

Seeking better solutions tackling bullying and ill-treatment in Britains workplaces

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Disclaimer

This is an evidence-based paper produced by Justine Evesson and Sarah Oxenbridge from Employment Research Australia and David Taylor from Acas.

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Introduction

Workplace bullying is a serious problem in Britain's workplaces. It is a source of considerable individual suffering and weakens the performance of organisations. Yet, despite a growing awareness of the negative outcomes associated with bullying, and of the significant wider costs to society and the economy, its complexity continues to pose a challenge for those seeking to prevent and manage such behaviours in the workplace. It is also clear that in many workplaces bullying is not taken seriously enough.

While the closely related concept of harassment is grounded in legal definition (in the Equality Act 2010 and other legislation) and has associated legal protections and recourse, there is no standard definition of what is considered to be an act of bullying. Notions of what constitutes bullying behaviour can vary widely according to context and the perceptions of the people involved: what may be considered reasonable management action by one person may be experienced as bullying by another – and the options for resolution can be correspondingly unclear.

Reflecting the nebulous nature of workplace bullying, Acas provides a broad description of it as 'offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient' (Acas 2014:1). However, in the most recent British survey data an even broader definition is now being adopted, to measure a range of behaviours under the banner of ill-treatment, interpersonal conflict, or unacceptable and unwanted behaviours.

(Note: This paper does not specifically consider issues relating to aggression and violence directed at employees from the public, although it is recognised that this is a significant problem in some sectors. There is a wide literature on this related issue.)

The aim of this paper is to consider how bullying and ill-treatment might be tackled more effectively in Britain's workplaces.

We:

- examine the prevalence, causes, and costs of these behaviours, common workplace strategies to prevent and respond to them, and the reasons why these often fall short
- argue that a reliance on workplace policies which place the onus on individual grievance processes is an insufficient framework for successful prevention and resolution
- consider alternative options for dealing with bullying and ill-treatment through more proactive workplace strategies and organisation-level interventions, presenting a summary of best practice approaches that have been found to be most successful
- ask whether public policy responses might encourage the adoption of such approaches more widely in Britain's workplaces.

The paper updates an earlier Acas policy paper on workplace bullying and harassment by Professor Duncan Lewis (Lewis 2006). It draws on published academic and policy literature along with data drawn from:

- Acas's helpline data collection system
- 2 focus groups of Acas helpline advisers
- transcripts of 40 calls made to the Acas helpline relating to bullying
- interviews with Acas senior advisers

Key messages

- Representative surveys of workplaces, employees and health and safety representatives all indicate that the problem of workplace bullying and ill-treatment is growing in Britain.
- Research and calls to the Acas helpline reveal that bullying, ill-treatment and other unwanted behaviours can manifest in a wide variety of ways in the workplace – with serious impacts on individual wellbeing, organisational performance and the economy.
- Anti-bullying policies are widespread in Britain's workplaces, but these have fallen short in reducing the overall prevalence of bullying.
- Research consistently shows that bullying is most common in organisations with poor workplace climates; it is best prevented by strategies that focus proactively on ensuring worker wellbeing and fostering good relations, giving employees and managers the confidence to engage in early and informal resolution.
- The question of a public policy response is not straightforward; viable ways forward may include the development of enhanced guidance, perhaps in the form of a new code of practice, and a high profile campaign to raise awareness.
- An open and informed public debate on these and other potential solutions is timely if wellbeing and performance in Britain's workplaces are to improve.

Key statistics

- In 1998, managers in 7% of workplaces reported grievances raised concerning bullying or harassment issues – this rose to 8% in 2004, and to 11% in 2011 (WERS).
- The Acas helpline receives around 20,000 calls relating to bullying and harassment each year.
- The economy-wide impact of bullying-related absenteeism, turnover and lost productivity in 2007 was estimated as £13.75 billion and a 1.5% reduction in overall UK productivity – equating to a financial impact on GDP of approximately £17.65 billion (Giga et al 2008).

The workplace bullying problem in Britain: its extent and nature

Bullying prevalence

Estimates of the actual prevalence of workplace bullying in Britain vary due to the difficulties in clearly defining an experience that is shaped by individual perceptions, and the challenges of measuring it. As Dix et al (2012) observe, bullying and harassment "represent aspects of negative behaviours that may not be easily labelled and thus may not be transparently reported".

There is therefore no single benchmark for assessing the incidence of workplace bullying. Instead, the literature provides a wide range of measures and accounts of how much bullying is taking place, over a range of time periods.

However, representative time series surveys of workplaces, employees and health and safety representatives all indicate that the problem has been growing.

The Fair Treatment at Work survey of employees reported that, in 2005, 4% of respondents had personally experienced bullying or harassment in the previous 2 years, increasing to 7% of employees by 2008 (Fevre et al 2009).

A similar increase was reported by managers in the Workplace Employment Relations Study (WERS) series. In 1998, managers in 7% of workplaces reported that there had been grievances raised concerning bullying or harassment issues in the year prior to the survey (Kersley et al 2006). This proportion had risen to 8% in the 2004 survey, and to 11% in 2011.

