

DIGNITY AND RESPECT!
DEALING WITH HARASSMENT – A CWU MEMBERS GUIDE

Introduction

The CWU believes that every worker should be treated with dignity and respect. We do not tolerate harassment, bullying or discrimination - wherever it comes from. We aim to do all we can to ensure our workplaces are free from the misery caused by harassment and that all workers can expect to be treated with dignity and respect.

This guide is aimed at every CWU member, wherever you work. It is intended to give you an understanding of:

- What we mean by harassment
- What your employer's responsibilities are
- What the CWU's responsibilities are
- How to get the harassment stopped
- How to make a complaint and what to expect
- The legal position
- What support you can expect from your CWU representatives.

WHAT IS HARASSMENT?

Whilst there are many definitions of harassment, it is generally accepted that harassment is any conduct related to age, disability, creed, race, nationality, religion, sex, sexual orientation or any other personal characteristic which is unwanted or unwelcome by the individual or offensive to that person. It may be persistent or an isolated incident.

In other words, it is behaviour that is UNWANTED, OFFENSIVE and UNRECIPROCATED.

The following are just a few examples of different forms of harassment.

Sexual Harassment

- Unwelcome sexual advances, propositions and demands for sexual favours;
- Unwanted comments about dress or appearance;
- Displaying offensive material, pornographic pictures or page three type pin-ups and calendars, including electronic forms such as screen savers

Harassment of people with disabilities

- Asking intimate questions about an individual's disability;
- Name calling, jokes, taunts and use of offensive language;
- Exclusion from workplace social activities

Religious Harassment

- Mocking or deriding people's religious beliefs;
- Making unwanted comments on dress;
- Making it unnecessarily difficult for people to conform to their religious beliefs

Harassment of Lesbians, Gay Men, Bisexuals and Transsexuals

- Making stereotypical assumptions such as assuming all gay men are HIV positive;
- Unwelcome comments or jokes;
- Physical abuse or intimidation

Racial Harassment

- Refusing to work with someone or deliberately isolating them because of their race, colour, nationality or ethnic origin;
- Displaying racially offensive material including graffiti;
- Racist jokes, banter, insinuations, insults and taunts

When does "Having a Laugh" Turn into Harassment?

A harassment-free workplace does not mean a humour-free workplace! We all need a bit of humour and fun to brighten up the workplace – the trick is being careful that this is not at someone else's expense. Being aware of other people's feelings and sensitivities when telling jokes or not being amused at certain types of jokes or horseplay doesn't make you a party-pooper. It just means you are a thoughtful, considerate human being!

If you are the subject of jokes or the target for certain behaviour, there is an important point to remember about harassment. It is not whether someone else would be offended or not by the behaviour, it is whether YOU think it is offensive. You should trust your instincts – if it "just doesn't feel right" then it usually isn't!

It can still be regarded as harassment even if the perpetrator didn't know they were causing offence or they were "just having a laugh".

It could also be unlawful because many instances of harassment can be regarded as unlawful discrimination. However, not all instances of harassment are illegal but even if they are not, you are still entitled to be treated with dignity and respect by getting the harassment to stop.

Why am I being harassed?

This is often a question that is asked by victims and sometimes there is no logical answer. Many victims blame themselves believing that it must be something they've done to cause offence. In most cases, this is not true. The problem usually lies with the harasser themselves and their inability to relate effectively with other human beings for any number of reasons.

If you are being harassed remember

- **You are not to blame**
- **You must not feel that it is acceptable**
- **You have a right to get it stopped**
- **You have a right to complain**
- **You have a right to confidentiality**
- **You have a right to be treated with dignity and respect!**

YOUR EMPLOYER'S RESPONSIBILITIES

In law, it is the employer's responsibility to ensure that their workplace is free from harassment. They are responsible for acts of harassment committed by any of their employees. They have to prove that they have acted firmly enough against the perpetrators; that they have proper procedures for dealing with harassment and that their workforce is aware of those procedures.

This means that no matter how good their policies and procedures are on paper, if they are ignored or the workforce is not made aware of them, then it is the employer who is to blame for acts of harassment committed by its employees.

By law, the employer must also have in place a grievance or complaints procedure. This allows any employee to raise a complaint against any other employee, irrespective of whether that employee is a manager, a co-worker or even a Union rep.

This is usually the mechanism that is used if you want to make a complaint about harassment, although some of our employers may also have specific procedures for dealing with harassment and bullying.

It is your employer's responsibility to respond to the complaint and to resolve the matter fairly.

YOUR UNION'S RESPONSIBILITIES

Whilst many of our employers have good anti-harassment policies; it is worth remembering that our employers' main concern is running a business. On the other hand, the Union's main concern is the welfare of its members. Our representatives are volunteers in the workplace, and at regional and National level.

It is their role to assist, support and act on behalf of members to ensure that our employers are treating them fairly. This includes assisting members to ensure that their employers deal with, resolve and prevent workplace harassment.

As a Union member, you are entitled to seek assistance and representation from the Union. The Union also has a responsibility to inform you of your legal rights to take your complaint to an employment tribunal, if appropriate.

