

Managers' Toolkit - Dealing with harassment

Introduction

This guide has been designed as a tool to help managers prevent and resolve harassment complaints. It is written as a complement to the managers' training on the *Prevention of Harassment and Violence in the Workplace*. It provides different tips and approaches but this advice should not be presumed or construed to be complete or exhaustive.

You can access the policy and other related materials on the Environmental Health and Safety web site, at: <http://www2.carleton.ca/ehs/programs/workplace-violence-and-harassment/>. For additional information, you should seek advice from your human resources advisor.

Harassment at work

When people work together, conflict is inevitable, but this must not be allowed to escalate. As a manager, you need to promote respectful working relationships and help deal with conflict constructively. The university's program on *Workplace Harassment Prevention* specifies your responsibilities and your accountability as a manager. **If you think harassment is taking place, you must take measures promptly to end it.**

What is harassment?

The Occupational Health and Safety Act defines harassment this way:

Harassment – Engaging in a course of vexatious comment or conduct against a worker in a workplace that the manager knows or ought to have reasonably known to be unwelcome.

"Vexatious" comments or conduct are comments or conduct made without reasonable cause or excuse.

Workplace harassment may include bullying, intimidating or offensive jokes or innuendos, displaying or circulating offensive pictures or materials, or offensive or intimidating phone calls.

It includes harassment within the meaning of the *Canadian Human Rights Act*.

While each case has to be assessed on its own merit and context, the Appendix "B" in the *Workplace Harassment Prevention Program* provides examples to help you identify harassment.

The following are **key questions** that can guide you in determining whether the behaviour (such as an act, comment or display) constitutes harassment.

- Is the behaviour improper and unwelcome or offensive?
- Would a reasonable person have known that the conduct was not welcome or offensive?
- Did it demean, belittle or cause personal humiliation or embarrassment?

- Is it a serious single incident?
- Is it a series of incidents over a period of time?

Some examples of what generally constitutes harassment

- *Serious or repeated* rude, degrading, or offensive remarks such as teasing about a person's physical characteristics or appearance, put-downs or insults;
- Displaying sexist, racist or other offensive pictures, posters, or sending emails related to one of the 11 grounds prohibited under the *Human Rights Code*;
- *Repeatedly* singling out an employee for meaningless or dirty jobs that are not part of their normal duties;
- Threats, intimidation or retaliation against an employee, including one who has expressed concerns about perceived unethical or illegal workplace behaviours;
- Unwelcome social invitations, with sexual overtones or flirting, with a subordinate;
- Unwelcome sexual advances.

Managerial duties in themselves, such as coaching or counselling an employee, providing a performance review, dealing with staff-relations matters and implementing disciplinary measures, are not harassment. However, these actions might appear to qualify as harassment if they are carried out in a manner that is offensive, humiliating or embarrassing rather than in a constructive and sensitive manner. To determine whether the conduct is offensive, ask yourself, "Would a reasonable person have known or thought that the conduct was offensive?"

Some examples of what does not generally constitute harassment

- Allocating work;
- Following up on work absences;
- Requiring performance to job standards;
- Taking disciplinary measures;
- A *single or isolated* incident such as an inappropriate remark or abrupt manner;
- Exclusion of individuals from a particular job based on specific occupational requirements necessary to accomplish the safe and efficient performance of the job;
- Measures taken against someone who is careless in his or her work;
- A social relationship welcomed by both individuals;
- Friendly gestures among co-workers such as a pat on the back.

Start with prevention

Part of your role as a manager is to cultivate a working environment in which harassment is unlikely to occur. All individuals working under your responsibility have the right to be treated with respect and dignity. This means that anyone working for you, be they employees, students, contractors, casual employees, volunteers, service providers or others, has the right to a harassment-free workplace. Conversely, other individuals dealing with your staff should not be the source of harassment. Even if you see no signs of harassment, it pays to think about prevention.