(Note: WERS analysis is based on workplaces with 10 plus employees and was undertaken by John Forth at NIESR. The increase between 2004 and 2011 is statistically significant at the 1% level. See also the TUC's biennial surveys of union safety representatives, which indicate a significant increase in the extent to which safety reps across all industry sectors identify bullying and harassment as a top 5 hazard/concern in their workplace - growing from 37% in 2010 to 46% in 2014 (TUC 2014).)

Fevre et al (2011) found that narrow definitions of bullying masked the more damaging extent of 'ill-treatment' that was taking place in British workplaces. Using this broader definition, their 2008 survey, with a random sample of employees, revealed prevalence higher than that estimated by previous studies:

- 47% of employees reported having experienced unreasonable treatment over the previous 2 years (that is being treated unfairly, being given an unmanageable workload, having opinions or views ignored)
- 40% had experienced incivility/denigration and disrespect (humiliation, insults, rudeness, teasing, shouting, intimidation and threats)
- 6% had been subjected to violence in the workplace (violence, or injury as a result of violence or aggression in the workplace)

The incidence of bullying and ill-treatment (particularly violence from members of the public), as well as grievance and disciplinary cases related to bullying and harassment, is consistently found to be greater in public than in private and voluntary sector workplaces.

There are also particular occupational groups or sub-sectors where the incidence is higher. These include:

- public sector ethnic minority workers;
- professional/ associate professional and management occupations
- women in traditionally male-dominated occupations
- workers with disabilities or long-term health problems
- lesbian, gay, bisexual and transgender people
- workers in health care

[Data on those calling the Acas helpline about bullying and harassment \(PDF\)](#) reflect these findings and also show a steady demand for advice (Note: The authors also had access to a separate analysis of the dataset).

In 2014 to 2015, Acas helpline advisers took in the region of 20,000 calls on topics relating to bullying and harassment, a rate that is broadly consistent since 2010.

(Note: Acas's current helpline data capture system was introduced in 2009 so it is has not been possible to produce comparable data going further back.)

Also consistent with patterns from 2010 onwards, the great majority (82%) of these calls in 2014 to 2015 came from employees, with another 12% from third parties on behalf of employees. Only around 1,000 of the 2014 to 2015 calls (around 5%) came from employer-side callers.

(Note: This consistently small proportion of employer callers enquiring about bullying and harassment prompts an important question: since managers are known to feel the ill effects of being bullied and of handling bullying cases, do they know their options for seeking advice?)

Most came from callers who were at the stage of taking formal action (59%), and around a third (32%) at the stage of informal action.

It is not clear to what extent this evidence indicates that bullying itself (as defined, for example, by Acas) is actually on the increase, whether the emergence of cyber-bullying may have played a part, whether workplace expectations of acceptable behaviour are changing, or whether people have become more willing to speak out. In any of these cases, however, it is clear that the evidence points to a significant problem in Britain's workplaces, and one that needs to be better understood and addressed.

What bullying and ill-treatment look like

Fevre et al (2011) provide a comprehensive review of the wide range of ways in which bullying and ill-treatment can manifest in the workplace. To add to this evidence we reviewed a sample of calls to the Acas helpline and insights from focus groups of Acas helpline advisers. Confirming Fevre et al, this provides a glimpse of very diverse experiences of ill-treatment in the workplace, and of the complex array of issues that can arise in these situations.

(Note: As callers to the Acas helpline represent only a subset of those experiencing bullying and ill-treatment at work, that is those who have taken the step of seeking external information and advice, they may not reflect the full range of experiences that occur in the workplace around these behaviours.)

Many of the calls to the Acas helpline fell into 2 distinct categories: those where people mentioned bullying in a context of being sensitive to managerial action, but where it was not clear from their accounts that bullying (under the Acas definition) could be established; and cases where bullying was clearly apparent from the accounts given, ranging over a wide terrain of both overt and covert treatment.

Individuals on the receiving end of unwanted behaviour described conduct such as being yelled at, eye-rolling, verbal abuse, being 'talked down to' in a humiliating way in front of colleagues, as well as more concerted patterns of ill-treatment such as ostracism ('being sent to Coventry'). Issues raised by callers often centred on ill-treatment by direct supervisors, frequently building to the point where individuals dreaded going to work, and where their home and family life had been affected. Many were on leave or had recently taken leave to 'escape' the workplace, to allay the work-related stress and anxiety they were experiencing.

Allegations of ill-treatment were frequently accompanied by other complicating factors. Issues raised by managers regarding work performance and ill health could be followed by counter-allegations of ill-treatment and unfairness. Alternatively, individuals' health or their capacity to perform work was being affected by their experience of bullying and ill-treatment by colleagues or managers.

Similarly, there were cases where allegations of bullying were met with or followed on from disciplinary or grievance procedures. In some instances callers described how they felt caught in a tit-for-tat escalation of formal processes while the root causes of conflict remained unresolved.

Several callers described bullying behaviour following on from the souring of personal relationships between colleagues, including some employers who were seeking advice on handling peer-to-peer bullying amongst their staff. In other cases, long-term employees

found themselves subject to perceived ill-treatment following changes in management personnel, with previously valued employees expressing their dismay at their apparent 'fall from grace'.

