

Bullying, harassment and discrimination

Policy

The OFT is committed to providing a work environment free from bullying, harassment and all forms of unfair discrimination. All staff should be treated and treat others with dignity and respect so that people can work in an environment free from intimidating, hostile, degrading, humiliating or offensive treatment regardless of their sex, marital status, sexual orientation, disability, age, race, colour, nationality, national or ethnic origins, religion or belief. Similarly no member of staff shall be the subject of victimisation, that is, less favourable treatment as a result of raising, or giving evidence in connection with a complaint, either in relation to themselves or a colleague.

The OFT has a duty to protect staff from this form of behaviour whilst at work or in circumstances where they are in attendance because of their work, including off-site training programmes, customer locations, travel on office business and OFT social events. Therefore all allegations of this nature will be taken seriously, and handled sensitively. Similarly employees making false allegations will be dealt with through the disciplinary policy and procedure.

All employees have a personal responsibility to create a working environment that is free of bullying, harassment, unlawful discrimination and victimisation. They should not behave in a manner that could have a detrimental impact on another's ability, well-being or confidence to carry out their work.

All managers have additional responsibilities of setting an example and dealing appropriately with any behaviour that breaches or has the potential of breaching this policy.

Workplace bullying and harassment should not be confused with managing workplace performance that might include critical comments indicating performance deficiencies. Giving feedback on performance must always be carried out in a constructive manner that is not humiliating or threatening.

This policy is for guidance only and does not form part of an employee's contractual rights. The content may be subject to revision as the need arises in consultation with the trade unions.

Definitions

Bullying and harassment (advisory, conciliation and arbitration service-Acas)

These terms are used interchangeably by most people, and many definitions include bullying as a form of harassment.

Harassment (statutory definition)

The statutory definition of harassment on grounds of sexual orientation, age, religion or belief and race and national origin is: 'unwanted conduct which has the purpose or effect of violating another person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for another.'

This statutory definition is contained in the Race Relations Act 1976 (RRA), Employment Equality (Sexual Orientation) Regulations 2003 and the Employment Equality (Age) Regulations 2006.

In relation to harassment on the grounds of disability, the Disability Discrimination Act 1995 (DDA) provides that 'a person subjects a disabled person to harassment where, for a reason which relates to the disabled person's disability, he/she engages in unwanted conduct which has the purpose or effect of (a) violating the disabled person's dignity or (b) creating an intimidating, hostile, degrading, humiliating or offensive environment for him/her.'

Harassment, including sexual harassment

The wording of this section is a straight lift from the legislation and should be read in that context. For clarification, subsection (1) below is to be read as applying equally to the harassment of men, and for that purpose shall have effect with such modifications as are requisite. Similarly for the purposes of subsections (1) and (3), a provision of Part 2 or 3 framed with reference to harassment of women shall be treated as applying equally to the harassment of men, and for that purpose will have effect with such modifications as are requisite.

(1) For the purposes of this Act (Sex Discrimination Act 1975), a person subjects a woman to harassment if:

- (a) on the grounds of her sex, he engages in unwanted conduct that has the purpose or effect:
 - (i) of violating her dignity, or
 - (ii) of creating an intimidating, hostile, degrading, humiliating or offensive environment for her, or

- (b) he engages in any form of unwanted verbal, non-verbal or physical conduct of a sexual nature that has the purpose or effect:
 - (i) of violating her dignity, or
 - (ii) of creating an intimidating, hostile, degrading, humiliating or offensive environment for her, or

- (c) on the grounds of her rejection of or submission to unwanted conduct of a kind mentioned in paragraph (a) or (b), he treats her less favourably than he would treat her had she not rejected, or submitted to, the conduct.

(2) Conduct will be regarded as having the effect mentioned in sub-paragraph (i) or (ii) of subsection (1)(a) or (b) only if, having regard to all the circumstances, including in particular the perception of the woman, it should reasonably be considered as having that effect.

(3) For the purposes of this Act, a person ('A') subjects another person ('B') to harassment if:

- (a) A, on the ground that B intends to undergo, is undergoing or has undergone gender reassignment, engages in unwanted conduct that has the purpose or effect –
 - (i) of violating B's dignity, or
 - (ii) of creating an intimidating, hostile, degrading, humiliating or offensive environment for B, or

- (b) A, on the ground of B's rejection or submission to unwanted conduct of a kind mentioned in paragraph (a), treats B less favourably than A would treat B had B not rejected, or submitted to, the conduct.

(4) Conduct shall be regarded as having the effect mentioned in sub-paragraph (i) or (ii) of subsection (3)(a) only if, having regard to all the circumstances, including the perception of B, it should reasonably be considered as having that effect.

Harassment may not always be related to the above grounds however the statutory definitions are nevertheless a useful guide in all harassment situations.

Bullying (Acas definition)

Bullying is not defined in statute, however Acas state that it may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a manager or supervisor) or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual.

