



Workplace Bullying and Harassment Policy January 2002

Everyone should be treated with dignity and respect at work. Bullying and harassment of any kind are in no-one's interest and should not be tolerated in the workplace, but if you are being bullied or harassed it can be difficult to know what to do about it.

What are bullying and harassment?

Bullying and harassment is behaviour that makes someone feel intimidated or offended. Harassment is unlawful under the Equality Act 2010.

These terms are used interchangeably by most people, and many definitions include bullying as a form of harassment. Harassment as defined in the Equality Act 2010 is: Unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. Bullying may be characterised as Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

ERG, in partnership with staff, is committed to developing and maintaining an environment in which all staff can work free from any form of bullying, harassment or victimisation (as defined in this policy) and is committed to dealing quickly and efficiently with any incidents of bullying and harassment that arise. Any incidents of bullying, harassment or victimisation will be regarded extremely seriously and could be grounds for disciplinary action which may include dismissal. The ERG vision is that no member of staff should:

- be subjected to any form of harassment, bullying or victimisation;
- feel that such harassment, bullying or victimisation has to be tolerated;
- feel that such harassment, bullying or victimisation is his/her fault.

All employees are entitled to be treated with dignity, fairness and respect. Staff who feel that they may be victims of bullying, harassment or victimisation should pursue the issue either informally or formally by using the procedures described in this policy. When reported, formal complaints of bullying, harassment or victimisation will be investigated and the business will take appropriate action as quickly as possible. ERG will, as far as possible, treat as confidential all allegations or complaints of bullying, harassment or victimisation and will investigate complaints impartially. There may be occasions where this is not possible, for example if an enquiry is needed as a result of alleged behaviour. The business will respect the particular sensitivity of bullying, harassment and victimisation complaints and their consequences.

Definitions

Harassment, in general terms, is unwanted conduct which has the purpose or effect affecting the dignity of individuals or groups of people. The Equality Act 2010 specifically prohibits three types of harassment. These are:

I. Harassment related to a “relevant protected characteristic”.

The seven protected characteristics are listed below with a more detailed definition in appendix

2:

- Age
- Disability
- Gender Reassignment
- Race Data Classification
- Religion or Belief
- Sex
- Sexual Orientation.

II. Sexual Harassment. Sexual harassment occurs when any such unwanted sexual attention creates an intimidating, hostile or offensive environment for employment, for study or for social life. Sexual harassment involves unwanted sexual attention which emphasises sexual status over that as an individual, colleague or student.

It can be

- physical – this could range from suggestive looks to serious sexual assault ,
- verbal - this could include belittling or suggestive remarks, compromising invitations, aggressively foul language, unwanted demands for sex/sexual favours
- visual/written - this could include displays of sexually suggestive or degrading pictures in the workplace, suggestive, offensive or degrading emails, notes or text messages.

Sexual harassment of women by men is most often reported. However, sexual harassment between members of the same sex or of men by women also occurs.

Less favourable treatment of a worker because they submit to, or reject, sexual harassment or harassment related to sex or gender reassignment. The third type of harassment occurs when a worker is treated less favourably by their employer because they have submitted to, or have rejected unwanted conduct of a sexual nature, or unwanted conduct which is related to sex or to gender reassignment, and the unwanted conduct then results in a violation of their dignity or the creation of an intimidating, hostile, degrading, humiliating or offensive environment.

Third Party Harassment – Repealed Under the Equality Act 2010

ERG may be liable for harassment of employees by third parties. A third party is anyone who is not the employer or another employee. It refers to those over whom the ERG does not have direct control, such as customers or clients. Following the repeal of Section 40 of the Equality Act 2010, in October 2013, employees who have been harassed by a third party may still be able to bring a claim against their employer in the following ways:

1. If the employer takes no action to prevent harassment by a third party from taking place or continuing, the employee could claim that the employer's failure was 'unwanted conduct'

which is 'related to' their protected characteristic (i.e. sex, race etc) and therefore a breach of the general anti-harassment provision in the Equality Act (Section 26);

2. An employee could argue that being put in a situation which subjects them to third party harassment constitutes a 'detriment' and direct discrimination under the Equality Act 2010 on the grounds that the reason their employer put them in that situation was because of their protected characteristics; and/or

3. The harassment by a third party and the employer's failure to take reasonable steps to prevent it constitutes a fundamental breach of contract which entitles the employee to resign and claim constructive and (subject to having the qualifying period of service) unfair dismissal. Data Classification: Public August 2016 Therefore it would still be advisable to investigate any complaints of third-party harassment by employees and consider whether any action can be taken to prevent the harassment from continuing (e.g. by not requiring the employee to visit/deal a particular client or customer). Bullying may be characterised as “offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.”