Often there was a loss of confidence on the part of those on the receiving end of unwanted behaviour, and a reluctance by some to name their problem as 'bullying'. It was not unusual for individuals to have held back from taking action on ill-treatment, in some cases absorbing the impacts for several years, and to seek advice from Acas only when it had already taken a significant toll on their health and wellbeing.

Calls from employers and managers were often prompted by a formal grievance having been raised concerning bullying or unfair treatment, or where such allegations had been made in the context of ongoing disciplinary proceedings. Many were unsure about how to proceed without making the situation worse, or were unclear about the potential legal consequences of any action they may, or may not, take.

It was also apparent that employees could be confused about formal processes in the context of bullying situations – often being uncertain of the nature, purpose or the legal status of documents they had received, or of meetings they were being called to. This added more stress in already testing circumstances, leading in some cases to greater trepidation, a sense of insecurity, and a further breakdown in trust in the workplace.

Some employers tended to conflate bullying and harassment, using bullying as an umbrella term for both sets of behaviour. Others were aware of the distinction, and that harassment was unlawful, but were unaware that bullying can become harassment when a protected characteristic is involved.

Conflict was often exacerbated by different interpretations of what was reasonable behaviour in an organisation. Since what one person considers 'ill-treatment' could be regarded as 'strong management' by another, managers and others accused of bullying could sometimes shrug off allegations as merely issues of management style or of personality clashes.

It appeared from both employee and employer callers that there could be a tendency to underestimate the serious nature of bullying, with colleagues or managers downplaying offensive conduct from staff as "that's just the way they are" or "they're like that with everyone".

The causes of bullying: the significant impact of organisational climate and culture

Since Duncan Lewis's paper for Acas in 2006, new work has improved our understanding of the antecedents of bullying and unwanted behaviour in the workplace.

A substantial research literature is emerging on incivility, which manifests as low level negative behaviours such as rudeness, disregard for others, or treating others with disrespect - but which may not be considered 'extreme' enough to constitute bullying. However, research finds that these negative behaviours often overlap with bullying and, where left unchecked and unmanaged, contribute to the creation of cultures that tacitly accept bullying.

Research has consistently shown that workplace bullying is most common in environments with poor workplace climates. It is most often instigated by someone in a more powerful position than the target, frequently directed downward from a manager or senior manager to a subordinate. Studies of individual characteristics that might predispose people either to be bullied or to be bullies – for example, higher social anxiety, lower self-esteem, aggressiveness, or thoughtlessness – do not present a definitive overall picture.

However, where links have been drawn with specific personality traits it has also been found that the context is critical – that traits associated with bullying may not be displayed unless brought to life in workplace environments in which the behaviour is ignored, tacitly encouraged, or seen as positive.

It is, therefore, clear that organisational level factors are central to identifying causes and developing suitable solutions.

Organisational climates or cultures can institutionalise and 'normalise' ill-treatment and bullying behaviours. As noted in the Fevre et al research, some organisations appear to implicitly permit bullying as 'the way things are done' – with a resigned acceptance to the fact of ill-treatment pervading the workplace.

Illing et al (2013) also describe how organisational cultures may authorise or even indirectly reward negative behaviours: staff learn what behaviours are acceptable through socialisation, and new employees see others behaving in this manner and think it is acceptable, or even the 'right' approach.

Poor job design, work intensification, job stress, workplace conflict, job insecurity, cultures of self-interest, and institutional power imbalances have all been identified as organisational factors that can underpin and perpetuate work climates conducive to ill-treatment and bullying. For instance, where job design and work organisation lead to high job demands and low job resources or limited autonomy – for example through the use of unreasonable workloads, targets and deadlines – this can correlate with high degrees of work stress and greater risk of ill-treatment.

Pressures arising from restructuring and organisational change have likewise been closely connected with increased rates of reported bullying – in particular where there is rapid and radical management-led change, driven by cost and productivity considerations. Links have been drawn, for instance, between increases in bullying in the public sector and austerity measures and their impacts.

Issues around managers as the perpetrators of bullying are also interlinked with wider organisational factors. In some extreme workplace environments, bullying can actually be seen as a rational strategy to deliver outcomes, and as such actively encouraged as a valid managerial technique. More broadly, research finds that an organisational climate both influences, and is strongly influenced by, the behaviours and values of managers, and their commitment to supporting (or not) the wellbeing of staff.

Managers in some organisations are caught between poor systems and stressed employees, becoming the 'scapegoat' for organisational dysfunction, or they may be driven by organisational pressures and the behaviour of managers above them to both receive and adopt a bullying approach.

Specific leadership and management styles are often found in organisations with cultures of ill-treatment and bullying. These include autocratic styles, where force or pressure is used to achieve targets.

Research also finds that 'laissez faire' or passive leadership can be the most destructive management style: for example, where managers avoid dealing with conflict, thereby creating fertile ground for bullying. Arbitrary and inconsistent application of rules by managers, where this leads to unpredictability, can also be experienced as bullying.