Here is what you need to do:

Raise awareness

- Speak to your staff about the key organizational and human values you want to promote in the workplace and emphasize that harassment can seriously undermine these values.
- Find out about the training you're offered on raising awareness, conflict and dispute resolution and eliminating harassment. Encourage your employees to attend such sessions and attend the training with them. Employees providing front-line services to customers must know what to do should an incident or a conflict arise with the customer.
- Discuss the harassment policy with your staff, either individually or at meetings. Ensure that they know what attitudes and behaviours could lead to perceptions of harassment. Clarify what constitutes acceptable behaviour in the workplace, or at any place or event related to work. This standard includes their behaviour toward all persons in the workplace, including co-workers, other employees, contractors, students, casual employees, agency personnel, volunteers, service providers and customers.
- Explain the consequences of harassment in the workplace.
- Coach or counsel individual staff where necessary.
- Ensure staff know that regardless of the source of harassment, whether it be from co-workers, supervisors, managers, other employees, contractors, students, casual employees, agency personnel, volunteers, customers or service providers, it is not acceptable and they must inform you if it happens.

Be a role model

- Behave ethically and responsibly at all times, thereby setting an example for staff.
- Treat all persons in the workplace with respect.

- Do not take part in or be silent about behaviour that qualifies as harassment or inappropriate behaviour.
- Do not state that "there is nothing I can do."
- Exercise your authority fairly and wisely.
- Be sensitive to individual needs. Your operational requirements are important but must never be detrimental to the well being of your staff.
- Make use of conflict resolution techniques and effective communication.
- Keep yourself informed and up to date on how to deal with harassment.

Monitor the atmosphere in your workplace

- Inquire about morale and take note of how your staff members interact.
- Watch out for insults or derogatory jokes, even those that appear to be friendly teasing.
- Be alert to certain elements of interactions, such as the tone and volume of conversations involving employees, contractors, volunteers, customers or service providers.
- Ask whether your employees are facing situations that make them feel unfairly treated or harassed and if so, invite them to come and talk to you or your manager.
- Determine if there is any truth to rumours of inappropriate behaviour.
- Check into increased absenteeism and turnovers.

Watch out for characteristics of an unhealthy work environment

Certain characteristics could indicate the presence of unresolved conflict, which may stem from, or result in, harassment complaints.

- Lack of communication: employees come to you for information or clarification rather than talking to their colleagues.
- Increase in communication through email in place of verbal communication.
- Significant increase in "small" problems that are brought to your attention.
- Employees exhibit undue concern regarding policy matters or changes in the workplace.
- "Cliques" (social groupings) form and exclude others. (Examples include lunch, coffee or smoke break groups).
- Increase in negativism about colleagues or about the workplace.

- Increased competitiveness among colleagues in a time of change (such as job promotions, introduction of new manager, downsizing or expansion).
- Increase in bickering, nitpicking or blaming at meetings.
- Decrease in participation at meetings.
- "Turf" issues arise: for example, a lack of clarity in roles, responsibilities and job descriptions results in employees not doing what they should or doing things that are someone else's responsibility.

If you identify any behaviour that seems problematic, you need to look into it further and decide on the best course of action.

Communicate openly and respectfully

- Let your staff know that you are willing to hear honest opinions and constructive criticism.
- Ask your staff for ideas on how to improve morale, office interaction and productivity.
- Keep in mind that your staff may have issues about the way you manage, so be open, not defensive.

Encourage communication

- Encourage your employees to talk to each other to resolve issues as they come up.

Despite preventive measures, harassment might still occur. Don't wait until an employee files a complaint or informs you that he or she feels harassed by someone. If you neglect to deal with harassment when it first arises, you may be held responsible and be subject to disciplinary measures, as management is ultimately responsible for providing a workplace free of harassment and ensuring the well-being of its employees. If the complaint is against you, see *If you are accused of harassment* below.

Move to intervention

Problem solving

If prevention has not worked, take steps to end harassment. The first step is to talk to the staff member(s) experiencing the problem. Find out if the involved parties have talked to each other about the matter and what was the outcome of their discussion. *Tips for sensitive interviewing* can assist in this area (see below).

Tips for sensitive interviewing

If the person who feels harassed will talk to you about the situation, make sure your own attitude and behaviour reflect your commitment to helping.

- Interview in a quiet location, without interruptions.
- Treat the issue seriously.
- Keep in mind how vulnerable the complainant feels.
- Listen carefully and patiently; be non-judgmental.
- Don't let your own emotions, past experience or the reputation of any party influence your objectivity.
- Resist the temptation to solve the problem impulsively or to make rash decisions.

If this has not worked, there are various interest-based approaches to resolve conflict and harassment. Using an interest-based approach means looking for solutions that are satisfactory to all parties, such as looking for a win-win solution rather than a win-lose solution. Some of these approaches presented in this guide include facilitated discussion, coaching, group development and mediation. You may want to discuss the situation with your manager and/or your human resources advisor to determine the best course of action.

