

SEXUAL HARASSMENT AND HARASSMENT AT WORK

Introduction

This bulletin builds on information and advice provided in EQA/29/18 and explains the content in new guidance from the Equalities and Human Rights Commission (EHRC).

Extent of the guidance

EHRC has issued this guidance on sexual harassment and other forms of workplace harassment at work to help employers, workers and their representatives understand the extent and impact of harassment in the workplace, the law in this area and to provide suggestions of best practice for effective prevention and response.

Harassment – scale and effect

The guidance identifies that harassment at work takes many forms in all of which there are significant negative effects on both workers and their employers.

It damages the mental and physical health of individuals and affects both their personal and working life. It has a negative impact on workplace culture and productivity and where there are ineffective responses to complaints, the impact of the individual is likely to be made even worse.

Types of harassment

The guidance identifies that harassment can be related to each of

seven of the protected characteristics within EQA. In other words, the problem is much wider than sexual harassment. Harassment related to race, religion or belief, age, disability, sexual orientation and gender reassignment also happen.

Scope of the guidance

The guidance applies in England, Scotland and Wales and covers sexual harassment, harassment related to other protected characteristics and the concept of victimisation.

The guidance addresses a number of audiences, employers, workers (not just employees), their representatives, lawyers and other advisers and provides employment tribunals and courts with clear guidance on the law and the best practice employers should take to prevent and deal with harassment and victimisation flowing from the making of a complaint.

Explaining harassment

The guidance explains and provides examples of the types of behaviour that can amount to harassment under EQA.

Representatives will recognise that many of the behaviours can equally be described as bullying. The essential difference – explained in the guidance – is that the behaviours are not generally applied (as they are in

bullying) but in harassment are related to the seven protected characteristics listed above.

Explanations of the statutory definition

The guidance explores a number of useful examples of various types of harassment and explains in precise terms the meaning of the concept of “related to” which is an important provision of EQA.

The statutory definition of harassment is explained and explored in detail in the guidance, including, but not limited to “purpose and effect”, “less favourable treatment”, and the meaning of “violation of dignity.” Likewise, the precise meaning of victimisation is explained, as is the concept of a “protected act” and “detriment”.

Liability for harassment by agents

Contained within the guidance is an explanation of the extent of the liability an organisation has for others than its own employees – its agents.

In this matter representatives need to appreciate that when they are acting in any capacity as a representative or branch official, they are then acting as agents of TSSA.

The union then becomes liable for the discriminatory acts of them, just as much as a full-time employee.

Reps action

Representatives can obtain the full guidance from the EHRC website at www.equalityhumanrights.com – simply put ehrc/sexualharassment into your search engine and you will go directly to the page that will allow you to download the full document.

Further Information

More information on this and other legal matters is available from:

- ❑ Val Stansfield, Employment Rights Adviser at stansfieldv@tssa.org.uk or 020 7529 8046
- ❑ the TSSA Helpdesk – 0800 328 2673

The information given here is for general guidance only and should not be regarded as a complete or authoritative statement of the law.