And, consistent with the experience of callers to the Acas helpline, research points to a strong crossover between bullying, performance management, and the poor management of sickness and absences – which in some cases can become a 'vicious circle' (Taylor 2013).

The high price paid by individuals, organisations and the economy

The cost to individuals

While some individuals will be able to successfully challenge bullying and unwanted behaviours at work, the impact on others can be devastating.

Research has found that people bullied at work can experience a range of psychological and physical health problems, often affecting their relationships with family and friends, and for some, resulting in post-traumatic stress disorders. Those who witness bullying and its impacts may be equally affected. In more extreme cases, helpline advisers reported that callers had related how workplace bullying led to them self-harming or contemplating suicide.

Targets of bullying may also experience work impairment, and a loss of income where they are forced into lower paid jobs or out of the workplace altogether. In some cases, careers can be undermined. The following caller to the Acas helpline described his sense of helplessness following a breakdown in relations with his immediate supervisor:

"I just hate coming to work every day because I know I'm going to have to face all this extra stress. I just want to jack the job in, I can't cope with it. I've never felt this stressed in my life before. I really just want to hand my notice in, but I've got children to support. I feel stuck between a rock and a hard place. My partner hates me going into work as well, she knows how upset I am and how stressed I am. I don't know what to do."

The cost to organisations

In addition to the human cost of ill-treatment and bullying, there are also compelling business reasons for organisations to do what they can to prevent it. Direct and indirect economic costs to organisations stem from the impacts on bullying targets as well as witnesses, and include the costs of:

- sickness absenteeism (commonly, prolonged spells)
- labour turnover (including the loss of people who are trained and experienced, together with the costs of recruitment, training and development)
- lower organisational performance and quality of service (resulting from the impact on morale, motivation and commitment to the organisation)
- reduced productivity (including where lower work output results from disruption caused by staff transfers and the initially lower efficiency of replacement employees)
- employee assistance/counselling and occupational health costs
- industrial action and unrest (stemming from organisational bullying or a high number of bullying cases)
- loss of public goodwill and reputational damage
- lost organisational resources and management time (spent on investigation processes and preparing for complex grievance, disciplinary or other procedures)
- financial penalties and compensation costs, as well as the costs of litigation (incurred where bullying or harassment complaints progress to legal proceedings)

The cost to the economy

Given the pervasive extent of the individual and organisational costs outlined here, it can well be imagined that the broader social and economic costs will not be insignificant. As one helpline adviser observed:

"The number of people you get (calling the helpline) who either are genuinely suicidal or are on medication, or long-term absent, when you think about how many that does actually represent across the UK, the cost to the UK economy and to the NHS and to everything like that must be absolutely enormous."

Indeed, research confirms this. For example, in making the business case for tackling bullying, Giga et al (2008) estimated the economy-wide aggregate costs of bullying-related absenteeism, turnover and lost productivity in 2007 as £13.75 billion and a 1.5% reduction in overall UK productivity – equating to a financial impact on GDP of approximately £17.65 billion.

The limitations of traditional approaches to handling bullying

The strategies for dealing with bullying that are favoured by the large majority of employers in Britain include the development of anti-bullying policies, and then training managers in their application (CIPD 2005; Fevre et al 2011).

This approach predominantly relies on bullied individuals pursuing the matter and driving the resolution – the onus is on the individual to raise an issue in line with the workplace policy, including moving to a formal grievance if their concern is not resolved. It is in reacting to such a complaint that managerial capability then comes into play, in handling it well or otherwise.

However, while anti-bullying policies are widespread in Britain's workplaces, it would appear, as we have seen, that this has not led to an overall reduction in bullying. Efforts to upskill supervisors and managers to apply policies and better handle workplace conflicts have likewise fallen short.

In fact, too heavy a reliance on this kind of approach flies in the face of current research evidence about the limited effectiveness of using such individualised processes to resolve allegations of bullying and to prevent bullying behaviours. Each stage of this kind of process meets with challenges when it comes to addressing bullying situations in the workplace.

An onus on individuals pursuing resolution

In the first place, as a backdrop, research points to a widespread lack of faith among employees that conflicts in general will be resolved in their organisation.

In a recent CIPD survey of employees' experience of conflict, for example, only 30% of survey respondents felt that their organisation had effective procedures for resolving workplace conflict, while 27% disagreed or strongly disagreed that procedures were effective (CIPD 2015a).

When it comes to bullying more specifically, experts and researchers are clear that relying on individuals to speak out on bullying is problematic. Survey data consistently shows low levels of reporting by those being bullied. A range of reasons for this has been identified, including "embarrassment, fear of losing one's job, fear of reprisal, distrust of the hierarchy, not wanting to be seen as a troublemaker, lack of trust in the complaint handling procedure, low self-esteem, guilt about having possibly encouraged the bullying behaviour and social conditioning" (Caponecchia and Wyatt 2011).

Calls to the Acas helpline indicated a similar range of barriers to individuals making complaints – foremost of which was the fear that trying to do something about the unwanted behaviour might just make the situation worse.

Barriers to informal resolution

A further problem is that, despite strong consensus in the research literature that early and informal intervention is critical in both preventing and managing bullying (Illing et al 2013), individuals can encounter obstacles to instigating such intervention.

