Introduction

Organizations are increasingly acknowledging the need to have in place proper policies and procedures to deal with cases of bullying and harassment should they arise (see also Rayner and Lewis, this volume). Reflecting such a need and to ensure an equal playing field, the social partners in Europe, represented by various employer associations (e.g., Business Europe) and the European Trade Union Confederation (ETUC) signed a framework agreement in 2007 on the prevention of violence and harassment. The agreement ensures the right of employees to file complaints against alleged perpetrators with the aim of having their case heard by means of an impartial investigation and, given the outcome, the appropriate actions taken (European Social Dialog, 2007).
In an increasingly diverse workplace (see Lewis et al., this volume), outlets or institutional mechanisms for dealing promptly and fairly with complaints are essential. Hence, whilst increased diversity represents potential for organizational opportunities and strength, it also gives rise to situations where misunderstandings, disagreements, and resentment may be rife (Baron and Neuman, 1998). Whilst such situation can be minimized if they are properly managed, all organizations should be prepared for the need to investigate allegations of behavioural misconduct. The presence of well-planned procedures for investigation and their proper implementation provides the organization with an opportunity to make correct decisions, reestablish fairness, and to bring the matter to a conclusion. Where appropriately applied, they also provide security for the individual and send a strong signal to employees that these issues are taken seriously and not tolerated by the organization (Stockdale and Sagrestano, in press). By contrast, where such response mechanisms are not in place, cases of this nature often remain unresolved for a long time, sometimes even for years, causing frustration and resentment to many or even all of those involved (Einarsen et al., this volume). In addition to the negative organizational effects such ongoing cases or scenarios are likely to generate, which also increasingly show up on the organization’s balance sheet (see Hoel et al., this volume), organizations may face the prospect of litigation. In this respect it is important to point out that whilst organizations vary with respect to the risk of bullying, no organization can be considered “bully-proof” (Rayner et al., 2002), thus the need to have in place policies and procedures on bullying applies to all organizations. The case for having a complaint of bullying or harassment heard and impartially investigated can equally be made on the grounds of justice and fairness, as reflected in the growing attention being paid to issues associated with respect to the dignity of individuals in terms of their work experience (Di Martino et al., 2003).

Where proper procedures exist and these are applied correctly in terms of a fair investigation process, the conclusions reached and the appropriate sanctions towards the perpetrators taken, their presence may also have an impact on behaviour within the organization (Hulin et al., 1996). Although it is vital that organizations put in place processes and mechanisms to prevent bullying and harassment in the first place, organizations must equally be ready to respond to those cases that slip through the safety net and where a formal investigation is warranted. Having procedures in place for such situations also ensures predictability for everyone involved and their perceptions of procedural justice (Neuman and Baron, this volume), a key element in perceptions of fairness. In addition, a written procedure that allocates clear roles and responsibilities also acts as a guarantee of a planned and systematic process in which the impact of potentially interfering factors such as organizational politics (Salin, 2003) and heightened emotions can be reduced to a minimum.

In the following section, we describe how to conduct a fair and correct internal investigation in response to complaints about bullying and harassment at work. Although the previous edition of this book included a chapter...
on investigation, the chapter focused on investigations carried out by external investigators (Merchant and Hoel, 2003). In principle, every investigation into complaints of bullying instigated by the employer is an internal investigation (as opposed to any such investigation conducted by national or local bodies or other official inspectorates), though the employer may, of course, use both internal staff and externally hired consultants. The focus of the present chapter, however, on the former because this should be the rule. In cases where the complaint involves very senior members of staff, it may, however, be advisable to employ external expertise, not least to ensure that the investigation is taken seriously by those involved and that the result will be respected.

Initially, the chapter explains the basic principles that must govern the investigative process. In this, we stress the importance of anchoring the investigation process within the organization’s bullying policy. This is followed by a systematic exploration of the investigation process and its various stages. We close by discussing some of the obstacles often encountered in providing a fair hearing in such cases.

**Principles Governing the Investigation Process**

Predictability of process and how it is progressed and concluded is a key issue for trust in the process to be established. This can be best achieved by embedding the investigation process firmly in existing organizational policies and procedures. This section examines some core principles that need to be observed for the investigation process to be successful.

