



Ollscoil Chathair
Bhaile Átha Cliath
Dublin City University

Bullying in the Workplace

An Analysis of Recent Bullying Cases
Brought to the Workplace Relations
Commission Under the Unfair
Dismissals Acts (1977-2015)

Research Team

Dakota Burton

Tali Lesser

Patricia Murray

Claudia Reino

Beatrice Sciacca

Authors

Angela Mazzone

Geraldine Kiernan

This report is published by the
National Anti-Bullying Research and Resource Centre (ABC),
Dublin City University

ISBN: 978-1-873769-97-3

© ABC, National Anti-Bullying Research and Resource Centre (2019)

www.dcu.ie/abc

Table of Contents

Glossary of Terms	2
Preface	4
Abstract	5
1. Overview of Bullying in the Workplace	6
2. Harassment and Victimisation	8
3. Legal Action in cases of Workplace Bullying	8
4. Aims of the present study	9
5. Methods of data collection	9
6. Results	10
6.1. Breakdown of Cases Claiming Bullying, Harassment and Victimisation	10
6.2 Breakdown of Cases according to Gender	11
6.3 Breakdown of cases according to behaviour subtype	13
6.4 Breakdown of Cases according to Outcome	14
6.5 Gender of the awarded, failed and dismissed claimants	17
6.6 Length of time from submission to outcome and costs of awards	17
7. Discussion	18
8. Practical Implications	19
References	20

List of Figures

Figure 1. Rate of cases citing Bullying; Harassment and Victimisation only, or citing them in combination	11
Figure 2. Claimants by gender	11
Figure 3. Alleged Perpetrators by gender	12
Figure 4. Breakdown of coded and unspecified behaviours	13
Figure 5. Breakdown of cases according to behaviour subtype	14
Figure 6. Organisations following anti-bullying procedures	15
Figure 7. Organisations following anti-bullying procedures and outcome of the claim	16
Figure 8. Cases awarded, failed and dismissed by gender	17

List of Tables

Table 1. Number of cases citing Bullying, Harassment and Victimisation only, or citing them in combination, and number of constructive dismissal cases	10
Table 2. Organisations following anti-bullying procedures, and outcome of the claim	15

Glossary of Terms

- **Workplace Relations Commission¹:** The Workplace Relations Commission (WRC) was established on 1st October 2015 under the Workplace Relations Act 2015. The WRC assumed the role and functions previously carried out by the National Employment Rights Authority (NERA), the Labour Relations Commission (LRC), the Equality Tribunal (ET), Rights Commissioners Service (RCS) and the first instance (i.e., Complaints and Referrals) functions of the Employment Appeals Tribunal (EAT). Some of the main functions of the WRC are: promoting and improving good work relationships; promote and encourage compliance with the relevant laws; provide guidance in relation to compliance with codes of practice; provide information to the public in relation to employment laws other than the Employment Equality Act.
- **Claimant:** The person who asserts a claim.
- **Bullying:** “Workplace bullying is repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others at the place of work and/or in the course of employment, which could reasonably be regarded as undermining the individual’s right to dignity at work. An isolated incident of the behaviour described in this definition may be an affront to dignity at work but, as a once off incident, is not considered to be bullying”.

(Health and Safety Authority, HSA Code of Practice for Employers and Employees for the Prevention and Resolution of Bullying at Work, 2007)

- **Harassment:** It is “unwanted” conduct which “has the purpose or effect of violating a person’s dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person” under nine discriminatory grounds: gender; civil status; family status; sexual orientation; religion; age; disability; race; or member of the Traveller community. Such conduct may consist of “acts, requests, spoken words, gestures or the production, display or circulation of written words pictures or other material”.

(Employment Equality Acts 1998-2015 sec. 14A; Equality Act 2004, sec. 8)

1 The information provided was retrieved from the Workplace Relations Commission website (www.workplacerelations.ie).

- **Victimisation:** it occurs where “dismissal or other penalisation of the claimant was solely or mainly occasioned by the claimant having in good faith” done any of the following: a complaint of discrimination; any proceedings by a claimant; an employee having represented or otherwise supported a claimant; the work of an employee (a comparator) having been compared with the work of another employee; an employee having been a witness under equality legislation; an employee having opposed by lawful means an act which is unlawful under equality legislation; or an employee having given notice of an intention to do any of these things.

(Employment Equality Acts 1998-2015 sec. 14A; Equality Act 2004, sec. 8).

- **Unfair Dismissal²:** Under the Unfair Dismissals Acts 1977-2015, unfair dismissal can occur where:
 - An employer terminates an employee’s contract of employment (i.e., a contract of service or apprenticeship) with or without notice.
 - An employee terminates their contract of employment, with or without notice due to conduct of the employer. This is known as **Constructive Dismissal**. When an employee claims constructive dismissal under the Unfair Dismissals Acts 1977-2015, they should be able to prove that their resignation was justified.

The purpose of the Unfair Dismissals Acts is to protect employees from being unfairly dismissed from their contract of employment by establishing the criteria by which dismissals are to be considered unfair, and by providing an adjudication system and redress for an employee whose dismissal has been found to be unfair. If an employee brings their case to the WRC under the Unfair Dismissals Acts, the employer should be able to show that there were fair grounds for the dismissal. Generally, a dismissal is considered to be unfair, unless the employer is able to show substantial grounds to justify it.

