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## Employee Harassment Policy





## **Employee Harassment Policy.**

### **1. Introduction.**

1.1 The Company is committed to providing equality of opportunity to all its employees and will ensure that every employee is treated with dignity and respect in the course of their employment.

1.2 The Policy of the Company is to provide a working environment which is free from harassment, bullying or abuse

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1.4 The Company and the Trade Unions recognise the problem of harassment in the workplace. Harassment has serious consequences for both employees and the Company alike. It can cause stress and anxiety, poor work performance, increased absenteeism, reduced productivity and higher labour turnover, all of which has a direct impact on the Company's effectiveness.

1.5 The main aim of this policy is the prevention and cessation of harassment in the workplace. The Company will develop and implement policies and procedures which ensure that:

- Harassment is known to be unacceptable
- Employees are confident enough to bring complaints without fear of ridicule or reprisal and
- Incidents are quickly and positively dealt with as close to the point of origin as possible.

### **2. Definition of Harassment.**

2.1 There is not, and probably cannot be, a single simple definition. This is because harassment takes many forms, occurs on a variety of grounds and may be directed at an individual or group of individuals. It is not the intention of the perpetrator but the deed itself and the impact on the recipient which determines what constitutes harassment.



### **3. Grounds of harassment.**

3.1 People can be subject to harassment on a wide variety of grounds. The undernoted are examples; however the list is not exhaustive. Anyone who is perceived as different or who is in a minority, or who lacks organisational power, runs the risk of being harassed.

Grounds may include:

- their race, ethnic origin, nationality or skin colour
- their sex or sexual orientation
- their religious or political convictions
- their willingness to challenge harassment, leading to victimisation/bullying/abuse
- their disabilities, sensory impairments or learning difficulties
- their status as ex-offenders
- their age (or youth)
- their actual or perceived HIV/AIDS status or perceived association with an HIV positive person
- their trade union membership or activity, or because of their non membership of a trade union.

### **4. Forms of Harassment.**

4.1 Harassment may take many forms including violence, bullying and intimidation which can range from extreme and obvious behaviour, to behaviour which may be regarded as innocuous and subtle like ignoring or undermining someone at work but nevertheless will have the same detrimental effects on the recipient.

4.2 Harassment is deemed to be unwanted behaviour which is unwelcome and unpleasant to the recipient. Forms of harassment may include:-

- physical contact ranging from touching to serious assault
- verbal and written harassment through jokes, offensive language, gossip and slander, sectarian songs, letters etc
- visual display of posters, graffiti, obscene gestures, flags, bunting and emblems etc
- isolation or non-co-operation at work, exclusion from social activities etc
- coercion ranging from pressure for sexual favours to pressure to participate in political/religious groups
- intrusion by pestering, spying, following etc

4.3 Employees can be harassed by colleagues or subordinates as well as by managers and supervisors. Customer, clients and contractors may be involved, either as perpetrators or recipients.



## **5. Legal Position.**

5.1 Harassment has been found to amount to discrimination under the Sex Discrimination Act 1975; the Race Relations Act 1976; the Disability Discrimination Act (1995) as amended; the Employment Equality (Religion or Belief) Regulations 2003; the Employment Equality (Sexual Orientation) Regulations 2003; the Employment Equality (Sex Discrimination) Regulations 2005; the Employment Equality (Age) Regulations 2006. It may also lead to claims of victimisation under these Acts.

5.2 In addition to discrimination claims harassment may lead to criminal claims for assault or civil claims from individuals for negligence or breach of contract. For example harassment may lead to employees resigning and claiming constructive dismissal.

## **6. Procedure for Dealing with Harassment.**

6.1 It is preferable for all concerned that complaints of harassment are dealt with within the company in the first instance and informally wherever possible and appropriate.

This is likely to produce solutions which are speedy, effective and minimise embarrassment and the risk of breaching confidentiality.

6.1.1 However the informal solutions should not be used to discourage employees from recourse to formal procedures where they prefer that option.