Every CWU member is allocated to a Branch which is based on the area where they work and the type of work that they do. Most Branches also have a network of workplace representatives.

If you seek assistance from the Union, it is normally your Branch who will represent your interests with the employer and who will deal with local management on your behalf.

All CWU representatives are obliged to undergo education and training to understand equality and diversity issues and they have been issued with guidance on how to deal with harassment sensitively and in confidence.

HOW TO GET THE HARASSMENT STOPPED

If you are being harassed, remember that you are not to blame and you have a right to get it stopped.

You should contact your local Union rep or your Branch who will be able to assist you. Even if you don't want to make a complaint at this stage or you don't feel you can give your Union any details about the harassment, you should still contact them for advice on what you can do to get the harassment to stop.

Whilst every situation will be different, there are some things that you can do immediately to help stop the harassment.

1. Tell the harasser to stop!

Tell the person that it is unacceptable and that they should stop the offensive activities.

Sometimes a person is not even aware that their behaviour is causing offence. Whilst their ignorance is no excuse, making them aware of their inappropriate behaviour is often enough to prevent a reoccurrence.

However, you may feel uncomfortable approaching the perpetrator directly. You could write them a note asking them to stop (keeping a copy for reference) or you could ask a friend or Union rep to speak to them.

2. Note down the times, dates and nature of any incidents.

Harassment is not just the one off serious incidents. It can often take the form of low level incidents that have taken place over a period of time. The individual incidents may not appear to be serious but it becomes serious if they are continuous. Therefore, it is useful to make a note of all the incidents, irrespective of their individual significance, so that the perpetrator can be made aware of their behaviour and, if necessary, you have evidence to take your complaint further.

3. Talk to other people in your workplace.

One of the effects of harassment can be the feeling of isolation. You may feel that you are the only one who is being treated this way and nobody else cares. By discreetly talking to others in your workplace you may discover that it is not only you who is being harassed or that others were not aware of the misery this was causing you. Either way, it may help to have more people on your side who understand what you're going through.

4. Talk to other people outside of your workplace.

If you feel unable to talk to anyone in your workplace about your situation or, for example, you are a woman and want to discuss it with a woman Union rep, or you just want to find out what your options are you should contact your Branch office.

If you feel that you are unable to speak to anyone in your local Branch you should contact the national CWU Harassment Helpline.

CWU Harassment Helpline

You can contact the **CWU Harassment Helpline on 0800 107 1909 or email at cwudignityandrespect@firstassist.co.uk**

This service is available 24 hours a day, 7 days a week and is confidential. The Helpline will log your complaint and will only pass the information onto the CWU National Equality Department who will coordinate any necessary action according to your wishes. If you feel you need it, you can also be transferred to a team of qualified, professional counsellors who can provide you with appropriate guidance and support.

HOW TO MAKE A COMPLAINT AND WHAT TO EXPECT

If you have tried some of the approaches above and the harassment continues or the nature of the harassment is such that any direct contact with the perpetrator is inappropriate, you will need to make a complaint, in confidence, to your manager. (If the complaint concerns your line manager you will need to raise the complaint at the next management level)

You should be able to obtain the relevant information and any forms that you may need from your line manager or from your personnel department.

You should also contact your CWU workplace rep or Branch who will be able to assist you to raise your complaint.

What information will the Union need from me?

If you have asked the Union to assist you, we will need to obtain a certain amount of information from you so that we can offer you assistance in a professional, consistent and sensitive manner.

Don't worry! This information will be confidential and will not be released to your manager or anyone unconnected with your case without your permission.

1. Getting the facts about your case

Your Union rep will need to get details from you about your complaint so that they can assist you. This will normally mean a confidential face to face interview in private e.g. at the Branch office or an office away from your workplace. But, most importantly, it should be somewhere where you feel comfortable. You can also bring a friend along if this makes you more comfortable.

Your Union rep will normally take notes of the interview so that they can be clear about the facts. They will normally need to ask you for the following information as a minimum:

- WHEN – dates and times
- WHO – names of all those involved including any witnesses
- WHERE – places and exact locations
- WHAT – precisely what happened

So it would be useful for you to have this information before you meet with the Union rep.

They will also ask you other details about yourself e.g. your gender, ethnic origin and if you have a disability. This information will be voluntary, confidential and will help the Union to understand the make up of its membership thus assisting us to better

represent our members. This information will be fed into our confidential national Harassment Complaints Database.

2. CWU National Harassment Complaints Database

As part of the CWU's agreement with the Equal Opportunities Commission, which is the Government body that oversees the Sex Discrimination Act, we are obliged to maintain a CWU national Harassment Complaints Database.

This helps the Union to better coordinate and keep track of cases. It also allows us to produce reports and analyse stats so that we can detect trends and take appropriate action at a national and regional level. These reports and stats will not identify any individuals.

The database will be controlled by the CWU National Equality Department who will be the only people entitled to input and directly access the database.