The Unfair Dismissals Acts provides for a number of grounds under which a dismissal may be considered unfair:

- Membership or proposed membership of a trade union or engaging in trade union activities, whether within permitted times during work or outside of working hours.
- Religious or political opinions.
- Legal proceedings against an employer where an employee is a party or a witness.
- Race, colour, sexual orientation, age, or membership of the Traveller community.
- Pregnancy, giving birth or breastfeeding or any matters connected with pregnancy or birth.
- Availing of rights under legislation to maternity leave, adoptive leave, carer’s leave, parental or force majeure leave.
- Unfair selection for redundancy.

² The information provided was retrieved from the Workplace Relations Commission website (www.workplacerelations.ie).

Preface

The present report has been developed by the National Anti-Bullying Research and Resource Centre (ABC) at Dublin City University (DCU), arising from research on the profile and outcomes of work-related cases presented to the Workplace Relations Commission (WRC) under the Unfair Dismissal Acts (1997-2015) between September 2015 and May 2018, in which bullying was referenced by the claimants.

ABC is a university designated research centre located in DCU Institute of Education. Researchers at ABC were the first in Ireland to undertake research on school bullying, workplace bullying, homophobic bullying and cyberbullying. ABC leads the field of research, resource development and training in bullying in Ireland and is an internationally recognised centre of excellence in bullying research and education.

ABC is a strategic partner with:

- The Norwegian Centre for Learning Environment and Behavioural Research in Education
- The Cyberbullying Research Centre (USA)
- The United Nations Educational, Scientific and Cultural Organisation (UNESCO).

Abstract

Background: The present report is concerned with the profile and outcomes of cases taken under the Unfair Dismissal Acts (1977-2015) to the Workplace Relations Commission (WRC) in which bullying was referenced by the claimants.

Bullying in the workplace takes place when an employee is systematically and over time subjected to negative treatment on the part of one or more persons (either co-workers, superiors or subordinates), in a situation in which the person(s) exposed to the treatment have difficulty in defending themselves (Einarsen, Høel, Zapf, & Cooper, 2011).

In some instances, employees can feel forced to leave their job due to an unbearable bullying situation. In those instances, according to the Irish law, employees may be entitled to claim constructive dismissal under the Unfair Dismissal Acts (1977-2015) through the Workplace Relations Commission (WRC). The claims are brought under the heading of 'Constructive Dismissal': if the claimant can prove that there were no options to preserve their health, other than leaving, the finding would be in their favour. The onus is on the claimant to show evidence of this.

Method: Data was collected from the Workplace Relations Commission (WRC) online database of cases between September 2015 and May 2018. Based on the collected data (N=87 cases), the following were identified: a) percentage of bullying claims within the overall claims category; b) percentage of cases claiming bullying broken down by gender; c) percentage of cases claiming distinct subtypes of bullying or further negative and harmful behaviours; d) complaint outcomes by gender; e) average time between the submission of the complaint and the Commission's judgement and f) average and range of awards.

Results: Many cases taken to the WRC cited either bullying and harassment (47.1%) or bullying only (34.5%) as the reason for unfair dismissal. Male employees were more likely to bring their case involving either bullying, harassment or victimisation (or a combination of them) to the WRC, compared to female employees (57.5% were males versus 42.5% females). However, males were also more likely to be the alleged perpetrator of a bullying case (49.4% were males versus 20.7% being females). Findings also show that 46% of organisations followed some anti-bullying procedures, while 36.8% did not follow any recorded procedure to deal with the bullying cases. Of the 87 cases analysed, 42.5% cases were successful in terms of awards made to the claimant. Successful claims were predominantly those where organisations did not follow any formal anti-bullying procedures. The average time between the submission of the complaint and the Commission's judgement was 2 years and 5 months. Awards averaged at €12,757.95.

Conclusions: Given the negative effects of workplace bullying in terms of individual, team and departmental wellbeing at work and the organisational reputational and financial costs involved in these claims, employers would be motivated to manage these escalating relational issues through prevention and supportive systems of work. Based on these findings, it is restrictive to have solely anti-bullying policies and procedures, but these must also be effectively put into practice by competent, responsible people within the organisations and up-to-date records kept.

1. Overview of Bullying in the Workplace

Workplace Bullying is repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment, which could reasonably be regarded as undermining the individual's right to dignity at work. An isolated incident of the behaviour described in this definition may be an affront to dignity at work but, as a once off incident, is not considered to be bullying (Health and Safety Authority – HSA, *Code of Practice for Employers and Employees for the Prevention and Resolution of Bullying at Work*, 2007).

Research has shown that bullying might constitute an escalating process in the course of which the person confronted ends up in an inferior position and becomes the target of systematic, negative social acts. A conflict cannot be called bullying if the incident is an isolated event or if two parties of approximately equal 'strength' are in conflict (Einarsen, Höel, Zapf & Cooper, 2011). The negative actions may be carried out deliberately or unconsciously, but clearly they cause humiliation, offence and distress and may interfere with the job performance and/or cause an unpleasant working environment (Einarsen, et al., 2011).

Previous research (Rayner & Höel, 1997) grouped workplace bullying behaviours into the following types:

- *Threats to professional status*: Belittling opinion, public professional humiliation and accusation regarding lack of effort.
- *Threats to personal standing*: Name-calling, insults, intimidation and devaluing personal qualities of the target.
- *Isolation*: Preventing access to opportunities, physical or social isolation and withholding of information.
- *Overwork*: Undue pressure, impossible deadlines and unnecessary disruptions.
- *Destabilisation*: Failure to give credit when due, meaningless tasks, removal of responsibility, repeated reminders of blunders, and setting up to fail.

