

## **Scottish Government Updated Anti-bullying guidance**

**November 2024**

### **What is not bullying?**

Schools and organisations will deal with a variety of behaviours on a daily basis. However, while some of these behaviours may be reported or described by a child or young person, or their family, as bullying, it is important to recognise that not all such behaviour will be bullying or should appropriately be treated as such.

While Section 2 set out examples of behaviour that may constitute bullying, it is recognised that behaviour will be context specific and should be considered on a case-by-case basis. In identifying what response is appropriate, it will often be necessary for staff to use their professional judgement to identify the nuanced differences between types of behaviour. Each set of circumstances will be fact specific, and staff should ensure they have gathered all relevant information before making a determination, remembering that the nature of some behaviours may constitute criminal offences, and advice should be sought from Police Scotland where there are significant concerns.

There is added complexity in that some types of behaviour can overlap and/or without early intervention may escalate. For example, the normalisation of derogatory and pejorative language use or slurs about a social group, and the perpetuation of harmful social or cultural stereotypes or myths, if unaddressed can create a culture that can lead to more intense levels of behaviour, including violence or hate crime, for example. Similarly, bullying behaviour can mirror the absence of positive values, the presence of negative role-models, globally influential figures and social media trends prevalent across popular culture which can promote unhelpful and divisive messaging.

Early intervention and prevention are therefore essential for addressing these behaviours by disrupting the cycle, promoting understanding and empathy, and fostering a culture and ethos that values respect and inclusion. This proactive approach reduces the likelihood of behaviours escalating to more intense levels.

### **Differentiating bullying from conflict**

It is important for children and young people to discuss how they feel and to help them develop the social competence and communication skills needed to help them to manage their relationships. We know that children and young people will fall out and disagree with each other as they form and build relationships. This is not considered to be bullying; this is considered to be a normal part of growing up.

It may be possible to differentiate conflict from bullying by having regard to the relationships and dynamics involved. Conflict is normal and can happen in healthy, happy, equal relationships. Usually at least one party involved doesn't want the conflict to continue unresolved, and will try to take early action to make amends and improve

the situation. Healthy relationship conflict is not the same as bullying and is unlikely to lead to bullying as the people involved have a vested interest in restoring equilibrium and staying connected to each other.

Those working with children and young people may be faced with increasing conflict between peers. The [Behaviour in Scottish Schools Research 2023](#), reported staff experiences of young people having less developed social skills compared to previous years following the Covid-19 pandemic. Early and mid-primary students (P1 to P5) who experienced disruptions in their nursery and early school years were noted to lack essential language and social skills, negatively affecting their educational development and behaviour. Secondary school staff also reported deficits in social and communication skills among older students, though to a lesser extent, highlighting difficulties with social interactions and group work due to reduced socialising opportunities during lockdowns.

### **Support for children and young people experiencing conflict**

Early intervention and prevention are key elements in ensuring we get it right for all our children and young people. Where concerns are raised about behaviour that is deemed to be conflict rather than bullying, a child or young person may still need support to navigate the conflict or deal with the emotional impact. In a school setting, there are a range of mechanisms to support the wellbeing of children and young people, for example, through the [Getting it right for every child](#) wellbeing indicators, [Health and Wellbeing Responsibility of All](#), the [Health and Wellbeing aspect of the curriculum](#) and learning in [Relationships, Sexual Health and Parenthood \(RSHP\)](#) education. It is important that schools and organisations appropriately involve the child or young person involved for next steps and ensure this is appropriately communicated with relevant staff, and if appropriate their parent(s), to provide reassurance that the young person's wellbeing is being supported..

### **[St. John's Roman Catholic Cluster case study](#)**

Headteachers in the St. John's Roman Catholic Cluster in Dundee noticed an increase in peer-to-peer conflict and a decline in social skills and emotional resilience among pupils. To address this, they implemented the Peacemakers Project, which trains Primary 6 students as peer mediators to help resolve minor conflicts without adult intervention. This project, supported by senior pupils and educational psychologists, has reduced low-level conflicts, improved relationships, and enhanced wellbeing and engagement. Children now use common language to resolve disputes, manage their emotions better, and confidently address differences and inappropriate language.

### **Differentiating bullying from potentially criminal behaviour**

There is no legal definition of bullying in Scotland and bullying is not, in itself, considered a crime. However, the nature of certain behaviour that could be perceived as, or reported as, bullying may include behaviour that is criminal in nature.

Understanding the individual facts and circumstances present in any situation is important to distinguish between bullying and potentially criminal offences. Key legislation can be found at Appendix 1, but examples include the following.

**Physical behaviour:** peer-on-peer violence can be verbal abuse, physical aggression and/or physical violence, which can have both short- and long-term impacts on the mental and physical health and wellbeing of all involved. If there is an intent to cause harm, regardless of whether or not an injury occurs, this may amount to an assault.

**Sexual behaviour:** when someone is coerced or pressurised to do something sexual or is touched inappropriately, **this is not bullying**. This is sexual assault or abuse and a form of gender-based violence (GBV). More information about the legal framework surrounding GBV, and guidance for schools for responding to GBV incidents, is available within the Scottish Government's [framework on preventing and responding to gender-based violence in schools](#).

