

Review of International Laws Related to Workplace Bullying
Compiled by The Workplace Bullying Institute

Great Britain: Protection from Harassment Act 1997

(Final provisions enacted August, 2001)

- Harassing a person includes alarming the person or causing the person distress. "Conduct" includes speech. A "course of conduct" requires conduct on at least two occasions.

- It is a person's conduct ...if aided, abetted, counselled or procured by another or other's knowledge and purpose and what he ought to have known are the same as ... what was contemplated or reasonably foreseeable at the time of the aiding, abetting, counselling or procuring

A person must not pursue a course of conduct (a) which amounts to harassment of another, and (b) which he knows or *ought to know* amounts to harassment of the other.

A person guilty of an offence ... is liable to imprisonment for a term not exceeding 6 months or a fine or both.

Putting people in fear of violence

A person whose course of conduct causes another to fear, on at least two occasions, that violence will be used against him is guilty of an offence

The person whose course of conduct is in question *ought to know* that it will cause another to fear that violence will be used against him

A person guilty of an offence under this section is liable- on conviction ...to imprisonment for a term not exceeding 5 years, or a fine, or both

UK Employment Tribunal Case Law Findings related to workplace bullying

In 2001 the Law Lords for the first time stated that unfair dismissal claimants might be compensated at tribunal for injury to feelings including compensation for distress, humiliation, damage to their reputation in the community or to family life.

In 2001 the Scottish Court of Session established that (a) a claimant's injury must constitute a clinically diagnosed psychiatric illness therefore catch-all conditions such as "stress", "anxiety" and "depression" will not suffice, and b) an employer will only owe a duty of care to an employee if it is reasonably foreseeable (to an ordinary bystander) that a "psychiatric disorder" will arise.

Favorable bullying-based Tribunal/Council rulings

"Circumstances of danger" applied to any danger, including that of harassment by a fellow worker, not just physical dangers relating to work premises.

A period of constant criticism, excessive monitoring and a tirade of unsubstantiated allegations (no substantive or quantifiable evidence) of underperformance which brought to an unexpected end a successful 25-year career

Injury to health caused by the bullying behaviour of a female head teacher led to a stress breakdown following a year-long series of confrontations with the headmistress whose methods he questioned

Unfair dismissal by new supervisor using high workloads and malicious allegations

Bullied out of her job because she asked to change shifts in order to share child care with her husband when on return from maternity leave, she became "a scapegoat for the section's ills, had her sickness record exaggerated, and became the subject of unduly punitive attitudes"

Constructive dismissal following a spate of false allegations by her supervisor who regularly criticised performance, constantly undermined her position, and speciously claimed that others were dissatisfied with her performance, lost her temper and reduced the plaintiff to tears, and the appointed mediator made matters worse. Human resources was notified but no appropriate action was taken.

Ongoing bullying of a woman police officer who had won an employment tribunal for sexual harassment and discrimination two years prior and continued to be "grilled, roasted and reduced to tears" by senior officers. Compensation for injuries to feelings, aggravated damages and the psychological damage she had suffered (confidence so undermined that she could not cope with the simplest of tasks)

Unfair dismissal of a manager who was maliciously bullied over a two year period during which personnel officers refused to take any action despite witnessing the bullying, false allegations, fabricated evidence and the malicious use of disciplinary proceedings. A senior manager appointed to investigate was labelled "fundamentally dishonest." by the tribunal.

Constructive unfair dismissal when manager was motivated by "spite" and senior managers were either "vindictive," "refusing or failing to recognise he was the target of bullying". Tribunal found a breach of the implied term of mutual trust and confidence.