**Investigation Informed by Local Policy**

It is left to the employer to ensure that any complaints of bullying and harassment are dealt with in a fair as well as ethically and legally correct manner, ensuring the rights of both targets and alleged perpetrators (Einarsen and Hoel, 2008). To avoid having to respond to an aggravated situation unprepared or in haste, when emotions are running high, it is essential to have thought through the process of how a complaint should be handled independently of, or divorced from, any ongoing bullying scenario. Although such local policies and other organizational antibullying measures are often introduced in direct response to awareness of local problems (Salin, 2009), we suggest that to avoid suspicion and defensiveness, policies and procedures should be generated in “peacetime,” and not in connection with any particular dispute.

The case for policy is made elsewhere (Rayner and Lewis, this volume). In terms of investigation of complaints of bullying, the policy has specific functions and fulfils certain needs. For the individual, it should provide the
opportunity to have one’s case heard and thus offers the prospect of personal vindication or redress (Meglich-Sespico et al., 2007). Furthermore, the presence of a policy and accompanying procedures for dealing with formal complaints represents predictability and security for the individual in terms of how his or her case is handled as well as the implications for any perpetrators found guilty of an offence. In this respect, the policy can be seen to represent an expression of the balance between the employers’ duty of care to their employees, on the one hand, and the “managerial prerogative,” or managers’ right to manage, on the other. For the organization, it is a way of resolving or bringing an ongoing case to conclusion and reduces the chance of litigation.

It is suggested that effective policies on bullying and harassment should emphasize the following principles (e.g., Einarsen and Hoel, 2008, p. 161; Stockdale and Sagrestano, in press):

- The right of every employee to work in an environment free of harassment, bullying, and intimidation
- Nontolerance of bullying and harassment, emphasizing the seriousness with which any breach of the policy will be considered, highlighting that disciplinary action may be taken depending upon the severity of the offence
- The demand for compliance applied to all employees, workers, and managers, as well as any individuals subcontracted or seconded to work for the organization
- Nontolerance of any attempts at recriminations against or further victimisation of anyone using the policy to complain, including a nontolerance of malicious complaints

In addition to highlighting the foregoing principles, the policy should also contain the following elements:

- Standards for behaviour or conduct (against which the investigators judge the complaint and the evidence in its support). Because many people will not label their experience as bullying or harassment, it could be even more appropriate to include a range of examples of unacceptable behaviour rather than to provide a definition (Eberhardt et al., 1999).
- Designated, reasonable timeframes for the various stages of the complaint process.
- A description of the complaints procedures and the nature of the investigative process.
- Systems for monitoring, recording, and internally publicising complaints and their outcomes (Stockdale and Sagrestano, in press).
- Due process and natural justice.
To treat everyone involved fairly and in order to arrive at a just conclusion that is also perceived as such by those directly involved and by the wider organizational community, certain principles need to be taken on board. Of particular relevance here is the principle of “natural justice,” or what is also referred to as due process, “typically construed as the right to know the charges and respond to evidence against oneself” (Stockdale and Sagrestano, in press, p. 26). Fair treatment means that someone accused of bullying should know what he or she is being accused of and the exact nature of the complaint. Furthermore, alleged perpetrators must be given the opportunity to defend themselves against the complaint by being given access to any evidence relevant to the outcome of the case as well as having the opportunity to call witnesses and present other evidence that may support their side of the case. Moreover, in order for fairness and justice to prevail, the parties must be treated equally throughout the process. This treatment implies that none should be judged before the investigation is concluded, which is, according to Cropanzano et al. (2007), essential in order to preserve workplace harmony. This also suggests that investigators must refrain from making moral judgments or obtaining character statements and that any conclusion must be based entirely on the facts of the case and not on sympathies or personal feelings (Ishmael, 1999; NWEO, 2003).

Subjective versus Objective Experiences

Bullying and harassment as psychological phenomena are, of course, subjective experiences, to some extent being “in the eyes of the beholder” (see Einarsen et al., this volume). By contrast, the aim of an investigative process is to look at bullying from an objective perspective to see if experiences can be verified or confirmed by other third parties or by other objective evidence (Brodsky, 1976). Although individuals may have different thresholds with respect to their level of tolerance and, therefore, assess similar experiences differently, organizations need clear criteria for what is tolerated and what is not. Moreover, in order to take action against someone accused of bullying, the organization needs to establish objectively whether the alleged behaviour has taken place, its nature, and whether the actual events must be considered as a breach of either internal codes of conduct or possibly the relevant national legal code.

