

Phrases which you may find useful for tackling bullying

This information gratefully received from Tim Field,
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- modify as appropriate (no responsibility accepted!)
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"Stress is not the employee's inability to cope with excessive demands but a consequence of the employer's failure to provide a safe system of work as required by the UK Health & Safety at Work Act 1974."

The most important phrase is:

"Your criticisms and allegations are specious and lack substantive and quantifiable evidence. Your constant nit-picking and fault-finding prevents me from fulfilling my duties, constitutes repudiatory conduct, and is a breach of the implied term of mutual trust and confidence."

Other phrases:

"By the way s/he chooses to behave, s/he prevents myself and others from fulfilling our duties/undertaking our studies."

"By the way s/he chooses to behave, s/he brings her/himself, the staff, the department and the employer into disrepute."

"The purpose of bullying is to hide inadequacy; those who choose to use bullying behaviours are therefore revealing and admitting to their inadequacy"

"Bullying is a breach of the implied term of mutual trust and confidence."

"Bullying causes injury to health and is a breach of the employer's duty of care."

When you're subjected to repeated criticisms and allegations, you may find these helpful:

"Your criticisms are based on trivia; choosing to focus obsessively on trivia reveals unsound judgement and is one of the ways bullies identify and reveal themselves."

"Your criticisms and allegations are a projection of your own failings and shortcomings. I ask you not to project them on to me."

When responding to specious (plausibly deceptive) criticisms and allegations, do not be deceived into explaining, justifying, elaborating or apologising - each of these responses accords the criticism or allegation a validity which it does not have. Always put the onus on the bully to provide substantive and quantifiable evidence to justify his or her accusation.

If you've been subjected to fabricated or distorted criticisms or allegations or are facing unwarranted disciplinary action:

*"On [date] you made the following criticism/allegation against me which you are now seeking to use as the basis for imposing a verbal/written warning:[Include details of allegation here]. I now ask you to provide me in writing within seven days with *substantive and quantifiable evidence* in support of your criticism/allegation."*

When no written substantiation is provided, write again:

On [date] you made [reiterate your previous letter]. I note that you have chosen not to substantiate your criticism/allegation as requested. I now ask you again to provide me in writing, within 48 hours, with substantive and quantifiable evidence in support of your criticism/allegation.

When no written reply is received, write again:

"On [date] you made [reiterate both previous letters] I now ask you to withdraw your criticism/allegation and provide me with evidence in writing that you have done so. I remind you that making allegations and refusing to substantiate them in writing is a form of harassment. Such harassment prevents myself and others from fulfilling our duties and contractual obligations."

If you're subjected to this tactic again at a later date, include in your first letter a reminder of the previous occasion (remember it's the patterns of behaviour that reveal bullying)

"I note that you have chosen to make another trivial, specious and insubstantive criticism/allegation about me. I remind you of our correspondence of [date] when you were unable and unwilling to substantiate your criticism/allegation. I remind you that in my letter of [date] I pointed out that making unfounded, misrepresented or fabricated criticisms/allegations and refusing to substantiate them in writing is a form of harassment. I am advised that the UK Department of Trade and Industry recommend that the Protection from Harassment Act (1996) be used in such circumstances."

Be alert to the criticism or allegation changing or being withdrawn as you challenge it. Note any changes and point them out in writing, asking why they have changed in response to you asking for substantive evidence.

If you're off work suffering stress as a result of bullying it's important to let the employer know in writing that the injury to health you have sustained is caused by the behaviour of one or more members of staff. This letter will become crucial evidence for a personal injury / duty of care action later should that become necessary.

If you've suffered a psychiatric injury (eg stress) it's essential to have good medical evidence to support your injury to health. If you suffer a stress breakdown get medical evidence immediately. A stress breakdown, often wrongly called mental breakdown or nervous breakdown, is a lay term comprising either a short cessation of brain processing or a period of uncontrollable crying perhaps lasting several days, perhaps accompanied by panic attacks, trembling, loss of memory, reactive depression, suicidal thoughts and unusually high levels of hypervigilance resembling paranoia. It is a serious traumatic event but is **not** a sign of mental weakness. Quite the reverse.

If you've been off sick for a while and are being bullied by the employer into returning:

"The injury to health which has caused me to take sickness absence was caused by the unacceptable aggressive and dysfunctional bullying behaviour of X. I am not the first employee whose health has been injured as a consequence of X's behaviour which constitutes a danger to the health and safety of employees with whom s/he comes into contact.

