

SmartWork.Com Ltd

**Worker Protection (Amendment of  
Equality Act 2010) Act 2023 –  
Harassment & Bullying Policy**

## 1. Policy Statement

- 1.1 The Company wishes to provide a stimulating and supportive working environment that will enable its staff to fulfil their personal potential. Such an environment cannot exist where any member of staff is subjected to bullying, harassment, intimidation, aggression, victimisation or coercion.
- 1.2 We recognise that harassment and victimisation is unlawful under the Equality Act 2010. Harassment or victimisation on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation is unacceptable and will not be tolerated.
- 1.3 The Company will be responsible for ensuring all employees understand the rules and policies relating to the prevention of harassing and bullying behaviour at work and during work-related social events.
- 1.4 The Company recognises that personal harassment can exist in the workplace and that this can seriously affect employees' working lives by interfering with their job performance or by creating a stressful, intimidating and unpleasant working environment. Employees should feel empowered to raise any complaints or concerns if they see or experience inappropriate behaviour.
- 1.5 The Company will treat all complaints of harassment and bullying seriously and will investigate them promptly and in confidence. We recognise that we have a duty to implement this policy and all employees are expected to comply with it.
- 1.6 We will also endeavour to review this policy at regular intervals in order to monitor its effectiveness.

## 2. Harassment and Bullying

- 2.1 There is no legal definition of bullying but, broadly speaking, bullying at work may be defined as unwanted behaviour that is:
  - 2.1.1 offensive, intimidating, malicious, aggressive or insulting; or
  - 2.1.2 an abuse or misuse of power that undermines, humiliates or causes physical or emotional harm to an individual.
- 2.2 Under the Equality Act 2010, there are three types of harassment:
  - 2.2.1 sexual harassment, i.e. unwanted behaviour of a sexual nature;
  - 2.2.2 harassment related to certain protected characteristics, i.e. age, disability, gender reassignment, race, religion or belief, sex and sexual orientation;

- 2.2.3 less favourable treatment as a result of harassment related to sex, sexual harassment or gender reassignment.
- 2.3 In order to be considered as harassment, the unwanted behaviour must have:
  - 2.3.1 violated the individual's dignity; or
  - 2.3.2 created an intimidating, hostile, degrading, humiliating or offensive environment for the individual.
- 2.4 Bullying or harassment may be persistent or an isolated incident, obvious or subtle, face-to-face or indirect.
- 2.5 Under the Worker Protection (Amendment of Equality Act 2010) Act 2023 By law, all employers must take reasonable steps to prevent sexual harassment of their employees.
- 2.6 Examples of behaviour which may constitute harassment or bullying include (but are not limited to):
  - 2.6.1 spreading malicious rumours;
  - 2.6.2 professional or social exclusion;
  - 2.6.3 insulting behaviour;
  - 2.6.4 unwelcome sexual advances or physical contact;
  - 2.6.5 unfounded threats relating to job security;
  - 2.6.6 calculated undermining of an employee's competence, for example through a consistently unreasonable or unfair workload or overbearing supervision;
  - 2.6.7 physical assault;
  - 2.6.8 abusing a position of power;
  - 2.6.9 blocking promotion or access to development opportunities;
  - 2.6.10 verbal abuse, threats, derogatory name-calling, inappropriate banter, ridicule, insults and offensive or embarrassing jokes;
  - 2.6.11 cyber-bullying e.g. sending offensive emails, texts or visual images, or posting embarrassing images on social media;
  - 2.6.12 derogatory graffiti/insignia or display of derogatory or offensive material; and
  - 2.6.13 inciting others to commit any of the above.
- 2.7 A worker does not actually need to possess the relevant protected characteristic in order to make a complaint of harassment. An employee can complain of unlawful harassment if they have experienced:

- 2.7.1 harassment because they are related to, or associate with, an individual who possesses a relevant protected characteristic; or
- 2.7.2 harassment by a colleague with the mistaken belief that they possess a relevant protected characteristic.

### 3. **Unlawful Grounds of Harassment or Bullying**

- 3.1 The Company reiterates that it will not tolerate any instance of harassment or bullying, regardless of the grounds. This Policy will equally apply to work-related events, even if they occur away from the normal workplace.
- 3.2 Harassment may be committed by a fellow employee or a third party and it does not need to occur in person, e.g. it can occur digitally (WhatsApp, social media sites etc).
- 3.3 The following are expressly unlawful grounds by which a person may experience harassment:

#### 3.3.1 Sex

This is behaviour that is unwanted or unwelcome that could be seen as sexual or to do with an individual's gender e.g. sexist jokes. This might also include sexually suggestive jokes or innuendo, unnecessary touching or suggestions that sexual favours may advance their career.

