

Sexual harassment guidance for employers

Sexual harassment at work is a serious matter. It is sometimes viewed as a joke, but it can make people's lives a misery and seriously affect how they do their job. Employers can be liable for the actions of their employees that cause offence to another employee at work. Employers may also be liable for acts committed away from the workplace, especially where the harassment occurs at social occasions outside work.

Employers, therefore, have a responsibility to prevent sexual harassment and, if this is not possible, to respond effectively when a complaint is made. Remember, if a complaint does go to a tribunal, how you handled the complaint will come under scrutiny.

These guidelines, aimed mainly at line managers, should help you to minimise the number of complaints of sexual harassment in the workplace but, if they do occur, offer you a clear and speedy way to resolve them.

What is sexual harassment?

When deciding what is 'sexual harassment' it's important to remember that it is the effect of the behaviour on the recipient that counts – and not how it appears to another person.

- "It was just a bit of fun". Even if someone didn't mean to harass an individual, their behaviour or conduct is unacceptable if the recipient thinks it is unwanted, unreasonable and offensive.
- It's not just women who are sexually harassed – men are too, either by women or other men.
- Sexual harassment is not only unwanted physical contact or making obscene or suggestive remarks. It can be:
 - abusing managerial authority by making work opportunities conditional upon a close relationship - circulating emails with innuendo or 'dirty' jokes
 - displaying lewd posters
 - 'eyeing someone up' and leering
 - making personal and intrusive comments about physique and clothing
 - pestering someone for a relationship or following them around
 - repeatedly suggesting socialising after work after it has been made clear such suggestions are unwelcome, or
 - trying to share personal information about your sex life.

It's not always obvious. Sexual harassment can also be more subtle, such as excluding people from work teams, meetings or networking events, ignoring people or assigning certain tasks usually associated with individual sexes (such as female team members always taking minutes, ordering and serving refreshments etc).

It doesn't have to happen at work. Staff can be harassed by colleagues at conferences, away days and even when they are socialising after work.

It doesn't have to be directed at an individual. It may be creating an oppressive atmosphere, such as: - downloading pornography from the web - having offensive posters or calendars around, or - potentially offensive 'banter'.

It doesn't have to occur over a period of time. One incident may be enough if it is particularly serious.

Your role and responsibilities as a line manager

Your role as a line manager is particularly important in dealing with sexual harassment. You are probably going to be the person that is notified of any complaint and you will have to deal with it effectively. It's your responsibility to ensure that sexual harassment does not happen in your area and you need to be alert to the kind of behaviour that can be regarded as harassment. In addition, if you fail to deal with harassment effectively it can affect your team's ability to work together in a productive way.

You can help to minimise the chances of harassment occurring

– by treating all staff and customers with respect.

Seeing or hearing unacceptable behaviour from colleagues and customers but doing nothing about it can be seen as condoning harassment.

You should not tolerate an environment where sexual 'banter' is common just because no one has complained. A lack of complaints does not mean there is not a problem in your area. It may mean that people are too embarrassed or fearful to come forward.

You need to explain the organisation's "zero tolerance" approach to sexual harassment to your staff. Each member of staff should have a copy of the policy and new staff need to be given one when they join the organisation.

You also need to ensure that people understand that harassment is a disciplinary matter and to have a disciplinary policy and procedure.

Let your staff know. Make sure that the staff you manage understand what sexual harassment is, why it is unacceptable and that sexual harassment is serious. For this reason, many organisations treat a false accusation of sexual harassment, made out of malice, as gross misconduct.

People are often reluctant to make a complaint as they don't want to be seen as a troublemaker. But knowing they can get the harassment stopped with a minimum of fuss should enable people to feel they can raise the issue.

It won't go away. Avoid the temptation to hope the situation will 'blow over' or sort itself out. Although it can be difficult to tackle individuals about their behaviour or actions, it is better to take action early rather than allow Equal Opportunities Commission – revised April 2006 4 it to worsen by doing nothing, or for the situation to be repeated with others.

Take charge. It is unfair to expect your staff to tackle harassment by themselves. If they can't deal with the situation, you should step in and help.

Get help. If you're not sure how to handle a complaint or situation, get advice from your HR department, other managers or your line manager.

If you don't have a policy on sexual harassment, your organisation should produce one. Further information on this is presented in "Additional notes for employers" at the end of this document.

If you do have a policy, as a line manager you have to make sure people know about it and understand how to make a complaint.

The law and sexual harassment Sexual harassment is unlawful under the Sex Discrimination Act. Lesbians and gay men are also protected, under the Employment Equality (Sexual Orientation) Regulations. An employee who experiences sexual harassment at work can seek compensation by taking a case to an employment tribunal.

Receiving a complaint of sexual harassment

Dealing with harassment in your team can be difficult. However, handling it promptly and professionally will let your staff know that complaints will be taken seriously and dealt with impartially.

Refer to your organisation's harassment policy and seek guidance about any help or support you may need.

Informal or formal? Where possible, it's usually better to handle complaints of harassment informally, as it can resolve problems with a minimum of anxiety for those involved. Formal procedures are usually implemented when informal attempts have failed, or where the situation is so serious that it merits formal proceedings.

Don't dismiss complaints before you thoroughly investigate them. It's unacceptable for someone to claim that "it's just a personality clash", or to assume that the person complaining is "over-sensitive", or there is too much at stake because "someone's job may be on the line".

Take action. You need to deal with any complaints quickly and in confidence.

Be fair. You will need to be responsive and supportive to anyone who makes a complaint while at the same time treating the alleged harasser fairly.

Don't take sides. It is important that other members of the workforce do not take sides. It needs to be made clear that other staff must not victimise or prejudge either the complainant or the alleged harasser and that this is a potential misconduct issue.

If there is a problem over the complainant and alleged harasser continuing to work together you may have to suspend both on full pay for the duration of the investigation.

If you don't have clear procedures for dealing with sexual harassment you may face a claim of constructive or unfair dismissal from either the person being harassed or the alleged harasser. A policy that gives examples of unacceptable behaviour, makes clear to employees the kinds of actions that won't be tolerated. It also spells out what is considered to be inappropriate behaviour and should help to stop problems before they start.

If complaints are made, having a policy should help to sort them out quickly and informally and reduce the chances of you having to defend an employee's claim at a tribunal. In addition, people will know they do not have to put up with sexual harassment and what they and their employer can do about it.

If your organisation doesn't have one, you should put together a policy that covers sexual harassment.

If you do have one

- train staff on the policy and the procedures for making and dealing with complaints.
- publicise the policy through posters and put the policy on your company intranet and in your staff handbook.

- you should have people of both sexes trained to hear complaints of sexual harassment. Given the sensitive and potentially embarrassing nature of such incidents, it is probable that a person making a complaint will wish to speak about it to someone of the same sex as themselves.
- it's essential to periodically check if your policy is being successfully implemented
- each member of staff should have a copy of your policy and new staff need to be given one when

More detailed guidance

Sources of advice ACAS provides information, advice and training and works with employers and employees to solve problems and improve performance in the workplace. Tel: 0845 747 4747
www.acas.org.uk

Equality Direct Equality Direct is a confidential telephone advice service for employers, providing help on managing equality issues. Tel: 0845 600 3444 www.acas.org.uk