Some scholars noted that in addition to the aforementioned behaviours, it may be useful to include *Relational Bullying*, in which the perpetrator damages the target's friendship network and *Indirect Bullying* perpetrated by a third party, such as rumour spreading (Cowie, Naylor, Rivers, Smith & Pereira, 2002). Relational bullying and indirect bullying have in common the expression of social manipulation and can often go unnoticed by others.

In recent years, electronic forms of bullying (i.e., cyberbullying) have been included within the subtypes of bullying behaviours. Cyberbullying is defined as repeated and enduring negative behaviour that occurs via technology. Cyberbullying includes written - verbal acts (e.g. abusive emails), visual acts (e.g. posting an embarrassing video on a website), exclusion and impersonation (Vranjes, Baillien, Vandebosch, Erreygers & De Witte, 2018).

Sexual harassment, i.e., unwanted sexual attention, demeaning sexualised gestures and remarks, along with attempts to have sexual interaction could also constitute bullying in other jurisdictions with different systems at state level. In Ireland, bullying and sexual harassment are distinct. More specifically, sexual harassment is regulated by the Irish law (Employment Equality Acts 1998-2015), which means that specific procedures are followed when responding to sexual harassment cases outside the bullying arena.

A number of studies have investigated the phenomenon of bullying in the workplace in Ireland. The findings of a study by O'Connell and Williams (2002) suggested that about 7% of respondents to a national survey reported being bullied, currently or at some point in the past six months, with females more likely being targeted. A subsequent study published in 2007 found that 18% of employees in the public sector and 10% of private sector respondents reported exposure to bullying in the past six months, with the highest rate of bullying reported in the Health and Education sectors (O'Connell, Calvert & Watson, 2007). More recent research findings from the Irish Workplace Behaviour Study (Hodgins, Pursell, Hogan, MacCurtain, Mannix-McNamara, & Lewis, 2017) indicated that 43% of employees in various public and private sectors (e.g., Agriculture; Industry; Construction; Transport; Financial services; Education; Health and Social services) experienced ill treatment at work³ over the previous two years; 17% admitted to be the perpetrators and 48% witnessed ill treatment behaviours at work, using the Negative Acts approach.

3 Ill treatment at work is another – albeit different – conceptualisation of workplace bullying. Beyond verbal abuse, exclusion, humiliation, setting unrealistic deadlines, ill treatment negative behaviours also encompass unreasonable management, incivility and disrespect and the experience of violence and injury. Ill treatment also refers to organisational procedures that in effect lead to unfairness or do not support the well-being of workers.

2. Harassment and Victimisation

Harassment in Ireland is legally distinct from bullying. Harassment is defined in relation to nine specific grounds outlined in the Employment Equality Acts (1998-2015; see Glossary of Terms) and the Equal Status Acts (2000-2015), whereas bullying spans a number of legislative areas including Labour Law and Health and Safety legislation, depending on the context and mechanisms used by respondents.

Victimisation occurs where “dismissal or other penalisation of the claimant was solely or mainly occasioned by the claimant having in good faith” done any of the following:

- A complaint of discrimination
- Any proceedings by a claimant
- An employee having represented or otherwise supported a claimant
- The work of an employee (a comparator) having been compared with the work of another employee
- An employee having been a witness under equality legislation
- An employee having opposed by lawful means an act which is unlawful under equality legislation
- An employee having given notice of an intention to do any of these things (Employment Equality Acts 1998-2015 sec. 14A; Equality Act 2004, sec. 8).

The terms “harassment” and “victimisation” were also included in the search for the present study, because these words were used in the cases referencing bullying, which were taken under the Unfair Dismissal Acts (1977-2015) to the Workplace Relations Commission (WRC).

3. Legal Action in cases of Workplace Bullying

The first step that employees could take to deal with workplace bullying is reflecting on the unpleasant behaviours, how are they affecting him or her, and when they are occurring. This stage of assessing the behavioural patterns should help the individual gain a sense of control over the events and/or assist them to see clearly what is or is not going on. With this insight, he or she may approach the alleged perpetrator with a solution-focused approach or contact a manager/supervisor informally to have the matter addressed in a non-combative way. After this, or if this is deemed unworkable, he or she may approach the Human Resources management (where applicable) of their organisation.

The case should then be discussed, reflected upon and be dealt with promptly, on an ‘informal’ although recorded way, to avoid any escalation of the bullying. If this attempt fails, mediation may be required. Both parties must agree in order for the mediation to be successful. However, in the event that the outlined attempts to deal with the situation fail, a formal investigation of the facts might be required. This is the final and most robust but taxing method of progressing a bullying complaint, and only ideally to be used where the other or some other methods have first been tried.

If the bullying becomes unbearable, and an employee is forced to leave his or her own job, they may be entitled to claim Constructive Dismissal under the Unfair Dismissal Act (1977-2015). This means that the claimant argues that an employee had to terminate his/her contract of employment with or without notice, due to the conduct of the employer (in not preventing the bullying). Where employees qualify they can make a claim to the Workplace Relations Commission.

4. Aims of the present study

The present study is concerned with the profile and outcomes of workplace bullying cases taken under the Unfair Dismissal Acts (1977-2015) to the Workplace Relations Commission (WRC) citing bullying, victimisation and harassment as an element in the case.

