

Midlothian



# **Equality Act 2010**

## **Harassment at Work**

**A guide for Elected Members**

**January 2018**

**This guide will provide you with more information about the Equality Act and how it provides protection from harassment**

## **What is the Equality Act 2010?**

The UK has had equal opportunities legislation in place for the past 40 years. Over time the law evolved and extended protection from discrimination for individuals in relation to employment, education and training. This resulted in a total of 9 key pieces of primary legislation and numerous statutory instruments.

The Equality Act 2010 has brought all of these individual pieces of legislation together into one. This was done to modernise the law and 'even up' the protections afforded to individuals under the law. The Equality Act should make it easier for individuals to be aware of their rights under the law, and also for services and organisations to meet their legal responsibilities.

## **Who does the law protect?**

The purpose of the Act is to ensure that everyone, whether at work or in using a service has the right to be treated fairly. It protects people from discrimination on the basis of certain characteristics. These are known as protected characteristics and they vary slightly according to whether a person is at work or using a service.

## **The protected characteristics are:**

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership (the law provides protection in the area of employment and vocational training only)
- Pregnancy and maternity
- Race
- Religion and Belief
- Sex (gender)
- Sexual Orientation

In 2018, socio economic disadvantage will be added as an additional characteristic

## **Harassment**

Harassment is unwanted conduct related to the relevant protected characteristic, which has the purpose or effect of violating the dignity of an individual or creating a hostile, degrading, humiliating or offensive environment to that individual.

Harassment applies to all protected characteristics. Employees will now also be able to complain of behaviour that they find offensive even if it is not directed at them and the complainant need not possess the relevant protected characteristic themselves.

Employees are also protected from harassment because of perception and association harassment.

## **Examples of Harassment**

Paul is disabled and is claiming harassment against his line manager after she frequently teased and humiliated him about his disability. Richard shares an office with Paul and he too is claiming harassment, even though he is not disabled, as the manager's behaviour has also created an offensive environment for him.

Steve is continually being called gay and other related names by a group of employees at his work. Homophobic comments have been posted on the staff notice board about him by people from this group. Steve was recently physically pushed to the floor by one member of the group but is too scared to take action. Steve is not gay but heterosexual; furthermore the group know he isn't gay. This is harassment because of sexual orientation.

## **What does Harassment look like?**

Harassment can take many forms, including violence, bullying and intimidation, as well as more subtle forms such as ignoring an individual, undermining her/his confidence or initiating rumour.

Specific forms include: -

- Physical (from touching to serious assault);
- Verbal or written (letters, texts, homophobic or racist jokes, abusive or offensive language, malicious gossip, slander, innuendo, sectarian songs etc);
- Electronic (e.g. offensive or threatening e-mails, transmitting offensive material, display screen images etc);
- Visual (offensive gestures, display of offensive posters, calendars, graffiti or other visual images);
- Isolation or non-co-operation at work, exclusion from work-related social activities etc;
- Using threats or offering favours to encourage sexual activity; and/or
- Intrusion such as stalking, pestering or spying;

This list is not exclusive or exhaustive and there may be other behaviours which also constitute harassment.

## **Bullying**

Bullying is a form of harassment. It is unacceptable behaviour that may contain elements of sexual, racial or other types of harassment. Bullying may be defined as persistent offensive, aggressive or intimidating behaviour towards individuals or groups which makes the recipient feel threatened, humiliated or vulnerable and which undermines her/his self-confidence and personal well-being. Bullying often involves an abuse of power or position.

Examples of bullying include:

- disparaging comments or remarks, often in front of others;
- setting impossible deadlines or demands;
- applying standards or rules that do not apply to others;
- excessive criticism of minor errors;
- shouting;
- direct verbal or physical threat; and or
- continually ignoring or excluding an individual

### **How do you know who has responsibilities under the law?**

- All employers and service providers have a responsibility under the law to treat their employees and service users fairly.
- You are a service provider if you provide goods, facilities or services to the general public or section of it, regardless of whether these are free or paid for.
- If you are a private club or association then you are also likely to have responsibilities under the law to treat your members equally and fairly.
- If you are an employer, the law generally still applies to you even if your workers are temporary, do not have written contracts of employment or are recruited to other positions such as trainees, apprentices or business partners.

### **Midlothian Council Policy on Harassment within the organisation**

Midlothian Council has an agreed policy in place to deal with harassment in the workplace. The policy outlines the process Elected Members, employees and managers should follow if they are a victim of harassment in the workplace. The policy (Policy on the Prevention of Harassment and Bullying at Work) can be found on the intranet in the HR Portal. This policy also covers more generic forms of bullying and harassment that is not attributable to one of the protected characteristics.

## **Equal Opportunities and You as an Elected Member**

The concept of fair treatment brings rights and responsibilities to us all. Some of these individual responsibilities can't be expressed in legislation, but they are an important part of the package, because they are about how we all treat each other in our relationships, including our working relationships.

**As an Elected Member-** The Council will endeavour to ensure that all Elected Members are treated with respect and in accordance with the principles of equal opportunities, human dignity and quality of working life. Elected Members are also expected to comply with the Council's equalities policies and practices.

**As a colleague –.** You should not feel that you are being discriminated against in your workplace. Discriminatory behaviours towards others are not acceptable e.g. taunting, name calling, verbal or physical intimidation. Treat colleagues and those with whom you come into contact with dignity and respect.

### **Looking for more information about the Equality Act?**

If you would like to find out more about the Equality Act 2010 or book a training session on the Act or any aspect of the Act then please contact the Council's Equality, Diversity & Human Rights Officer on 0131 271 3658 or [lesley.crozier@midlothian.gov.uk](mailto:lesley.crozier@midlothian.gov.uk)