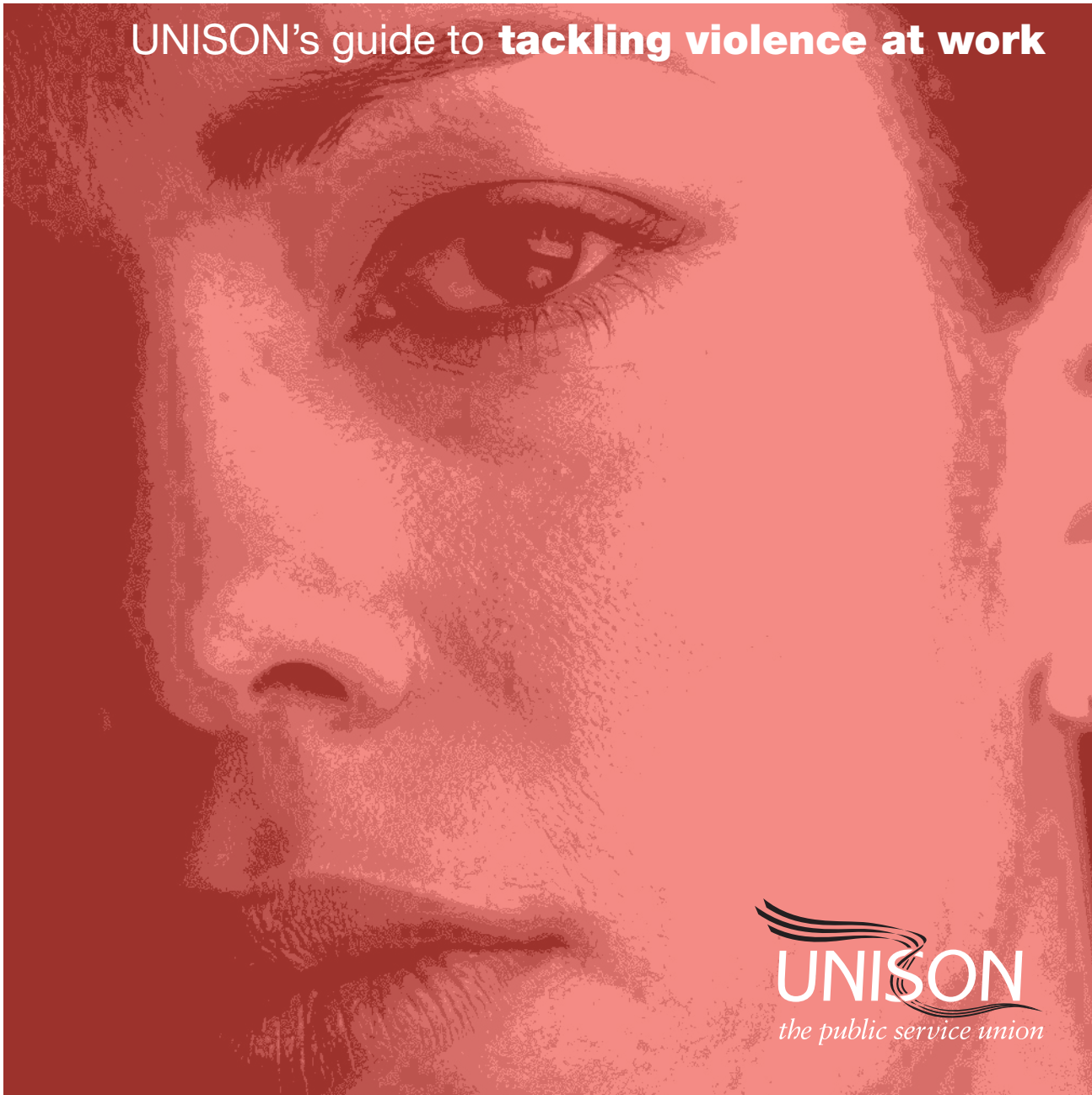


UNISON-organising for health and safety

# IT'S NOT PART OF THE JOB

UNISON's guide to **tackling violence at work**



**UNISON**  
*the public service union*



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## INTRODUCTION

This guide, produced for safety representatives' and stewards', deals only with violence from non-employees, eg clients or other members of the public. Separate UNISON guidance is available on bullying and harassment. (See further information).

Violence at work is a major occupational hazard for many UNISON members. Physical attacks are the most serious form of violence, but verbal abuse and threats are much more common and can have long-term health effects.

## WHAT IS VIOLENCE AT WORK?

The Health and Safety Executive (HSE), defines violence at work as “any incident in which an employee is abused, threatened or assaulted in circumstances *relating* to their work”. Any definition must include incidents leading to death, major injury (requiring medical assistance), and minor injury (requiring first aid or no medical aid). But it is equally important to include threats and verbal abuse even if no physical injury occurs.

Such abuse can lead to physical violence and will contribute to the levels of stress experienced by members. According to the HSE, “physical attacks are obviously dangerous, but serious or persistent verbal abuse or threats can also damage employees health through anxiety or stress”. Repeated verbal abuse can also lead to depression, reduced morale and increased sickness absence.

It is also important to remember that work-related violence is not limited to the actual workplace and can take place in the community, to and from work, in isolated areas or even at the home of the worker.