### **6.2 Informal Procedure.**

6.2.1 Action by employee - If the employee feels comfortable, then he/she may wish to speak to the harasser and explain that their conduct is unwelcome, offensive or interfering with work. He/she should be polite but firm and explain what conduct was unacceptable and unwanted. If the individual finds this too difficult or embarrassing they could ask a colleague, nominated counsellor or their trade union representative to speak to the harasser on their behalf. However should the employee find either of these options unacceptable they may proceed direct to the next stage and raise the issue with their line manager?

6.2.2 Action by line manager - in some circumstances where appropriate, on receipt of a complaint the line manager, depending on the wishes of the employee, may advise the harasser informally regarding their behaviour. The line manager will advise the complainant of the action that has been taken.

6.2.3 Alternatively the complaint may be raised with the HR Officer or with a more senior member of management within the company so that an informal solution can be achieved. Such approaches may be particularly helpful, where the complaint is about an employee's line manager.

6.2.4 Where the informal procedure fails to resolve the problem the employee has the right to move to formal procedures.



### **6.3 Formal Procedure.**

6.3.1 Formal procedures will be necessary where the informal route proves ineffective, for more serious and/or repeated instances of harassment or where an employee prefers to use the formal procedure. The employee should be advised of their right to Trade Union representation.

6.3.2 The general principle should be that the decision to progress a complaint rests with the employee.

6.3.3 There may however be situations in which that principle has to be balanced against the line manager's responsibility to ensure the general welfare of employees particularly where serious complaints are made which the employee is unwilling to pursue. This would always be done after consultation with the TU and the employee with every effort being made to protect the interests of the employee.

6.3.4 Counselling may help encourage the employee to pursue the matter, though no undue pressure will be exerted.

6.3.5 Where these circumstances arise the line manager should seek advice from the HR Officer.

### **6.4 Complaint, Investigatory and Disciplinary Stages.**

6.4.1 Complaints should be reported as soon as possible to the employee's line manager or where this is not appropriate because the line manager is implicated, the officer responsible for HR matters or a more senior member of management. In exceptional situations where the above arrangements are not appropriate then the individual has recourse to the Head of Service and/or the HR Manager.

6.4.2 The complaint can be made verbally but must also be recorded in writing by the employee or their line manager. If the complaint is recorded in writing on the employee's behalf their agreement should be sought to the written record.

6.4.3 When dealing with and/or investigating a complaint the principles of guidance contained in the Company's Code of Discipline/Procedures should be adhered to.

Where there is a need to apply a precautionary suspension or temporary redeployment pending an investigation into harassment the alleged harasser will in normal circumstances be the employee who is suspended or moved.

There may be certain circumstances when this is not possible and in such situations discussion will take place with the relevant TU and/or employee making the complaint.

6.4.4 The sensitive nature of harassment requires additional procedural steps to be taken which involve:-

- the right of both complainant and alleged harasser to be represented
- commitment to time scales for resolution of problems of which the complainant will be advised
- investigators who are not connected with the allegation
- commitment to confidentiality for everyone involved, including witnesses
- ensuring care is taken that the complainant does not unnecessarily have to state repeatedly in evidence circumstances leading to the complaint.
- a record of complaints and investigations should be kept
- where requested and if possible a member of the same gender and/or ethnic background as the complainant should be involved in the investigation

6.4.5 The Investigatory Officer must invite the employee to attend a meeting to discuss their complaint and advise him/her of their right to be accompanied either by a fellow employee of his/her choice or by a representative of a trade union. The employee must take all reasonable steps to attend the meeting.

6.4.6 The Investigatory Officer will send out written confirmation to the employee and the alleged harasser of the outcome of the investigation into the complaint. The Investigatory Officer must advise the employee of his/her right to appeal against the decision if he/she is not satisfied with it.

6.4.7 If after reasonable investigation an Investigatory Officer believes that there are grounds for the complaint(s) to be considered at a disciplinary hearing then such a hearing should take place in accordance with the company's disciplinary code. There may be some circumstances however, where the line manager after consultation with the HR Officer and Trade Unions decides to take some other course of action.

6.4.8 If in addition to disciplinary action a transfer is seen as part of the solution to the problem then the harasser will be the employee to be moved.

6.4.9 In circumstances where no action is taken against the alleged harasser consideration may still be given, where practicable, to the voluntary transfer of one of the employees concerned rather than requiring them to continue to work together against the wishes of either party.

