**How to Design a Harassment and Bullying Policy**

**Purpose and aims**

When planning a policy, it is important to be clear on why this is being introduced and to keep your objectives in mind when developing the policy. This will enable you to assess whether you have achieved your aim in introducing, and implementing, the policy.

There should be a policy statement setting out its aim and purpose. For example, “The organisation is committed to preventing bullying and harassment and expects that its employees will treat each other with respect. The organisation operates a zero-tolerance stance on incidents of sexual harassment and aims to create a positive culture where employees feel comfortable with raising concerns. We will treat all cases of bullying, harassment and sexual harassment extremely seriously and this policy outlines that complaints will be dealt with quickly.”

When it comes to bullying and harassment, and sexual harassment, the Equality and Human Rights Commission (EHRC) states in its technical guidance on harassment and sexual harassment at work that employers should have different policies to deal with sexual harassment and harassment related to protected characteristics or have one policy that clearly distinguishes between the different forms of harassment. With the new proactive duty to prevent sexual harassment in place from 26 October 2024, it’s important to ensure where these policies are combined, sexual harassment is treated as a distinct form of harassment and specific rules relating to it are set out clearly.

**Scope**

The policy should apply to all workers, unless particular groups are subject to separate procedural frameworks. There may also be other groups the organisation should consider including, depending on the nature of its business, such as customers or third-party contractors.

**Legal context**

Harassment and sexual harassment were banned by the Equality Act 2010 which covers numerous types of discrimination. There are specific statutory definitions for harassment and sexual harassment outlined within the legislation.

Specific laws such as those in relation to whistleblowing also prevent mistreatment and provide an obligation to employers to protect their employees when they have made protected disclosures about harassment incidents.

For more information on [whistleblowing](https://app.croneri.co.uk/topics/whistleblowing/quickfacts-0?product=283)visit the employment law pages.

**Supporting policies and documents**

The disciplinary policy will be particularly relevant as this is likely to be used to deal with incidents of bullying and harassment. The organisation may have a separate dignity at work policy for investigating and dealing with such issues. The grievance policy may be provided as a route for employees to report concerns.

Where the organisation has both an anti-harassment and bullying policy and a sexual harassment policy, each should reference the other so employees are aware of their existence and can refer to the appropriate one.

The organisation may also have a list of behaviours which constitutes harassment to outline examples relating to harassment and sexual harassment in the workplace.

**Essential points**

The EHRC guidance states that a “good policy” should:

* confirm who the policy covers
* state that sexual harassment, harassment and victimisation will not be tolerated
* state that sexual harassment, harassment and victimisation are unlawful
* state that the law requires employers to take reasonable steps to prevent sexual harassment of workers in the course of their employment
* state that harassment, sexual harassment or victimisation may lead to disciplinary action up to, and including, dismissal if it is committed:
	+ in a work situation
	+ during any situation related to work, such as at a social event with colleagues
	+ against a colleague or other person connected to the employer outside of a work situation, including on social media
	+ against anyone outside of a work situation where the incident is relevant to their suitability to carry out the role
* state that aggravating factors, such as abuse of power over a more junior colleague, will be taken into account in deciding what disciplinary action to take
* define the protected characteristics that harassment may be related to
* define harassment related to protected characteristics, sexual harassment, less favourable treatment for rejecting or submitting to sexual harassment and victimisation separately
* not conflate different forms of harassment
* if bullying is included within the same policy, distinguish between bullying and harassment
* provide clear examples to illustrate each definition of the different forms of harassment, which are relevant to the employer’s working environment
* include an effective procedure for receiving and responding to complaints of harassment and sexual harassment
* address third-party harassment, outlining:
	+ while an individual cannot bring a claim for third-party harassment alone, it can still result in legal liability when raised in other types of claims
	+ that the law requires employers to take reasonable steps to prevent sexual harassment by third parties
	+ that it will not be tolerated
	+ that workers are encouraged to report it
	+ what steps will be taken to prevent it, such as warning notices to customers or recorded messages at the beginning of telephone calls
	+ what steps will be taken to remedy a complaint or prevent it happening again, such as warning a customer about their behaviour, banning a customer, reporting any criminal acts to the police or sharing information with other branches of the business.