Workplace bullying represents a cost for targets, in terms of mental health, wellbeing at work, job satisfaction and productivity (Branch & Murray, 2015). Bullying has also a cost for the organisations, as it can damage their image, reputation and systems of work in terms of efficiency and good relations. Moreover, for both targets and organisations, bullying has economic consequences, e.g., medical costs, psychological interventions and/or absenteeism/recruitment, litigation and early retirement payments.

Given these negative consequences of workplace bullying, it is crucial to investigate how organisations respond to bullying, along with the outcomes of the alleged bullying cases that are taken to the WRC. Findings of this report should inform organisations, employees and researchers about the Commission's judgements related to alleged workplace bullying cases, and offer suggestions on best practice and intervention programs.

5. Methods of data collection

Data was collected through records available on the Workplace Relations Commission (WRC) website. The inclusion criteria of the cases in this report were as follows: a) The case was taken to the WRC under the Unfair Dismissal Acts 1977-2015; b) A decision was made between September 2015 and May 2018. The following keywords were used for the search: "bullying", "harassment" and "victimisation"⁴.

A database was built according to the following features: 1) Breakdown of cases claiming bullying; 2) Breakdown of cases according to gender; 3) Breakdown of cases according to behaviour subtype; 4) Breakdown of cases according to outcome (i.e., awarded or failed); 5) Time between submission of complaint and judgement and 6) The award for each case.

4 The terms "harassment" and "victimisation" were not always used according to their legal definition throughout the cases..

6. Results

6.1. Breakdown of Cases Claiming Bullying, Harassment and Victimization

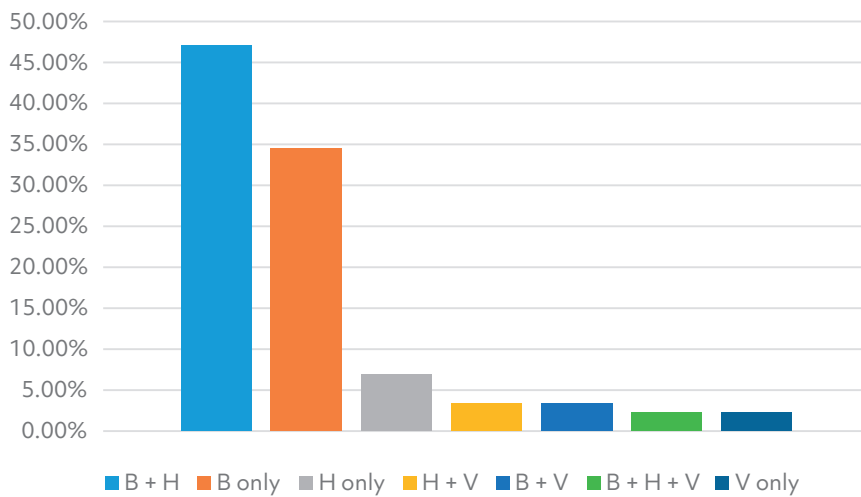
The search carried out for the purposes of this report yielded 108 cases (mentioning the terms “bullying”, harassment” and/or “victimisation”), which were taken to the WRC, under the Unfair Dismissal Act (1977-2016) between September 2015 and May 2018. However, 21 cases were deleted because they did not meet the inclusion criteria (i.e., the terms “bullying”, “harassment” and/or “victimisation” were used throughout the cases, but the cases were not claiming either of these harmful behaviours). Therefore, 87 cases were included in the present report, of which 45 were constructive dismissal cases (see Table 1).

Table 1. Number of cases citing Bullying, Harassment and Victimization only, or citing them in combination, and number of constructive dismissal cases

Reason of unfair dismissal	Number of cases	Constructive dismissal cases
Bullying and harassment	41	20
Bullying only	30	16
Harassment only	6	3
Harassment and victimisation	3	2
Bullying and victimisation	3	2
Bullying, harassment and victimisation	2	2
Victimisation	2	0
Total	87	45

The following number of cases cited these phenomena as the cause of Unfair dismissal: 47.1% of cases cited bullying and harassment; 34.5% of cases cited bullying only; 6.9% of cases cited harassment only; 3.4% of cases cited harassment and victimisation; 3.4% of cases cited bullying and victimisation; 2.3% of cases cited bullying, harassment and victimisation; and 2.3% of cases cited victimisation only (see Figure 1).

Figure 1. Rate of cases citing Bullying; Harassment and Victimization only, or citing them in combination

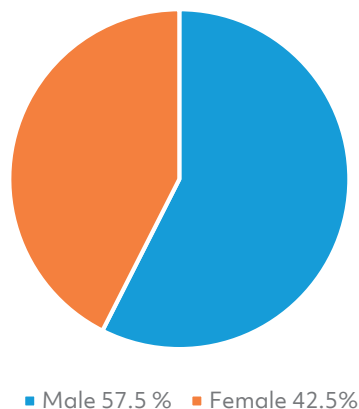


Note: B+H = Bullying and Harassment; B only = Bullying only; H only = Harassment only; H+V = Harassment and Victimization; B+V = Bullying and Victimization; B+H+V = Bullying, Harassment and Victimization; V only = Victimization.