Confidentiality versus Anonymity

Confidentiality and anonymity are two other principles of great relevance to investigations. The issue of confidentiality in connection with complaints about bullying and harassment has been the subject of considerable debate (Rayner et al., 2002). It is essential to emphasize that the confidentiality that can be offered to the complainant and others implicated is an assurance that the case and the information received will be treated in confidence as far as
it is possible to progress the investigation (Merchant and Hoel, 2003). Thus, complete confidentiality cannot be promised because it would jeopardize the organization’s duty of care, not only to the complainant but also to other organizational members who may be at risk of similar treatment (Ishmael, 1999). By contrast, because doing so would breach the principles of natural justice, organizations should not offer anonymity. The potential downside of this is that it could make witnesses reluctant to come forward. But here it is relevant to point out that we are talking about an organizational process and not a criminal investigation.

**Vexatious, False, and Malicious Complaints**

The complaint procedure applies to genuine complaints about bullying and harassment. In this sense, it is important to stress that most complaints that are not upheld or proven may still be genuine and made in good faith. By contrast, vexatious complaints, for their part, refer to grievances that are considered not to be made in good faith, as, for example, when made for personal gain (http://thebullyinghelpline.blogspot.com/2009/09/unfounded-or-vexatious.html). False or malicious complaints signify complaints that are fabricated or not rooted in reality and deliberately set out to harm one or more individuals. Vexatious, false, and malicious complaints must not be tolerated by the organization, a principle also laid down in the European Framework Agreement on Violence and Harassment developed by the European Social Dialog (2007) and mentioned in the introduction.

**Investigation Based in Law and Statutory Requirement**

An investigation must be rooted in relevant organizational policies and procedures. It must also, in principle, be governed by statutory regulation relevant to the case (e.g., health and safety regulations) and specific regulations on bullying and harassment where such legislation exists. It must therefore be expected that the investigators will have a clear understanding of these issues and their implications for the process and the role of the investigation. Understanding of the case is particularly evident when the investigators draw their conclusions, as it is against standards laid down in statutory regulations as well as internal policies that the actions and behaviour revealed by the investigation will be assessed and judged. Where such standards might not be specific or descriptive but, rather, refer to general principles of fair human interaction and management, it is to some extent left to the discretion of the investigators to judge whether the conduct in question represents a breach of such standards.

**Investigation Supported by Collective Agreements**

As reported initially, the European Framework Agreement on Violence and Harassment at Work (European Social Dialog, 2007) relies on existing
Investigating Complaints of Bullying and Harassment

legislative instruments (see, e.g., Directive 89/391/EEC of June 12, 1989, concerning measures for improvements in the safety and health of workers at work; HESA, 2007) and commits the members of the signatory parties or of organizations on the employer and trade union sides to implement it within a time scale of three years. The agreement suggests that “a suitable procedure will be underpinned but not confined to the following” (European Social Dialog, 2007):

- It is in the interest of all parties to proceed with the necessary discretion to protect the dignity and privacy of all
- No information should be disclosed to parties not involved in the case
- Complaints should be investigated and dealt with without undue delay
- All parties involved should get an impartial hearing and fair treatment
- Complaints should be backed up by detailed information
- False accusations should not be tolerated and may result in disciplinary action
- External assistance may help

It is important to note that establishment, revision, and monitoring of procedures should be done in partnerships, across Europe, and independent of custom.

Investigative Responsibilities

To ensure that the investigation is carried out in line with principles for fairness and reasonableness, clear allocation of roles and responsibilities is essential. In terms of the organization’s role, it must ensure that the investigation is carried out in line with the requirements of any relevant policy and any written accompanying internal procedures. Furthermore, the employer, or the employer’s representative as set out in internal policies, gives the mandate for the investigation and in this way agrees that it can go ahead. In practice, this role is often allocated the head of human resources or head of personnel. As has already been emphasized, the organization must ensure that the rights of complainants as well as alleged perpetrators or those complained against are respected as previously argued. Any support system available to the parties involved must also be established and explained by the employer. To ensure that the remainder of the process is carried out in a way that is fair and defensible should the case still at one stage go to court, those entrusted with the role of investigator must have received training in the principles guiding such investigations and in their practical application.
As far as the investigators are concerned, their overall responsibility is to conduct an assessment of the extent to which the complaint is upheld or supported. To this end, they will gather the necessary evidence from interviews with those directly involved and from witnesses, and if necessary, by obtaining other forms of relevant proof or evidence. Furthermore, their role is to assess and weigh up the evidence, drawing a conclusion in terms of fully or partially supporting the complaint or of dismissing it where no, or insufficient, evidence has come to light. As stated earlier, the evidence must be assessed against any relevant statutory regulation as well as standards laid down in internal policies.

