

## BULLYING AND HARASSMENT COMPLAINTS MANAGEMENT

1. Receiving a bullying or harassment complaint from an employee can be daunting for an employer, especially if the complaint is made about another employee.
2. Racial harassment, sexual harassment, harassment and bullying complaints are all matters that need to be managed in accordance with the Health and Safety at Work Act 2015 (**HSWA**), Employment Relations Act 2000 and Human Rights Act 1993.

### What do these terms mean?

3. **Bullying** - “unreasonable and repeated behaviour towards a person or group that can lead to physical or psychological harm.”
4. **Racial Harassment** - “unwelcome language, visual material or physical behaviour that directly or indirectly expresses hostility against, brings into contempt, or ridicules, an employee on the grounds of their race, colour, ethnicity or national origin, which is offensive or hurtful to the employee and which is either repeated or so significant that it has a detrimental effect on that person’s employment, job performance or job satisfaction.”
5. **Sexual Harassment** - “any unwelcome or offensive sexual behaviour that is repeated or is of such a significant nature to have a harmful effect, or which contains an implied or overt promise of preferential treatment or an implied or overt threat of detrimental treatment.” The behaviour can include language, visual material or physical behaviour.

### What should an employer do?

6. When an employer receives a complaint from an employee, the first thing they should do is check whether there is a bullying and harassment policy. If so, the steps outlined in the policy should be followed. In short, the employer will generally need to:
  - 6.1 Speak to the employee who made the complaint. Try to get as much detail about the complaint as possible - for example, when and where did the incident/s occur? What happened? Was anyone else present? Have they spoken to anyone else about it? Are they ok? What kind of support do they need?
  - 6.2 Investigate the complaint. The investigation often will first need to determine factually what has occurred and how the issues are categorised. Ensure the health and safety of everyone involved in the workplace including by eliminating or appropriately managing risks to this.
  - 6.3 Ensure an unbiased treatment of all involved, managing the good faith and other employment law obligations to all individuals and providing appropriate support.
7. Depending on the outcome of the initial investigation, an employer may determine that disciplinary investigation is necessary.
8. We recommend seeking advice, as what is required will depend on a number of factors and multiple risks will often arise in investigating these issues, relating to each of the people implicated in the workplace.

**Our team of specialist workplace lawyers throughout the country are always happy to answer your questions, [contact us here](#)**

*Disclaimer: We remind you that while this e-resource provides commentary on employment law, health and safety and immigration topics, it should not be used as a substitute for legal or professional advice for specific situations. Please seek legal advice from your lawyer for any questions specific to your workplace*