## RECOGNISING THE ISSUE AND DEVELOPING A POLICY

The first thing is to get the employer to agree that there is a violence problem and recognise that it is a health and safety issue. It is in the employer's interests to develop policies to prevent violence at work, not only because health and safety law requires it, but but also because there is a cost for failing to do so. The cost of violence can include:

- increased absenteeism because employees are hurt, afraid or stessed
- the loss of investment in training and of experience with more staff leaving
- the cost of legal compensation
- bad publicity
- low morale.

Developing a policy on the management and prevention of violence will help employers avoid these costs. However, policy should not be developed in isolation without proper consultation with employees. Staff work better if they feel that they have been party to decisions and they have first

hand experience of the job and the risks. In addition, employers are legally required to consult UNISON safety representatives on matters of health and safety.

A policy can also demonstrate to staff that employers are committed to preventing violence and are not prepared to wait until an incident occurs to introduce measures.

Any policy should include:

- a definition of work-related violence
- a statement from the employer that makes it clear that all violence to staff is unacceptable, and whatever the reason, will not be seen as an employees failure or an inevitable part of the job
- arrangements for monitoring and reviewing the policy.

Developing a policy is only a first step and it must be implemented to be effective. It must then be monitored and reviewed to ensure that it is achieving its aim to reduce or minimise violence to staff.

Once agreed the policy must be brought to the attention of staff. Employers can do this by circulating a copy to all staff, holding staff meetings and including it in induction and health and safety courses.

UNISON members expect a “zero tolerance” approach. This means that violence at work is not acceptable and is not part of the contract of employment. This does not mean there are easy simple solutions that can immediately eradicate all attacks on staff. However, some employers appear to see violence as inevitable, unpredictable and therefore uncontrollable. Employers should do all they can to prevent attacks occurring in the first place and, if attacks do occur, provide their employees with all the support they need. For example, where members are on sick leave because of work related violence, they should not be penalized under the organisation’s sickness absence procedures.

## PREVENTION

The risk of work-related violence is often foreseeable, eg where previous incidents have occurred. It can therefore be assessed, minimised or prevented and employers have clear legal duties to do this. In short, employers must make an assessment of the risks, remove those risks and, only where it is not possible, to eliminate them and introduce comprehensive strategies to control them. It can’t be put down to bad luck, incompetence or the result of individual personalities. It is work related, arising directly out of member’s jobs and the circumstances in which they have to work.

**The law:** Under the *Health and Safety at Work Act (HSWA)* employers have a duty to protect the health and safety of their employees. This applies to risks from violence, just as it does to other risks at work. In addition, the *Management of Health and Safety at Work (MHSW) Regulations* require employers to assess health and safety risks in order to identify measures needed to reduce them. Where the risk of violence is identified it must be eliminated or reduced to the lowest level possible. Employers must also establish procedures to be followed in the event of serious or imminent danger and provide information and training on the identified health and safety risks and the control measures in place to deal with them.

Under the *Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR)*, employers must report all incidents involving (physical) violence on employees that result in death, major injury or absence from work for three or more days. Unfortunately, RIDDOR does not cover

threats and verbal abuse, or absences resulting from these. However, it is in both the the employers' and workers' interest to record these incidents. The information can then be used to spot trends and improve any training and preventive measures in place. The duty under RIDDOR is separate from the duty to record all accidents in an accident book.

**Risk Assessment:** Under the MHSW Regulations, employers must assess health and safety risks to identify what steps they need to take to reduce them. The risk of violence must be assessed in the same way as for any other hazard. Where the assessment shows a possibility of violence occurring, employers must take action to remove or minimise that risk.

The HSE suggests the following five-step approach to assessing the risk of violence.

- Step one** look for hazards
- Step two** decide who might be harmed and how
- Step three** evaluate the risks
- Step four** record the findings
- Step five** review and revise the assessment

### **Step one: look for hazards**

A key part of looking for hazards, deciding who might be harmed and evaluating the risks, is a proper reporting system. All too often assaults and, in particular, threats and verbal assaults, go unreported. All assaults should act as a trigger in identifying hazards. This is why UNISON is campaigning for proper national systems of reporting across all sectors.

Staff will not report incidents unless they are confident about how their report will be received by management. Many have the fear, and some the experience, that involvement in a violent incident will be seen as their failure. Others may be distressed by the experience and believe that reporting it will add to that distress, particularly where no clear preventative action takes place.

For these reasons, the reporting and recording of violent incidents should be established as part of an overall strategy that can be seen to be tackling this serious work-related risk. And it is important that all workers are included, particularly those who work in other employers' premises. The following information should be gathered as a minimum:

- an account of what happened
- the circumstances in which the incident took place
- details of the victim, the assailant and any witnesses
- details of the location of the incident
- the outcome, including working time lost to both the individual affected and to the organisation as a whole.

Just because an employer is unaware of any violent incidents it does not mean that there is not a problem. The HSE has found that incidents regarded as isolated often reveal, upon further investigation, that violence was under-reported and affected a wider range of jobs than at first thought. Investigations into work-related deaths from violence (usually described as one-off, totally unexpected and something which could not have been avoided) reveal a history of other injuries, threats, and circumstances that clearly show a potential risk.

**Verbal assaults:** A verbal assault is not only distressing in itself, but is also often a precursor to a physical assault. There should be a system of monitoring all verbal assaults.

