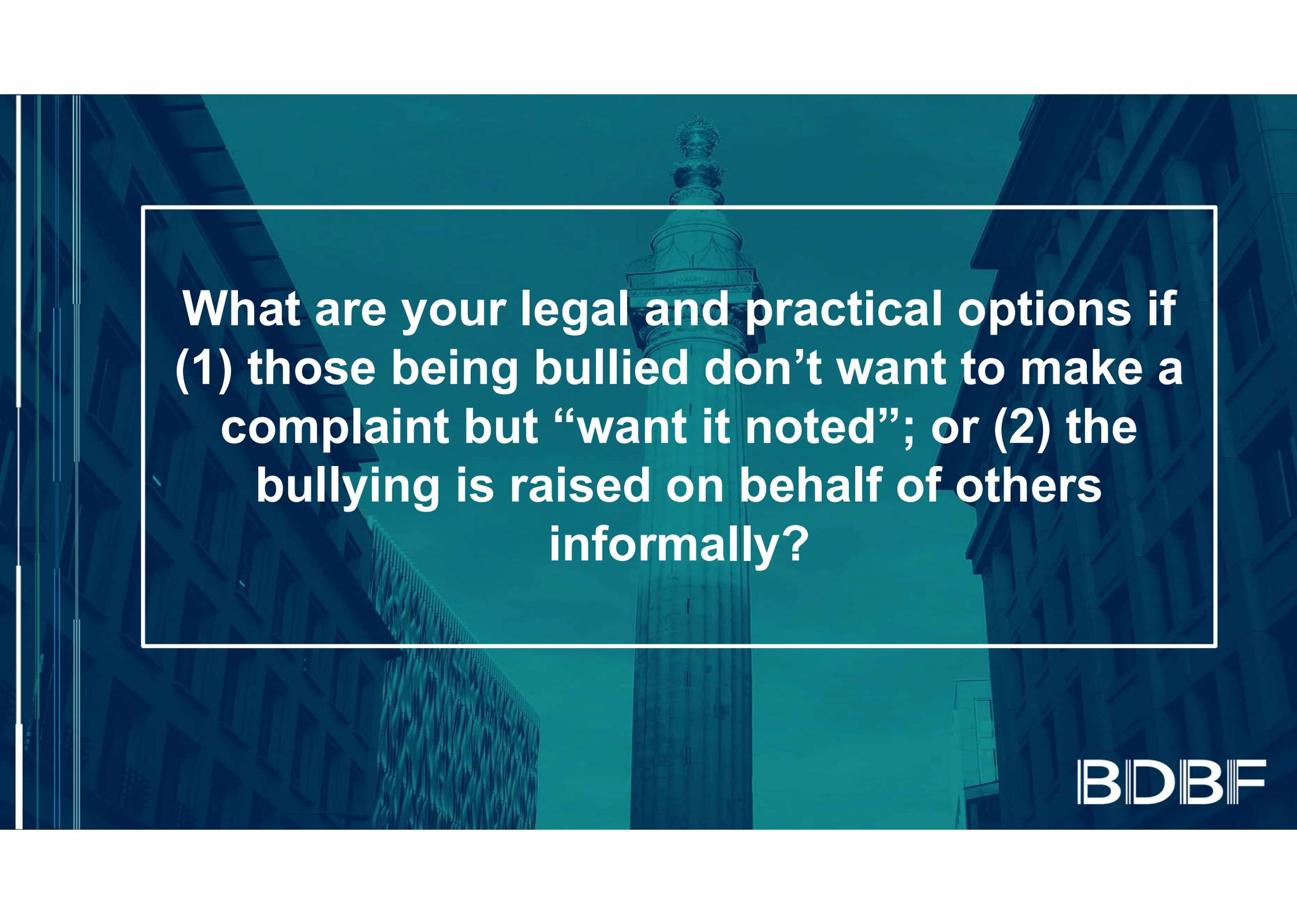


# White Paper Conference

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**B|D|B|F**



**What are your legal and practical options if (1) those being bullied don't want to make a complaint but "want it noted"; or (2) the bullying is raised on behalf of others informally?**

# Preliminary issues to grapple with

Is it bullying?  
Is it a grievance?

What is the employee trying to achieve?

What legal claims might the employee have?

What other factors are important?

# Is it bullying?

*“Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient”*

Acas Guide for Managers and Employers on Bullying and Harassment

# Some examples of bullying

Spreading  
rumours

Verbal  
insults

Picking on  
someone

Setting up to  
fail

Cold  
shouldering

Unfair  
treatment

Overbearing  
supervision

Threats  
about job  
security

# Is it a grievance?

*“...concerns, problems or complaints that employees raise with their employers”*

Acas Statutory Code of Practice on Disciplinary and Grievance Procedures

# What is the employee trying to achieve?

Looking for a  
shoulder to cry  
on?

To nip the  
behaviour in the  
bud?

To help their case  
if bullying  
continues

To cause  
trouble?