Some callers to the Acas helpline described making informal approaches only to have them blocked, for example by managers or HR practitioners insisting that they made their complaints formal if they wished them to be taken forward. Initiating an informal approach can also be particularly difficult for an individual when the accused bully is their direct manager, or the owner-manager of the business.

The accounts given by helpline callers and advisers suggest that there can also be reluctance amongst managers to engage in informal resolution in bullying cases. This reflects wider current research which finds that line managers often lack confidence, training and experience in managing conflict, and may face an absence of support from senior managers.

The result, according to Saundry and Dix (2014:486), is that "difficult issues are often avoided or handled [by managers] in a rigid and prescriptive manner as the threat of litigation and consequent ramifications for career progression encourage a risk-averse approach to disciplinary and grievance issues".

Barriers to formal resolution

Reliance on the use of formal processes, however, presents further problems in trying to address bullying behaviours. Results of the aforementioned CIPD (2015a) survey of employees who had experienced interpersonal workplace conflict, confirm the widely-

established point that formal grievance and discipline channels do not tend to suit these more 'relational' conflicts.

It was found that those surveyed who were subject to bullying and harassment or personality clashes, or were in conflict with their line manager or senior managers, were less likely to seek resolution via formal grievance and discipline procedures, and more likely to try to discuss the matter with a manager, HR manager, employee representative or union official, or to simply look for a new job.

Calls from employers to the Acas helpline also confirm wider research in highlighting several issues relating to the use (or avoidance) of formal processes in bullying situations:

- inexperienced managers can feel they lack the skills to go through the complex grievance and disciplinary processes that bullying allegations may involve
- there can be pressure (implicit or overt) during investigations to find 'against' the bullying complainant – for fear that an admission that bullying has occurred will open the door to tribunal claims
- there may be reluctance to deal formally with bullying perpetrators where they are perceived to have significant value to the business – even where it is conceded that serious breaches of conduct have likely occurred
- employers alerted to relational difficulties can favour simply moving staff around, rather than formally investigating and dealing with the underlying unwanted behaviours
- employers will sometimes even enquire as to options within the law to terminate the employment of a 'troublemaker' – whether they are the alleged or the alleged bully – to avoid having to get involved in protracted and complicated grievance or disciplinary processes around the bullying allegations

Fevre et al (2011) point out further that, even where line managers are recognised in a workplace policy as playing a critical role in managing ill-treatment, they may receive mixed messages about the relative importance of anti-bullying measures in terms of the organisation's priorities.

Indeed, given that success in tackling unwanted behaviours is rarely part of managers' performance metrics, they are likely to concentrate their energies on other areas of accountability – such as meeting targets – so that management practice can be at odds with the principles in an anti-bullying policy.

A seemingly remote legal recourse

For all these reasons, even in those organisations that have an anti-bullying policy, it remains that many people may, in practice, see no viable course of action open to them to flag bullying and have it stopped. Acas helpline advisers have found that some callers who find themselves in this situation will contact the helpline in the hope that some external party may be able to intervene on their behalf.

This can be seen in the following response from an adviser who, having discussed with a caller a range of potential avenues towards resolution, found that the caller had no confidence in any of them and was asking what else could be done to help him:

"(You) may be looking for something unfortunately that may not be there. There's no legal enforcement agency that would come in to tell the employer how to behave."

Without faith in the viability of exploring a workplace solution, the only recourse that appeared to be open to this caller – other than simply putting up with the situation, or leaving his job – was nevertheless to make a formal complaint, ride out the associated trauma he felt sure that process would bring, and if that failed to resolve matters, consider whether he had grounds to leave his employment and pursue a constructive unfair dismissal claim.

A similar juncture of 'put up with it or resign' had been reached by other callers who had previously tried and failed to achieve a resolution to their bullying situation. These options were understandably considered remote and untenable by most callers, who simply wanted the treatment to stop.

Another helpline adviser described the distress that this caused some callers:

"When you say to someone who is suicidal, 'well there's not much you can do (legally) apart from resign', that just triggers off all that emotion. And I've had people say to me, 'Oh well I've been bullied for the last 2 years - I might as well just go kill myself. What does it matter to you?' And I've had people say that because it's that sense of frustration – 'there's no good options, there are no laws, there's no way it's regulated'. It's really quite sad when you think about it."

In sum, while policies and training are doubtless essential components of effective strategies for addressing bullying in the workplace, there are significant obstacles to resolution at every stage of the process that such policies typically provide.

It is perhaps not surprising, then, that research has generated no evidence that, in isolation, this approach can work to reduce the overall incidence of bullying in Britain's workplaces.

What works better? Comprehensive organisational responses

What more, then, can be done? In their review of bullying research, Illing et al (2013) point out that, since the success of a conflict management strategy is highly dependent on other contextual factors in workplaces, a consideration of context is vital if an effective strategy is to be achieved.

As we have seen, the workplace climate is critical when it comes to bullying and ill-treatment – therefore, these behaviours are best prevented by means of organisation-wide strategies that focus proactively on ensuring worker wellbeing and fostering good workplace relations.