6.2 Breakdown of Cases according to Gender

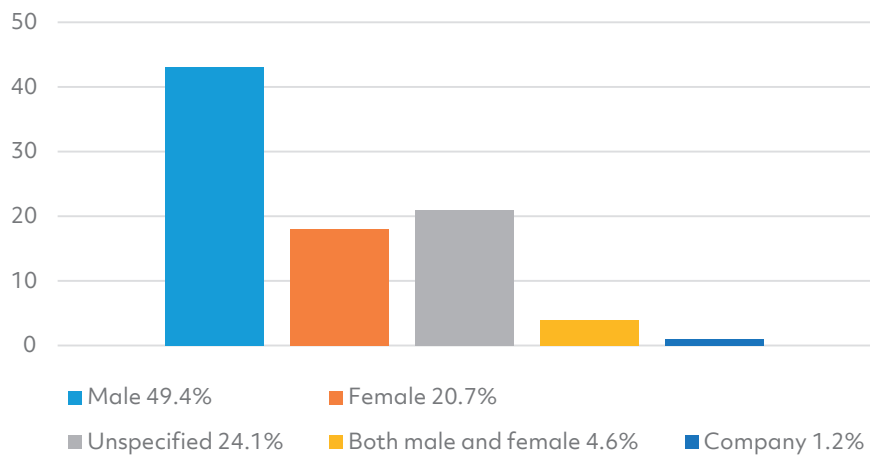
The number of male employees who took their case to the WRC (57.5%; N=50), under the Unfair Dismissal Acts (1977-2015), was higher than the number of female employees who brought their case; (42.5%; N=37; see Figure 2). This represents a change to our previous report (O'Higgins Norman & Kiernan, 2015) which found that female employees were slightly more likely than male employees to take their case to the WRC.

Figure 2. Claimants by gender



However, when looking at the gender of the alleged perpetrators it was found that 49.4% were male (N=43; see Figure 2). This finding is coherent with previous studies showing that more men than women are reported as the perpetrators of bullying (Salin & Höel, 2013). Female employees were the alleged perpetrators of a bullying case only in 20.7% of cases (N=18). Both females and males were the alleged perpetrators in 4.6% of cases (N=4). It was not possible to estimate the gender of the alleged perpetrators for 24.1% of cases (N=21). In the remaining 1.2% of cases (N=1), the company was cited as the alleged perpetrator by the claimant (see Figure 3).

Figure 3. Alleged Perpetrators by gender

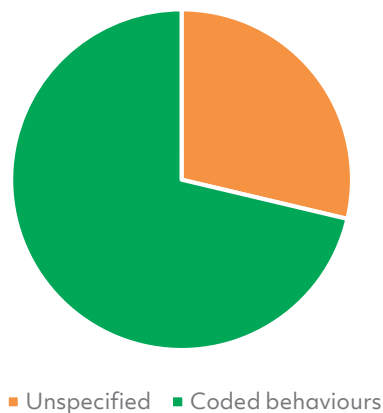


6.3 Breakdown of cases according to behaviour subtype

By following the classification by Rayner & Höel (1997), the cases included in the present report were classified into the following behaviour subtypes: Threats to professional status; Threats to personal standing; Isolation; Overwork and Destabilisation. Although, this classification specifically refers to workplace bullying, it could be a useful guide also when coding harassment and victimisation-related behaviours. Based on Cowie and colleagues (2002), relational bullying, indirect bullying and cyberbullying (see above, paragraph 1) were also included in the coding scheme. However, no cases mentioning these forms of bullying were found. Based on the findings of this report, it was deemed necessary to include “Verbal assault” and “Physical assault” as additional behaviour subtypes. The first refers to episodes of physical attacks, while the second concerns episodes of abusive and offensive language (e.g., incident/s of shouting) that did not match either of the aforementioned categories.

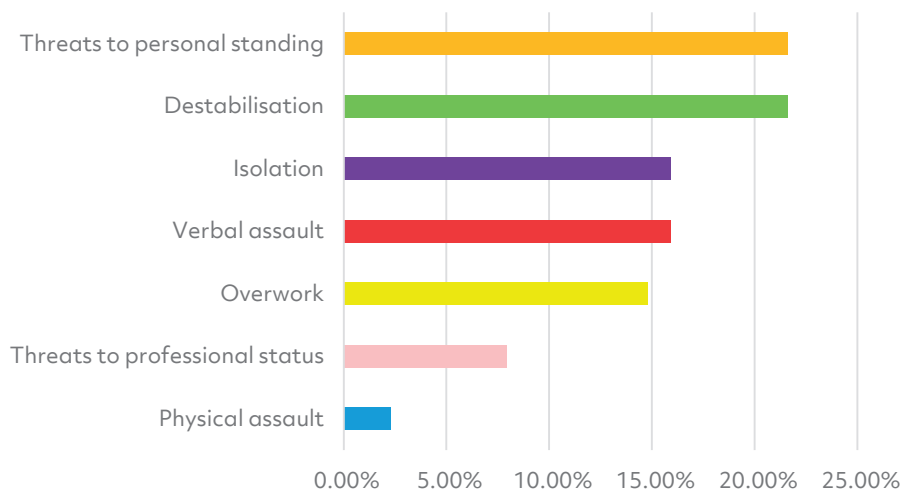
Seventy-one point three percent (71.3%) of cases matched one or more of the aforementioned behaviour subtypes (N=62 out of the 87 cases included in this report), while for the remaining 28.7% of cases (N=25), it was not possible to determine the nature of bullying, harassment and/or victimisation cited by the claimant. This is because the case was described in general terms; for instance, it was stated that the claimant felt bullied, harassed or victimised, or felt treated badly or unfairly. However, the nature of the harmful behaviour was not specified. Therefore, these cases were categorised as “Unspecified” (see Figure 4).

