

**HOW TO DEAL WITH HARASSMENT – GUIDANCE FOR CWU
REPRESENTATIVES**

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HOW TO DEAL WITH HARASSMENT – Guidance for Reps

1. 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.

This guide is aimed at every CWU workplace representative. Whilst it can never be as comprehensive as we'd like, it is designed to give every rep a basic understanding of what constitutes harassment and how to assist our members in dealing with it.

1.1 Our Employers' 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 their employees and they have to prove that they have acted firmly enough against the perpetrators and that they have proper procedures to deal with harassment.

1.2 The Union's Responsibilities

Whilst it may be the employer's responsibility to ensure that they adequately deal with harassment that does not let the union off the hook!

If we fail to represent our members correctly, we risk bringing the Union into disrepute and it also leaves us open to legal challenge.

(More details can be found in the leaflet that all reps should have on Bullying & Harassment - Guidance to CWU representatives)

We also have a moral responsibility because after all, we are active in the union because we want to see workers' terms and conditions improve. Dealing with and preventing harassment is one of the most important improvements that we can make to people's lives – it can even save lives!

2. WHAT IS HARASSMENT?

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.

Harassment can take many forms and in many instances, could amount to unlawful discrimination.

The following lists some of the different forms of harassment that you may come across:

2.1 Sexual Harassment

- Unwelcome sexual advances, propositions and demands for sexual favours;
- Unwanted or derogatory comments about dress or appearance;
- Leering and suggestive gestures;
- Displaying offensive material, pornographic pictures or page-three type pin-ups or calendars (this would include electronic forms such as computer screen savers);

- Isolating an individual such as not talking to them;
- Exaggerating and broadcasting an individual's mistakes;
- Physical contact ranging from invasion of personal space and unnecessary touching through to sexual assault and rape.

2.2 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;
- Unfair work allocation;
- Physical attacks on individuals because of their race, colour, nationality or ethnic origin.

2.3 Harassment of Workers with Disabilities

- Asking intimate questions about an individual's disability;
- Name calling, jokes, taunts and use of offensive language;
- Assuming that a physical disability means that the individual has a mental disability;
- Assuming that a mental disability means that the individual lacks intelligence;
- Speaking to colleagues rather than the person with the disability;
- Exclusion from workplace and social activities.

2.4 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.

2.5 Harassment of Lesbians and Gay Men

- Unwelcome comments or jokes;
- Making stereotypical assumptions, such as assuming all gay men are HIV positive;
- Intimate questioning about an individual's personal or sexual life;
- Assuming that everyone is heterosexual;
- Physical abuse or intimidation.

2.6 Recognising Harassment

The essential point about harassment is that it is unwanted conduct. The measure is whether the individual is uncomfortable with the behaviour, irrespective of what others may or may not find offensive.

However, if you do witness someone being treated inappropriately you can do something about it even if the victim doesn't complain!

The CWU does not tolerate harassment and as CWU reps, an important part of our role is to be part of the culture change that ensures our workplaces are free from the misery caused by harassment. This means, for example, speaking up when you hear a racist joke in the canteen.

Prevention is better than cure!

Another important point to remember is that harassment of an individual does not just mean the one-off serious incident. It often takes the form of lower level incidents that have continued over a period of time. It is this type of continuing harassment that can cause emotional distress and even lead to suicide. This type of lower level harassment is also less obvious to others and may often go unreported.

2.7 Why don't Victims Complain?

There are many reasons why victims don't always complain and it is wrong to assume that if you're strong enough you should be able to complain. Harassment can grind down even the strongest people and by the time they come to you they may already be suffering from the following:

- stress
- distrust
- fear
- emotional distress
- embarrassment
- low self esteem

Many victims may blame themselves or they may be fearful of the harassment increasing. They may not be aware of their rights to complain or they may lack confidence in the union or management's ability to resolve the problem.

3. HOW SHOULD WE DEAL WITH HARASSMENT?

Remember that it is our employer's legal responsibility to ensure a harassment-free working environment and it is the union's responsibility to fairly represent and support any member who is subjected to harassment. This means working with our employers to seek resolution of the immediate problem and to assist them in achieving a workplace where all workers are treated with dignity and respect.

The first and primary aim is to stop the harassment. As with all issues getting harassment stopped can be reasonably straightforward or extremely difficult!

There is no mathematical formula for dealing with harassment because every case is different, involves human emotions and can be complex. Often you will need to use your judgement on how best to progress the issue. But by adopting a sensible and caring approach, understanding the ground rules and knowing where to go to for support and assistance you should be able to cope!

