

Strong management v bullying: can you tell the difference?

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ACAS highlights in its guide for managers on Bullying and Harassment at Work that 'strong management can unfortunately sometimes tip over into bullying behaviour.' However, this is only one side of the story. In fact, it is not at all uncommon for an employee whose performance is under the spotlight to complain that they are being bullied by their manager.

Put simply, one person's strong performance management may be perceived as bullying behaviour by the person who is on the receiving end of that management.

This can lead to managers feeling that they are unable to manage for fear of being the target of allegations of bullying. If this becomes the mind-set then management becomes paralysed and cannot correct under performance. HR teams will need to help set clear, achievable performance targets and give supportive guidance to both parties to keep performance management on track. It may also be useful to bring in outside help in the form of coaching for one or both parties.

These issues are particularly acute in high performance environments where staff are well paid and are expected to work long hours and under pressure. Such employers often recruit highly intelligent graduates who may individually have been used to being top of their class at school and university but then find themselves struggling if they have been knocked off the top spot that they previously occupied.

Managers who need to performance manage staff can take some comfort from the fact that the courts are usually well able to distinguish between strong management and bullying. At one end of the spectrum there are cases such as *Green v DB Group Services (UK) Ltd* [2006] EWHC 1898 (QB) in which the High Court held that Ms Green had been subjected to 'a relentless campaign of mean and spiteful behaviour designed to cause her distress'. At the other end is the case of *Mullen v Accenture Services Ltd* [2010] EWHC 2336 (QB) in which 'blunt language and inappropriate banter' did not constitute bullying behaviour but was merely an attempt to drive the work forward in a high performance environment. Such language had not in the Court's view been specifically directed at Mr Mullen. The Court commented in *Mullen* that while 'there may sometimes be a fine line between strong management and bullying', that line had not been crossed in this case. Mr Mullen was not on the receiving end of 'genuinely offensive and unacceptable behaviour'.

When faced with an allegation of bullying, employers should consider the environment and distinguish carefully between strong management and genuinely bullying behaviour. To do that HR needs to:

- Investigate fairly, thoroughly, confidentially and speedily;
- Understand that the behaviour is not judged purely on the subjective perception of the victim but requires an objective assessment of the behaviour in question, including any known vulnerability of the alleged victim; and
- Both alleged victim and alleged bully will need support and it can be effective to encourage them to seek support from a designated peer or coach with whom they can discuss matters confidentially and who is equipped to inject objectivity and patience into what is often a highly charged situation.

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