Figure 4. Breakdown of coded and unspecified behaviours



Out of the 62 cases for which it was possible to determine the behaviour subtype, 25.8% (N=16) cited multiple forms of bullying, harassment and/or victimisation (i.e., two or more forms of harming behaviour). Overall, 88 harming behaviours (for 62 cases) were coded, of which 21.6% were coded as *Threats to personal standing* (N=19 behaviours); 21.6% were coded as *Destabilisation* (N=19 behaviours); 15.9% were coded as *Isolation* (N=14 behaviours); 15.9% were coded as *Verbal assault* (N=14 behaviours); 14.8% were coded as *Overwork* (N=13 behaviours); 7.9% were coded as *Threats to professional status* (N=7 behaviours) and 2.3% were coded as *Physical assault* (N=2 behaviours; see Figure 5).

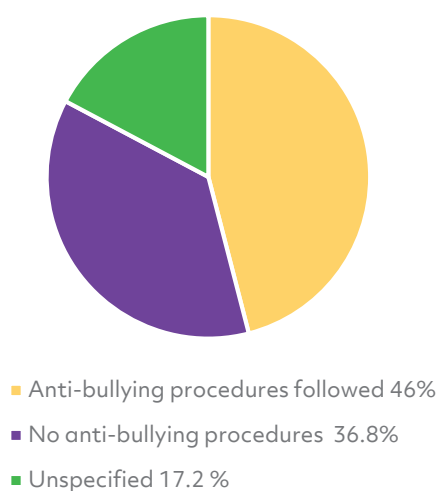
Figure 5. Breakdown of cases according to behaviour subtype



6.4 Breakdown of Cases according to Outcome

Findings show that 46% of organisations followed formal anti-bullying procedures (N=40 organisations), while 36.8% did not follow any anti-bullying procedure (N=32 organisations). For the remaining 17.2% of organisations, it was not specified whether they followed any anti-bullying procedure (N=15 organisations; see Figure 6).

Figure 6. Organisations following anti-bullying procedures



Overall, 42.5% employees were awarded a monetary payment as a result of taking their case to the WRC (N= 37). Of the cases that were awarded (N=37), 5.4% (N=2) were formerly employed in organisations that followed formal anti-bullying procedures, and 78.4% (N=29) were employed in organisations in which anti-bullying procedures were not in place. For 16.2% of the awarded cases (N=6), it was not possible to determine whether anti-bullying policies and procedures were put into place (see Table 2).

Table 2. Organisations following anti-bullying procedures, and outcome of the claim

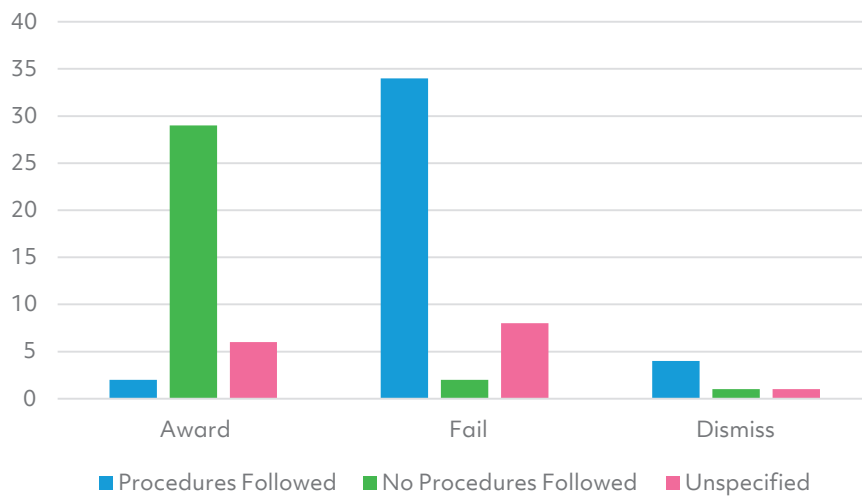
Organisation Procedures	Awarded	Failed	Dismissed
Procedures followed	2 (5.4%)	34 (77.3%)	4 (66.7%)
No procedures followed	29 (78.4%)	2 (4.5%)	1 (16.7%)
Unspecified	6 (16.2%)	8 (18.2%)	1 (16.7%)
Total	37	44	6
Total Rate	42.5%	50.6%	6.9%

Note: Total Rate is calculated on the total of cases (N=87).

As to the cases that were taken to the WRC and failed, it was found that 50.6% of cases failed (N=44 out of 87 cases). Among the cases that failed (N=44), 77.3% of complaints (N=34) were made by employees working in organisations that followed formal anti-bullying procedures; 4.5% complaints (N=2) were made by employees working in organisations that did not follow any anti-bullying procedures. For 18.2% of cases that failed (N=8), it was unspecified whether the organisations put into place any anti-bullying procedures.

Findings show that 6.9% of cases (N=6) were dismissed, of which 66.7% (N=4) followed formal anti-bullying procedures and 16.7% (N=1) did not follow any anti-bullying procedures. For the remaining 16.7% (N=1) it was unspecified whether the organisation followed an anti-bullying procedure (see Figure 7).

