

Tackling third-party abuse and harassment

A guide for trade union reps



Tackling third-party abuse and harassment at work

Introduction

No one should be subject to harassment, abuse or bullying at any time, let alone at work. Yet half of all workers have experienced either bullying, sexual harassment, abuse, violence, or a combination of these, while at work.

We believe that all workers have the right to be treated with dignity and respect at work. Any form of abuse, harassment or bullying is unacceptable, whether from a colleague, from a manager or from a member of the public.

This guide looks at this issue of third-party abuse and harassment and explains:

- What it is
- How it manifests and its impacts
- What unions and employers should do to prevent it

What does third-party mean?

A third-party refers to someone who a worker interacts with as part of their job but who is not employed by the same employer as them.

Some examples are:

- Customer – such as in a shop, a restaurant, a train passenger or a hotel guest
- Client – such as in a meeting, or when visiting someone's home to care for them
- Patient – such as in a hospital
- Business contact – such as in a meeting or at a conference
- Any non-directly employed staff, such as contractors or agency workers.

This list is not exhaustive, and includes other groups, such as parents who abuse teaching staff over email, for example.

What is abuse and harassment?

Abuse

Abuse can cover a number of behaviours, including verbal abuse and physical violence. There is no single definition of abuse in law, and can have different legal definitions depending on the context. It is often used to encompass a range of behaviours that may include harassment.

In this document, it is used as a wider term to incorporate abusive, harassing and bullying behaviours. The term harassment is

used to refer to behaviours defined under the Equality Act 2010.

Harassment

Workplace harassment has a specific definition under the Equality Act 2010. It is when someone's behaviour is meant to or has the effect of either:

- violating someone's dignity, and/or
- creating an intimidating, hostile, degrading, humiliating or offensive environment.

Harassment that is based on a person's sex, race, religion or belief, sexual orientation, disability, gender reassignment, pregnancy, marriage and civil partnership status and/or age is in breach of the Equality Act 2010.

Under criminal law, causing a person harassment, alarm or distress can be a criminal act and in certain circumstances the police can charge the harasser with a criminal offence. Under the Protection from Harassment Act 1997, victims of harassment can seek civil injunctions against behaviour that causes distress.

Bullying

There is no simple definition of bullying because it can take many different forms, but it can be seen as persistent offensive, intimidating, humiliating behaviour, which attempts to undermine an individual or group of people. Bullying is generally carried out face-to-face but can also occur in writing by telephone, text messaging, email and on social media. Usually if a person genuinely feels they are being singled out for unfair treatment they are probably being bullied, and there is certainly an issue that needs to be addressed.

Reps do not need to be legal experts to tackle abuse and harassment at work. The priority for trade unions should be to

prevent any abuse and harassment from occurring in the first place and working with employers to eliminate it from the workplace.

Abuse and harassment can take many forms: verbal abuse, physical violence, inappropriate touching, unwanted sexual advances, stalking, creating an intimidating environment for others, e.g. the display and/or sharing of offensive images. It can take place in the workplace as well as on site visits, on social media and forms of online communication such as emails, texts and messaging services, or during away days and social events arranged by the employer.

Even if behaviour is not intended to cause distress, it can still have the effect of violating a person's dignity or creating an offensive environment. Whether or not unwelcome behaviour violates someone's dignity or creates an intimidating environment depends on the victim's perspective.

Employer duties

The Health and Safety at Work Act 1974 states that employers have a duty to ensure the health, safety and welfare of their employees, which includes preventing abuse, harassment and bullying. This is the case for any risk to an employee's health and safety at work. An employer should act to protect a member of staff who is being abused or harassed by a third-party the same way as if they were being harassed by a colleague. However, some employers don't understand what their duties are and use the confusion as an excuse to do nothing. Other employers do know what their duties are, and still do nothing.

Previously, an employer could be in breach of the Equality Act 2010 if they failed to take

reasonable steps to prevent third-party harassment at work where they were aware of it having occurred on at least two occasions. This provision, known as Section 40, was repealed by the government in 2013. We believe this provision should be reintroduced and strengthened in the Equality Act.

The Employment Rights Act 1996 allows employees to claim unfair dismissal if they are forced to leave their job because of actions by their employer or a failure to deal with any complaint. This can include failure by the employer to protect their employees from bullying and harassing behaviour.

The extent of third-party abuse and harassment

Who is affected by it?

Any worker can be a victim of third-party abuse and harassment. Workers who interact with the public as part of their job are far more likely to experience abuse and harassment from the public than those who do not interact with the public by default.

Previous TUC research has shown a link between certain (public-facing) sectors and third-party harassment. For example, while seven per cent of women have reported sexual harassment from a third-party at work, this increases to 11 per cent of women working in retail and nine per cent of women working in health services reported that the perpetrator was a client or customer. 13 per cent of young women (age 18-24) said they had been harassed by a third-party.

Young people may be more likely to experience third-party abuse and harassment than older workers due to the sectors they work in, the roles they undertake and their relatively weaker

position in the labour market, such as being overrepresented in insecure work.