#### 3.3.2 Gender Reassignment

Harassment or bullying on the grounds that a person intends to undergo gender reassignment, is currently undergoing gender reassignment or has already undergone gender reassignment.

#### 3.3.3 Race

Harassment or bullying on the grounds of race, colour, ethnicity or nationality. This might include offensive remarks about an individual's race, ethnic or national origin or ridicule/assumptions based on racial stereotypes.

#### 3.3.4 Disability

Bullying or harassment on the grounds of a person's disability. This might include making assumptions or jokes/offensive remarks based on an individual's disability.

#### 3.3.5 Sexual Orientation

Bullying or harassment on the grounds of a person's sexual orientation, applying equally to "same sex" orientation, "opposite sex" orientation and "both sexes"

orientation. This might include 'outing' an individual without their permission or asking intrusive questions about their private life.

#### 3.3.6 Religion or Belief

Harassment or bullying on the grounds of a person's religion or beliefs. This might include derogatory remarks made about a particular item of clothing or jewellery worn by an individual as a symbol of their religion.

#### 3.3.7 Age

Harassment on the grounds of a person's age, applying equally to all people regardless of age e.g. banter or jokes that make fun of older people or demean their abilities.

## 4. Reporting Harassment

4.1 Employees have the right to complain if they are treated in a way that they believe constitutes harassment, victimisation or bullying. The informal and formal procedures to follow are set out below.

4.2 Employees who make a genuine complaint under this policy will not be subjected to any unfavourable treatment or victimisation as a result of making the complaint.

## 5. Witnessing Victimisation, Bullying or Harassment

5.1 If an employee sees harassment, bullying or victimisation taking place, they are encouraged to take appropriate action to address it. If the employee is unable to intervene to prevent the action, they should encourage the employee who is being harassed or bullied to report the incident or report the incident themselves.

5.2 Reports of incidents should be made in writing to Legal Counsel.

## 6. Third Party Harassment

6.1 The Company also operates a zero-tolerance policy in relation to harassment of one of its employees by a third party, such as a client, OR [customer], supplier or visitor. All employees are encouraged to report any instances of harassment involving a third party in line with the reporting procedure set out below.

6.2 If an allegation of harassment by a third party proves to be well-founded, steps taken by the Company may include:

- 6.2.1 warning the individual about the inappropriate nature of their behaviour;
- 6.2.2 banning the individual from the Company's premises; and
- 6.2.3 reporting the individual's actions to the police.

## 7. Procedure for Complaints

- 7.1 The Company is committed to ensuring that there is no harassment, bullying or victimisation in our workplace.
- 7.2 Any employee who feels that they have been subjected to harassment, victimisation or bullying by any other member of staff, should raise the matter as soon as reasonably practicable.
- 7.3 Employees can raise a complaint informally and/or formally. They should contact Legal Counsel or another manager in the absence of that manager or where their complaint is against that specific manager.
- 7.4 Before raising a formal complaint, the employee is encouraged to talk directly and informally to the person whom they believe is harassing them, using the informal procedure below. It may be that the person whose behaviour is causing offence is genuinely unaware that their behaviour is unwelcome or causing distress and that a direct approach can resolve the matter without the need to use the formal procedure.

### 7.5 Informal Procedure

- 7.5.1 If the employee feels able to do so, they should speak up at the time when they feel harassed or bullied. It is important to be direct and for the employee to state explicitly that they feel they are being harassed and that the behaviour is unacceptable to them. The employee can also discuss the matter with another colleague or their line manager [or HR Manager] and ask them to speak to the harasser on their behalf.
- 7.5.2 Alternatively, if the employee feels unable to speak to the harasser directly, they could write a letter to them which clearly identifies the offending behaviour and requests that it stops immediately. The employee should sign and date any such letter and ensure that a copy is kept for any possible future formal complaint. It is also advisable that the employee keep an 'incident diary' of any offending behaviour.
- 7.5.3 Where the informal procedure has not resolved an employee's complaint, a formal grievance can be raised by the employee.