The Investigation Process

There is, of course, a requirement that successful outcomes rely on investigators being comprehensively trained for their task. Furthermore, it is advantageous that the investigators come from different organizational units, although optimal solutions might sometimes be difficult to achieve. These requirements also apply to the number of internal investigators employed for the task. Here, a team of investigators (two or more) has clear advantage in terms of speed of investigation and the opportunity to reflect on the case and the evidence gathered as the investigation progresses.

Although a dose of realism is healthy when considering schedules for progressing a case, time is at a premium here; and the longer the case drags on, the greater the negative impact on individuals involved as well as on the organization. Therefore, the organization should state within their policy a reasonable, specified timeframe within which the investigation should be completed (e.g., within 20 working days after the submission of the complaint). Organizations aiming higher, say, 10 days, may find themselves fighting a losing battle. However, as circumstances may vary in terms of the nature of the complaints (e.g., the seriousness of the case and the number of people involved), the context (e.g., to what extent the nature of their work allows people to leave their other duties), and the particular situation within which they emerge (e.g., unanticipated work pressures, or vacation time), there must be room for flexibility because such targets cannot always be achieved. All in all, considerations relating to organization of the process at the outset should not be underestimated, and as was argued by Merchant and Hoel (2003), much can go wrong that cannot easily be repaired if attention to detail slips, particularly at the planning stage.

The investigation process can therefore be seen to consist of four separate stages: (1) preparation or planning, (2) gathering evidence, (3) drawing a conclusion, and (4) writing a report.
1. Preparation

It is the employer, typically the head of personnel or HR, who identifies investigators and gives the mandate for the investigation. Such a mandate is essential because it provides investigators with the necessary authority, acting on behalf of the employer, to call individuals to interviews, to access relevant information, including personnel files (within the confines of national data protection legislation), and to gain admittance to work areas where necessary. Implicitly, it also grants the investigators the time to carry out the investigation. As far as timeframes are concerned, the investigators need to consider the entire process, taking into consideration possible time constraints of an operative nature as well as constraints related to demands from their normal job, ensuring that the investigation can proceed in line with requirements laid down in internal procedures. Where two or more investigators are identified for the task, allocation of responsibilities and division of labour between the team members must be clarified. Because it is essential that information obtained is effectively shared between the team members, channels for communication need to be agreed. Similarly, the information that needs to be communicated to the organization during the investigation needs to be considered. As has already been argued, this need for open communication is particularly evident when the investigators draw their conclusions, for it is against standards laid down in such documents that the actions and behaviour revealed by the investigation will be assessed and judged.

In order to devise a strategy for the investigation, investigators need to study the complaint in detail. Does the complaint suggest that any particular regulation or policy has been breached? In particularly serious cases—for example, in cases of assault or physical violence or where there is fear of repetition or retaliation—suspension of the alleged perpetrator (on full pay) may be considered. Alternatively, it may be necessary to physically separate the parties for the period of the investigation. To ensure that the process is fair and to limit the influence of potential biases, the investigators ought, at the outset, to reflect on their own attitudes and possible prejudices to the parties involved.

As far as letters or other written communication regarding interviews is concerned, Merchant and Hoel (2003) argue, their wording is of vital importance and needs particular consideration. Considerations of fairness suggest that the same message should be communicated to complainants and to the alleged perpetrator in terms of the process, including any statements about confidentiality. To avoid interference with the process, it is useful to include a passage emphasizing that potential witnesses should not be approached and that any intimidation of witnesses or the opposing party will not be tolerated (Merchant and Hoel, 2003). Similarly, to prevent distortion of facts, witnesses should be advised to maintain confidentiality (North Western Local Authorities’ Employers’ Organization, 2005).
In order to create a nonconfrontational, albeit formal atmosphere in what may be a highly charged situation, attention needs to be paid to the physical layout of the interview room in terms of how furniture is placed. Where a case is highly visible—for example, where the organization is small and the nature of the case may be associated with personal embarrassment on the part of those involved—it may be necessary to locate the interviews on neutral ground (e.g., off the premises). Interviewees should be informed about their right to be accompanied during interviews (e.g., by a trade union representative or a colleague), although these persons should not represent the interviewees by speaking on their behalf. By providing interviewees with support, such arrangements could help calm down an emotionally heightened situation and may, therefore, be beneficial to the progress of the investigation.