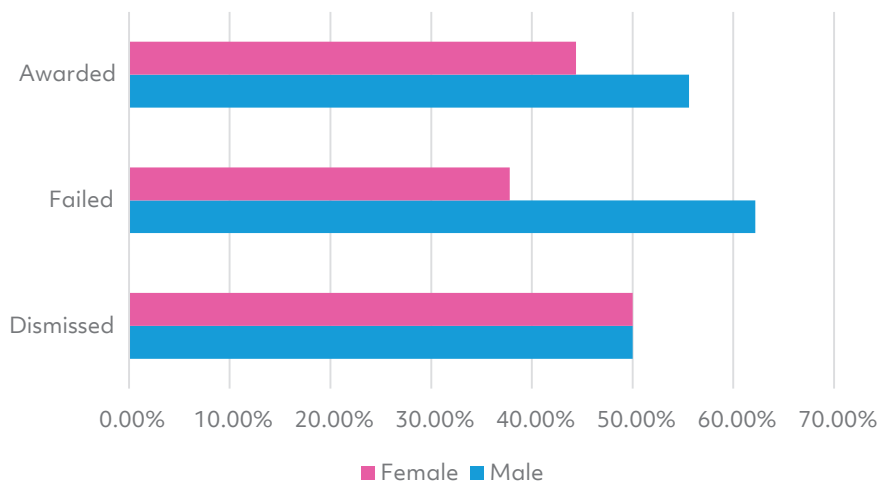
Figure 7. Organisations following anti-bullying procedures and outcome of the claim



6.5 Gender of the awarded, failed and dismissed claimants

Male employees were more likely to receive an award- (55.6% of cases) compared to female employees who received an award in 44.4% of cases. Regarding the claimants who failed, findings show that they were males in 62.2% of cases (N=28 out of the 45 cases that failed) and females in 37.8% of cases (N=17 out of the 45 cases that failed). Fifty percent (50%) of cases were dismissed among males (N= 3 out of the 6 dismissed cases) and 50% of cases were dismissed among female employees (N=3 out of the 6 dismissed cases; see Figure 8 for details).

Figure 8. Cases awarded, failed and dismissed by gender



6.6 Length of time from submission to outcome and costs of awards

The current study also looked at the timeframe between the submission of the formal complaint and the Commission's final judgement. Information on this timeframe was available only for 81 cases. Findings show that on average 2 years and 5 months (range: 7 months - 8 years and 3 months; *sd*: 1 year and 7 months) passed between the submission of the formal complaint and the Commission's final judgement.

Information regarding the awarded cases was available for 36 out of the 37 awarded cases (this is because one case was re-instated). Findings show that the average amount awarded against an employer was €12,757.95. The awards ranged between €1,100.00 and €38,500.00. The overall award amount accorded within this period was €433,770.40.

7. Discussion

The analysis of the Commission's determinations related to Unfair Dismissal shows that a consistent portion of cases cited respectively a combination of bullying and harassment or bullying only as the cause for Unfair Dismissal. A considerable number of these cases involved claimants who were constructively dismissed. This finding indicates that employees who feel harassed and/or bullied are more likely to see their condition as unbearable and therefore, are more likely to resign.

Small disparities emerged in terms of male and female employees who took their case to the WRC. Findings suggest that males were more likely to take their alleged bullying, harassment and/or victimisation case to the Commission. This finding is in contrast with a previous report published by ABC (O'Higgins Norman & Kiernan, 2015), which found only small differences in terms of the gender of the claimants (i.e., 47% of males versus 51% of females; 2% were unspecified).

At first glance, these findings seem to be in contrast with previous studies showing that female employees report higher rates of bullying victimisation compared to their male counterpart (Salin & Höel, 2013). In addition, previous research showed that multiple forms of gender inequalities and gender discrimination take place against female employees (Stamarski & Hing, 2015), which increase their risk of being bullied. However, while the findings in this report suggest that males are more likely to take their case to the WRC, they do not indicate that workplace bullying is higher among men. One explanation for this finding is that male and female employees deal with bullying in different ways. Previous research has shown that males use more active coping strategies when dealing with bullying (e.g., confront the perpetrator), while females use avoidance strategies (e.g., do nothing; sick leave; request for transfer; Salin & Höel, 2013). Hence, a tendency to adopt avoidance coping strategies could suggest that females might be more reluctant to take their case to the Commission.

However, findings show that males are consistently more likely to be the alleged perpetrator in a bullying case. Males, more than females occupy managerial positions. Given that bullying is often a downwards rather than an upwards process, it is not surprising to see that more males than females are reported as alleged perpetrators of bullying (Salin & Höel, 2013).

In relation to the type of negative and harming behaviours, the empirical evidence has shown that the behaviours involved in bullying are often of a verbal (e.g., insults; name-calling) and indirect nature (e.g., isolation; Einarsen et al., 2011). In line with previous literature, the findings of this report show that most claimants were subjected to non-contact harming behaviours, while physical assault incidents were coded only in a small minority of cases, and involved one-off incident of abusive physical behaviour. These findings confirm that bullying and other forms of abusive behaviour in the workplace aim at harming the target psychologically (Einarsen et al., 2011).