Bullying behaviour may or may not amount to harassment in equality law, as set out later in this policy. Bullying can cover a wide range of behaviours and need not occur face to face. It may also occur in written communication, electronic mail and on the phone, some examples include:

- non-constructive criticism which is personal rather than related to the person's performance
- public humiliation
- unwanted physical contact
- unwelcome remarks about a person's dress or appearance
- use of offensive language or obscene gestures
- gossip, or making defamatory comments
- the display of obscene or otherwise offensive posters or graffiti
- isolation or non-cooperation and exclusion from social activities
- intrusion by pestering, spying and stalking
- failure to safeguard confidential information
- shouting at staff
- setting impossible deadlines
- persistent criticism
- personal insults.

Bullying or harassment may be by an individual against an individual or it could involve groups of people. It might involve a contractor. It may be obvious or it may be insidious. It may be persistent or may be an isolated incident. Any difficulty in defining what constitutes bullying or harassment should not deter staff from complaining about behaviour which they feel violates their dignity, intimidates, offends, humiliates or degrades them. Nor should anyone be deterred from making a complaint because of embarrassment or fear of intimidation.

Victimisation can be defined as unfavourable treatment of a person because he or she has made a complaint about being discriminated against, harassed or bullied, because he or she intends to make a complaint about discrimination, harassment or bullying, or because he or she has or intends to act as a witness or give evidence in support of another person(s) relating to a complaint about discrimination, harassment or bullying. Differences of attitude or culture and the misinterpretation of social signals can mean that what is perceived as harassment by

one person may not seem so to another. The defining feature, however, is that the behaviour is offensive or intimidating to the recipient or a witness. It is not the intention of the perpetrator that is key in deciding if harassment or bullying has occurred, but whether the behaviour is unacceptable by reasonable normal standards and is unwelcome to the person or people subjected to it or witnessing it. Data Classification: Public August 2016 Harassment Procedures for reporting and dealing with harassment

If you feel that you are being bullied or harassed, as a first step you should try to make it clear to the person causing the offence that such behaviour is unacceptable, unwelcome and should be stopped. This will often be sufficient to end the behaviour which is causing offence, because in some cases the person against whom the complaint is directed might be unaware that their behaviour is inappropriate or their words or actions may inadvertently have caused offence. If this is the case, this needs to be cleared up speedily. If you need help or advice you can approach any of the following people:

- a trusted friend or sympathetic colleague
- a staff representative
- your supervisor, manager, or director of service
- the Director of HR&OD
- somebody who has been designated as an Anti-Bullying and Harassment Contact and trained in equality issues.

You should keep a copy of any correspondence.

Formal Complaint

It is very important to note that if:

- for any reason, you feel unable to approach one of the people listed above; or
- for any reason, you feel unable to approach the alleged harasser informally from the outset, or
- after communicating with the alleged harasser, you are not satisfied with the outcome of that approach (including that the harassment has stopped or will now stop); or
- the nature of the harassment is sufficiently serious as to make it inappropriate to deal with informally as a first step; you know that you can take forward your complaints about bullying, harassment or victimisation using the ERG's formal Grievance procedure which will be used to deal with the complaint through the initial and appeal stages. Data Classification: Public August 2016 Ordinance 68, Part II, Schedule III

Grievance Procedure

However, the possibility that complaints may be made with mischievous or malicious intent or in order to undermine reasonable instructions or changes to working practices by managers or staff with which an individual may disagree, is also recognised by the business and will be treated as a serious disciplinary matter.

Monitor this Policy

The business has put measures in place to monitor the number of bullying and harassment cases raised at an informal stage with the harassment contacts and formally to enable analysis and review of any patterns that emerge. A full Equality Impact Assessment has also been carried out on ERG Policy and will be reviewed regularly.

Review this Policy

This policy will be reviewed every three years or more frequently if required as a result of legislative changes.

Appendix 1

Bullying and harassment: the legal framework

The Equality Act (2010) consolidates and replaces previous legislation for England, Scotland and Wales prohibiting harassment on the grounds of age, disability, gender reassignment, race, religion and belief, sex and sexual orientation. Pregnancy and maternity and marriage and civil partnership are not protected directly under the harassment provisions. However, harassment related to pregnancy and maternity harassment could amount to harassment related to sex, and harassment related to civil partnership could amount to harassment related to sexual orientation. Bullying is not explicitly defined by law. The Crime and Disorder Act 1998 amended the Criminal Law (Consolidation) (Scotland) Act 1995 and created the criminal offence of "racially aggravated harassment" in Scotland. If someone is found guilty of this offence, it is punishable by a fine and/or imprisonment.