The order of interviews is of importance for the effectiveness of the investigation and to uphold principles of natural justice. Thus, it is recommended to start by interviewing the complainant, followed by the alleged perpetrator (North Western Local Authorities’ Employers’ Organization, 2005). Only when these interviews have been carried out will it be possible to have a clear picture of which witnesses need to be interviewed.

2. Gathering of Evidence

Because the investigators should establish whether and to what extent the complaint is substantiated (or proven), their objective is to identify and uncover any evidence that may help them arrive at a conclusion about the complaint one way or the other. Typically, the evidence is collected by means of interviews of those directly involved as well as possible witnesses or by other evidence, an issue we will return to later. Throughout this process, the focus must be on facts, disregarding any statement based on beliefs, opinions, or personal characteristics.

Because the outcomes of the interviews are the basis for the progress of the investigation and the ability to draw fair conclusions, due attention must be given to the preparation for the interviews. However, our experience of training investigators tells us that many would-be investigators severely underestimate the difficulty of getting the optimal outcome from an interview. Thus, we argue that even extensive experience of interviewing employees for selection, appraisal, and even disciplinary hearings does not automatically translate into the skills needed for the investigation interview. It is a question of not only dealing with emotionally difficult situations in a constructive manner but also not allowing personal biases to prejudice or interfere with the process. Investigation interviews should neither be open for dialogue, as in appraisals, nor be an opportunity for interviewees to take the initiative or respond entirely on their own terms, steering the interview in their own preferred direction. Nevertheless, it is important that the interviewee initially be given the opportunity to tell the story the way he or she
sees it, elaborating on issues the interviewee considers relevant to the case. This scope is particularly important for the complainant and the alleged perpetrator, whereas witnesses are to be seen more as a source of specific information that the investigators may need in order to draw conclusions about the case. Giving interviewees such scope also tends to calm down the situation and help the interviewees relax. Doing this is paramount, for where there is a lot at stake, interviewees, particularly those accused of harassment or bullying, but also complainants in their defense or in their allegations, will attempt to portray themselves in a positive light whilst often trying to weaken the case of their opponent.

Thus, investigators must study the complaint and think through the interviewing process in advance, identifying issues in need of clarification. The way questions are best phrased in order to discover and obtain the facts of the case must be given consideration. For example, open questions should be used for interviewees to elaborate or give their account of issues or events, whereas prompts should be provided for confirmation of facts (North Western Local Authorities’ Employers’ Organisation, 2005). Although the ability to phrase questions in a way that unlocks and provides access to facts, to chains of events and their underlying motives, and the capacity to capture and follow up leads during the course of interviews will greatly improve with practice, experience should never replace the need for preparation. Being part of a team of investigators will also ease these challenges. Given the importance of being proactive throughout the interview, not letting slip opportunities to follow up a lead requires concentration. As has been argued by Merchant and Hoel (2003), a failure to pick up threads of evidence could actually lead to injustice. Nevertheless, whilst being fully in control of the process, interviewers should let the interviewees do most of the speaking and strictly avoid prompting particular responses or putting words or arguments in their mouths. Furthermore, any request from interviewees to speak off the record should always be denied.

Having interviewed the complainants and then the alleged perpetrator, witnesses who could throw light on the case should be called. Again, it is important to highlight that personality characteristics, beliefs, or opinions should have no role to play. Witnesses are sources of fact only and do not have a say regarding the conclusion. The number of witnesses to be interviewed will be determined by the needs of the case in terms of the ability of the investigators to gather sufficient evidence to reach a defensible conclusion. Attention to fairness, in terms of a balance of witnesses interviewed for each side, will also have an impact on the total number of witnesses interviewed, as will the organizational resources available. One should note that it may be necessary to interview an informant more than once to clarify matters or when the emergence of new information requires this. A cautionary note needs to be sounded with respect to other issues giving rise to concern that may surface during the course of the investigation. In this respect, it is advised that these issues are kept separate from the ongoing investigation.
and are, if necessary, reported to the employer. In this respect, it is important to stay on track and not be diverted into investigating other issues that may surface during the investigation process.

