

Protection from Harassment

An employee's rights under the Protection from Harassment Act 1997

Introduction

The Protection from Harassment Act 1997 ('the Act') protects individuals from suffering harassment by another, and affords employees a great deal of protection against harassment and bullying in the workplace.

What is harassment?

The Act provides that 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, or pursue a course of conduct involving harassment of two or more people with the intention of persuading anyone not to do something they are entitled to do, or to do something they are not under any obligation to do.

There is no precise definition of harassment in the Act, but it will include conduct which puts the victim in fear of violence. The conduct must be unwelcome, and the perpetrator must know or ought to know that it was unwelcome.

It is not unlawful for a person to do an act which would ordinarily be classed as harassment, if they can show that they pursued that conduct to prevent a crime or to comply with a legal obligation, or if they can show that pursuing that course of conduct was reasonable in all the circumstances.

What is a course of conduct?

A 'course of conduct' means conduct on more than one occasion, one discreet act of offensive behaviour alone will not be unlawful under the Act.

What are the remedies?

The Act provides that harassment in breach of the Act will be a criminal offence, and will also entitle the victim to issue a civil claim for damages and in certain cases for an injunction to prevent the perpetrator committing further acts of harassment.

Damages can be awarded for (amongst other things) any anxiety caused by the harassment and any financial loss resulting from it.

Where an injunction has been granted to prevent the harassment, and the perpetrator breaches the terms of that injunction, the court may issue a warrant for the arrest of that person.

Employer's liability

The employer can be vicariously liable for one employee's harassment of another.

To be vicariously liable, the harassing employee's conduct must have a sufficiently close connection with the course of their employment.

Means of prevention

A failure by the employer to prevent acts of bullying or harassment may be a breach of its duty to its employees.

It is important that where an employer suspects that bullying or harassment is occurring in the workplace, it investigates the matter and takes appropriate steps to prevent it. We can advise on prevention and draft company policies on bullying in the workplace.

Our Employment department provides specialist advice to both employees and employers in relation to employment rights and duties, including issues in connection with bullying and harassment. We would be happy to speak with you without commitment to see if we could help you, whatever your problem.

Please call Martin Stevens, Darren Thorneycroft or Marcus Self on 01233 625 711 for more information, or email him on ms@hallettandco.co.uk.