## Step two: who might be harmed and how

It is important to identify which groups of workers are likely to be most at risk of work-related violence. For example, according to the HSE, staff who work directly with the public face a higher risk of violence. This would apply to a large percentage of UNISON members, for example, those working in social and health care, community and residential work, enforcement, housing, education, and a range of other areas where UNISON is involved are all likely to be at risk of abuse, threatening behaviour or assaults.

Much of the violence is because these members work with client groups where they might be at a higher risk, for example drug abusers, the mentally ill, etc. In other cases it is because the member deals with money or property that is likely to be of value to thieves. However, it is not only the jobs people are asked to do that have the potential to cause work-related violence. Other factors include how these jobs are done and the circumstances in which they are carried out. These include jobs that involve:

- handling money
- handling drugs or having access to them
- carrying expensive equipment such as laptops etc.
- providing care to people who are ill, distressed, afraid, in a panic or on medication
- relating to people who have a great deal of anger, resentment or feelings of failure
- dealing with people who have unrealistically high expectations of what the organisation can offer and who are seeking quick easy solutions to very long term and complex problems
- dealing with the friends and families of clients who may be concerned or feel inadequate in relation to the large organisation from which they are seeking help
- working with people who have used violence to express themselves or achieve their needs
- exercising power to restrict the freedom of individuals
- enforcing legislation
- working alone, in clients' homes, in physically isolated units, or at hours when few other employees are around
- following procedures which do not provide much information to clients about what is happening
- working in units which do not have a human image - often crowded, busy, uncomfortable and lacking in essentials for the public such as refreshments, telephones and children's toys
- working under pressure created by increased workloads, staff shortages, and the absence of alternative support for the client.

Women because of the nature of work they are often employed in (eg nursing, care workers, social services) are at an even higher risk of violence at work, and the risk is even higher for black women. Black women are far more likely than white women to be involved in the health sector and twice as many Pakistani and Bangladeshi women work in sales compared to women in general. Black and Asian workers are also far more likely to be the victims of racial violence.

Other factors that that can increase the likelihood of being assaulted include:

- age
- sexuality
- religious belief.

### Step three: evaluate the risks

Existing preventative measures and current ways of working should be checked to determine if they are still adequate. A combination of factors is often the cause of work-related violence. Some of the factors which employers can influence include:

#### The type and level of training, information and support provided

Training is not a substitute for safe systems of work, but it is an essential part of any strategy developed to reduce work-related violence. Any training must be appropriate for the risk and the particular circumstance, yet many employers offer the same type of training to all staff regardless of the effectiveness of doing so. For example, ambulance staff responding to emergencies may face pushes, punches, and kicks, therefore training should focus on diffusion and positioning to prevent injuries.

The approach is different for staff working in mental health where there is a closer interaction with clients

Here staff may need additional training in breakaway techniques and management of violent clients. They may also need to practice team based approaches for emergency situations, eg when colleagues may be threatened or held hostage by a client. Training in the prevention and management of violence should be provided to all workers where a risk of violence has been identified, and should also be included in health and safety induction and refresher training courses.

A training needs assessment should be carried out to identify appropriate training, but at the very least workers should be trained to recognise the warning signs of aggression so that they can either avoid or cope with it. They should understand any system set up for their protection and should be provided with any information they might need to identify clients with a history of violence. Relevant questions include:

- have all staff who come into contact with members of the public in their jobs been given training?
- are other staff who may have to help in the management of a potential or actual violent situation been given specific training?
- are all staff clear about what to do if an incident occurs?
- is specific training provided for those who work alone?
- is the training regularly reviewed?

#### The working environment

The working environment can play a crucial role in the prevention of work-related violence. The seating, lighting, facilities available and the level of information offered while waiting may affect behaviour. Some staff do not work from a fixed workplace and may be at a higher risk for this reason. It is essential that this is also taken into account when the working environment is assessed. Relevant questions that the safety representatives can ask include:

- can public waiting areas be changed to reduce tension levels through lighting, decoration, making them smaller and less impersonal, the number and arrangement of seats available, access to refreshments and telephones, and the provision of children's play areas, etc?
- can the system for seeing people be changed so that people do not feel that they are part of a large crowd waiting too long and for very different services?
- do interviewing rooms offer staff a means of easy retreat as well as offering privacy to the client?

- are any offices or work areas sited away from the main part of the unit, leaving staff to work alone but still accessible to a member of the public?
- is there a policy on home visits/does it need to be re-assessed, especially with regard to visits made late at night/in isolated areas? And is there a “permit to work” or “call in after visit” system operating?
- can members of the public wander about the workplace unnoticed and unchecked?
- are any premises or parts of premises more isolated at particular times of the day or night?
- are areas between buildings and car parks well lit at night?
- have employees been provided with an alarm/switch on their desks, in their rooms, or (for those working outside) a convenient outside location, to enable them to summon help? Are these maintained and has a procedure been established to ensure that help is always forthcoming? Employees must be encouraged to use the alarms whenever they feel unsure or uncomfortable and this must not be taken as a sign of weakness.

### **The design of the job**

Jobs should be examined to ensure that they do not have built in risk factors that can increase the likelihood of violence occurring. Relevant questions include:

- is the use of cash avoided wherever possible?
- are the credentials of clients and the arrangements for meeting away from the workplace checked?
- what arrangements exist to prevent/reduce violence to lone workers?
- are arrangements in place for staff to keep in touch when they are away from the workplace?
- is a system in place to warn staff about aggressive or violent clients?
- do employees know what to do if they are involved in a violent incident?
- is counselling and support available for those involved in a violent incident and for their colleagues?