The long running research programme conducted by David Lipsky and colleagues in the US, for example, has established that the most advanced organisations, in respect of managing workplace conflict in general, are those with 'integrated conflict management systems'. These are multi-stranded strategies for preventing and resolving conflict at multiple organisational levels, with frontline managers and supervisors not only trained to react to complaints, but explicitly given responsibility for preventing conflicts from arising (Lipsky et al 2003).

Encouraging organisations to view workplace conflict strategically is also an agenda that Acas has done much to advance in Britain, via a programme of research and commentary, as well as its through practical services aimed at helping employers address conflict in the workplace using proactive and innovative approaches (see, for example, Dix and Oxenbridge 2004; Saundry et al 2014).

These kinds of approach have been found to be better at safeguarding organisations from the costs attached to workplace bullying, with recent case study research highlighting the benefits of such systems across a diverse range of sectors in several countries including Britain (CIPD 2015b; Fevre et al 2012; Hamberger 2012; Latreille and Saundry 2015).

What does best practice look like?

A review of the evidence and literature, together with practical insights drawn from Acas senior advisers, indicates that the most successful way to address unwanted behaviours in the workplace is to ensure that there is a culture of trust in the organisation: where people, both bullying targets and witnesses, can be open and confident about reporting problems; and where individual and collective concerns about bullying are identified and addressed as early and quickly as possible, through supportive and fair processes.

(Note: Evidence has been drawn from a wide range of sources, but especially influential are the aforementioned case studies of integrated conflict management systems, as well as Fevre et al (2011), Osatuke et al (2009) and Zimmerman and Amori (2011). In addition to the Acas data noted above, insights on best practice approaches have also been drawn from interviews conducted with Acas senior advisers which are profiled in Oxenbridge and Evesson (2013).)

To achieve this, a package of strategic interventions will usually be required. While the appropriate approach will differ from one organisation to another, the following summarises some of the key approaches that have been found to be most effective:

- bullying and ill-treatment should be viewed as an organisational problem requiring an organisational response, rather than being seen as ad hoc conflicts between individuals
- an organisation-wide commitment is required to align behaviours with values centred on respect and wellbeing
- behavioural standards should be developed in collaboration with employees, and role-modelled by senior managers – these should address what is and is not acceptable, with reference to individuals, teams and the workplace as a whole
- agreed behavioural standards should be regularly promoted, reviewed and updated – in some organisations, behavioural standards can become more embedded where they are tied to performance objectives, or reward or progression outcomes
- practical measures for the early identification of bullying behaviours are critical – collating information from informal and formal complaints, diagnostic surveys, and confidential 'consequence free' exit interviews can help identify patterns and enable targeted action on contributory factors, such as management practices, workloads or change
- people should feel empowered to talk more openly with each other about the line between acceptable and unacceptable behaviour; employees at all levels should feel able to 'challenge' unwanted behaviours that they receive or witness. Introducing informal terminology, such as 'yellow card/red card behaviour' (analogous to football), can make it easier for employees and managers to flag potential bullying in its earliest stages
- well-resourced and informed support structures should be in place to provide assistance to those experiencing bullying, and to managers responding to bullying; these might include HR or occupational health staff, bullying or fair treatment officers, or union representatives – people should be aware of this support as an informal channel for reporting bullying, and support should also be offered as part of any formal procedure
- informal resolution should be encouraged wherever appropriate; this includes encouraging open conversations in teams and between individuals, and ensuring that line managers are equipped to be proactive and responsive – in some circumstances, mediation can help in finding agreement on acceptable future behaviours
- formal procedures still need to be in place for situations where early resolution does not work; these need to be clear, accessible and inclusive, and their use not discouraged by restrictive definitions of when they are appropriate
- managers at all levels must have strong people management skills and emotional intelligence – this may require training to give managers the confidence and skills to recognise the causes and signs of ill-treatment, to engage effectively in early, informal and formal resolution, and to sensitively manage change; these capabilities should be incorporated within managerial recruitment and performance processes
- managers should be aware of how easily management action can cross over into, or be perceived as, bullying – it should be ensured that performance management and sickness absence policies and practices are consistent, clear and fairly applied.

Encouraging best practice: what public policy options might be considered?

While some organisations will be motivated to introduce anti-bullying change programmes for ethical and moral reasons (Lewis 2006), it might be expected that the primary motivator for most businesses will rest on cost considerations. Indeed, research by Lipsky and colleagues demonstrates this, finding that progressive organisations that adopted the kind of multi-stranded approaches outlined above, did so in the main specifically to save time and money.

As we have seen, the costs of bullying include those relating to absenteeism/sick leave and turnover, as well as management time spent dealing with discord, upheaval and grievance and disciplinary processes. Research shows that the business case includes further positive impacts such as reduced job stress, higher employee engagement, more trust in management and increased productivity.

However, despite the many compelling and well-established reasons why organisations might commit to building positive work climates, and for all the efforts at awareness- raising, it seems clear that not enough organisations have committed to the kind of approach that is known to work best. Clearly, it must also be recognised that difficulties associated with making such changes at the organisational level may create significant barriers.