## 7.6 Formal Procedure

- 7.6.1 Any employee who feels that they have been subjected to harassment or bullying may at any time decide to deal with the issue through formal procedures (using the Company's grievance procedure), regardless of whether informal steps have been taken or not.
- 7.6.2 When bringing a complaint of bullying or harassment, the employee should state:
- a) The name of the person whose behaviour is believed to amount to bullying or harassment;
  - b) The behaviour that is causing offence, with specific examples;
  - c) Dates and times when incidents of harassment or bullying occurred;
  - d) The names of any employees who witnessed any incidents;
  - e) Details of any action the employee has taken to try and address the bullying/harassment.
- 7.6.3 The Company will investigate any complaint thoroughly and fairly.
- 7.6.4 An employee accused of harassment or bullying will be informed of the exact nature of the complaint against them and given a full opportunity to give their version of events.
- 7.6.5 During the investigation, the Company reserves the right to suspend or temporarily redeploy either the employee making the complaint of harassment or bullying, or the employee suspected of harassment or bullying. Suspension will be on full pay and is not a disciplinary sanction. As soon as the investigation is complete, the Company will inform the employee suspected of bullying or harassment of the outcome and decide if it is appropriate to start disciplinary proceedings.
- 7.6.6 On conclusion of the investigation, a report of the findings will be submitted to the manager who will hold the grievance meeting. The employee who has made the complaint will be invited to attend a meeting to discuss the matter. The meeting will be held in accordance with the Company's grievance policy.
- 7.6.7 If, following the hearing, it is decided that the allegation is well-founded, the harasser will be subject to disciplinary action up to, and including, dismissal in accordance with the Company's disciplinary procedure.
- 7.6.8 The Company is committed to ensuring employees are not discouraged from using this procedure and no employee will be victimised for having brought a complaint.

## 8. **Victimisation**

- 8.1 Victimisation takes place when an employee is treated unfavourably as a result of raising a complaint to do with a protected characteristic.
- 8.2 Examples of victimisation may include:
  - 8.2.1 failing to consider someone for promotion because they have previously made a sexual harassment complaint;
  - 8.2.2 dismissing someone because they accompanied a colleague to a meeting about a sexual harassment complaint; or
  - 8.2.3 excluding someone from work meetings because they gave evidence as a witness for another employee as part of an employment tribunal claim about harassment.
- 8.3 Similarly, an employee who supports or assists another employee to raise such a complaint is subjected to victimisation if they are treated unfavourably.

## 9. **Consequences of Breach**

- 9.1 Harassment is a disciplinary offence and will be dealt with according to the Company's Disciplinary and Conduct Procedure. Bullying, harassment, victimisation or discrimination may constitute gross misconduct, punishable by summary dismissal without notice.
- 9.2 Employees should bear in mind that harassment or bullying may also constitute a criminal offence punishable by a fine and/or imprisonment.

## 10. **Responsibilities of Employees and Managers**

- 10.1 The Company requires its employees to always behave appropriately and professionally.
- 10.2 All employees are responsible for their own behaviour and should ensure that they always comply with this Policy.
- 10.3 All managers are responsible for implementing this Policy and bringing it to the attention of employees.
- 10.4 Any complaints under this Policy brought to the attention of a manager must be dealt with promptly, confidentially, fairly and consistently.
- 10.5 [All incidents of harassment and bullying will be reported to the HR team.]
- 10.6 Any form of harassment or victimisation may lead to disciplinary action up to and

including dismissal if it is committed:

10.6.1 in a work situation;

10.6.2 during any situation related to work, such as a social event; or

10.6.3 against a colleague or other individual connected to the employer outside of a work situation, including on social media.

## 11. **Training**

11.1 The Company will provide training to all our staff on bullying and harassment to ensure there is a clear understanding of:

11.1.1 what bullying and harassment is;

11.1.2 expected levels of behaviour;

11.1.3 how employees can report any incidents of having been bullied or harassed or having witnessed such incidents; and

11.1.4 how acts of harassment will be dealt with under the disciplinary procedure, which can potentially result in dismissal.

11.2 In addition, the Company will ensure that all managers are trained on implementing this policy.

## 12. **Support and Advice**

12.1 Confidential support is available by contacting our Employee Assistance programme.

## 13. **Confidentiality**

13.1 The Company will treat any complaint received under this Policy confidentially.

13.2 All employees involved with an investigation are required to respect the need for confidentiality.

13.3 The Company will maintain records of investigations into alleged incidents of harassment or bullying and the outcome of the investigations. These records will be maintained in confidence and in line with the Company's Data Protection Policy.

13.4 Any breaches in confidentiality will be subject to disciplinary action.