

SEXUAL HARASSMENT POLICY – NEGOTIATORS' CHECKLIST

Sexual harassment refers to unwanted conduct of a sexual nature which has the purpose or effect of violating someone's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

An effective and acceptable sexual harassment policy should include the following:

POLICY STATEMENT

The policy should state the employer's commitment to providing a workplace free from all forms of harassment, and that the employer will not tolerate harassment by or against employees, pupils, parents and other third parties (including contractors, suppliers, inspectors and volunteers).

The employer will set out how it intends to ensure the effective communication of the policy and expectations to all staff, pupils and other stakeholders.

A DEFINITION OF SEXUAL HARASSMENT

The policy should reflect or mirror the accepted definitions of sexual harassment.

The Equality and Human Rights Commission (EHRC) defines sexual harassment as unwanted conduct of a sexual nature. It has the purpose or effect of violating the dignity of a worker, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. Something can still be considered sexual harassment even if the alleged harasser did not mean for it to be. It also does not have to be intentionally directed at a specific person. Experiencing sexual harassment is one of the most difficult situations a worker can face. All workers are protected from sexual harassment in the workplace. This applies to one-off incidents and ongoing incidents. This protection comes from both employment law and criminal law, depending on the circumstances involved.

SCOPE OF POLICY

The policy should cover all employees, irrespective of their status, position, level or grade (such as teachers, support staff, managers, trainees and casual staff).

PROCEDURE AND GUIDANCE

The policy should be accompanied by clear guidance and procedures which should be provided to all employees, explaining that sexual harassment includes a wide range of behaviour, such as:

- sexual comments or jokes;
- displaying sexually graphic pictures, posters or photos;
- suggestive looks, staring or leering;
- propositions and sexual advances;
- making promises in return for sexual favours;
- sexual gestures;
- intrusive questions about a person's private or sex life, and discussing your own sex life;
- sexual posts or contact on social media;
- spreading sexual rumours about a person;

- sending sexually explicit emails or text messages;
- unwelcome touching, hugging, massaging or kissing;
- criminal behaviour, including sexual assault, stalking, indecent exposure and offensive communications.

The policy should include a clear statement that sexual harassment will not be tolerated.

The policy should confirm a list of sanctions that may be used where an individual has been found to have acted in contravention of the policy, including dismissal, exclusion or other withdrawal of service, contract or support.

The employer should state that it will take allegations of harassment or bullying seriously and address them promptly and confidentially where possible.

Sexual harassment under a disciplinary procedure should include potential gross misconduct.

THE COMPLAINTS PROCEDURE

The policy should confirm how individuals should report any incident of sexual harassment and confirm the named person to whom such complaints should be directed.

The policy should include procedures that allow complaints to be filed with an individual outside the chain of command. The policy must also require supervisors to report any complaints that they receive to a designated member of the leadership team or trust board.

The named person should have sufficient authority to be able to deal with any complaints.

The policy should set out the procedure the employer will follow to investigate harassment complaints, which should include, as a minimum, the following elements, stages and timescales.

THE POLICY WILL SET OUT APPROPRIATE TIMESCALES FOR ALL FORMAL STAGES OF THE PROCEDURES

Raising a formal complaint

Complaints should be raised and dealt with promptly, and there should not be any unreasonable delay of meetings, decisions or confirmation of those decisions.

Formal investigations

Formal meetings should be held without unreasonable delay after a complaint is received.

Action following the investigation

Decisions should be communicated to the employee, in writing, without unreasonable delay and, where appropriate, should set out what action the employer intends to take to resolve the complaint.

Appeals

The policy must include provisions for employees to appeal against any formal decision made in accordance with an appeals procedure within the policy, which meets, as a minimum, the statutory requirements on disputes resolution.

Appeals should be dealt with impartially and, wherever possible, by a manager who has not previously been involved in the case.

Protection and support for those involved

All persons involved in dealing with sexual harassment complaints should be appropriately trained in order that they can undertake their role sensitively and effectively.

The policy should signpost individuals to confidential support such as confidential advice and counselling services.

CONFIDENTIALITY PROVISION

The policy should set out the rights of individuals regarding confidentiality at each stage of the procedure.

Any limits to confidentiality should be clearly documented in the policy and procedure.

The policy should confirm that employees who make complaints or who participate in any investigation must not suffer any form of retaliation or victimisation as a result.

The policy should confirm that where individuals make a complaint that is deemed to be false, malicious or vexatious, they may be subject to disciplinary action as a result.

Confidentiality is an important part of the procedures provided under any policy. Everyone involved in the operation of the policy, whether making a complaint or involved in any investigation, is responsible for observing the high level of confidentiality that is required. Details of the investigation and the name of the person making the complaint and the person accused must only be disclosed on a 'need-to-know' basis.

Information about a complaint by, or about, an employee may be placed on the employee's personnel file, along with a record of the outcome and of any notes or other documents compiled during the process. These will be processed in accordance with the General Data Protection Regulations.

Breach of confidentiality should be deemed to give rise to disciplinary action under the employer's Disciplinary Procedures.



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