

WE KNOW

HUMAN RESOURCES

HARASSMENT AND BULLYING IN THE WORKPLACE

QUICK GUIDE

INTRODUCTION

Workplace harassment and bullying is likely to affect staff morale and create an unhealthy workplace culture. Harassment can be defined in a number of ways such as: an unwelcome comment, conduct and gesture that is insulting, intimidating, humiliating, malicious or offensive. This might be an isolated incident or on-going, but it affects the other person's work performance, behaviour or working environment so significantly, that the recipient in some cases is unable to function properly in the course of their employment.

Harassment can be physical and/or threatening behaviour, abuse of power, isolation, discrimination, sexual and/or racial harassment. Whichever form the harassment takes, it is unwanted by the recipient even if the harasser is not informed that the behaviour is unwelcome.

LEGISLATION AND EMPLOYER LIABILITY

The Human Rights Act itself forbids discrimination on the grounds of sex, age, marital status, religious belief, ethical belief, colour, race, ethnic or national origins, disability (including having in the body organisms capable of causing illness), political opinion, employment status, family status and sexual orientation.

Discrimination on the above grounds is prohibited in relation to employment, education and training, access to places and facilities, and the provision of goods and services and accommodation. Employment discrimination will be employers' immediate concern but other areas may also be relevant and need to be borne in mind.

According to the Employment Relations Act 2000, [section 108(b)] an employee can seek a personal grievance against their employer if that employee's employer or a representative of that employer directly or indirectly subjects the employee to behaviour that is unwelcome or offensive to that employee [whether conveyed to the employer or representative] and that, either by its nature or through repetition, has a detrimental effect on that employee's employment, job performance, or job satisfaction.

An employee can have a personal grievance in the course of their employment, if the employee is sexually [section 108] or racially [section 109] harassed by another employee, client or customer, and the employer has had the chance to investigate a complaint, but has not taken any practicable steps to prevent the behaviour recurring [sections 117 & 118]. The organisation is held liable for any harassment that takes place on work activities and social events and during work hours.

WHAT SHOULD EMPLOYERS DO?

- Firstly, be objective and available to employees, have an open door policy where issues can be raised without fear of reprisal
- Consider conducting a work place survey to find out whether harassment/bullying is an issue for employees.

- Monitor and record noticeable changes in patterns in performance, turnover or sick days for individuals or groups of staff [new team members, younger and /or female employees].
- Assess how much time is being spent dealing with complaints from employees about forms of harassment.
- Have a clear policy in place for dealing with harassment and the complaints procedure so your organisation complies with current legislation.
- Attend training or seminars on how to deal work place issues and find out what support is available to your employees.

The employer, to protect itself, must inform employees about their rights and responsibilities. A responsible and 'good employer' should actively promote a positive working environment for all its employees. A good employer will have an active prevention policy developed with staff input clearly demonstrating how incidents of bullying and other forms of harassment will be dealt with if it occurs.

Remember

Harassment and bullying can be subtle and difficult to define. Often victims fear being blamed, ridiculed, disbelieved or retaliated against and may be anxious about their job, being demoted or escalating the situation. If you suspect bullying or harassment in the workplace is occurring please contact the Employers' Chamber of Commerce for advice before acting

THE COST OF BULLYING

- Loss of respect for business owner, managers and supervisors
- Poor morale and poor employee relations
- Poor performance/lost productivity
- Absenteeism/increased sickness
- Resignations/staff turnover
- Damage to the organisations reputation
- Loss of self-confidence for the victim
- Mediation/court costs and associated payments

The Department of Labour's Health and Safety office will help to improve safety at places of work, and the safety of people at work and will investigate incidents and causes of "harm" and "serious harm" in the nature of a recognisable mental or physical illness and may prosecute under the Health & Safety in Employment Act [HSE] where breaches of an employer's fundamental duty to take all practicable steps to prevent harm has occurred. Employers would be liable for fines under the HSE and potentially, claims under the ERA.

For assistance in developing an appropriate Workplace Anti-harassment Policy or any other aspects of Employment Relations please contact the Canterbury Employers' Chamber of Commerce, phone 03 366 5096 or email info@cecc.org.nz.