A good policy should also set out a commitment to review it at regular intervals and to monitor its effectiveness, and cover all areas of the employer’s organisation, including any overseas sites, subject to any applicable local laws which impose any additional requirements on the employer.

Main principles

The key principles underpinning the policy should be outlined. For example:

* the organisation will not tolerate bullying, harassment, sexual harassment and other inappropriate behaviour by its staff
* the organisation recognises the impact harassment can have on staff at work and to their wellbeing
* all incidents will be dealt with seriously.

**Definitions**

It can be beneficial to include definitions so that employees are clear about what constitutes bullying and harassment in your organisation. Other terms such as sexual harassment and direct discrimination may also be explained, and this information can be supported by staff training. It may be useful to include common examples of this behaviour, such as sexual harassment, to identify common scenarios where this can occur in the workplace.

The policy may also link to other documents which outline how employees are expected to behave such as the Code of Conduct or competency framework.

**Investigation and action**

The policy should outline how alleged incidents should be reported and subsequently how these reports will be handled. There may be routes for dealing with issues informally and formally in a similar manner to the disciplinary/grievance procedure, depending on the seriousness of the case.

The organisation may choose to include at least two named individuals, or designated job roles, to whom complaints of harassment can be reported. This will be useful in cases such as sexual harassment where the alleged harasser is the employee’s direct senior, as it encourages the employee to formally report the harassing behaviour to an impartial manager.

**Responsibilities**

The policy can set out details on the responsibilities of different groups, for example managers responsibilities to prevent and deal with any incidences of bullying or harassment, and employees to not engage in bullying and harassment.

Spurious allegations

The policy may wish to outline how allegations which prove to be spurious on investigation will be dealt with.

**Third-party harassment**

The policy may wish to address how the organisation will deal with incidents of harassment and sexual harassment carried out by third parties, such as customers or third-party contractors.

Although liability for third-party harassment has been removed, the duty to prevent sexual harassment includes harassment from third parties, so any policy that deals with sexual harassment should include information on third-party harassment. A template [Third-party sexual harassment policy](https://app.croneri.co.uk/topics/harassment-and-bullying/how-design-harassment-and-bullying-policy?product=283) is available.

**Communicating the policy**

To help you show that you have taken reasonable steps to ensure compliance in this area, it will be important to be able to evidence that all your employees were made aware of the existence of the policy and how to access it. You should also consider how new employees (perhaps people who begin work a few months after the policy has been launched) are made aware of the policy.

In some contexts, it may be appropriate to have employees sign a declaration to say that they are aware of the policy and their obligations. In other contexts, perhaps larger organisations, this will not be practical so communicating the policy and making it available in such a way that an employee could not reasonably have been unaware of it, will be useful.

**Implementing the policy**

Employee and manager training

All employees should be trained on equality and diversity which should include details of the organisation’s policy on bullying, harassment and sexual harassment. This should be held on a regular basis, not just for new starters.

With any new employee policy, it is helpful to have a pilot period or early review point to take account of early feedback on how the policy is operating. In addition to how the employees are affected, it will be important to listen to managers and their own experiences of how the policy is working for them and how easy it is to use.

**Company initiatives**

In addition to the communication and training sessions following the launch of the policy, it will be useful to reference it in other training and in induction sessions for new starters.

Consider whether awareness days will encourage staff understanding on this matter and how they can be used to highlight the organisation’s stance outlined within the internal policy, such as Sexual Assault Awareness Month and Anti-Bullying Week.

**Reviewing the policy**

When completing this section of the template it will be important to be specific about who is responsible for reviewing the policy and when. It is not good practice to have any employee policies which are overdue for review so be realistic in setting review dates and ensure there is a mechanism to make sure this happens.

Some organisations will have clearly established processes to review existing policies and approve new ones. If you do not have such a clear structure, it will be helpful to propose the review period and process for this specific policy at the point that the original document is signed off and approved by senior management.

Following an incident of harassment — bullying or sexual harassment — a proactive review of the internal policy, the steps taken to prevent such behaviour and employee training should be carried out to ensure this was fit for purpose when addressing the incident. It may be that practical matters contained within the policy, such as who employees are advised to raise complaints to, did not allow incidents to be addressed appropriately in reality.

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