# What legal claims might the employee have?

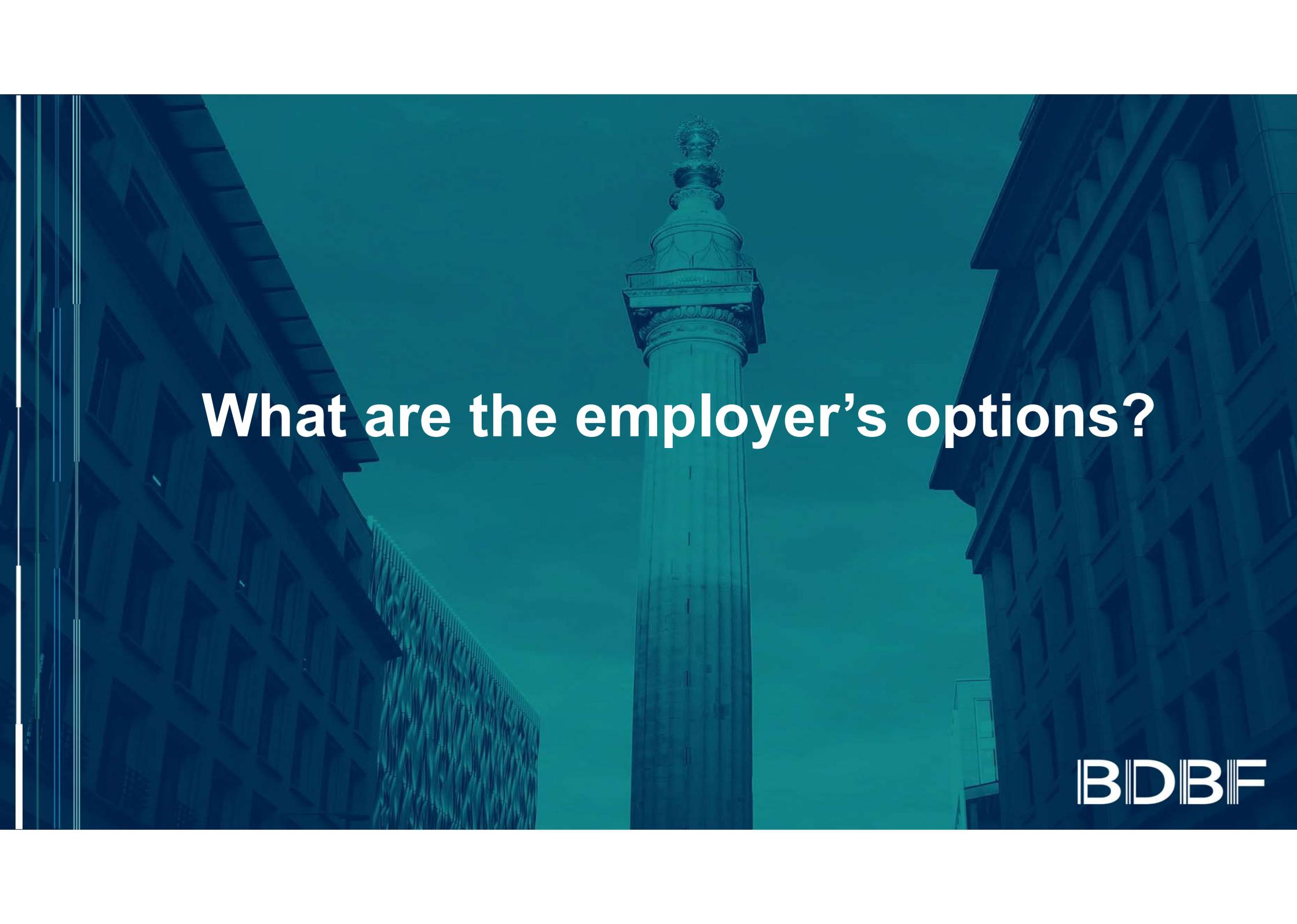
- Failure to make reasonable adjustments
- Personal injury
- Breach of contract and constructive dismissal
- Discriminatory harassment
- Victimization
- Whistleblowing detriment
- Protection from Harassment Act 1997

# What other factors are important?

Compliance with  
own procedures

Regulatory  
obligations

Wider  
consequences for  
the organisation



**What are the employer's options?**

**BDBF**

## Option 1: Note the complaint and do nothing else

- High-risk option for the employer but may be appropriate in some limited cases:
  - Follow up with the employee
  - Offer access to counselling or an employee assistance programme



## Option 2: Informal resolution



## Option 3: Formal procedure with the employee

- Warranted for more serious cases
- Employee's participation is key – how to persuade them to take part?
  - Reassure on confidentiality
  - Reassure on length of process
  - Take a flexible approach e.g. companions
  - Offer support
  - Separation from the alleged perpetrator?



## Option 4: Formal procedure without the employee

- Necessary where legal and regulatory risk is high
- Ideally, the employer's policy will have forewarned the employee of this possibility
- Proceed with investigation seeking evidence from other relevant sources

# Contact details

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