Examples of bullying/harassing behaviour include:

- spreading malicious rumours, or insulting someone by words and behaviour (including on the grounds of sex, marital status, sexual orientation, disability, age, race, colour, nationality, national or ethnic origins, religion or belief)
- ridiculing or demeaning someone – picking on them or setting them up to fail

- copying memos that are critical about someone to others who do not need to know
- exclusion or victimisation
- unfair treatment
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances including touching, standing too close, displaying offensive materials
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and constant criticism
- preventing individuals progressing by intentionally and without good reason blocking promotion or training opportunities.

Bullying and harassment are not necessarily face to face. They may also occur in written communications, e-mail, phone and automatic supervision methods such as computer recording of downtime from work or the number of calls handled if these are not applied to all workers.

Bullying and harassment make some people feel anxious and humiliated. Feelings of anger and frustration at being unable to cope may be triggered. Some people may try to retaliate in some way. Others may become frightened and demotivated. Stress, loss of self-confidence and self-esteem caused by harassment or bullying can lead to job insecurity, illness, absence from work, and even resignation. Almost always job performance is affected and relations in the workplace suffer.

Discrimination

The contribution of all individuals should be valued and respected. Basing judgements on characteristics or status unrelated to the individual's ability to perform a role can amount to discrimination: discrimination is unacceptable to

the OFT and potentially unlawful. The OFT is committed to providing equal opportunities in employment and aims to ensure that it will not unlawfully discriminate against job applicants or employees on the grounds of their sex, marital status, sexual orientation, disability, age, race, colour, nationality, national or ethnic origins, religion or belief.

The following are examples of discrimination which are against the OFT's policy:

- direct discrimination, where a person is less favourably treated because of sex, marital status, sexual orientation, disability, race, colour, nationality or national ethnic origins, religion or belief or age, for example, selection criteria, policies, benefits or employment rules

examples:

- a woman with young children fails to obtain a job because it is feared that she might be an unreliable member of staff
- a Sikh applicant for a senior post is not appointed because he might not 'fit in' with the existing (all white) team

- indirect discrimination, where a provision, criterion or practice which cannot be justified is applied equally to all groups but has a disproportionately adverse effect on one particular group.

examples:

- A requirement for GCSE English as a selection criterion. This would have a disparately adverse impact on people educated overseas and may not be justified if all that is needed is to demonstrate a reasonable level of literacy.

- victimisation, where a person is treated less favourably because they have, in good faith, taken action in relation to the discrimination legislation, for example brought proceedings or given evidence or information in a case under the legislation or alleged (expressly or otherwise) that anyone has committed an act which could constitute a breach of the legislation.
- harassment (see above).

Raising a complaint

It may be difficult to raise the issue of bullying, harassment or unfair discrimination but this policy should give you confidence.

It may be possible to sort out matters informally and this is encouraged, the following are examples of how a complaint may be resolved informally but are not an exhaustive list of options:

- You may wish to challenge the alleged perpetrator, making it clear that the behaviour is unacceptable and that it must stop. For example the person who is the subject of your complaint may simply not know that their behaviour is unwelcome or upsetting. An informal discussion can help them to understand the effects of their behaviour and agree to change it. You may choose to do this yourself, or you may want the support of a manager, trade union representative or a bullying and harassment network contact, present at such a meeting.
- You may prefer to write to the person you feel is responsible, keeping a copy for your records. Often talking or writing to those responsible is enough to remedy the situation, particularly if those involved were unaware that their behaviour was causing offence.
- You may wish to take part in a mediated discussion with the person(s) you feel is or are responsible with a view to resolving the matter. In this case an independent mediator may be considered and engaged. The outcome of the mediation will be owned by all parties and will not involve penalties such as warnings, transfers or more serious disciplinary sanctions. If you favour this approach you should contact HR and they will facilitate it and seek the necessary authorisation of the HR director.

If you feel you cannot sort the issue out informally, there are policies and procedures for dealing with these matters.

If you feel you are the subject of bullying, harassment or unfair discrimination, you can use the OFT grievance procedure to raise a complaint. All complaints will be dealt with confidentially and sensitively. Where the complaint is such

that it merits action under the OFT disciplinary policy and procedure this will be considered.

If you believe that another person is suffering any behaviour covered by this policy or you witness any behaviour that gives you cause for concern you should seek the advice of HR who will be responsible for ensuring that any necessary action is implemented.

Support

A network of bullying and harassment contacts exist to provide support to you if you are experiencing problems relating to the issues covered by this policy.

The trade union representatives are a source of support to their members on these issues.

A confidential welfare service is available through business and people support an external organisation that is part of HM Revenue and Customs. They are contactable weekdays between 08.00 and 17.00 on 0161 827 0150.

There is also an external confidential **Freephone Helpline** available 24 hours a day, 365 days a year on **(9) 0800 269616** that gives access to professional counsellors who will provide assistance in the form of telephone counselling and the provision of relevant information.

Further guidance can be obtained from The Equality and Human Rights Commission website at www.equalityhumanrights.com