

Spark Online Supplement March '09

Personal Casework and Bullying & Harassment

Personal casework is the term applied to helping central, regional, and Associate Lecturer colleagues who have problems with their employment. This may vary from offering advice on a wide variety of matters to accompanying someone to a meeting “to clear the air”, or even to a disciplinary meeting. Inevitably, there is a wide range of problems, but the six examples below give a flavour of the type of difficulties our members bring to us:

- 1) probation;
- 2) annual leave; study leave, or accumulated study leave; leave of absence;
- 3) promotion or regrading;
- 4) fixed term contracts: redundancy and/or conversion to permanency;
- 5) extension of retirement age; appeals against retirement; and, of course,
- 6) bullying and harassment.

Bullying & Harassment:

Regarding bullying and harassment of staff, all is not well at the OU and there remains much to be done, as can be seen from the following table, Stressful Behaviours taken from the results of the Staff Survey of central and regional staff. The table following that simply quotes the actual answers to one question which were provided after a Freedom of Information request was made by me.

The results of the Survey of central and regional staff in March were published on the 19th September. It provided a lot of information, but not in a form which is particularly helpful to the majority of staff. Indeed, I wrote to the Director of Human Resources and asked that the actual results be published, but without success.

Stressful Behaviours	Mean	Std. Dev.	Number
How often do other people yell at you at work?	1.46	.73	2937
How often are people rude to you at work?	2.05	.86	2943
How often do other people do nasty things to you at work?	1.61	.81	2938
How often do you get into arguments with others at work?	1.76	.75	2940

Of the four behaviours listed in the table, none of which are acceptable, yelling at a member of staff is clearly proscribed behaviour under the OU's Bullying and Harassment Policy. To take that one example, the actual answers to the question were as follows:

How often do other people yell at you at work?	All Staff	All Staff
Never	1943	61.5%
Seldom	684	21.6%
Sometimes	263	8.3%
Often	44	1.4%
Always	3	0.1%
Total	2937	92.9%
Total Not answered	223	7.1%
TOTAL	3160	100.0

This means that 994 central and regional staff, 31.4% of those who answered the survey, reported being yelled at. How often the yelling occurs is irrelevant because it is not acceptable conduct at any time. Apart from the Survey recording that these are stressful behaviours, there is no indication of what management is going to do about these. Despite 994 staff stating that they have been yelled at, which is bullying behaviour, rather oddly the Survey's only comment about Bullying and Harassment is as follows:

"One of the most concerning issues to emerge from the qualitative section of the survey were comments from about a dozen people that might be interpreted as cases of bullying and harassment. Clearly it is not appropriate to relate the cases here and unfortunately the anonymous nature of this survey prevents a follow-up of the specific incidents."

This reference to about a dozen is worrying when one adds the 994 number to the disturbing fact that in answer to the other questions:

- How often are people rude to you at work? 2109, or 29.3%, said this had happened.
- How often do other people do nasty things to you at work? 1269, or 40.1%, reported this.
- How often do you get into arguments with others at work? 1739, or 65.0%, reported this had happened.

In view of these responses, what is the OU doing about Bullying and Harassment?

Regretfully it is obvious the answer is that little is being done to combat this other than to refer staff to the Policy. At the very least there should be an awareness-raising campaign by the OU to ensure the behaviours which are unacceptable under the Bullying and Harassment Policy are made known to all staff. The unprofessional behaviour described in the OU's own questions will continue unchallenged otherwise!

Operating, or rather, not operating the Policy:

However, although there is an excellent policy on Bullying & Harassment intended to protect all staff and the OU, there are occasions when it is not being operated properly. At those times I have to write to point out to senior staff the particular section which should be applied (because they did not apply it), but their replies vary.

Sometimes I am told, "We do not agree with your interpretation of the policy", an odd response when it is the Policy itself which has been quoted by me, not interpreted. Other times I am told, "We have noted your comments," and this is usually followed by actions or e-mails which show that the comments have been ignored.

The most recent manifestation of this attitude is the comment, "I found your logic rather difficult to follow", and this was followed by, "I do not believe it will be productive for us to continue to correspond over this particular point as the course of action is determined, but I note your comments."

"12. Victimization

Victimization occurs specifically when a person is treated less favourably because he/she has asserted his/her rights under this Policy, either in making a complaint or in assisting a complainant in an investigation.

Victimization or retaliation as a result of action being taken under this procedure is unacceptable and may lead to disciplinary action. Victimization may also be unlawful."

What can you do?

Bring to our attention every instance of bullying behaviour you may be aware of. It does not have to be happening to you, for you should inform us if you are aware a colleague is being subjected to bullying and harassment. Also, please advise colleagues to come to us for help, and encourage staff who are not members to join the union. Please let us know at ucu@open.ac.uk if you have been affected by the issues above. Bullying & harassment affects all staff be they central or regional colleagues, or Associate Lecturer ones.

Best wishes,

John Bennett (OUBUCU Immediate Past President)

DALS

By now most ALs will have seen the notice about the expansion of DALS on tutorhome, and realised that they will shortly be receiving feedback on their performance from their students, via an online questionnaire. The expansion of DALS to cover all ALs was announced last year, but if you are like me you will have read the announcement and promptly forgotten all about it.