3. Branch Consultation Record

The Union has a legal duty to ensure that members are made aware of their rights to access an Employment Tribunal. You will be asked to sign a document to confirm that you have been properly advised about these rights.

What if I don't want to make a fuss – I just want the harassment to stop!

If the thought of making your complaint "official" makes you uncomfortable or you think the harassment may increase, it is worth bearing a few points in mind.

- Your employer is responsible for acts of harassment committed by their employees and they must take your complaint seriously. They need to be aware of the problem to be in a position to resolve it.
- Your complaint should be treated in confidence and you should not be penalised for making a complaint
- Even though you are notifying your employer of your complaint, the complaints procedures will normally still contain the ability to resolve the matter informally, if appropriate.

If you have asked for assistance from the Union, your rep should discuss with you what you want done about your complaint and should seek your agreement for any course of action they undertake on your behalf.

What happens next?

Every case is different and employers' procedures do vary so the following is a guide of what you can expect to happen to your complaint. You should, however, have been given details of the complaints procedure by your employer when you made the complaint. Contact your Branch if you have not.

1. Your line manager may ask to speak to you to find out more about the problem. This should be done in private and in confidence and you can also request your Union rep or a friend attends for support.
2. Your manager may speak to the alleged harasser informing them that their behaviour is unacceptable and must stop.
3. If the alleged harasser denies the behaviour or it still continues, the manager may carry out an investigation into the incident or incidents. This may involve witnesses, but should still be treated sensitively and in confidence as far as possible.
4. The investigation should also be carried out within reasonable timescales and you should be informed by your manager about any delays to the investigation.
5. If you become victimised as a result of raising the complaint, you should inform the investigating manager and your Union rep immediately so that appropriate action can be taken to protect you.
6. It may be appropriate for management to move the alleged harasser to a different workplace whilst the investigation continues or you may request that you want to move, but you should not be forced to move.
7. You should keep in contact with your Union rep so that you can keep them informed of developments and review your options.
8. When the investigation is complete, your manager should inform you whether your complaint has been upheld and what action is being instigated against the harasser, e.g. disciplinary action.
9. If you are not satisfied with the outcome, provided that you fulfil certain criteria; you can normally take your complaint to a higher management level for further investigation.
10. If you have exhausted the employer's complaints procedure and you are still not satisfied with the outcome and feel that you have been unlawfully discriminated against, you have the right to apply to an employment tribunal. This must be done within **3 months of the last incident complained of**.

If you are contemplating applying to an Employment Tribunal you should inform the Union immediately.

IS IT LEGAL?

How do I know if I have been unlawfully discriminated against and will the Union support my case?

Not all forms of harassment are covered by the law. To seek legal redress at an Employment Tribunal the harassment must have been on one of the following grounds:

- Disability
- Race
- Religion or religious belief
- Sex (including transsexuality)
- Politics (Northern Ireland only)
- Sexual Orientation

If you are in any doubt, you should seek the advice of your Branch.

The Union's national Employment law Department issues detailed guidance to Branches on members rights of access to Employment Tribunals. The latest version is Letter to Branches 211/2004 which you can obtain from your Branch or you can access it via the members' only section of the CWU website at www.cwu.org

You need to bear in mind that the Union cannot guarantee that it will be able to support your case at a tribunal. The Employment Law Department at CWU headquarters will consider your case very carefully after investigations have been carried out by its panel of specialist Employment Tribunal representatives or its lawyers. They will need to be satisfied that your case has a reasonable prospect of success.

WHAT SUPPORT CAN I EXPECT FROM THE UNION?

As explained previously, it is your employer's responsibility to ensure that the workplace is free from harassment.

However, the Union also has legal and moral responsibilities towards its members.

The following is summary of the support you can expect from your Union if you have been harassed at work.

- You should report instances of harassment to your Branch, who will allocate an appropriate individual to assist you. This may be your local rep or another Branch officer such as the Branch Equality Officer.

- If you feel that you cannot raise the issue with your Branch, you can call or email the CWU's confidential 24 hour Harassment Helpline who will log your call and pass it on to the CWU national Equality Department. They will then assess and allocate the most appropriate support for you in line with your requirements.
- The CWU helpline can also give you direct access to professional counsellors should you feel that you need additional emotional support.
- We will take your complaint seriously and assist you in getting the harassment to stop.
- If you wish, we will act on your behalf to raise issues with management as appropriate.
- We can advise you on how to make a formal complaint and assist you in submitting it.
- We will endeavour to make sure the employer is adhering to the correct procedure; conducting an appropriate investigation; and that timescales are reasonable.
- We will inform you of your right to pursue your case to an Employment Tribunal, if appropriate.
- If the Union agrees to support your case we will assist you in the preparation of your tribunal case and represent you at tribunal.
- We will endeavour to work with our employers to help create a workplace where harassment and bullying are no longer tolerated, whatever their source.

Thousands of our members have experienced the trauma of harassment at work. The Union has an important role in supporting those members and creating a workplace culture where such behaviour is no longer acceptable.

We hope that this guide will give you the means and the confidence to deal with any harassment you may come across and enable you to seek the Union's assistance when you need it.