### **Step four: record the findings**

The main findings of the risk assessment should be recorded. A written record provides a useful working document for managers and staff. The record should include:

- the hazards identified
- potential assailants
- high risk areas and/or times
- the workers exposed
- any existing preventative measures in place
- an evaluation of the remaining risks
- any additional measures needed
- the person responsible for implementing control measures
- the date by which things will be done.

When considering additional measures the following points should be considered.

1. Why is the job done in a particular way? Is it because it has always been done that way? Has the working method just developed over time or has it been shown that it is the only way to do the job well? When decisions are taken about working methods, is any consideration given to the risk of violence? Can the way a job is done be changed to reduce the risk of violence? For example, is it necessary or safe to have one person working alone with a client? Might two be safer and more effective?
2. Do team discussions about clients needs also consider the health and safety risk to staff? For example when planning home visits does the team share information about patients, clients or their family members with a history of violence?
3. Are clients given information about procedures, timing, and why some things can only be done in a specific way so that the employees are not held responsible?
4. Is the risk of violence considered when determining staffing levels, staffing rotas and the length or time individuals work directly with the public?
5. Unpredictable and unremitting workloads can lead to fatigue and a diminished ability both to identify early and to cope subsequently with violent situations
6. There should be sufficient flexibility in the provision of staff to adjust levels to meet actual needs
7. Individuals should not be left isolated for long periods nor should junior or inexperienced staff have to cope alone, especially in situations of potential violence. Non-essential home visits should not be carried out in the evening, at night, or by a lone worker. Before any home visits are made the risk of violence should be assessed and procedures developed to protect staff. The area where visits take place should also be assessed. In general employers should consider systems for keeping in contact with colleagues. UNISON and the HSE have produced detailed guidance on lone working. (See further information).
8. Many employees are now required to wear name badges while at work. This has caused concern to some UNISON members who believe that they can be more vulnerable to work-related violence and abuse from the public - at work and at their home. For example some clients have used the electoral register to identify the home address of members; other members have been called to the phone at work and have been subjected to abusive and sexist language. To ensure such risks are identified, the use of name badges should be assessed as part of any risk assessment for work related violence. If the assessment shows a risk of violence from the use of name badges then alternative arrangements should be considered. This could include the use of first names only or a work or 'made-up' name rather than the employee's own name.
9. Personal Alarms and mobile phones: Often when the risk of violence is raised, the discussion turns to the idea of personal alarms, panic buttons, and mobile phones. These can be useful but they are not a replacement for a well-planned systematic approach and can, at best, only be part of a solution. In addition they focus on the individual by passing the responsibility for dealing with the risk to the worker. Personal alarms do not prevent violence but can be useful as they may enable help to arrive more quickly. However any system is only as good as the procedures that support it. In addition they can give staff a false sense of security and are no replacement for a safe system of work. Mobile phones may appear useful by helping lone workers maintain contact with their base. However this can create a false sense of security as some phones don't work well in some areas and are not always reliable. They may also create an additional risk as the user can potentially be attacked for the phone.

**10.** Similarly self-defence training can create its own risks as it can mean different things to different people. While some may see it as assertiveness or inter-personal skills training, others will see self-defence training as a physical way of dealing with an assailant. This is unacceptable because this type of training is only effective if regularly practiced and it passes all the responsibility for dealing with the risk to the worker.

### **Step five: review and revise the assessment**

The risk assessment should be checked regularly to ensure that it remains valid and reflects the current work situation. This process works best if it is part of the day to day management of health and safety. If incidents occur or the job or circumstances change then the risk assessment should be reviewed to consider what additional measures are needed.

## SUPPORT

One assault on a worker, can have devastating consequences not only for the individual, but his/her colleagues and the entire organisation. That is why it is important that the first priority must be to prevent the assault in the first place. However, when an incident occurs it is vital that support and assistance is at hand. Obviously trade union safety reps are a vital part of this support process. However, it is employers who are legally responsible for the safety and welfare of their workers.

Staff need to know what support is available:

1. during and immediately after an incident
2. in the short term
3. in the long term

**During and immediately after an incident:** when an incident does occur staff need to know they have the support of their employer. This could include security staff, and in some circumstances may also involve the police. Staff may require:

- first aid and/or a medical assessment
- a colleague asking if they are OK
- an informal chat with their line manager, who should make sure the incident is recorded and investigated
- a coffee break
- to go home

**Short term:** the sort of support that could be required in the short term include:

- a change of work area or in the type of work they do (however this should only be by agreement with the victim otherwise staff may get the impression that they are being blamed for the incident)
- regular meeting with their line manager to talk about any problems
- a discussion about what can be learnt from the incident
- advice from occupational services (when available)
- advice from safety reps.

**Long term:** sometimes individuals may experience long term symptoms such as post traumatic stress disorder. In such cases, staff will require support from occupational health services and be provided with access to independent counseling services. They may also require time off, which should not be counted as sick leave under the sickness absence procedures. However, what will help all staff is the knowledge that their incident has been treated with the seriousness it deserves, lessons have been learnt and measures have been implemented to prevent re-occurrences.