Appendix 2 Definitions of the seven characteristics protected within the Equality Act when related to the act of Harassment

The Equality Act definition of Age

Age is defined in the Act by reference to a person's age group. In relation to age, when the Act refers to people who share a protected characteristic, it means that they are in the same age group. An age group can mean people of the same age or people of a range of ages. Age groups can be wide (for example, "people under 50"; "under 18's"). They can also be quite narrow Data Classification: Public August 2016 (for example, "people in their mid-40s"; "people born in 1952"). Age groups may also be relative (for example "older than me" or "older than us"). The meaning of certain age-related terms may differ according to the context. For example, whether someone is seen as 'youthful' can depend on their role: compare a youthful bartender with a youthful CEO. Age groups can also be linked to actual or assumed physical appearance, which may have little relationship with chronological age – for example, 'the grey workforce'.

The Equality Act definition of Disability

Harassment on grounds of disability may be defined as unwanted behaviour based on disability, impairment or additional need which creates an intimidating, hostile or offensive environment for disabled people. The Act says that a person has a disability if they have a physical or mental impairment which has a long-term and substantial adverse effect on their ability to carry out normal day to day activities. Physical or mental impairment includes sensory impairments such as those affecting sight and hearing. An impairment which consists of a severe disfigurement is treated as having a substantial adverse effect on the ability of the person concerned to carry out normal day to day activities. Long term means that the impairment has lasted or is likely to last for at least 12 months or for the rest of the affected person's life. Where a person is taking measures to treat or correct an impairment (other than by using spectacles or contact lenses) and, but for those measures, the impairment would be likely to have a substantial adverse effect on the ability to carry our normal day to day activities, it is still treated as though it does have an effect. This means that "hidden" impairments (for example, mental illness or mental health conditions, diabetes and epilepsy) may count as disabilities where they meet the definition in the Act. Cancer, HIV infection, and multiple sclerosis are deemed disabilities under the Act from the point of diagnosis. In

some circumstance, people who have a slight impairment are automatically treated under the Act as being disabled. Progressive conditions and those with fluctuating or recurring effects will amount to disabilities in certain circumstances.

The Equality Act definition of Race

Racial harassment is harassment which is related to race, ethnic origin, colour, language or nationality. The Act defines “race” as including colour, nationality and ethnic or national origins. Everyone has an ethnic origin but the provisions of the Act only apply where a person belongs to an “ethnic group” as defined by the courts. This means that the person must belong to an ethnic group which regards itself and is regarded by others as a distinct and separate community because of certain characteristics. These characteristics usually distinguish the group from the surrounding community. There are two essential characteristics which an ethnic group must have: a long shared history and a cultural tradition of its own. In addition, an ethnic group may have one or more of the following characteristics: a common language; a common literature; a common religion; a common geographical origin; or being a minority; or an oppressed group. An ethnic group or national group could include members new to the group, for example, a person who marries into the group. It is also possible for a person to leave an ethnic group. Data Classification: Public August 2016 The courts have confirmed that the following are protected ethnic groups: Sikhs, Jews, Romany Gypsies, Irish Travelers, Scottish Gypsies and Scottish Travelers. A racial group is a group of people who have or share a colour, nationality or ethnic or national origins. For example a racial group could be “British” people. All racial groups are protected from unlawful discrimination under the Act. A person may fall into more than one racial group. For example, a “Nigerian” may be defined by colour, nationality or ethnic or national origin. A racial group can be made up to two or more distinct racial groups. For example, a racial group could be “black Britons” which would encompass those people who are both black and who are British citizens. Another racial group could be “South Asian” which may include Indians, Pakistanis, Bangladeshis and Sri Lankans. Racial groups can also be defined by exclusion, for example, those of “non-British” nationality could form a single racial group.