Case study research illustrates how some leaders may prioritise immediate economic returns over activities to eliminate dysfunctional cultures of mistreatment, and may retreat from initiatives where they encounter pockets of powerful resistance within their organisations. And whether organisations have sufficient capacity to introduce and maintain a robust conflict management system may be an issue of concern in a time of financial caution, austerity measures and cost-cutting.

In at least some cases then, even where there is an awareness of the business case, there can be reluctance on the part of senior management to respond with a concerted programme of anti-bullying reform.

This then raises the question: where organisations are not motivated to take strategic action to prevent bullying, what wider, external drivers might help to make a difference? We briefly explore here 2 possible policy responses: a code of practice on bullying and, drawing on recent Australian experience, extending employment tribunals' jurisdiction and powers of intervention.

Could a code of practice help?

There is enthusiasm in some quarters for a code of practice on bullying and harassment, or on tackling 'unwanted behaviours' in the workplace more generally. This could potentially provide organisations with authoritative, principles-based guidance on how to prevent and manage these behaviours, allowing them to better understand, and to demonstrate compliance with, clear principles of reasonable action.

If, like the [Acas Code of Practice on disciplinary and grievance procedures](#), such a code had a statutory status, this might allow employment tribunals to take into account the principles in the code when deciding relevant cases, and to increase or reduce monetary awards depending on whether parties have followed the code. Relevant cases within tribunals' current jurisdiction might include complaints of harassment under the Equality Act and claims of constructive unfair dismissal.

However the main benefit of a code – statutory or otherwise – may be in providing a renewed emphasis on the importance of early, informal resolution inside the workplace, and greater clarity around how to achieve it.

The practical development and implementation of a code would not be without challenges. There is first the question of whether there is an appetite for a statutory code in government quarters, given a general preference for less regulation in recent years. Second, the nuanced nature of bullying and ill-treatment, and the extent of the range of behaviours that can be experienced and described as bullying, mean that issues of definition and interpretation would pose significant challenges.

There are also questions around whether a code would give those subject to bullying, or who witness it, the confidence to report incidences when they occur, whether it would provide employees and managers with the confidence to engage in informal processes to resolve issues, and whether it would have sufficient influence to change ingrained cultures and practices in organisations and sub-sectors that are bullying hotspots.

Issues that currently diminish confidence and prevent reporting – including little trust in the prospect of satisfactory resolution, and concerns about retribution or job loss – might persist despite the presence of a code, as might other barriers such as managerial reluctance to tackle complex bullying situations. As has been noted, these factors are most often a function of organisational cultures.

This is to not say that a statutory or non- statutory code could not have value in elevating the profile of the issue. It might do much, in particular, to remove those obstacles caused by a lack of certainty around appropriate principles and procedures in bullying situations – especially by saying more about informal resolution, on which the existing [Acas Code of Practice on disciplinary and grievance procedures](#) provides only very brief guidance. But there are questions around whether a code would be enough on its own to drive a broad cultural shift around how bullying is addressed in Britain's workplaces.

(Note: An evaluation of the existing Acas Code of Practice on disciplinary and grievance procedures (Rahim et al 2011) may be instructive in this regard. It found that the capacity of the existing Code to encourage cultural change toward early resolution is helped or hindered by other organisational factors, such as awareness of the Code, organisational culture, line managers' conflict-handling expertise and relationships with unions, as well as the room for interpretation left by the Code. Organisations where relations with

employees were positive were more likely to have incorporated the Code in their practice, but there was less impact in organisations with a less positive approach to conflict management.)

Might a code therefore be more effective if accompanied by an extension of the tribunals' jurisdiction – enabling them to adjudicate specifically on complaints about bullying? Recent developments in Australia offer some insights into what such a new jurisdiction might look like.

Bullying regulation: recent Australian experience

A common refrain from Acas's helpline callers experiencing bullying is that they do not necessarily want to leave their jobs, they 'just want the bullying to stop'.

In 2012 the House of Representatives in the Australian Parliament tabled a report of public submissions into workplace bullying entitled just that: 'Workplace Bullying: We just want it to stop' (Commonwealth of Australia 2012). As a result, from January 2014 the role of Australia's federal employment tribunal, the Fair Work Commission (FWC), was extended to include a new workplace bullying jurisdiction – the first of its kind in Australia and internationally.

The objective of introducing this anti-bullying jurisdiction was to allow those alleging bullying to seek external resolution whilst remaining in their jobs, rather than having to leave their jobs and then have limited recourse – for example by claiming unfair dismissal.

A worker is defined as being 'bullied at work' if an individual or a group of individuals repeatedly behaves unreasonably towards the worker, or a group of workers of which the worker is a member, and that behaviour creates a risk to health and safety. Bullying does not, however, include 'reasonable management action carried out in a reasonable manner'. Workers (both individuals and groups of workers) who believe that they have been bullied at work can apply to FWC for an anti-bullying order.

The focus of orders is primarily preventative – to deal with bullying before it escalates, stop the conduct and make provisions so that those involved can work together in the future. Given the stressful, sensitive nature of bullying incidents, the Commission's approach is to try to resolve matters informally through conciliation and/or mediation wherever possible (Hamberger 2014).