**Policy for dealing with violent service users:** employers should have clear and workable procedures in place for dealing with violent clients, patients or service users. In some cases this may involve the withdrawal of care or services. However this may not always be possible. For example a nurse may be treating a patient with a life threatening condition, or a social worker may be dealing with clients with learning difficulties or mental health problems. In such cases arrangements should be put in place to treat the client or patient in a safe and secure environment, eg where the appropriate security backup is in place. Of course, the key to identifying those who may be potentially violent is a robust risk assessment procedure.

**The role of the police and the law:** UNISON has long campaigned for tougher legislation to ensure those workers exposed to violence at work get the support they are entitled to. For example we have campaigned for all public service workers to get the same level of protection that police officers get. However, it is important that employers understand what the law says and how it can be applied to provide protection for their staff and a safer working environment. A short summary of the existing law and what UNISON is calling for is contained in appendix 1.

**UNISON safety reps and stewards:** throughout the process it is vital that victim knows they have access to, and the support of, their safety reps and local stewards. Obviously safety reps should be involved in risk assessments and any preventive measures that result from the incident. It is also important that members get access to their local stewards who can also assist the victim in getting the support they need.

**Legal help:** if you have been the victim of a work related assault and sustained injury you may be able to claim compensation. The UNISON legal assistance scheme offers support to members in these circumstances (subject to a qualifying period of membership) and can be easily accessed through UNISONdirect or via your branch.

## CASE STUDIES

### Case study 1

#### The importance of reporting every incident

A nurse had her car window smashed and was assaulted by a client detained under section 3 of the Mental Health Act. The incident was not reported. The next day the same client attacked another nurse causing serious facial injuries.

### Case study 2

#### Too much reliance on technology and the importance of providing proper backup and support.

A mental health worker was issued with a personal alarm system. A client then assaulted her and she tried to activate the alarm but it failed to operate. As a result the member was subject to a prolonged attack by the patient causing serious head injuries.

### Case study 3

#### The importance of proper consultation and reviewing the risk assessment findings.

Rent collectors in the north east were issued with personal alarms following a number of violent incidents. After several months it was found that staff had deemed the alarms a nuisance as they often went off independently so were not being used. Consequently a rent collector, who was in turn standing in for someone who had been injured by the assaults, was attacked and killed. Neither of these workers were equipped with the personal alarm because of doubts about their reliability. No consultation or monitoring system was in place to identify problems by staff using alarms.

### Case study 4

#### The importance of proper risk assessment, employers providing support for staff and of monitoring and reporting verbal assault

A kitchen assistant employed at a centre catering for adults was serving teas at a hatch when she was approached by a service user who demanded a drink and verbally assaulted her. This assault included a threat to kill her. The kitchen assistant feared for her safety and asked her employer for support. However, the only support she received was to be recommended a course for behavioural therapy but even this failed to materialise.

The service user was suffering from Fragile X syndrome and had a history of both physically and verbally assaulting staff. The kitchen assistant took legal action with UNISON's support and won substantial compensation from her employer on the grounds the employer had failed to properly risk assess the service user, adopt procedures to deal with the user (including one to one supervision) and provide the kitchen assistant with proper support and treatment following the incident.

### Case study 5

#### The importance of proper training

A security guard worked for a university that actively encouraged guards to pursue and apprehend offenders. The guard in question was working a night shift when, on hearing noises from a nearby laundrette, went to investigate. There had been a recent history in the area of burglaries involving the use of tools. On arriving at the scene he and his colleagues gave chase to a man who was suspected of trying to steal money from the laundrette. On catching the suspect a struggle broke out which resulted in the security guard suffering a broken collarbone and finger. Following legal action by UNISON, the guard received compensation from the employer, on the grounds, that despite being encouraged to pursue and apprehend offenders, the guard had not received adequate training.

### Case study 6

#### The importance of risk assessment and identifying the hazard

A local authority care worker was employed at respite care facility for people with learning disabilities, most of whom had physical disabilities and high dependency needs. While lowering a young man using an overhead hoist the care worker received a punch in the face resulting in a fractured nose and shock. The service user was subsequently found to have a history of aggression. As a result of UNISON legal action the care worker received compensation from her employer and the employer was also forced to put a management plan and risk assessment in place.

### Case study 7

#### Inadequate staffing levels

A staff nurse noticed a colleague being pushed quite hard by one of the patients. The colleague had discovered the patient was trying to arrange to buy alcohol. When the staff nurse asked what the problem was he was racially abused, sworn at and pushed hard in the chest and had his head banged against the wall. The patient then began to assault a female patient. The staff nurse activated the personal alarm but this did not prevent the attack. Following legal action by UNISON the nurse secured compensation from trust, on the grounds of inadequate staffing levels and failure to properly assess and care for the patient.

### Case study 8

#### Inadequate staffing levels

A site supervisor at a large girls school was securing the building when he was attacked by an intruder and stabbed by a hypodermic syringe. The site supervisor was given an injection for Hepatitis B and needed a course of treatment for Hepatitis C. It was subsequently found there had been previous incidents of intruders in the school including cases of violent behaviour. Following UNISON legal action the site supervisor received compensation from the employer on the grounds that the school had failed to respond to representations for additional security, including more staff, for the school.

