

15 May 2019

**Blog article by Jacqui McKee, Director of the Advice and Compliance**

## **Harassment in the workplace: what employers need to do**

As an employer, how far are you responsible for what your employees say and do to each other?

The answer is: more than you might think, certainly if the content and manner of their behaviour amounts to harassment.

Harassment may be unlawful even if the perpetrator/s did not intend their behaviour to cause offence. If behaviour amounts to harassment, then simply saying “I was only joking” or “It was only a bit of banter” will not be enough to provide a legal defence to a claim.

You need to protect your employees, your company and yourself by taking reasonably practicable steps to stop harassment in its tracks.

Unless you do so, you will be held responsible under anti-discrimination law for any unlawful harassment that your employees commit in the in the workplace. Your focus should be on preventing such behaviour from happening. Simply telling the perpetrators to ‘cut it out’ after the fact is not enough.

### **Case Study: ‘They’re not racist, just brought up different’**

Here’s an example. An Eastern European woman who has lived and worked in Northern Ireland for ten years came to us for advice about her difficulties in the culture of overt and casual racism in her workplace. We supported her case and her employer ended up settling it at a cost of £8,500, paid without admission of liability.

She worked in a small manufacturing business, and says that in the run-up to the EU Referendum, she became the target for offensive racist comments from her male co-workers. She said that any mention of Brexit on radio news was followed by verbal abuse aimed at her, and any mention in a crime story reported on the radio involving a

person from Eastern Europe caused comments about benefits scroungers and immigrants taking up places in schools.

After she reported the racial harassment to the managing director, there was a period of around two weeks when it stopped, and then it started again. The woman asked to be moved to a different area of the factory, which was refused; she submitted a grievance and subsequently left the company. The way it was dealt with meant that the employer lost a skilled employee and had to pay out compensation.

### **Where did her employer go wrong and what should he have done?**

She says the managing director told her in response to her grievance that the abuse was a joke and everyone was laughing, and that he told her: 'they're not racist, they're just brought up different'. She says that he asked her repeatedly to reconsider leaving her job, without at any time addressing how or when he was going to resolve her grievance.

### **Importance of the line manager**

Many of the incidents of harassment in this case were witnessed by a supervisor. His failure to react when he saw employees harassing their colleague means that it is much more difficult for the company to establish a 'reasonably practical steps' defence, which requires line managers to proactively challenge offensive and harassing behaviours. Line managers are the key because other managers higher up the organisation are often too remote from day to day events, whereas line managers are on the shop floor, see what's happening there and can and should take immediate action.

### **Policy direction**

For more senior managers, providing leadership through your own language and behaviours, and setting policy direction for the organisation are key responsibilities. Committing to being an [equal opportunities employer](#) means you adopt [employment policies](#) which show your commitment to the principle. We have online templates for the kinds of policies that you should have and that you can tailor to your needs.

If you can demonstrate that the organisation has effectively implemented a [harassment policy](#) (*Word doc*), you will have a considerable advantage when it comes to defending a complaint, so it's important that you take reasonably practicable steps to fulfil the commitments set out in your policy and procedures.

### **A good and harmonious workplace**

Senior managers can also promote a good and harmonious workplace to prevent employees being exposed to harassment or other bullying behaviour and we have specific guidance available for that too.

### **Staff engagement and buy-in**

If you seek the support of your workforce and their trade union reps in the prevention of harassment and bullying, it can make it easier to have your policies introduced and implemented.

Remind employees by different means – noticeboards, staff handbook, meetings or briefings, or just talk to them – but you need to ensure that all employees know what is acceptable and not acceptable in the workplace.

Providing training on these matters is especially important. We can help you with that, or with some of it, at least – see our [training programme](#), which includes courses on Managing Workplace Harassment.

### **Dealing effectively with harassment when it happens**

Senior managers must deal promptly and seriously with all and any complaints of discrimination or harassment that they receive and above all, you and your line managers should lead by example. Trivialising or ignoring a problem is likely to make matters worse.

It is also important to take disciplinary action against offenders. Doing so will not have stopped the offence that they have just caused, but it may deter them and others from doing the same thing again and will show you are serious about preventing it happening again.

### **Help and Guidance**

We have an online guide for employers, '[Harassment and Bullying in the Workplace](#)' (*pdf*) which can help. Our Advice and Compliance team is available to answer your questions about this and any other workplace equality issues. If you have a specific query that isn't answered on our website, phone 028 90 500 600 or email [edenquiries@equalityni.org](mailto:edenquiries@equalityni.org)