off limits, and it resulted in an increased awareness of how the day to day evolution of change and everything an organisation needs to do to get better can lead to bullying and harassment.

Poor change management, as an example, can lead to decreased staff engagement, trust and morale. Each of these impact on the culture and effectiveness of the organisation – and each of these can lead to

bullying and harassment. It can be a circular argument so whilst The Brown Initiative Ltd specialises in bullying and harassment, we recognise that the root causes that can cultivate and breed a bullying culture are multi-factorial and often environmental. We work with managers and leaders to help them understand and control these risks.

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Of course, we also looked at the behaviour of the management team as individuals too, and how a lack of performance management of service heads and communication issues had led to a perception of bullying. This increased awareness has already helped them to put subtle yet effective changes in place.

The impact on the level of bullying within the organisation will only be known with the results of the next survey, but feedback from all parties relating to subsequent complaints of bullying said that cases were dealt with well and that the new practices were working. Feedback also shows that staff now feel able to speak out, and managers have more confidence in dealing with complaints and are able to manage staff issues without wrongly being accused of bullying.

The legal position

Failing to deal with bullying can be very expensive. Helen Green was awarded more than £800,000 against Deutsche Bank after the judge had called her employer

‘obdurate and uncompromising’ in the way they had dealt with her case. A legal ruling from the House of Lords some months before Green’s case, *Majrowski vs. Guys & St Thomas’ NHS Trust*, confirmed that employers are vicariously liable for the actions of an employer under the Protection from Harassment Act 1997.

Statutory dispute resolution procedures were implemented to reduce the number of employment tribunals and encourage early mediation of disputes within the workplace. However, they have been the “biggest cock-up imaginable”, according to Ian Smith, Professor of Employment Law at the University of East Anglia, following the revelation that the number of tribunals had in fact risen by 15%.

Even organisations with few complaints of bullying are shrewd to recognise that just one case of bullying can have serious consequences and a small investment can be advantageous in promoting a positive culture.

Key points

We recommend a firm but fair policy as a base – one that recognises what constitutes bullying and harassment, makes clear the structure for dealing with it on an informal and formal basis, and gives guidance on the penalties for those who engage in harassment. A clear message that bullying will not be tolerated from the leadership is as important as ensuring that all levels of management make this a reality.

Bullying is one aspect of human nature, but we can encourage and influence better behaviour through the policies and procedures that we implement, and, where necessary, appropriate support or sanctions.

When considering an organisational approach, it is constructive to consider what message is really given to employees – any organisation

failing to follow the stated policies and procedures can leave a victim isolated and suggest that bullying is in fact tolerated, which can discourage others from speaking out.

Mediation over adversarial litigation can be very cost-effective, and can often get both parties to a working resolution quickly and enable the working relationship to continue. Better still is to equip nominated individuals with dispute resolution skills to deal with problems internally at a very early stage.

Working in partnership to tackle bullying

The Brown Initiative Ltd specialises in helping organisations to effectively tackle bullying and harassment, and offers a wide range of training options for all levels of the organisation. Our consultancy can provide advice and support on individual cases, coaching and mediation. We focus on the prevention, intervention and recovery stages, including returns to work.

Jo Anne Brown speaks and writes on the subject of bullying and harassment. If you are looking for a speaker for your conference or need an internal handbook written, then please contact us.

The Brown Initiative Ltd will be supporting Ban Bullying Day on 7th November 2008, and encourages all organisations to get involved.



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