[If you know of previous cases - and its worth doing some digging - you can insert here: I am advised that at least x employees working under X have been forced to take sick leave / take ill-health retirement / follow grievance / take legal action / attempted suicide / committed suicide. As such, X is a liability to the organisation and to shareholders / investors / taxpayers / donors.]

I look forward to returning to work as soon as possible and to that end I ask you to provide me with an assurance in writing that you will fulfil your legal obligation of duty of care under the UK Health and Safety at Work Act (1974) to provide both a safe place and a safe system of work."

It may be better if this comes from your union representative. If you're not in a union, and the relationship between you and the employer has broken down, the letter could come from your solicitor. If you are then further victimised for having written this letter and reporting the behaviour of X as a danger to health and safety of employees with whom s/he comes into contact, you may be able to use the clause on victimisation on grounds of health and safety under the Employment Rights Act (which applies from day 2 of employment).

You may also wish to include a sentence pointing out the need to undertake a risk assessment, eg "It is well known that stress levels with [the organisation] have reached exceptional levels [include some figures here, eg with x number of staff off sick with stress]. As part of your duty of care under the Health and Safety at Work Act I remind you that you are required to undertake a risk assessment on the levels of stress within the workplace".

Throughout proceedings, avoid "victim" language. Instead of saying "illness", say "injury to health". Instead of "mental breakdown" or "nervous breakdown" say "stress breakdown". Instead of "I couldn't do my job" say "the bully's behaviour prevented me from fulfilling my duties". Instead of "anger", say "passion". Instead of "obsessed", say "focused". Instead of the word "victim", use "target". The word "victim" allows bullies and their supporters, apologists and deniers to tap into and stimulate other people's prejudices and preconceived notions about "victimhood".

To defend yourself verbally, respond with "*I'm sorry you choose to think/act/feel/behave/perceive me like that*". Alter the verb as appropriate. Repeat as necessary. To defend yourself against being shouted at, especially in front of others, respond as calmly as you can with "*Thank you for sharing your views with us*".

When dealing with bullying - and especially when talking or writing to management, personnel etc - avoid detail, which has the effect of turning people off and against you. Focus on the contractual, legal and financial aspects.

When writing, avoid emotion, shock, horror, outrage, indignation, sensationalism, pleading, begging, moaning and groaning, whingeing and whining, self-deprecation and apology as well as the use of exclamation marks, quotation marks and unnecessary capital letters which irritate the reader and stimulate a sense of disbelief, incredulity, and scepticism which discredit what you are saying. Avoid flowery language, vagueness, attempted references to literature and anything which is alarmist or self-evident; omit **everything** which is not 100% relevant. This includes verbosity (using too many words when fewer will do in order to get your point across) and tautology (repeating yourself, saying the same thing more than once). Remove anything that smacks of a confessional. And don't grovel.

Keep things as brief and succinct as possible - preferably one page. Two pages is the maximum - a letter which is longer than two pages will not be read. If you have tables, reports etc which you feel you must include, make them appendices which can be referred to rather than read. **Always make written communications as short as possible.**

The bully deliberately encourages the employee and employer to engage in conflict in order to distract attention away from him/herself and to prevent others pooling negative information about him or her. See <http://psychiatry.medscape.com/22596.rhtml> and encourage your employer to read this too.

There are three types of etiquette: social etiquette, business etiquette, and legal etiquette.

The next term in this series is nuclear war. Keep that in mind. The etiquettes overlap but are not the same. Do not use social etiquette for business and legal situations, especially when there is conflict in the air. For example, in social etiquette one is taught "it is better to give than to receive" and "thou shalt labour and ask for no reward". In business and legal situations, especially where there's bullying, these are a disaster. Use the business equivalent "never give anything away without obtaining anything something in return" and the legal equivalent "take everything and give nothing" as appropriate. These are morally acceptable behaviours under the circumstances which have been brought about by the bully.

Assert your rights at all times. Don't ask for permission, eg "Can I ask to see my records?" or "Can I see my records?" but instead assume you have the right (you usually do), eg "I'd like to see my records." Asking for permission to ask gives the bully the opportunity to say no - which they always will.

If you're dealing with a serial bully, a bit of digging into the bully's past, including home life and childhood, might produce some unsavoury facts that the bully - and maybe the employer - do not want repeated in court. Under normal circumstances this might be considered unethical, but the circumstances - which have been chosen by and are driven by the bully - are not normal. You are in a position which is not of your choosing, not of your making, and not under your control. The bully has chosen to behave in a manner which has brought you into the arena of legal etiquette.