If you do not believe that you have the skills to implement any of the methods suggested below, do not hesitate to seek out the assistance of a human resources advisor. Sometimes the best intentions, combined with a lack of skills, can aggravate the problem.

Some situations will require that you intervene directly to put an end to an inappropriate or unacceptable behaviour. If this is the case, refer to the section below, *Know when to act*.

Facilitated discussion

If the persons involved refuse to meet or cannot resolve their differences, you must take a more active role. Offer to facilitate a discussion between them, and if necessary, contact your department's human resources advisor for assistance.

A facilitated discussion is an informal process that allows for expedited and efficient resolution of "low level" disputes that are relatively new and that have not escalated to significant polarization between the parties.

- Follow the tips for sensitive interviewing.
- Do not judge what the persons say.
- Obtain all the pertinent facts and keep a record. Your notes may come in handy if the situation persists and you have to consider disciplinary measures. It may also be useful to keep a record of the actions that you took to resolve the issue.
- Suggest remedial actions or other potential solutions.
- Take all reasonable steps to ensure that the matter does not become an item of office gossip; advise the persons involved not to discuss the issue except with those who need to know.

Here are some indicators where it is appropriate to use a facilitated discussion.

Level of Communication: Parties are still willing and able to talk together about the situation. They may be more comfortable with another trusted party present for that discussion.

Trust Level: Each party is focused on solving the problem and acknowledges that the other party has the same focus. In this regard there is a relatively high level of trust between the

parties. Neither party is, for example, assuming that the other has ulterior motives or will intentionally sabotage the process.

Commitment to Resolve the Situation: All involved parties are committed to resolving the situation and have expressed some openness to considering options that differ from their current position. In other words, they are open to potential compromise.

Coaching

Once you sit down with the individuals involved in the conflict, you may realize there are underlying issues. It may be that one or more of the parties needs more guidance or specific directions from you either in what is appropriate behaviour or about specific tasks they are assigned. One-on-one discussions may bring openness and sharing of information that would not otherwise happen.

- Identify the area that requires improvement and the consequences this area has on the institution.
- Describe the behaviours or tasks expected of your staff.
- Determine the changes that are required.
- Follow up closely for improvement.

Coaching is a one-on-one process that is designed to help parties deal with conflicts, disputes and harassment situations. Coaching encourages parties to recognize the impact of their behaviour and actions on others and how others might perceive such behaviour and actions. Mirroring of behaviour and giving feedback on the effect of behaviour can facilitate resolution.

Here are some indicators where it is appropriate to use coaching:

Level of Communication: Parties may be willing to communicate with each other but one or both parties experiences extreme frustration with the communication process. They may say things such as, "He/she doesn't hear/listen/understand anything I say."

Trust Level: The trust level between the parties may not be particularly high. Nevertheless, the party or parties receiving coaching are committed to rebuilding trust with the other person.

Commitment to Resolve the Situation: There is a high level of commitment to resolve the situation. Individuals being coached are willing to explore their individual role in the situation. They are open to taking personal responsibility for their behaviours and actions and are committed to improving or building skills and making changes that will allow them to resolve the situation.

Group development

Group or team development is a proactive approach that works at identifying underlying issues and potential conflicts within a group that, left unchecked, have resulted in and may continue to result in harassment situations. With a facilitator, the group or team identifies issues and conflicts that are negatively affecting the group. The group clarifies roles and expectations within the group. It also sets mutual goals for the group and develops a plan of action for future behaviour and interaction.

Here are some indicators where it is appropriate to use group development:

Level of Communication: Parties are communicating little if at all or are communicating with some members of the group and not others. The communication process is not effective. Parties

are preoccupied with the situation and find that it is affecting their ability to communicate with each other.

Trust level: Parties may express some trust in each other but will frequently question the motivation for other parties' actions and words.

Commitment to resolve the situation: The parties may not initially express a commitment to resolve the situation but there is recognition that the productivity and effectiveness of the group have decreased and that the group cannot continue as it is.

Use of this method should be discussed with the manager if it is to be used as a means to restoring work relationships following a harassment complaint process.