## SAFETY REPRESENTATIVES CHECKLIST

### Developing a policy

- Does the employer include procedures for dealing with violence in their written safety policy?
- Does responsibility for implementing the violence policy lie with a named senior manager?
- Are all safety reps provided with a copy of the violence and aggression policy?
- Is the policy regularly reviewed and updated in consultation with safety reps?
- Are safety reps checking that the policy works and is being followed properly?

### Prevention

- Has the employer introduced a reporting form system specifically for violent incidents?
- Do all employees, including agency staff and part-timers know about the system?
- Are staff encouraged to report all violent incidents including incidents of verbal abuse and threats?
- Are supplies of report forms readily available to staff?
- Are the results of monitoring used to check the effectiveness of the employer's policy?
- Does the employer consult with safety reps to seek possible solutions to the problem?
- As part of the consultation, are the returns from the report form system reviewed and classified?
- Has the employer consulted any outside experts (such as a security consultant, the local police crime prevention officer, or victim support etc)?
- If so, were safety representatives involved in the discussion?

- Are all preventive measures based upon local risk assessment?
- Is there anything that can be done to increase physical security of car parks, grounds etc to restrict access to buildings and provide refuges for staff?
- Are panic buttons fitted? If so, do they work? Is there a reliable procedure for responding to them quickly?
- Are personal attack alarms provided? If so, are they backed up by the proper procedures?
- Are specialist security staff employed? If so, are they properly trained and vetted? If not, who is responsible for security matters, such as dealing with intruders? Are they given specialist training?
- Is there a policy or procedure for home visits?
- Is there a system for passing on information about potential incidents, or about clients, including new clients and for new staff?
- Has attention been given to rooms or areas used by the public/clients to make sure they are suitable, do not create tension, or leave staff trapped if an incident arises?
- Have measures been taken to prevent staff working in isolated buildings, offices or other work areas on or off site?
- Have arrangements been made for lone workers and staff working in the community?
- Does the employer take account of the risk of violence when setting staffing levels, altering working hours or shifts?
- Are all staff, including part-timers, given training in the procedures for dealing with violence?
- Is that training suitable and appropriate?
- Does it make clear that staff should not put themselves at risk to protect cash or property?
- If name badges are worn has the risk of violence been taken into account?
- Are there detailed procedures for dealing with cash handling and banking?

## Support

- Does the employer give sympathetic support to staff who encounter awkward, aggressive or abusive clients? (for example access to counselling, time off to recover, awareness of psychological effects etc.)
- Are safety reps included in discussions with victims after violent incidents?
- Is first aid or medical assistance easily available?
- Are counselling services available?
- Does your employer have a policy for dealing with violent service users?
- Does your employer have arrangements with the police for dealing with and reporting violent incidents?

## APPENDIX 1: LEGAL GUIDANCE

**What the law says:** In England, Wales and Northern Ireland, assaults on public services would most likely come under one of the following categories of the 1861 Offences against the Persons Act:

- common assault - this carries a maximum penalty of six months imprisonment
- assault occasioning actual bodily harm - carrying a maximum sentence of five years' imprisonment
- unlawful wounding/inflicting grievous bodily harm (proof of intent not necessary) - carrying a carrying a maximum sentence of five years' imprisonment
- wounding/causing grievous bodily harm with intent - carries a maximum penalty of imprisonment for life.

The other piece of legislation that may also apply is the *Protection from Harassment Act 1997*. This act introduced four new criminal offences:

- harassment - maximum sentence six month imprisonment and/or level 5 fine (as at April 2008 £5,000)
- fear of violence - maximum sentence of five years imprisonment and/or level 5 fine
- breach of civil injunction - maximum sentence of five years imprisonment and/or level 5 fine
- breach of restraining order - maximum sentence of five years imprisonment and/or level 5 fine

In Scotland all such offences are dealt with under Scottish Common Law (Common Law Aggravation).

### What UNISON is calling for?

Throughout the United Kingdom there has been widespread cynicism among public services staff over the police and prosecuting authorities' willingness to pursue prosecutions. This led to UNISON's call for all public services staff to receive the same level of protection as the police. Under Section 89 of the 1996 Police Act any person who assaults a constable in the execution of his/her duty (or a person assisting the constable), shall be guilty of an offence and liable to summary conviction for a term of imprisonment of up to six months (consistent with the maximum sentence for common assault). However, there is a perception that an assault on a police officer is more likely to result in a prosecution than assaults on other public servants.

UNISON Scotland is calling for a statutory aggravation charge (to replace common law aggravation) to cover all workers delivering a public service.

### What has been achieved so far?

Pressure from UNISON and other trade unions resulted in a clause (paragraph 5.9d ) inserted into the *Code for Crown Prosecutors (for England & Wales)* stating that a prosecution is likely to be in the public interest if the offence was committed against a person serving the public.

There have also been measures introduced covering specific occupational groups. For example the NHS Security Management Service (SMS) has agreed protocols both with the police and the Crown Prosecution Service (CPS). Under the Memorandum of Understanding with the Association of Chief Police Officers (ACPO) the police will progress all cases of violence and abuse against NHS staff as a priority. The SMS has also signed a separate memorandum with CPS, whereby the CPS agreed to "work with the police to ensure that these cases are treated with the seriousness that they deserve and encourage a robust charging policy".