6.4.10 The Policy does not apply to employees who commit a serious breach of the Company's safety and/or conduct rules, such instances will be dealt with in accordance with normal disciplinary procedures.



## **7. Appeals Procedure.**

7.1 If the complaint is not upheld or upheld in part the employee has 7 working days from receipt of the letter to appeal, preferably in writing, to the Head of Service. The Head of Service or nominated officer will arrange to hear the appeal normally within 10 working days of receipt of the request and will notify all parties concerned in writing. The employee must be advised of his/her right to be accompanied either by a fellow employee or his/her choice or a trade union representative. The employee must take all reasonable steps to attend the meeting.

7.2 The Head of Service or nominated officer will notify the employee and the alleged harasser of the outcome of the appeal in writing, normally within 3 working days and will advise the employee that there is no further right of appeal. If the appeal is upheld the Head of Service or nominated officer will take the appropriate action as outlined in sections 6.4.7 to 6.4.9.

## **8. Role of H.R. Officer.**

8.1 To offer advice and guidance on the application and implementation of the Policy and Procedures.

8.2 Ensure that complaints are progressed as quickly as possible in accordance with agreed timescales and that all parties are kept informed of progress.

8.3 Recording any instances of harassment for monitoring purposes.

8.4 Statistical records will be maintained and produced on a quarterly basis.

## **9. Counselling and Support.**

9.1 At any stage before, during or after the procedures for dealing with harassment an employee may need support, informed advice and counselling. In the first instance provision of this counselling and support will be available from the officers with responsibility for HR matters or other nominated officers within the company who have been trained to fulfil this role.

9.2 The availability of counselling is separate from the formal procedures for dealing with harassment, the counsellor has no role in the formal investigation of complaints, that role must remain with line management.

9.3 The role of the Counsellor will be to:

- listen to what has happened and talk things over confidentially with the employee
- draw the employee's attention to whatever informal or formal course of action is open to them in accordance with these procedures.
- where appropriate, encourage employees to pursue the matter though no undue pressure should be exerted and the final decision to progress a complaint should rest with the employee.

9.4 Specialist counselling will be made available for employees if necessary.



9.5 Counselling will also be available for employees whose behaviour has been found to be unacceptable. They may be unaware or insensitive to the impact of their actions and counselling can help them change their behaviour.

## **10. Responsibility of the Company as an Employer.**

10.1 Responsibility for the application of this policy lies with the Heads of Service.

10.2 The Company has made the following commitments:-

- to make the relevant trade union(s) aware of the policy content and implementation procedures through training where necessary.
- to ensure the policy is made known to all employees
- to provide training and guidance for relevant nominated officers to ensure that they understand the position in law and their responsibilities and duties under the Company's harassment policy.
- to examine and regularly review the policy and procedures in consultation with Trade Unions.

## **11. Responsibility of Employees of the Company.**

11.1 Although the primary responsibility for providing a workplace free from harassment rests with the employer, individual employees at all levels have a responsibility to assist in the prevention of harassment and help protect themselves and the

Company from allegations of harassment by:-

- co-operating with measures introduced by the Company to ensure equal opportunity and non-discrimination
- drawing the attention of management and where appropriate trade unions to suspected acts of harassment or practices which do not adhere to this policy on harassment.
- refraining from harassment, victimisation, bullying or intimidation of colleagues and other employees on any grounds
- not being involved in deliberate behaviour, verbal statements, physical actions which are unwelcome and/or undermine fellow employees or any other person
- not victimising individuals who have made allegations or complaints of harassment or who have provided information about harassment

## **12. Modified Procedure for Ex-Employees.**

Where an employee who has already left employment raises a harassment complaint and the harassment procedure has not been commenced or completed the following modified procedure will apply if both parties agree in writing that it should be used:

**Step 1:**

The ex- employee must set out their complaint and the basis for it in writing and send a copy of it to the Head of Service

**Step 2:**

The Head of Service or nominated officer will set out their response in writing and send the statement or a copy of it to the ex-employee. If both parties do not agree to the modified procedure applying the formal procedure under the Employee Harassment Policy applies.