Mediation

Mediation involves an impartial third party that hears both sides of the situation and helps the parties reach a satisfactory decision about the issue at hand. The mediator provides a forum where the parties can construct their own mutual agreement. The mediator can work directly and in-depth with the disputants and encourage discussion. The mediator tries to help disputants reach their own agreement but does not decide what the solution should be. The mediator helps disputants achieve lasting decisions but cannot enforce agreements once they have been reached.

Here are some indicators where it is appropriate to use mediation.

Level of Communication: Communication between the two parties has broken down. Parties are not speaking to each other at all or, at the very least, are not speaking to each other about the situation. They are, however, willing to talk to each other with a neutral party present.

Trust level: There is moderate to low levels of trust between the parties. This lack of trust is often a result of confusion about the other party's actions and/or words. Issues, actions and events will need to be discussed and explored in the mediation process to increase trust.

Commitment to resolve the situation: The parties express a moderate to high level of commitment to resolve the situation although they may not see a possible solution.

Prior to mediation, you should consider other interest-based approaches such as facilitated discussions or coaching. If it involves a group of employees, see *Group Development*.

Know when to act

- Depending on the situation, you may need to intervene and inform one of the individuals that his or her behaviour is unacceptable and should stop, whether the individual is your employee or another person working for you, an employee from another department, a customer, a student or a service provider.
- Recognize a situation that is serious enough to warrant disciplinary action, **whether or not the employee files a complaint**. Contact your department's human resources advisor for assistance.
- If a contractor's behaviour is unacceptable, inform that person that everyone in the workplace is to be treated with respect. Talk to the owner of the company to report the incident. Depending on the severity of the misconduct, consider putting your concerns in writing

and presenting them to the individual and to the owner of the company. If warranted, consider ending the contract. The company is responsible for the conduct of its staff and for the application of disciplinary measures.

- If the improper behaviour comes from a customer, apply your department's guidelines on providing service. If you do not have any guidelines, inform the individual about acceptable behaviour and the consequences of his or her action. If unacceptable behaviour persists, have a meeting or discussion with the customer to try to resolve the issue. Should these steps not be successful, inform the customer in writing as to how you will proceed with future provision of your services.
- If the situation involves threats, stalking or violence, seek help immediately from University Safety, by calling extension 4444 or 911 from an internal phone.
- Work closely with your human resources advisor so they sufficiently understand the situation and the views of the various parties to be able to provide advice.

When a complaint is filed

The above problem resolution mechanisms may not work and a complaint may be filed. Refer to the Workplace Harassment Prevention Program or the Workplace Violence Prevention Program and initiate the established steps in the complaint process.

Appropriate course of action

You, the manager, will determine the appropriate course of action to deal with the complaint. For example, you might start with an informal process but then in consultation with the AVP Human Resources you might decide that a grievance or another problem resolution mechanism is more appropriate.

Separating the parties

A manager has a discretionary authority to separate employees if it is deemed necessary.

There may be circumstances where you believe that the parties should be separated during the complaint process, either physically or hierarchically. As this has consequences on the parties and the operations, such a move needs to be carefully thought out and discussed with the parties and the AVP Human Resources.

It could be sufficient to temporarily remove the reporting relationship or to have the parties working from separate locations, or it may be necessary to separate them both hierarchically and physically. The manager has the final authority in this matter.

Investigating

It is the AVP Human Resources' responsibility to determine if an investigation will take place. You should be prepared to co-operate with the investigator when he or she requires additional

information from you. Eventually you will have to work with the AVP Human Resources to determine the appropriate measures deemed necessary to resolve the harassment complaint.

Restoring relationships

A complaint of harassment may damage relationships in the workplace. Whether the complaint was founded or not, the employees involved may feel hurt or uncomfortable around each other and other employees. The employees involved will most likely still have to work together. Those who worked alongside them will also have opinions about what happened. Everyone will be watching the measures you take to create a healthier workplace. Help your staff cultivate positive work relationships.

- Talk to the employees involved in the complaint.
- Find out what would help them rebuild trust and confidence in their workplace.
- If appropriate, suggest that the employees take additional awareness training.
- Encourage the use of the Employee Assistance Program or other resources.

It may be necessary to rebuild the work relationships within the team or group and/or to re-establish how the team or group will work together, so that issues and concerns can be addressed and a new set of "ground rules" for the group can be established.

There are a few key areas to consider.

Communication: Lines of communication must be re-established. While the privacy of parties involved in the harassment complaint must be respected, it is not possible to simply act as if nothing ever happened. Develop a model of open and respectful communication.