UNISON also called for the provisions of the *2005 Emergency Workers (Scotland) Act* to be incorporated into the laws of the remainder of the United Kingdom. In November 2006 the *Emergency Workers (Obstruction) Act* came into force. This made it an offence under laws of England, Wales & Northern Ireland to obstruct or hinder someone providing an emergency service. In addition the *Criminal Justice and Immigration Bill* will make it an offence in England & Northern Ireland for a member of the public (not patients, ie visitors etc.) to cause a nuisance on NHS property and to refuse to leave when asked.

## Understanding the legal process

This guidance has prioritised measures to prevent violent assaults and when they do occur how employers can support staff and what can be learnt to prevent assaults happening again. However, staff are often left feeling bewildered when no action is taken against the assailant. A prosecution in some circumstances may not be possible or appropriate. However, it is important employers understand the legal process and can explain this to the worker who has been assaulted.

As part of this employers need to develop a close working relationship with the police. The employer should obviously take into the view of the worker who has been assaulted, as well as the gravity of the incident, in deciding whether to report the incident to the police. Once the incident has been reported it is the police who will be responsible for compiling the report to be sent to the relevant prosecuting service who will in turn decide whether the crown (ie the government or state) will move forward with a prosecution. In England & Wales this decision rests with the (CPS). For Scotland it is the Crown Office and Procurator Fiscal Service (COPFS), and Northern Ireland, the Public Prosecution Service (PPS). However, in all parts of the United Kingdom the criteria for deciding whether a prosecution will proceed are:

- is there sufficient evidence
- is it in the public interest?

## Mitigating and aggravating factors

In the cases of the CPS (England) and PPS (Northern Ireland) it is clearly stated that if the offence is committed against someone serving the public it is likely to be in the public interest to prosecute. In the case of Scotland the crown office guidance requires Fiscals to treat assaults on a public service worker as an aggravating factor in common assaults.

However, in all four countries prosecution is less likely if the defendant is suffering from physical or mental ill health, especially if the offence is not considered serious, and there is no real possibility that it may be repeated. This criteria may apply in health and social care settings where many UNISON members work. In addition a prosecution is unlikely to succeed if a defendant's mental ill health meant they were not responsible for their actions, at the time of the offence. Aggravating factors would include the gravity of the offence and whether the offence was against someone serving the public.

If the relevant prosecuting authority decides against prosecution the employer can still decide to proceed with a prosecution. For example within the NHS the SMS Legal Protection Unit will prosecute individuals who have abused NHS staff in cases that have not been progressed by the police or the CPS and where it believes there is sufficient evidence.

All this highlights the importance of a robust incident reporting procedure, and of the safety rep being involved in its compilation. The more thorough the report the easier it will be for the police to compile the evidence for their report to the relevant prosecuting service.

## APPENDIX 2: FURTHER INFORMATION

### UNISON Publications

The following publications are available from the Communications Department, at UNISON, 1 Mabledon Place, London WC1H 9AJ. Please quote the stock number.

**Risk Assessment: a guide for UNISON safety representatives.**

Stock no. 1351.

[www.unison.org.uk/acrobat/11190.pdf](http://www.unison.org.uk/acrobat/11190.pdf)

**The health and safety six pack: A guide to the six pack set of regulations.**

Stock no. 1660.

[www.unison.org.uk/acrobat/10349.pdf](http://www.unison.org.uk/acrobat/10349.pdf)

**Stress at work: Guidance for safety representatives.**

Stock no. 848.

[www.unison.org.uk/acrobat/12879.pdf](http://www.unison.org.uk/acrobat/12879.pdf)

**Bullying at work: Guidance for safety representatives.**

Stock no. 1281.

[www.unison.org.uk/acrobat/13375.pdf](http://www.unison.org.uk/acrobat/13375.pdf)

**Safety Representatives and safety committees.**

Stock no. 1819.

[www.unison.org.uk/acrobat/11191.pdf](http://www.unison.org.uk/acrobat/11191.pdf)

**Working alone: a health & safety guide on lone working for safety reps.**

Stock no. 1750.

[www.unison.org.uk/acrobat/10943.pdf](http://www.unison.org.uk/acrobat/10943.pdf)

**Working together on health & safety: A UNISON guide to partnership agreements.**

Stock no. 1890.

[www.unison.org.uk/acrobat/11722.pdf](http://www.unison.org.uk/acrobat/11722.pdf)

**You are not alone: a UNISON guide to lone working in the health service.**

[www.unison.org.uk/acrobat/B3238.pdf](http://www.unison.org.uk/acrobat/B3238.pdf)

**Dealing with Violent Behaviour In A School Setting**

[www.unison.org.uk/education/schools/hand.asp](http://www.unison.org.uk/education/schools/hand.asp)

**Legal Help – a members guide to UNISON legal services.**

Stock no. 2595.

[www.unison.org.uk/acrobat/16921.pdf](http://www.unison.org.uk/acrobat/16921.pdf)

**Legal Services – a branch guide to what we offer.**

Stock no.2596

[www.unison.org.uk/acrobat/16922.pdf](http://www.unison.org.uk/acrobat/16922.pdf)

**Violent Assaults on Public Service Staff in Scotland**

[www.unison-scotland.org.uk/safety/violencesurvey2006.pdf](http://www.unison-scotland.org.uk/safety/violencesurvey2006.pdf)

**Violent Assaults on Public Service Staff in Scotland**

Follow up Survey October 2007

[www.unison-scotland.org.uk/safety/violencesurvey.pdf](http://www.unison-scotland.org.uk/safety/violencesurvey.pdf)

**UNISON Scotland Legal briefing Legal Action against violent service users**

[www.unison-scotland.org.uk/briefings/violencelegal.html](http://www.unison-scotland.org.uk/briefings/violencelegal.html)

**Respect: a health guide**

Guidance for young workers on bullying and harassment at work.

