

## HARASSMENT IN THE WORKPLACE

The Protection from Harassment Act 1997 (PHA) was introduced primarily to protect individuals against behaviour such as stalking. It has however been used in the employment field with varying degrees of success, and most recently by an employee who succeeded in a claim against her superior for harassment. All staff are expected to treat their colleagues with dignity and respect and the case is a reminder of how important it is to try and identify and deal with behaviour such as harassment and bullying in the workplace at an early stage before it becomes an issue.

Under the PHA, a person must not pursue a course of conduct which amounts to harassment of another and which he knows or ought to know amounts to harassment of the other. "Harassment" is not defined but the Act provides that it includes "alarming the person or causing the person distress". An employer can be found vicariously liable for harassment committed by an employee in the course of employment.

In the case of *Veakins v Kier Islington Ltd*, the employee, Miss Veakins, brought a civil claim for harassment under the PHA against her employer for the treatment she sustained at the hands of her supervisor, Mrs Lavy. The treatment was described by the Court of Appeal as "unusually one-sided" and "extraordinary" and led to Miss Veakins, a normally robust character, being signed off for depression. The treatment Miss Veakins suffered included Mrs Lavy picking on her and humiliating her in front of her colleagues on numerous occasions, requiring her to sign in and sign out of work every day, and tearing up a letter of complaint that Miss Veakins had given to Mrs Lavy.

The Court of Appeal held that the primary focus in deciding what conduct amounts to harassment is whether the conduct is "oppressive and unacceptable" and stated that a clear line had to be drawn between ordinary banter and genuinely offensive behaviour. It was made clear that harassment under the PHA does not only occur where the conduct would have resulted in criminal prosecution. The Court of Appeal noted that this was an unusual case, and it is therefore unlikely that many workplace disputes will give rise to liability for harassment under the PHA. In most cases, this kind of misconduct would usually be dealt with in the employment tribunal, although it is important to note that employees may have this option available to them in certain circumstances. Further, bullying behaviour of this kind might be linked to one of the prohibited forms of unlawful discrimination such as sex, race, disability, age etc. in which case a claim could be brought under one of the provisions dealing specifically with discrimination.

In order to reduce the risk of an allegation or claim for harassment or bullying, employers should make sure that their staff are made aware of what constitutes acceptable behaviour in the workplace and what does not. It is useful to have a written policy of some kind which can be used as a reference tool, although this is not legally required and can be dealt with under a grievance procedure. Providing managers with training may also help them recognise and deal with harassment or bullying at an early stage and procedures should be put in place in order to deal with any concerns or complaints raised.

If you have any questions about dealing with harassment and bullying in the workplace, or any other employment issues, please contact the Employment Group at Rooks Rider.

If you require any further information in relation to a potential relocation or any other employment issues please contact:

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