The Equality Act definition of Religion or Belief

Harassment relating to religion or belief may be defined as unwanted behaviour based on religious beliefs or practices. The protected characteristic of religion or belief includes any religion and any religious or philosophical belief. It also includes a lack of any such religion or belief. For example, Christians are protected against discrimination because of their Christianity and non-Christians are protected against discrimination because they are not Christians, irrespective of any other religion or belief that may have or any lack of one. “Religion” means any religion and includes a lack of religion. The term “religion” includes the more commonly recognised religions in the UK such as the Baha’I faith, Buddhism, Christianity, Hinduism, Islam, Jainism, Rastafarianism, Sikhism and Zoroastrianism. It is for the courts to determine what constitutes a religion. A religion need not be mainstream or well known to gain protection as a religion. However, it must have a clear structure and belief system. Denominations or sects within religions, such as Methodists within Christianity or Sunnis within Islam, may be considered a religion for the purpose of the Act. Belief means any religious or philosophical belief and includes a lack of belief. Religious belief goes beyond beliefs about and adherence to a religion or its central articles of faith and may vary from person to person within the same religion. A belief which is not a religious belief may be a philosophical belief. Examples of philosophical beliefs include Humanism and Atheism. A belief need not include a faith or worship of a God or Gods, but must affect how a person

lives their life or perceives the world. For a philosophical belief to be protected under the Act:

- it must be genuinely held;
- it must be a belief and not an opinion or viewpoint based on the present state of information available; Data Classification: Public August 2016
- it must be a belief as to a weighty and substantial aspect of human life and behaviour;
- it must attain a certain level of cogency, seriousness, cohesion and importance
- It must be worthy of respect in a democratic society, not incompatible with human dignity and not conflict with the fundamental rights of others.

The Equality Act definition of Sex

Harassment relating to gender may be defined as any hostile, intimidating, degrading or offensive act by a person against another person (or people), which is related to male or female status. Such behaviour might include derogatory name calling, insults and sexist jokes, sexist graffiti, slogans, songs or images, verbal abuse and threats, physical attack, and ridicule of a person or people as a result of gender differences. Demanding that a person undertakes (or ceases to undertake) certain types of work based on gender stereotypes could also constitute gender harassment.

The Equality Act definition of Gender Reassignment

Harassment relating to gender reassignment may be defined as unwanted behaviour due to the fact that a person has undergone, is undergoing, or intends to undergo a process to reassign their sex by changing physiological or other attributes of sex. Under the Act 'gender reassignment' is a personal process moving away from one's birth sex to the preferred gender, rather than a medical process. The reassignment of a person's sex may be proposed but never gone through; the person may be in the process of reassigning their sex; or the process may have happened previously. It may include undergoing the medical gender reassignment treatments, but it does not require someone to undergo medical treatment in order to be protected.

The Equality Act definition of Sexual orientation

Harassment relating to sexual orientation may be defined as unwanted behaviour based on known or presumed sexual orientation. Sexual orientation is a protected characteristic. It means a person's sexual orientation towards:

- persons of the same sex (that is, the person is a gay man or lesbian)
 - persons of the opposite sex (that is, the person is heterosexual); or
 - persons of either sex (that is, the person is bisexual)
- Sexual orientation relates to how people feel as well as their actions. Sexual orientation discrimination includes discrimination because someone is of a particular sexual orientation, and it also covers discrimination connected with manifestations of that sexual orientation. These may include someone's appearance, the places they visit, the people they associate with.

Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual. * The term 'employees' is used to cover all those who work for someone else rather than on their own account, regardless of whether they are employed strictly under a contract of employment.

Your right not to be harassed at work by others An employee can make a complaint against their employer where they are harassed by someone who doesn't work for that employer such as a customer, client or passenger. You should let your employer know if you are being harassed in this way so they can take steps to prevent it from happening again

2 BULLYING AND HARASSMENT AT WORK

Examples of bullying/harassing behaviour include:

- spreading malicious rumours, or insulting someone by word or behaviour (copying memos that are critical about someone to others who do not need to know, ridiculing or demeaning someone – picking on them or setting them up to fail)
 - exclusion or victimisation
 - unfair treatment
 - overbearing supervision or other misuse of power or position
 - unwelcome sexual advances – touching, standing too close, the display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
 - making threats or comments about job security without foundation
 - deliberately undermining a competent worker by overloading and constant criticism
 - preventing individuals progressing by intentionally blocking promotion or training opportunities.
- Bullying and harassment are not necessarily face to face. They may also occur in written communications, email, phone, and automatic supervision methods such as computer recording of downtime from work or the number of calls handled if these are not applied to all workers. Bullying and harassment can make someone feel anxious and humiliated. Feelings of anger and frustration at being unable to cope may be triggered. Some people may try to retaliate in some way. Others may become frightened and de-motivated. Stress, loss of self-confidence and self-esteem caused by harassment or bullying can lead to job insecurity, illness, absence from work, and even resignation. Almost always job performance is affected and relations in the workplace suffer.

For further advice and guidance, you could also call the Acas (Advisory, Conciliation and Arbitration Service) helpline:

Acas helpline

Telephone: 0300 123 1100

Textphone: 18001 0300 123 1100

Monday to Friday, 8am to 6pm