Wholesale, retail and the motor trade accounts for nearly one in six employees in the 21 to 30-year-old age group, for example, and the hotel and restaurant industry has seen an 80 per cent increase of employees in this age group over the past two decades. Labour Force Survey figures show that over one third of workers in this age group are in caring, sales and elementary roles, compared with one quarter of workers aged 31 and over. These jobs are likely to involve interaction with customers, clients, patients and other third-parties, and are typically more affected by low pay, insecure contracts and one-sided employer flexibility.

These reports, as well as others on the experience of black and minority ethnic and lesbian gay bisexual and trans discrimination, found that in cases where the perpetrator of harassment or discrimination is not an employee, victims may be more reluctant to report the incident because there is a perception that it will not be dealt with in the same way as it would be if the perpetrator were another employee.

Forms of third-party abuse and harassment

Verbal abuse is the most common form of third-party abuse that workers experience, such as from an angry customer or a drunk passenger. In a TUC survey of young mainly retail workers, verbal abuse and sexual harassment were the most common forms of third-party abuse and harassment. Over 10 per cent of this group reported physical violence. Respondents also reported experiencing racist and homophobic discrimination, as well as harassment about a disability, and stalking.

Cyber-bullying

Bullying, abusive or harassing behaviour that is carried out online, such as on social media, social messaging sites and apps and email, is called cyber-bullying. Research shows that cyber-bullying is on the rise as workers increasingly use technology, the internet and social networking, both as part of their work and in their personal lives. It is important to include cyber-bullying in any definitions of bullying, abuse and harassment when developing a workplace policy.

Frequency of third-party abuse and harassment

According to TUC polling of over 4500 workers,¹ for every type of third-party harassment, abuse or bullying that young workers experience, at least half have been subjected to the behaviour three or more times. Nearly two-thirds of those who had experienced verbal abuse from a third-party had experienced in the last 12 months. Nearly half of those who had experienced sexual harassment or physical assault from a third-party had experienced it in the last 12 months (46 and 47 per cent respectively).

Many of the survey respondents who had experienced sexual harassment listed incidents from several different third-parties as part of the same job, whereas some respondents talked about repeat offenders that were not dealt with by the employer.

Perpetrators of third-party abuse and harassment

TUC polling shows that over one third of the young workers who had experienced harassment, abuse or bullying at some point

at work had experienced it from a third-party. Of these, over half said they had most recently experienced one or more of these behaviours from a customer. Perpetrators of third-party harassment will vary between sectors and types of job. For example, retail and hospitality workers are much more likely to experience harassment from customers, nurses from patients, and teachers from parents.

Factors in third-party abuse and harassment

All workers whose job requires interaction with the public or third-parties are by default at a higher risk of experiencing harassment, abuse or bullying from third-parties. Unions should consider certain factors about job that can further heighten a workers' risk of harassment from a third-party.

Third-parties who consume alcohol may be a particular risk to workers in public-facing roles, for example, a customer may become abusive as a result of a worker refusing the sale of alcohol. This is a particular risk for workers who work over the weekend and/or late at night in public-facing roles, such as bar work or on transport.

Working alone can be a factor in third-party harassment. Harassment is about power and a perpetrator may exploit situations where a worker is more vulnerable, such as closing up a shop late at night by themselves, or carrying out maintenance services in someone's home without supervision or a safe system of work.

TUC polling and research shows that protected characteristics such as sex, race, sexuality, disability and pregnancy can be a factor in harassment, with workers reporting

¹ TUC, 2018. *Not part of the job: young workers' experience of third-party harassment*

sexual harassment and racist abuse, for example. Unions should always be aware of these factors, both when negotiating robust workplace policies that take account of diversity and equality, and when supporting individual members with cases of abuse and harassment.

The impact of third-party abuse and harassment

The impact of any form of harassment, abuse or bullying work can be severe. In many cases it can lead to stress and both physical and mental ill health. Work-related stress, anxiety and depression is the number one cause of workplace sickness, with 15.4 million working days lost in 2017/18.

The TUC's recent poll shows that nearly two in five (38 per cent) of workers who had experienced third-party abuse and harassment felt less confident at work as a result. Nearly one third (31 per cent) felt embarrassed and nearly one quarter (23 per cent) said it had a negative impact on their performance at work. Over one in five (22 per cent) said it made them want to leave their job, but they were unable to because of financial or other factors.

37 per cent reported that the abuse and harassment had a negative impact on their mental health, such as feeling more stressed, anxious, and/or depressed. 45 per cent of young women said it had a negative impact on their mental health.

Abuse, harassment and bullying at work is costly for both individual workers as well as employers. As well as a moral case, there is a clear business case for employers to eliminate abuse and harassment from occurring in the workplace. Employers who fail to tackle abuse and harassment

experience lost time by staff sickness, low morale and reduced work output and quality of service.