How best to take records of interviews has also been a matter for discussion. Whilst Merchant and Hoel (2003) argue in favour of tape-recording, emphasizing that this removes any questions about the accuracy of the account and leaves the interviewer to focus on the interactions, traditional note-taking on paper or computer may be a more appropriate approach depending on the nature of the situation and as a way of reducing paperwork by focusing on key issues. A useful compromise may be to rely on note-taking for the summary or minute and use the recordings only as a backup where there may be disagreement about what was actually said. However, to maintain trust in the process, it is essential that the interviewee agrees that the minutes represent a true account of the interview by signing it.

Where there are no witnesses or they are unwilling to come forward, or where it is one person’s word against another’s, investigators should seek out other evidence which could corroborate any claim made. For example, physical marks could be presented as evidence of an assault. Similarly, unusual behaviour and emotional reactions exhibited by the target could equally back up a claim of bullying. As part of the investigation, it can sometimes also be necessary to inspect the physical environment in which an incident is claimed to have taken place to get a clear picture of events or, where there is doubt, to verify the feasibility of the said events (Merchant and Hoel, 2003). For the same purpose, it may be necessary to check information available on personnel files or on personal computers (e.g., job-descriptions, sickness records, or e-mails), although national legal provisions may restrict access.

3. Reaching a Conclusion

Investigators should work on the assumption that their task is to involve a sufficient number of witnesses to be able to draw a defensible conclusion and not to carry out a complete or exhaustive process (Merchant and Hoel, 2003). In reaching a conclusion, they should base their judgment on the principle of probability, rather than providing evidence to prove the case beyond reasonable doubt as would happen in court. However, the more serious the case is in terms of the potential implications it could have for alleged perpetrators should the investigation support the complaint, the higher the level of proof that will be required. Thus, in serious cases where dismissal is a likely outcome should the complaint be upheld, the investigators must have strong evidence on their side because such cases may well end up in court at a later stage. Therefore, whilst less serious cases would require only a probability greater than 50% to be supported, very serious complaints may require a probability in the order of 70%–80%. However, where it is a case of one person’s word against another’s and insufficient evidence emerges to enable investigators to reach a particular conclusion, the complaint cannot
be supported. Yet, as has been argued by Merchant and Hoel (2003), this does not mean that the complaint is false or malicious, simply that not sufficient evidence has emerged to substantiate it.

Based on the facts and an overall assessment of the case, it may be necessary to conclude that the complaint is vexatious or, in some rare cases, even malicious or false, as described in a previous section.

4. Writing a Report

To complete the process, investigators are required to write an investigation report summarizing the process, the facts, and the conclusions. The role of the report is to document the investigation process, provide an account of the evidence, and present the investigators’ conclusions. Because employers will rely on the report and its conclusion in their final judgment with respect to the nature and severity of sanctions, if any, and as a basis for organizational intervention where important shortcomings are revealed, the report is of considerable importance. As a record of the investigation process, it is of great importance should the case in the end go to court. Whilst format and order will vary, the report will normally contain the following elements: (a) the complaint itself and the response from the alleged offender, (b) external (e.g., laws and statutory regulations) and internal (e.g., policies and procedures) provisions applicable to the case, (c) documentation of the investigation process and the evidence revealed, (d) assessment of evidence and conclusions, and (e) reference to other potential organizational problems that become evident during the process (North Western Local Authorities’ Employers’ Organization, 2005).

Following the submission of the report, it is left to the employer to ensure that the investigation conclusion is translated into appropriate action depending on the seriousness of the offence and in line with policy and organizational custom and practices. Appropriate actions must first of all provide a restoration of the working environment of the complainant, securing a bullying-free work situation. Second, in line with the organizational policy, the employer must decide on any disciplinary action to be taken against the perpetrator.