A good tip is to adopt a systematic approach to problem solving such as "PIP" techniques. This basically means determining exactly what the **P**roblem is, what **I**nformation you will need to help you resolve it and determining what kind of action **P**lan you will need to adopt.

3.1 Ground Rules

- Ensure confidentiality is respected as appropriate. This is one of the reasons why victims do not report incidences.
- Try not to be judgemental – just because you're not offended doesn't mean that it isn't offensive to others!
- If the harassment is continuous ask the victim to keep a diary of the incidents.
- Explain the processes and options available to the victim, including if appropriate, the time limits for applying for employment tribunals.

- Make sure that you know what the victim wants you to do. You may feel that the perpetrator should be taken to court but all the victim wants is for the harassment to stop.
- Get support and assistance if you feel out of your depth or uncomfortable – dealing with harassment can be traumatic for reps as well as victims.
- Keep the victim informed as far as you can and get their agreement for any course of action.

3.2 Informal or Formal Complaint?

For one-off incidents involving simple thoughtlessness or stupidity, it may be sufficient to ask the harasser not to repeat the harassment. If the member needs your assistance to accomplish this then you should help them. Accompany them when they ask the perpetrator to stop the harassment or, where you and they deem it appropriate, you may speak or write a note to the perpetrator. In most businesses this is generally regarded as the informal procedure. Even here it may be more appropriate to ask management to speak to the perpetrator and ask them to stop.

If the circumstances indicate that the informal approach will not work, the informal approach has already been tried, or the incident is more serious you should then assist the member in making a formal complaint.

All our employers are obliged by law to have a grievance or complaints procedure. Some may have a separate procedure specifically to deal with harassment. If you are not already reasonably familiar with the employer's procedures applicable to the members that you represent, you should rectify that as soon as you can. You should be able to obtain copies of the procedures from the employers via line management or personnel. Your Branch office should also have copies of the relevant procedures for all the employers where the Branch has members.

It is important to remember and to reassure the victim that, even though they are formally notifying their employer of their complaint, the procedures will normally still contain the ability to resolve the matter informally, if appropriate.

3.3 Getting the Facts

Any formal complaint must set out the full facts of the incident or incidents.

For this you will usually have to interview the victim.

You will need to make sure you can conduct the interview in private and will not be disturbed. You may have to make arrangements to interview the individual outside of the workplace if there is nowhere private.

You should ask the complainant if they would like to have a friend with them or if they may want to specifically speak to a woman or a man due to the nature of the complaint.

You should conduct the interview in accordance with the ground rules set out above and remember to continue to reassure the complainant.

You will normally need to know the following as a minimum:

- WHEN – Dates and times
- WHO – Names of all those involved including witnesses
- WHERE – Places, exact locations
- WHAT – Precisely what happened

You should take notes and explain to the complainant why you are taking them and reassure them of confidentiality.

3.4 **Harassment Complaints Database**

The CWU has set up a confidential National Harassment Complaints Database and every Branch is required to log every harassment complaint they receive so that it can be inputted onto the National database.

The database will allow us to record, track and process instances of harassment from the following sources:

- Harassment Helpline
- Branches
- Regions
- Equal Ops department
- Other HQ departments

The database will also allow us to produce reports, analyse stats and detect trends so that appropriate action can be taken. These reports will be produced for the NEC and Regional Committees as appropriate for analysis and action.

The database will be the responsibility of the CWU National Equal Ops Department who will input and update the records as appropriate. Other than the Equal Ops Department, no one else will have direct access to the database.

This will help the Union to better coordinate and keep track of cases when dealing with harassment. It will also help us to monitor the membership.

You will need to explain to the member the reasons for gathering this information and reassure them that it will be treated in confidence.

Your Branch will have copies of the Harassment Complaints Database forms and guidance.

3.5 **Legal Time Limits**

If at this stage the harassment appears to contravene the law, members should be advised that they have a right to go to an Employment Tribunal but also that they do need to exhaust the appropriate company procedure or their case at the Tribunal would probably not succeed. Any complaint needs to be lodged within **three months** of the incident. It is important that this timescale is adhered to even if the internal procedures have not yet been exhausted.

Guidance is available in the form of Letter to Branches 211/2004 issued by the CWU Employment Law Department. The Branch Office should have copies of this. This includes guidance on ensuring that your branch fills in a Branch Consultation Record. This records that the branch has fulfilled its legal duty to inform the member of their rights and is for your protection should any issues arise at a later date.

You should read this LTB and seek advice before advising the member on their legal rights or whether the Union will represent them at an Employment Tribunal.