**Online behaviour:** there are various legal provisions designed to protect individuals from online harassment, abuse, and harm. Some online behaviour may therefore be illegal; further guidance on supporting pupils' awareness of safe and secure use of mobile technology is contained within the [Scottish Government's guidance on mobile phones in Scotland's schools](#).

**Hate Crime:** bullying can be motivated by prejudice similar to hate crime. The distinction between bullying and hate crime is that for hate crime, the behaviour aggravated by prejudice must be motivated by malice and ill-will towards a group of people due to a relevant characteristic or intended to stir up hatred, and be criminal in nature, such as assault, graffiti or a breach of the peace. For example, damage to property through graffiti may constitute a crime and this may be aggravated by prejudice towards an individual who possesses or appears to possess a relevant characteristic protected under the Hate Crime and Public Order (Scotland) Act 2021. Further information can be found in Appendix 1.

Adults should seek immediate support from Police Scotland if they have reason to believe that a crime may have occurred or that a child or young person has been seriously harmed. Schools/organisations should follow national child protection procedures in these cases, and should work closely with their education authority and colleagues in core agencies (Social Work, Health and Police Scotland) to ensure the safety and wellbeing of children, young people, and staff.

It should be noted that under The Age of Criminal Responsibility (Scotland) Act 2019, a child under the age of 12 cannot be arrested, charged or prosecuted for a crime. However, Police Scotland may still be involved.

The diagram below shows the differentiating behaviours which can sometimes overlap and/or escalate in trajectory.

### **Differentiating between conflict, bullying and criminal behaviour**

#### **Bullying**

Bullying is not normal behaviour, and should be never seen as inevitable or acceptable

#### **Conflict**

Conflict is normal and can happen in healthy, happy, equal relationships

#### **Criminal**

The nature of some behaviour may be criminal and should be reported to Police Scotland

#### **Conflict**

Usually at least one person doesn't want the conflict to go on unresolved and will try to take action to improve the situation. It can highlight the importance of the relationship, providing a chance to build on strengths, solve problems, and move forward positively.

Healthy relationship conflict is not the same as bullying and is unlikely to lead to bullying as the people involved have a mutual interest in restoring equilibrium and maintaining connection.

#### **Bullying**

Bullying occurs within social relationships and typically involves an imbalance of power that allows a relationship of dominance and subordination to emerge.

Bullying can be intentional or unintentional, occurring once or repeatedly.

Resolution usually requires adult support, meaningful intervention and a change of behaviour in the instigating person. There can sometimes be an escalation from bullying to violence.

#### **Criminal**

While bullying is not in itself a crime, some behaviour that may be reported or perceived as bullying could constitute a criminal offence, such as physical or sexual violence, online behaviours or hate crime.

It is not for staff to determine if behaviour is criminal; they should seek immediate support from Police Scotland if they have reason to believe that a crime may have occurred or that a child or young person has been seriously harmed.

### **Differentiating bullying from structural and social inequalities**

It is important that the umbrella term “prejudice-based bullying” should not lead to the dilution or avoidance of the issue of structural inequalities, such as racism, sexism, homophobia, biphobia or transphobia, or prejudice and discrimination towards disability or faith. These can manifest themselves in many subtle and implicit behaviours, including microaggressions, misrecognition, implicit bias and othering, ‘Othering is a process whereby individuals and groups are treated and marked as different and inferior from the dominant social group.’ as well as structural and social inequalities.

Behaviours rooted in prejudice should be understood as distinct from bullying as these can be exacerbated by existing power imbalances linked to structural and social inequalities. The approaches to supporting children and young people experiencing or displaying prejudice-based behaviours can be similar to supporting those experiencing bullying. However, misidentification of prejudice-based behaviours as any other type of bullying, or a failure to acknowledge their unique harms linked to structural inequalities, can cause further distress for children and young people and lead to a lack of trust that similar incidents will be dealt with effectively in the future. Staff should therefore be mindful of conflating these behaviours in the support and response offered.

A failure to adequately respond to such behaviours should not only be considered as an issue solely impacting the child or young person experiencing the behaviour. The child or young person displaying prejudice-based behaviours and those witnessing them can also be impacted. Dignity, equality, safety and respect within the learning or social environment can be compromised if not addressed appropriately.

Schools and organisations should take particular care in the recording of incidents relating to prejudice and structural inequalities. The reporting of ‘bullying’ can lead to the under-reporting of incidents such as racism or homophobia taking place in education: [Responding to Racist Incidents – Promoting Anti-Racist Education in Scotland \(glowscotland.org.uk\)](https://glowscotland.org.uk). The SEEMiS system available to public schools enables incidents relating to protected characteristics to be recorded distinct from bullying incidents. Independent and grant-aided schools, and other organisations, should ensure they have appropriate mechanisms in place for responding to, monitoring and preventing prejudice-based incidents which are not related to bullying.