Barriers to a Fair Hearing

As outlined in the foregoing, the primary objective of investigators is to establish whether there is sufficient evidence to support or uphold a complaint. However, to meet such an objective investigators need to have the skills to obtain the information necessary to reach such a decision. We argue that this process is far from straightforward and that success relies largely
on investigators’ knowledge about bullying phenomena as well as on their acquired investigative skills. This is evident as a number of factors associated with the bullying process may militate against the opportunity for targets to receive a fair hearing (Hoel, 2009). First, because much bullying may take place in private, out of sight of observers, it may come down to one person’s word against another’s. Second, even where alleged perpetrators agree about the nature of individual events, they may argue that these represent separate, isolated events, each with its own logical explanation, thus contradicting targets’ perceptions that a pattern of abuse exists (Einarsen and Pedersen, 2007). Yet, the investigators have to reach a conclusion based on the facts of the case and on the principle of probability, and not on any admission of guilt by the alleged perpetrator. Third, as the parties are likely to have a past (and a future) together, individual acts and their meaning for the protagonists cannot be understood in isolation (Hoel et al., 1999). For example, acts that on the face of it appear harmless or even friendly to observers may be seen as ironic and directly unfriendly when seen in connection with previous negative interaction and disagreement (Hoel et al., in press). In addition, such factors as the alleged perpetrator acting differently in different situations and with different people (Rayner, 1999), the tendency to believe those with greater power (Vickers, 2006) or to side with an alleged perpetrator who fulfills a key organizational role (Hoel et al., in press), as well as victims’ failure to attract sympathy for their cases as a result of their mental instability (Einarsen and Mikkelsen, 2003), all could have implications for how their cases are treated. Given this, we argue that the ability to uncover the facts of the case and act impartially throughout the process hinges on a combination of knowledge of the phenomena and their effects on those involved, the ability to organize and carry out a complex investigation, interviewing and listening skills, and the ability to consider the facts and draw a balanced conclusion. Finally, investigators need to have a sound ethical stance towards the problem and their role.

In addition to the points raised here, there may be further barriers to a fair process:

- Where employees question the fairness of the procedures or consider complaining to be unsafe in terms of possible retaliation (Hoel and Cooper, 2000), their use will gradually cease. It is, therefore, important to reiterate that even where a complaint filed in good faith is not substantiated, it must never be used as a justification for punishment or retaliation.

- Because investigations can be costly in terms of the resources they absorb, there can be pressure within the organization to limit the number of complaints by introducing measures to assess their seriousness and likely outcome. Such moves could lead to unfairness and could involve some kind of character judgment, particularly where such prescreening processes are not transparent. Such
processes could also be seen to protect particular groups or members of the organization, making the powerful or seemingly irreplaceable “untouchable” or putting them beyond complaint.

- As part of drives to get organizations to adopt mediation more widely as a conflict resolution tool, complainants of bullying and harassment could find their cases “forced down” the mediation route, possibly putting pressures on individuals to agree to such an approach where this is not, strictly speaking, in the interest of the target—for example, where the case has progressed beyond a point where mediation is seen as ineffective or even directly harmful to the target (see Keashly and Nowell, this volume).

Where investigations are taken seriously and dealt with in a professional and fair manner, and their conclusions are followed up by means of appropriate sanction that makes it clear that the organization does not tolerate bullying, they may not only represent a powerful tool to bring a complaint to a close but may also contribute to prevention by leading to a behavioural change in the work environment. Thus, bullying and harassment are less likely to occur in an environment intolerant of bullying and harassment where complaints are seen to be taken seriously and where there are serious consequences for perpetrators found guilty of such behaviour (Stockdale and Sagrestano, in press).

An argument against introducing a policy against bullying, including complaints procedure and investigation, may be that the organization risks being flooded with complaints. However; the reality is that few people decide to label their experience of bullying or harassment for what it is (see also Nielsen et al., this volume), and among those who do, only a minority proceed to file a complaint within their organization or through any other institutional arrangement available to them (Stockdale and Sagrestano, in press). The arguments for not proceeding to a complaint could vary but may include being less concerned with punishing any perpetrator than ensuring that any harassment or bullying stops, the belief that the complaint would not be taken seriously, reluctance to have a complaint filed on one’s personal employment record, and fear of repercussions and “secondary victimization” (Berdahl and Raver, in press). A fair policy and fair investigation processes is a vital guarantee against such obstacles.

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Author Queries

AQ1: Hulin et al. 1996 not in Refs. Please add.
AQ2: NWEO 2003 not in Refs. Please add.
AQ3: HESA 2007 not in Refs. Please add.
AQ4: Einarsen & Pedersen 2007 not in Refs. Please add.
AQ5: Can the Berdahl & Raver in press reference be updated?
AQ6: Can the Hoel et al. in press reference be updated?
AQ7: Can the Stockdale & Sagrestano in press reference be updated?
AQ8: UNISON (1997) not cited in text. Please add to the text or delete here.