UCU think that DALS is a deeply flawed process. There are a number of reasons for this. One is that it is not compulsory for students to fill in the questionnaire and it is possible that those who are disappointed with the course for some reason, perhaps poor marks on TMAs, are more likely to fill it in than students who have had a more successful experience. This will bias results, especially if the number of responses is low relative to the size of the group. Another is that many students do not have a clear idea of exactly what the tutor's job is, and may blame them for problems which are not their responsibility such as perceived deficiencies in the course materials. Thirdly, some of the questions are very subjective e.g. 'The tutor met my expectations'. Who knows what the student's expectations were, and whether they bore any relation to the AL's job description? I think I have said enough to make it clear that the system has many shortcomings.

The stated aims of the DALS system are to:

- provide ALs with more direct student feedback on their teaching to inform their staff development
- provide students with a means of feeding back about their experiences
- monitor the effectiveness of our learning, teaching and student support strategy, and particularly to identify areas where support for ALs in delivering this strategy could be improved.

(see <https://intranet-gw.open.ac.uk/studentsservices/dals/pages/dals-process.php>)

It is not meant to be used to measure AL performance in any way, and should not be used in making decisions about probation, or retirement. The results are confidential to the AL and their Staff Tutor, and if an AL is unhappy with the Staff Tutor's comments they should approach their Regional Director. The OU intends to keep the data for up to five years, to map the development of individuals, after that it will be deleted.

I have not yet had the pleasure of DALS feedback myself but from conversations with colleagues I understand that it is fairly common to have positive comments from all the students except one, who is dissatisfied with everything. This is the one who sticks in the mind, especially if the AL concerned is unable to guess who it was. Was it the student you caught out in plagiarism, or perhaps the one who phoned after midnight for an extension? You will never know, and it is not good for your mental health to lie awake wondering.

It is clear that the comments our students make about our performance are a sensitive topic. Few ALs are willing to stand up in public and say that their students have expressed bad opinions about their work. It is therefore difficult to get a picture of what ALs really feel about the system; only those with a very positive experience, like the ones on the OU website, want to talk about it. UCU wants to know what you really think, and anything you tell us about your DALS experience will be

treated as strictly confidential. We would like to see improvements made, but need hard information about real problems to keep up the pressure.

by Sue Hawthone (ALs officer of the OU UCU branch)

Age and Retirement

Over the past couple of years, AL reps have attended many retirement interviews with ALs, at both the initial regional level and the appeal stage at Walton Hall. Some have been lucky and have been allowed to stay on, but most have not. All have argued that they were good at their job. The OU have agreed but ruled that this is irrelevant. The retirement criteria were wholly about the business case which could be made by the staff tutor of the AL concerned, and depended on factors outside the knowledge and beyond the control of the individual concerned, mainly how difficult they would be to replace with someone younger.

UCU welcomed the relaxation of the retirement criteria for ALs which the university made last November. (see http://www.open.ac.uk/tutors/employment-info/pages/policy/employment_equality_age_regulations_2006.htm)

However, the main case to keep an AL on remains the business need. Although staff tutors can now also take account of the amount of work which the AL does for the university, most people who are approaching retirement choose to decrease their workload, so it seems likely that the main beneficiaries of the new criteria will be those ALs who manage to hit 65 when their contract has only a year or two left to run, in which case they will be allowed to stay until the end of the contract.

The university has argued that they would like to take account of the performance of ALs to decide whether or not to keep them on after the age of 65, and says that the fact that most ALs in this situation choose to argue that they are good at their jobs is an indication of a groundswell of opinion among ALs in favour of performance management. It takes a little thought to spot the flaws in this argument. The first is that it is ageist. It can not be right to hold ALs over 65 to a higher performance standard than the rest. ALs do not have to be excellent at their jobs, although many of them are. They just have to do it to an acceptable standard. If the university want to get rid of an employee they must show that their performance is not good enough. It is not up to the employee to prove that they perform well. The university have procedures which allow them to do this. (see http://intranet.open.ac.uk/human-resources/MoppAtoM/disciplinary-procedures/19c_disciplinary.doc)

With regard to performance management, UCU certainly does not wish to stand in the way of proper recognition of the outstanding work of most ALs, and would be happy to see a system of Career Development and Staff Appraisal for them, similar to that which the university uses for all its full time staff. (See Introduction to CDSA at <https://intranet-gw.open.ac.uk/student-services/srs-training/pages/hr-induction.php>) We will not allow ALs to be short changed by automated systems which measure what can easily be measured, for example retention rates, tutorial attendance, POTTS scores and DALs feedback, all of which depend on many more factors than the capability of the individual AL, such as the ability and circumstances of the students in our groups, the nature of the course materials and the type of TMAs set.

We were disappointed by the recent decision of the European Court in the Heyday case, that it was probably legal for the UK to allow organisations to keep a compulsory retirement age. The case was referred back to the British High Court for a ruling, and depends on the government producing a convincing argument that this is a well thought out employment policy, and not just in the interests of employers. The government has agreed to review the law in 2011; however, it is possible that we will have a new government by then, with different views. Some MPs have decided that this should be dealt with sooner and are proposing an amendment to the Equality Bill, which is due to be published in April, to attempt to scrap compulsory retirement ages. See this report in the Observer. <http://www.guardian.co.uk/politics/2009/mar/08/retirement-age-employment>

If you feel strongly about this issue, please write to your MP to urge them to support this amendment. You can use the excellent writetothem website

<http://www.writetothem.com/?keyword=write%20to%20your%20mp&creativeid=605235279&gclid=COK1nYmwsZkCFUM-3godjXg86w>

Pending legislative changes UCU will keep up the pressure on the university to honour their commitment to do away with the compulsory retirement age by 2011.

by Sue Hawthorne (ALs Officer of the OU UCU branch)