As to the organisations that followed formal anti-bullying procedures, although data indicated that several organisations (46%), put into place some specific procedures to respond to the bullying complaints, it was also found that a considerable part of them did not adopt any formal anti-bullying procedure (36.8%). Interestingly, most awarded cases belonged to organisations that did not follow any anti-bullying procedures (78.4%), whereas most cases that failed

belonged to organisations that had put into place anti-bullying procedures (77.3%). On one hand, these findings could indicate that employees working in organisations lacking clear anti-bullying procedures are more likely to raise a formal complaint involving bullying, harassment and/or victimisation. On the other hand, they show that these forms of negative and harming behaviours could be less likely within organisations that put into place anti-bullying procedures. This is consistent with previous studies highlighting that the presence of clear anti-bullying policies and procedures is associated with lower levels of bullying (O'Connell et al., 2007).

Finally, findings show that several years passed between the time when complaints were raised and the time of the decision issued by the WRC, and that in some instances organisations sustained high costs to refund the awarded cases. However, the average award was lower compared to a previous report published by O'Higgins Norman and Kiernan (2015).

Although the findings presented in this report could be informative for organisations, employees, researchers and practitioners, some limitations should be outlined. First, it did not present any data on the features of the organisations included in this report (e.g., private/public; size). Second, some of the cases were presented in general terms on the WRC website, which resulted in several missing information (e.g., the reason of the alleged bullying has been specified only in a minority of cases). These limitations should be addressed in future reports and research papers.

8. Practical Implications

Findings of this report outline that bullying at work impacts the targets and the organisation in terms of time and costs. Although not explored in this report, we can advance that workplace bullying has also negative psychological outcomes for the target (Einarsen et al., 2011).

Overall, the findings of this report call for formal anti-bullying policies and procedures that organisations should adopt to prevent and tackle bullying. We suggest that organisations should promote a culture of respect, which in turn would increase employees' wellbeing at work. Organisations are encouraged to prevent bullying through informative workshops aimed at raising awareness on the features of bullying. Evidence-based intervention programs should also be put into place. More specifically, intervention should be based on theoretical frameworks and previous research findings. Importantly, anti-bullying intervention programs should be part of the ongoing organisation's anti-bullying efforts, rather than be conceived as one-time programs. Findings of a meta-analysis published in recent years showed that effective intervention programs include several components (e.g., anti-bullying policies; employee trainings) and target the whole organisation (Hodgins, MacCurtain & Mannix-McNamara, 2014). Therefore, it is suggested that when implementing anti-bullying intervention programs, a strong focus should be put into changing the organisational culture, namely the employees' attitudes, beliefs and values.

References

- Branch, S., & Murray, J. (2015). Workplace bullying: Is lack of understanding the reason for inaction? *Organizational Dynamics*, 44, 287-295.
- Cowie, H., Naylor, P., Rivers, I., Smith, P.K., & Pereira, B. (2002). Measuring workplace bullying. *Aggression & Violent Behavior*, 7, 33-51.
- Einarsen, S., Høel, H., Zapf, D., & Cooper, C. (2011). *Bullying and Harassment in the Workplace: Development in Theory, Research and Practice*. London: Taylor & Francis.
- Health and Safety Authority – HSA (2007). *Code of Practice for Employers and Employees for the Prevention and Resolution of Bullying at Work*.
- Hodgins, M., Pursell, L., Hogan, V., MacCurtain, S., Mannix-McNamara, P. & Lewis, D. (2017). *Exploring ill Irish workplace behaviour study*. Wigston: IOSH.
- Hodgins, M., MacCurtain, S., & Mannix-McNamara, P. (2014). Workplace bullying and incivility: A systematic review of interventions. *International Journal of Workplace Health Management*, 7, 54-72.
- Law Reform Commission. *Employment Equality Acts (1998-2015)*.
<http://www.irishstatutebook.ie/eli/1998/act/21/enacted/en/html>
- Law Reform Commission. *Equality Act (2004)*.
<http://www.irishstatutebook.ie/eli/2004/act/24/enacted/en/html>
- Law Reform Commission. *Equal Status Acts (2000-2015)*.
https://www.lawreform.ie/_fileupload/RevisedActs/WithAnnotations/HTML/EN_ACT_2000_0008.htm
- O’Connell, P., Calvert, E., & Watson, D. (2007). *Bullying in the workplace: Survey reports 2007*. Department of Enterprise, Trade and Employment: Dublin.
- O’Connell, P.J., & Williams, J. (2002). *The incidence and correlates of workplace bullying in Ireland*. Economic and Social Research Institute: Dublin.
- O’ Higgins Norman, J., & Kiernan, G. (2015). *Bullying in the workplace. An analysis of cases at the Employment Appeals Tribunal (EAT) under the Unfair Dismissals Acts (1977-2007)*. National Anti-Bullying Research and Resource Centre.
- Rayner C., & Høel, H. (1997). A summary review of literature relating to workplace bullying. *Journal of Community & Applied Social Psychology*, 7, 181-191.
- Salin, D., & Høel, H. (2013). Workplace bullying as a gendered phenomenon. *Journal of Managerial Psychology*, 28, 235-251.
- Stamarski, C.S., & Hing, S.S. (2015). Gender inequalities in the workplace: The effects of the organisational structures, processes, practices, and decision makers’ sexism. *Frontiers in Psychology*, 6, 1-20.
- Vranjes, I., Baillien, E., Vandebosch, H., Erreygers, S., & De Witte, H. (2018). Kicking someone in cyberspace when they are down: Testing the role of stressors evoked emotions on exposure to workplace cyberbullying. *Work & Stress*, 32, 379-399.