Support: Employees may need continued support, especially if a change in attitude or behaviour is expected. This may take the form of training, use of the Employee Assistance Program, or simply monitoring the work environment to ensure that the situation does not recur.

Conflict Resolution: You must promptly resolve any future conflict situations. In a workplace that has been affected by a harassment complaint, conflicts can quickly escalate out of control. Always addressing conflict quickly and effectively is very important to the process of rebuilding a healthy work environment. It may be necessary to utilize previously mentioned early problem-resolution processes to address concerns and to ensure that working relationships are re-established.

You may want to consider assistance from an outside person in conflict resolution; team building or group development; workplace assessment; or in any other area that could help in restoring relationships. Contact your human resources advisor to discuss these options.

Workplace assessment

Frequently, harassment complaints indicate problems that may be greater than one particular situation between two individuals. Harassment complaints may be a symptom of larger issues that affect a group, team, department or an entire organization. There are a variety of reasons

why, in some groups or organizations, conflicts rapidly escalate, intensify and become increasingly complicated. This can result in an increase in harassment complaints.

In order to avoid continued escalation of conflict and to increase the staff's ability to do its job productively and efficiently, the issues and conflicts at play in this workplace must be assessed and analyzed. Through a workplace assessment, the issues (both real and perceived) can be articulated. An assessment and analysis of these issues will clarify patterns and point to possible solutions.

A trained third party conducts a workplace assessment. The goal is not to find out whether or not someone was guilty of harassment. The purpose of a workplace assessment is to determine what needs to be done to restore a healthy work environment and to prevent harassment from continuing. Contact your human resources advisor to discuss these options.

If you are accused of harassment

Unfortunately, it is possible that as a manager, you could be accused of harassment. Others may see harassment in activities that may appear to you to be ways of carrying out your day-to-day managerial responsibilities. See *What is Harassment* above for examples.

- If someone informs you that your conduct is offensive, be receptive.
- Find out what, in the offended party's view, is offensive and attempt to resolve the situation with that person.
- Review the tips in this guide under *Be a role model* and decide for yourself whether you are satisfied that your behaviour was reasonable, and if not, sincerely apologize to the person.
- Review the *Workplace Harassment Prevention Program* and the *Workplace Violence Prevention Program*.
- Seek advice from your manager or the AVP Human Resources.
- Ensure that your side of the story is taken into consideration. Cooperate.
- If you and the offended person are unable to resolve the issue on your own, refer the matter to your manager.

It is advisable that you be accompanied and supported by someone during the process. That person may be someone assigned by your department, or he or she may be a friend, colleague or family member. That person is not allowed to speak on your behalf. The role of that person is to provide you with advice and guidance, accompany you during the mediation or investigation process, and help you review the investigation report.

It is neither necessary nor advisable that a lawyer accompanies parties during these processes, as these processes are of an administrative nature only and do not allow anyone to speak on behalf of the parties. Nevertheless, should you decide to hire a lawyer, take note that the reimbursement of legal fees is solely your responsibility.

Make use of your resources

You are not alone in managing conflict and dealing with harassment in your workplace.

- Contact your department's human resources advisor to obtain information and guidance.
- Read the university policy on harassment.
- See how the Employee Assistance Program might help.
- Enrol in a harassment awareness session and in training on prevention and conflict resolution.
- Consult the Environmental Health and Safety Prevention of Harassment and Violence in the Workplace web page at <http://www2.carleton.ca/ehs/programs/workplace-violence-and-harassment/> for more tools and information.

Test yourself

Am I promoting a harassment-free workplace?

- Do I know what our policy is on the prevention and resolution of harassment in the workplace?
- Do I walk the talk? Am I applying the policy and fulfilling my expectations as noted in the policy?
- Have I communicated the policy to my staff? Are they meeting the expectations as noted in the policy?
- Does my staff know what behaviour I expect of them? Do they know what behaviour will **not** be tolerated?
- Am I available for my staff to come and talk to me?
- Am I intervening as soon as I sense there is a conflict between employees?

Make use of your resources

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Folger, Joseph P., Marshall Scott Poole and **Randall K. Stutman**, *Working through Conflict*, Longman, New York, 2001.

Ury, William, *Getting Past No: Negotiating with Difficult People*, Bantam Books, New York, 1991.