3.6 **Grounds for Legal Redress**

Not all cases of harassment are covered by the law. At the moment, to seek legal redress at an Employment Tribunal the harassment must have been on one of the following grounds:

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

If you are in any doubt about what is covered by the law and the appropriate advice to give to complainants you should seek further advice.

Further information and advice can be found by accessing the contacts contained in the resources section of this guide.

3.7 Complaint Lodged

Once the formal complaint is lodged with the appropriate manager, members should be advised to continue logging any incidents and also any changes of attitudes by other colleagues or managers. If appropriate, representations should be made to the manager to ensure that the member is protected from the perpetrator.

In all the above both confidentiality and due speed should be observed.

Throughout the passage of the complaint you should ensure that the employer is adhering to the correct procedure; conducting an appropriate investigation; and that timescales are reasonable.

Whilst it is the employer's responsibility to remedy the situation you can offer suggestions that may help resolve the immediate problem. You can also work with the employer to prevent any further incidents and to learn any lessons.

4. SEEKING ADVICE

Remember that dealing with harassment is not an exact science, needs careful handling and can be upsetting for all involved. Even the most experienced of reps will come across situations that they are not too sure about or they may feel very uncomfortable about.

If you are not sure, always seek advice. Your Branch is usually a good source of information and advice.

You can also contact members of the CWU Equality Advisory Committees, who are experienced in their fields. Most Regional Officers can also offer advice as can CWU Head Office, including the Equality Department.

You are not alone!

4.1 Harassment Advice Network

There are many CWU activists across the Union who are experienced and competent in dealing with harassment cases. So the CWU has set up a network of CWU activists who are prepared to support and advise Branches on harassment cases. They will not normally take over the case as this will still remain the Branch's

responsibility. Instead, they will act as advisors and mentors to enable the Branch deal with their cases effectively. If you, or your Branch feels that you will need this kind of support then the Equal Ops Department will allocate an appropriate member of the Harassment Advice Network on a case by case basis.

5. CULTURE CHANGE

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 from whatever source.

Our members are entitled to work in an environment free from harassment and deserve to be treated with dignity and respect. With your help and support, and with the help of this guide, we can achieve that together.

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6. RESOURCES

CWU Equality Officers Handbook for a more comprehensive guide on Harassment.
CWU website
Commission for Racial Equality
Disability Rights Commission
Equal Opportunities Commission

The Equality Commission for Northern Ireland deals with all legislative equality matters covered by the CRE, DRC and EOC and in addition deals with Politics, Religion and Sexual Orientation.

ACAS

ACAS has produced an advisory booklet on both religious discrimination and discrimination based on sexual orientation, which can be down-loaded from their web site.

Arbitration Conciliatory and Arbitration Service,
Brandon House
180 Borough High Street,
London SE1 1LW

Acas Helpline - answers your employment questions in one confidential phone call.
08457 47 47 47
08456 06 16 00 for Textphone users
Monday - Friday 08:00 - 18:00
Website: www.acas.org.uk

CWU

Communication Workers Union
Equal Opportunities Department
150 The Broadway
Wimbledon
London SW19 1RX
Tel: 020 8971 7200
Fax: 020 8971 7300
Website: www.cwu.org

Commission for Racial Equality

The CRE can advise on racial harassment.

The CRE has offices in various parts of England and offices in Scotland and Wales.
Their Head Office is:

CRE
St Dunstan's House
201-211 Borough High Street
London SE1 1GZ
Tel 020 7939 0000
Fax 020 7939 0001
Email info@cre.gov.uk
Website: www.cre.gov.uk

Disability Rights Commission

The DRC can advise on harassment on the grounds of disability.
Telephone: 08457 622 633
Textphone: 08457 622 644
(You can speak to an operator at any time between 8am and 8pm, Monday to Friday)
Fax: 08457 778 878
Post: DRC Helpline
FREEPOST MID02164
Stratford upon Avon
CV37 9BR
Website: <http://www.drc-gb.org>, the website has an easy to use web site enquiry facility.

Equal Opportunities Commission

EOC offices exist in Manchester (head office), Scotland, Wales and London.
They deal with sexual harassment (including the transsexual harassment)
All general enquiries by phone: 0845 601 5901
Email: info@eoc.org.uk
Website: www.eoc.org.uk

Equality Commission for Northern Ireland

The Equality Commission for Northern Ireland deals with all legislative equality matters covered by the CRE, DRC and EOC and in addition deals with Politics, Religion and Sexual Orientation in Northern Ireland

Equality House
7 - 9 Shaftesbury Square
Belfast
BT2 7DP

Telephone: 028 90 500600
Fax: 028 90 248687

Textphone: 028 90 500589
Email: information@equalityni.org
Web site: <http://www.equalityni.org/>