

# Tackling Inappropriate Behaviour

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# Equality Act 2010

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## Definition of Harassment:

**Unwanted conduct related to a protected characteristic that violates a person's dignity / creates intimidating, hostile, degrading, humiliating or offensive environment having regard to all the circumstances, including the perception of the victim**

‘Unwanted’ means the same as ‘unwelcome’ or ‘uninvited’.

It does not mean that express objection must be made to the conduct before it is deemed to be unwanted

# 9 Protected Characteristics:

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- **age;** *18-19, 20-29, 30-44, 45-59, 60-64, 65-74, 75+*
- **disability;** *Physical impairment / Sensory impairment / Mental health condition / Learning disability or difficulty / Long-standing illness or health condition / Severe disfigurement*
- **gender reassignment;** *People who are proposing to undergo, are undergoing or have undergone a process (or part of a process) to reassign their sex*
- **marriage and civil partnership;** *can't be treated less favourably due to marital status*

# 9 Protected Characteristics:

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- pregnancy and maternity; *pregnant women / women who have given birth & women who are breastfeeding*
- race; *Asian or Asian British / Black or Black British / Chinese / Gypsies and Travellers / Mixed Heritage / White British / White Irish / White Other*
- religion or belief; *Buddhist / Christian / Hindu / Jewish / Muslim / Sikh / No religion / Other e.g. climate change, fox hunting, mediums, public sector broadcasting*
- sex; *Male / Female*
- sexual orientation; *Lesbian/Gay man/ Bisexual/ Heterosexual*

# Covers a wide range of behaviours:

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For example:

- Unwanted physical conduct or “horseplay”, including touching, pinching, pushing and grabbing;
- Unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless);
- Racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religions group or gender;
- Offensive emails, text messages or social media content;
- Mocking, mimicking or belittling a person’s disability.

# Policies and Procedures

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- **Equality Policy / Dignity at Work**
  - **Awareness of requirements?**
- **Incident Reporting Procedure**
  - **Is this being used?**
  - **Do managers have an overview of incidents?**
- **Training for Staff**
  - **Lone working & personal safety**
- **Code of Conduct**
  - **For employees and clients?**

# Risk Assessment / Action to be Taken

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- **Report any acts of harassment to manager**
- **Record Incident**
- **Risk assess and consider action such as:**
  - **warning client behaviour unacceptable**
  - **working in pairs**
  - **maintaining professional boundaries**
  - **withdrawing from threatening situations**
  - **post visit debriefs**

# Other Issues to Consider

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- **Balance duty of care to client and staff**
- **Consider what factors may be driving the behaviour**
  - **Is the behaviour related to a disability?**
- **Consider requesting a review of care plan**



# Tribunal Checklist:

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- **Extent to which there is a necessity that care and support is provided?**
- **Any reasonably practicable steps which employer could take to minimise / prevent the harassment?**
- **What attempts were made to address behaviour?**
- **Has the employee asked the employer to take action?**
- **Is there an anti-harassment policy which expresses zero tolerance?**
- **Are clients informed that harassment will not be tolerated?**
- **Are complaints of harassment investigated promptly and acted on?**
- **Are employees encouraged to report any acts of harassment to enable the employer to support and take appropriate action?**
- **What training has been offered to staff?**

# ***Sheffield City Council v Norouzi***

## ***UKEAT/0497/10***

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### **Employment Appeal Tribunal acknowledged:**

- **some employers are in a difficult position with regard to third-party harassment**
- **suggested that in some work environments such as care homes, prisons and some schools, employees might be subjected to harassment that cannot easily be prevented**

# ***Sheffield City Council v Norouzi***

## ***UKEAT/0497/10***

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***“the employer should indeed not too readily be held liable for conduct by third parties which is in truth a hazard of the job;***

***and***

***if it is so to be held liable on the basis that insufficient steps were taken to protect the employee in question a tribunal must be prepared to focus on what precisely could have been done but was not done”.***

# Any questions?

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