

View from the Chair; Business Newsletter; 31 August 2021 Geraldine McGahey, Chief Commissioner, Equality Commission NI

Are you SURE this couldn't happen in your business?

In early August, the disability harassment case settled by Harvey Spence against his former employer B&M Retail hit the headlines, and the public response was universally supportive of Harvey. His employer did not admit liability.

Harvey worked for B&M for 18 months in a stock filling role and had enjoyed his job but says that this all changed when he was subjected to disability harassment by some colleagues. He says he was excluded from conversations, subjected to derogatory remarks, and was constantly told he was useless and stupid.

Harvey said: "I dreaded going to work. Some of the people I worked with wouldn't speak to me at all and others would tell me to go away by saying horrible things, they used really bad language and called me names.

In the end, Harvey resigned, saying: "I don't know if I'll ever be able to get another job because I'm really afraid other people will treat me like that again."

Like many others reading his story, I thought the saddest thing was that, at just 19, he was so badly affected by the experience that he is afraid to go to work again.

Only 37.3% of people with disabilities in Northern Ireland are in employment. That's the lowest figure of all the UK regions and employers can play an important part in improving this figure.

Disability-related harassment is unlawful under the Disability Discrimination Act 1995. Employers are liable when their employees engage in that kind of discriminatory behaviour, and the law may also hold those employees liable for their own behaviour. Stories like Harvey's remind us that much remains to be done to challenge barriers to employment for many disabled people and to ensure they can secure and keep paid employment.

An employer's only legal defence is to show that they took reasonably practicable steps to prevent such behaviour occurring before it happens. That means providing a good and harmonious working environment in which everyone can feel secure from harassment on all equality grounds, including disability.

Last year, even though so many workplaces were closed, our advice line still had 268 calls from people who believed they were being harassed at work. Of these, around a quarter related to disability harassment.

Regardless of whether someone is being harassed on account of their sex or their disabilities, or indeed any other equality ground, the principles are the same.

Prevention is, as always, better than cure. A business must make sure that it is prepared by having dignity at work policies and procedures in place and ensuring that managers know about them and how to use them. It must also ensure that all employees know what behaviour and language is acceptable in work, and what is not. These policies should be robustly enforced by taking disciplinary action, where appropriate. Doing that is likely to discourage recurrences. Everyone in the workplace has the right to be treated with dignity and respect. Work is often the first place employees meet someone who is different to themselves and they need to know the rules are the same for everyone. They also need to know that so-called 'banter', name-calling and making fun of someone's disability are not acceptable at work.

If discrimination in the form of harassment does arise, staff need to know where to turn for help to report it, and your managers and supervisors need to know how to implement the policy promptly and fairly.

This is not a question of being nice, or politically correct. The law obliges employers to protect their disabled workers from disability-related harassment or bullying.

If you want free and confidential help on tackling the issue in your business, please call the Advice & Compliance team on 028 90 500 600, email edenquiries@equalityni.org and/or sign up for our training in managing bullying and harassment on 19 October 2021 – see our [employer training web page](#).