In most cases there is a can of worms behind the case which explains the bully's, and the employer's, increasing paranoia as you start, perhaps unwittingly, to open that can. Dig as deep as you can. This is legal etiquette. You are looking for patterns of behaviour. The worms may include:

- negligence
- incompetence
- maladministration
- misappropriation of budgets
- financial irregularities and fiddling the books
- stealing, borrowing, skimming or "losing" clients' money and investments
- fiddling expenses

- falsification of time sheets
- pilfering
- embezzlement
- fraud
- deception
- misrepresentation
- conspiracy (eg to obstruct or pervert the course of justice)
- using employer's resources to run own business on the side
- moonlighting for employer's clients or competitors
- awarding contracts to family and friends
- failure to fulfil obligations
- breaches of health and safety regulations
- breaches of rules and regulations
- breaches of codes of conduct
- indiscretions
- inappropriate sexual conduct
- impropriety
- previous grievance and disciplinary action
- being the target of previous legal action (unfair dismissal, harassment, personal injury)
- fraudulent qualifications and misleading or bogus claims of professional affiliation
- collusion
- corruption
- being sacked from or asked to leave his/her previous job(s)
- recruitment through favouritism, nepotism, or membership of the same fraternal organisation rather than ability
- extra-marital affairs

A serial bully and money never go together. Scrutinise any source or fund of money in which the bully has an interest or responsibility.

If your adversary is a serial bully with a history of bullying (including compulsive lying etc), you might insist that s/he undergoes a psychiatric evaluation by a psychiatrist experienced in administering the Hare Psychopathy Check List - Revised (PCL-R). Expect the aggressive response which is characteristic of an individual with psychopathic personality.

Remember the bullies' Achilles Heels:

compulsive need to bully: the bully has to have a target onto whom to displace aggression - s/he can't survive without a current "victim" - past behaviour is characterised by always having a target - find and highlight this

obsession: once the bullying has started they can't let go - they can't stop, even if they wanted to

obliviousness: they can't or won't see their own behaviour or its effects on others, they can't see or understand the *patterns* which betray their behaviour

mimicry: has its limitations, especially in attempts at empathy and humour - eg irony usually provokes an aggressive response

arrogance: the bully has always got away with it and fully expects to continue getting away with it
patterns of behaviour: it's the patterns which reveal intent

predictable response: when called to account, the bully often resorts to the denial-counterattack-feigning victimhood (tears) tactic to avoid answering the question - normal, mature, adult, professional people do not do this

cowardice: whilst the bully is on top, the bullying continues unabated; when you suddenly turn round and hit the bully with disciplinary or legal action and the threat of public exposure, the bully sometimes runs away

paranoid fear of exposure: more than anything else, the bully fears public exposure which enables those s/he has deceived to be able to see through the deception

The bully underestimates your inner strength and moral courage - both of which s/he lacks.

Recognise your own Achilles Heels:

naivety, guilt, dependency, approval seeking, deference to authority, and willingness to share. Learn to identify them and get them under control. Stick to legal etiquette.

In rare cases, the employer will get as far as "investigating" the claim of bullying. Mostly, the subsequent verdict is "no evidence". When this happens, write to the employer asking for details, in writing, of the experience and training that the investigator has undertaken in bullying investigation techniques. The answer is usually "none". It's a good question to ask at tribunal if matters get that far. You might feel it appropriate to point out in writing at the appropriate moment that an investigation by a member of the personnel department is a breach of natural justice because personnel cannot be both judge and jury. It was personnel's responsibility to recruit the bully in the first place and they are not going to admit to having made a mistake in their selection process, for admitting to a mistake is tantamount to admitting liability.

Remember that naivety is the greatest enemy. Decide if your adversary is a serial bully, and if so, remember that you are dealing with a sociopath. Read carefully the page at www.successunlimited.co.uk/serial.htm and associated pages on personality disorders. Normal rules of social etiquette do not apply. You are now into legal etiquette and lawyer-speak.

A bully cannot act as judge and jury; this is a breach of natural justice. The bully must not be involved in the investigation process or in the processing and adjudication of grievance action.

Legal action is difficult as the law is weak. Solicitors and barrister mostly don't know how to conduct a bullying case and the complexity and lack of case law puts them off. The way to proceed, should you choose legal action, is to include in your case all the dirt you can find - see above for what you are likely to find - then the employer is likely to want an out-of-court settlement to avoid bad publicity and to prevent other employees, past and present, starting similar legal action.

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For more information visit BullyOnline. Although Tim Field is based in the United Kingdom he has been extremely supportive of the work people in Australia and New Zealand have been undertaking to stop and eliminate workplace bullying. If you have any further queries, don't hesitate to send him an email – he loves making friends from all around the world.



Liz Harris,
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