While 701 anti-bullying applications were received during 2014, only 3 orders have been made by the FWC to date. Most claims have been either withdrawn, closed after a conference or hearing, or resolved during formal proceedings. Most of these resolutions have involved agreements about future behaviour (for example, agreement that co-workers would not be rostered on together).

The orders that have been made have variously required bullying perpetrators to have no contact with the applicant, or further contact between them needing to involve co-workers; have placed limits on the perpetrator's ability to email or text the target, or to make comments on the applicant's attire or appearance; and have prohibited abusive or offensive statements.

Orders can be highly specific: one required the individual accused of bullying to not exercise on the balcony in front of, or in the vicinity of, the applicant's desk between 8:15am and 4:15pm. Others have required the employer to address their organisational culture by establishing and implementing anti-bullying policies, procedures and training.

At present, it remains to be seen whether or not this new approach in Australia will have the effect of encouraging employers more broadly to address bullying cultures in their organisations. A post-implementation review of the jurisdiction is due for completion in January 2016, which may find that the legislation has had a 'soft' regulatory influence in promoting wider improvement at the workplace level.

The possibility of bullying complainants having more ready access to an external ruling might provide some incentive to employers to reconsider their approach to the issue; however, if the number of applications remains low, the reach of that incentive may turn out to be limited. It will certainly be of interest to watch the progress of this international first, and to draw lessons for the British context in due course.

Where next?

Reducing the incidence of bullying and ill-treatment across workplaces in Britain will require many if not most organisations to change. There are blueprints for what can be done well within organisations, and how to do it, and Acas itself has many years' experience of assisting organisations to address and alleviate dysfunctional cultures.

We know that success is possible where leaders demonstrate their steadfast commitment to change. However, organisations are often resistant to the kind of strategic approach that works best, unless there are highly compelling reasons for undertaking it.

What is clear is that there are compelling reasons for change. The possibility that individuals and managers may be experiencing ill-treatment at work should be of central concern to the operation of an organisation – not just in terms of a duty of care, but also because of the impact on the bottom line. But creating and maintaining a positive work climate requires more than reacting to individual instances of workplace conflict when those are brought to management attention. It is clear from calls to the Acas helpline that neither bullying targets, nor employers, are adequately served by the latter approach, and research robustly confirms this.

The question of a practical policy response is by no means straightforward. One potential response is a regulatory or 'soft' regulatory approach, such as a code or a new bullying jurisdiction. These might increase the profile of the issue, give greater clarity to individuals and employers on appropriate steps to take towards early and informal resolution, and provide an alternative recourse where, at present, many feel their only option is to accept ill-treatment or resign.

There remains the question, however, of how (and whether) these responses could sufficiently influence organisational cultures on a broad enough scale.

Another suggestion, therefore, which remains untested in the realm of bullying, might be to allow for tribunals, or another enforcement body such as the Equality and Human Rights Commission (EHRC), to make orders that require more fundamental change at the organisational level – for example, a requirement for employers to conduct (and fund) a review of the organisation, to diagnose the sources and causes of bullying, and to implement appropriate strategies to fix them.

In this way, the handling of individual cases might trigger a deeper organisational remedy than the requirement to develop a policy or to deliver training; and the prospect of a potentially costly order might trigger the adoption of proactive workplace strategies across a broader reach of organisations.

The impact of this, or other regulatory responses, is more difficult to envisage, however, when it comes to addressing bullying in those organisations where it is carried out by top management or business owners. There is also the possibility that such regulation might unintentionally drive a box-ticking compliance culture within organisations more broadly, instead of encouraging stewardship of the issue by leaders at all organisational levels. As we have discussed in this paper, it is the latter that is integral to achieving real change.

Recent policy developments in the UK do not, in any event, indicate an appetite for new regulation of this kind – with the Deregulation Act 2015 having recently removed employment tribunals' power, under the Equality Act 2010, to make 'wider recommendations' in cases of unlawful harassment.

(Note: This was a power, under section 124 of the Equality Act 2010, for tribunals to make a recommendation that an employer took specified steps within a specified period for the purpose of obviating or reducing the adverse effect of the employer's practices, not just on the individual complainant, but also on the wider workforce. The power was repealed with effect from 1 October 2015.)

In its [response to its consultation on this issue](#) (PDF), the then Coalition government expressed the view that, while it recognised the validity of the intention behind this provision – encouraging employers to tackle more general shortcomings in the management of their workforce – it objected to a regulatory and prescriptive approach and preferred to consider non-legislative ways of achieving the same aim.

On balance, then, it would appear that the most viable way forward at this juncture may be the development of a non-statutory code of practice and/or a high profile and concerted campaign targeted at demonstrating the business case for change and providing expert support to achieve that end. Acas would seem uniquely positioned to champion both of these responses, though success will require the co-ordinated and sustained effort of a broad range of stakeholders.

The logical starting point would be an open and informed public debate on these and other potential solutions for the prevention and better management of bullying and ill-treatment in the workplace. It is clear that achieving consensus and action on a feasible strategy is both desirable and critical if wellbeing and performance in Britain's workplaces are to improve.

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