Reporting third-party abuse and harassment

Less than half of the workers we polled that had experienced third-party abuse and harassment reported the most recent incidence to their employer. A TUC survey of young workers who have experienced third-party abuse and harassment provided some insight into employer attitudes:

- Respondents spoke of supervisors and managers who dismissed the abuse and harassment, reduced it, or even laughed it off;
- Many respondents reported one or more perpetrators to their employer on multiple occasions, but no action was taken against them and the abuse and harassment continued;
- A significant number of respondents accepted the third-party abuse and harassment as part of their job, often trying to ignore it, or internalise it, despite the negative impacts on them;
- Respondents reported feeling it was easier to deal with - or decide not to deal with - the abuse and harassment themselves, rather than expect their employer to resolve it.

It is clear from the survey that in many cases, the lack of change as a result of reporting an incident to the employer in the past led some workers to stop reporting incidences altogether.

The role of employers

All workers should have the right to work in a safe environment free from discrimination or the fear of abuse, harassment and bullying. The responsibility of tackling all forms of workplace abuse, harassment and bullying lies with the employer.

Strengthen harassment prevention policies

Employers have a duty to ensure the health, safety and wellbeing of employees at work. Employers should act to prevent abuse and harassment from occurring, such as carrying out risk assessments for lone working, night working, travelling to and from work and workers opening or closing work premises. Mechanisms to help tackle abuse and harassment - such as the introduction of CCTV cameras - should be negotiated with a trade union to mitigate unintended negative consequences for workers.

Adopt a zero-tolerance approach to all forms of harassment, abuse and bullying

Many employers will think that they cannot do anything to stop third-party abuse and harassment - they cannot control the behaviour of a customer or of a patient. However, employers can control what will and won't be tolerated in a workplace. Employers should promote a zero-tolerance of abuse, harassment and bullying in all circumstances, whether the perpetrator is a member of staff or a third-party. For example, statements about not tolerating abuse and harassment of staff should be visibly displayed, using clear language, so third-parties can understand what action the employer will take if they breach it. Employers should ban abusive third-parties from using the service, and support staff with reporting abuse and harassment to the police. Employers should provide counselling and/or an Employee Assistance

Programme to support staff who have experienced abuse, harassment and or bullying. Policies and procedures should be clearly communicated to staff, including an explanation of their rights under the law, and monitored regularly for effectiveness.

Provide comprehensive training for all managers and supervisors to ensure proper support for staff

It is clear from our research that many managers and supervisors do not deal with reports of abuse and harassment from third-parties appropriately. As a bare minimum, reports must be taken seriously, and employers should be accountable for following the policies and procedures to prevent it in the future. Employers should be clear what they expect managers and supervisors to do to support their staff, and the steps they will take if this is breached. Comprehensive training should be provided to all managers and supervisors on supporting their staff and using the reporting procedure. Guidance about responding to cyber bullying should be developed and included in the training.

Employers must not victimise employees who report harassment

Under Equality Act 2010, an employer could be breaking the law if they treat an employee less favourably following a complaint of harassment. This is called victimisation. This also applies if a colleague or union rep is victimised by the employer for helping someone to make a complaint.

Sometimes, an employer might treat a victim of third-party harassment unfairly because they are perceived as being "difficult" or causing problems in a workplace after reporting harassment. TUC research shows examples of employers reducing or withholding the number of hours they offer a worker following a complaint about abuse or harassment.

Employers must not victimise employees who make a complaint about harassment, or anyone who assists someone to make a complaint, as they are in breach of the Equality Act.

The role of unions

Unions are well placed to ensure robust implementation of new policies and training, gauge staff satisfaction and monitor and measure the effectiveness of any changes in the workplace.

Negotiate robust workplace policies

Any policy that aims to tackle harassment, abuse or bullying should clearly define the behaviours, and recognise the employer's duty to prevent and/or deal with any abuse and harassment from third-parties. Unions may want to collect anonymised information about members' experiences of third-party harassment, abuse or bullying to help strengthen their negotiations with the employer.

Ensure members know what support unions can provide

Trade unions should publicise the support they can offer to members in all cases of harassment, abuse and bullying using a variety of channels so everyone can access support no matter what their job, location or contract type.

Survey members to assess the scale of the problem

Regular surveying of members can gather evidence on the scale and extent of third-party abuse and harassment in the workplace. Any survey must be strictly confidential, but any overall findings from the survey should be shared with staff. The results can help employers develop policies

to prevent abuse and harassment and as well as identify how to remove any potential barriers that staff face in reporting it.

Training for reps

All workers have a role to play in ensuring workplaces are safe places to work. Dealing with any form of abuse, harassment and bullying – not just from third-parties – is an important part of a reps training. Unions should ensure that reps are up to date with relevant training to ensure unions can sufficiently support members. This is especially important for health and safety reps to ensure robust workplace risk assessments.

Find out more

For more information go to:

tuc.org.uk/reportit

The TUC has guidance on:

- [tackling sexual harassment](#)
- [bullying at work](#)

These are available to download from the TUC website.