Stock no 2530.

[www.unison.org.uk/acrobat/B2738.pdf](http://www.unison.org.uk/acrobat/B2738.pdf)

**You are not alone**

A UNISON guide to lone working in the health service.

Stock no 2600

**UNISON web sites****UNISON health and safety**

[www.unison.org.uk/safety/index.asp](http://www.unison.org.uk/safety/index.asp)

**UNISON legal services**

[www.unison.org.uk/benefits/legal.asp](http://www.unison.org.uk/benefits/legal.asp)

**UNISON Scotland health and safety**

[www.unison-scotland.org.uk/safety/index.html](http://www.unison-scotland.org.uk/safety/index.html)

**HSE publications****Violence at work: A guide for employers**

(INDG68 (rev).

[www.hse.gov.uk/pubns/indg69.pdf](http://www.hse.gov.uk/pubns/indg69.pdf)

**Working alone in safety**

(INDG73)

[www.hse.gov.uk/pubns/indg73.pdf](http://www.hse.gov.uk/pubns/indg73.pdf)

**Homeworking: Guidance for employers and employees on health and safety**

(INDG226).

[www.hse.gov.uk/pubns/indg226.pdf](http://www.hse.gov.uk/pubns/indg226.pdf)

**5 Steps to Risk Assessments - a guide to risk assessment requirements.**

(IND 163

[www.hse.gov.uk/pubns/indg163.pdf](http://www.hse.gov.uk/pubns/indg163.pdf)

**HSE web sites on work related violence**

[www.hse.gov.uk/violence/index.htm](http://www.hse.gov.uk/violence/index.htm)

**Other information**

The Suzy Lamplugh Trust provides information and training on personal safety and reducing violence in the workplace: [www.suzylamplugh.org/](http://www.suzylamplugh.org/)

NHS Security Management Services SMS has responsibility for all policy and operational matters related to the management of security delivery within the NHS, including the safety of all NHS staff.

[www.cfsms.nhs.uk/sms/aboutsms.html](http://www.cfsms.nhs.uk/sms/aboutsms.html)

**Advice**

If you have any specific health and safety queries, your UNISON branch health and safety officer or branch secretary may be able to help.

## APPENDIX 3: VIOLENCE TO STAFF SURVEY

Safety representatives can adapt and use the following survey to help them identify incidences of work-related violence.

### UNISON violence to staff survey

Your UNISON branch is concerned about the number of violent incidents to our members. Violence includes threats, verbal abuse and harassment as well as actual attacks and injury to staff by clients and members of the public. To gain more information about the risks of violence your UNISON branch is conducting a confidential survey. UNISON does not accept that you should put up with violence at work as part of your job. It is not the individual's fault when it happens. Work related violence can be prevented and controlled, and your employer has legal duties to ensure your safety.

To help us raise the issue of violence with your employer we need more evidence of the extent and causes of violence against staff. **Please complete this confidential questionnaire and return it to your UNISON representative.** Please help us to help you.

1. Where do you work?

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2. What is your job?

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3. Are you worried about violence in your job? YES  NO

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4a. In the last year have you suffered any of the following in relation to your work?  
(If more than once, state how many times)

Major injury – requiring medical assistance	YES <input type="checkbox"/>	NO <input type="checkbox"/>	How of times .....
Minor injury – requiring first aid	YES <input type="checkbox"/>	NO <input type="checkbox"/>	How of times .....
Threatened with a weapon	YES <input type="checkbox"/>	NO <input type="checkbox"/>	How of times .....
Threats or verbal abuse	YES <input type="checkbox"/>	NO <input type="checkbox"/>	How of times .....
Racial harassment	YES <input type="checkbox"/>	NO <input type="checkbox"/>	How of times .....
Sexual harassment	YES <input type="checkbox"/>	NO <input type="checkbox"/>	How of times .....

---

4b. Describe details of incident(s) – when, where, whom, and what happened?

---

5. Do you think your manager takes your concerns about violence seriously? YES  NO

---

6. Do you know if there is a policy for dealing with violence at work? YES  NO

---

7. Have you been given training on how to deal with violent situations? YES  NO

---

8. Have you been told how to report incidents, involving:

Actual injuries YES  NO

Verbal threats or abuse YES  NO

Racial and/or sexual harassment YES  NO

---

9. Are you aware of any measures that management have taken to deal with violence (for example, changes in staffing, the working environment, lighting, security arrangements, etc)?

---

10a. If you have suffered violence at work, did your employer give you any help, for example, counselling, or paid time off work, etc? YES  NO

---

10b. What help were you given?

---

10c. Were you satisfied with the help given? YES  NO

---

10d. If not, what more could have been done to help you?

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**11.** In more general terms what could be done to prevent violence to staff and improve the help given to staff following a violent incident?

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**12.** Is there any more information or advice relating to violence at work that you would like to share?

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Thank you for your co-operation.  
Please return this form to your UNISON representative.



