



Pride not prejudice DVD

Worksheet for Individuals

The DVD can be used as a training tool in the workplace for workers, human resources, employers, trade unionists, advice workers, lawyers and for lesbian, gay and bisexual individuals to learn more about their rights. If you would like more copies of the DVD please contact the Law Centres Federation on 020 7387 8570.

This work sheet is intended as a guide for individuals watching the DVD in a non-workshop setting and has been produced by Southwark Law Centre with significant voluntary contribution of the lesbian, gay, bisexual and transgender (LGBT) community in Southwark.

The DVD is split into five modules, with two modules of extra information. All modules can be used as part of diversity training. However, you should note that module four on Employment Tribunals and especially the extra module on 'The law - full interview', are more legal in content and therefore more suited to people who are involved in taking a case to a Tribunal or for lawyers and caseworkers.

For descriptions of the contents of the modules please see the summary in the DVD insert. Also see the glossaries for more information about legal and non-legal terms.

Important note: The legislation explained in the DVD is aimed at preventing discrimination and harassment of lesbian, gay and bisexual people in the workplace. However, many of the issues facing lesbian, gay and bisexual people at work are also faced by transgender people. Therefore, many of the questions in this worksheet are aimed at provoking thought around the experiences of lesbian, gay, bisexual and transgender (LGBT) people in your workplace. It is important to note that the definition of transgender in terms of employment law is based on the Sex Discrimination Act 1975 and the Gender Recognition Act 2004 and is much more restrictive than the non-legal definition (please see glossaries for more information).

Module One - Introduction

This module can be controversial as interviewees state that they have not suffered from discrimination. The interviews are not intended to be representative of workers' experiences as a whole, but are a representative sample of interviews with lesbian, gay and bi-sexual workers in Southwark.

This module is ideal for use in diversity training. You could ask your employer to use the DVD in diversity training in your workplace - there are separate worksheets for trainers and workshop participants.

Questions for you to consider about your workplace

- What is (or would be) the experience of people being out (coming out) in your workplace?
- Do you think your workplace is a safe place for employees to come out?



Module Two - The Law

Further Explanation of the Law

A worker does not have to prove their sexuality to make a claim. The law states that a person is discriminated against on the grounds of actual or perceived sexual orientation, so in fact you do not have to be lesbian, gay or bi-sexual to be discriminated against. Sexual orientation does not mean sexual practices or sexual conduct.

For example, a worker is harassed because her son is gay. This is discrimination and the worker would have a legal claim because it is discrimination on grounds of sexual orientation.

Harassment (also see glossary)

Harassment is unwanted conduct on the grounds of actual or perceived sexual orientation which has its purpose or effect either violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.

Harassment is when the person or persons do things to make you feel uncomfortable, upset, distressed, humiliated or offended. It is your perception which is important, not the intention of the harasser. Providing your reaction is reasonable, you will have a claim for harassment.

Rarely but possibly a one-off remark could be sufficiently serious to constitute harassment. More likely harassment will be a series of incidents.

Harassment includes:

- Being sent to Coventry (silent treatment)
- Nick-names
- Homophobic jokes
- Offensive words
- Drawings
- Name calling
- Verbal abuse
- Physical attack

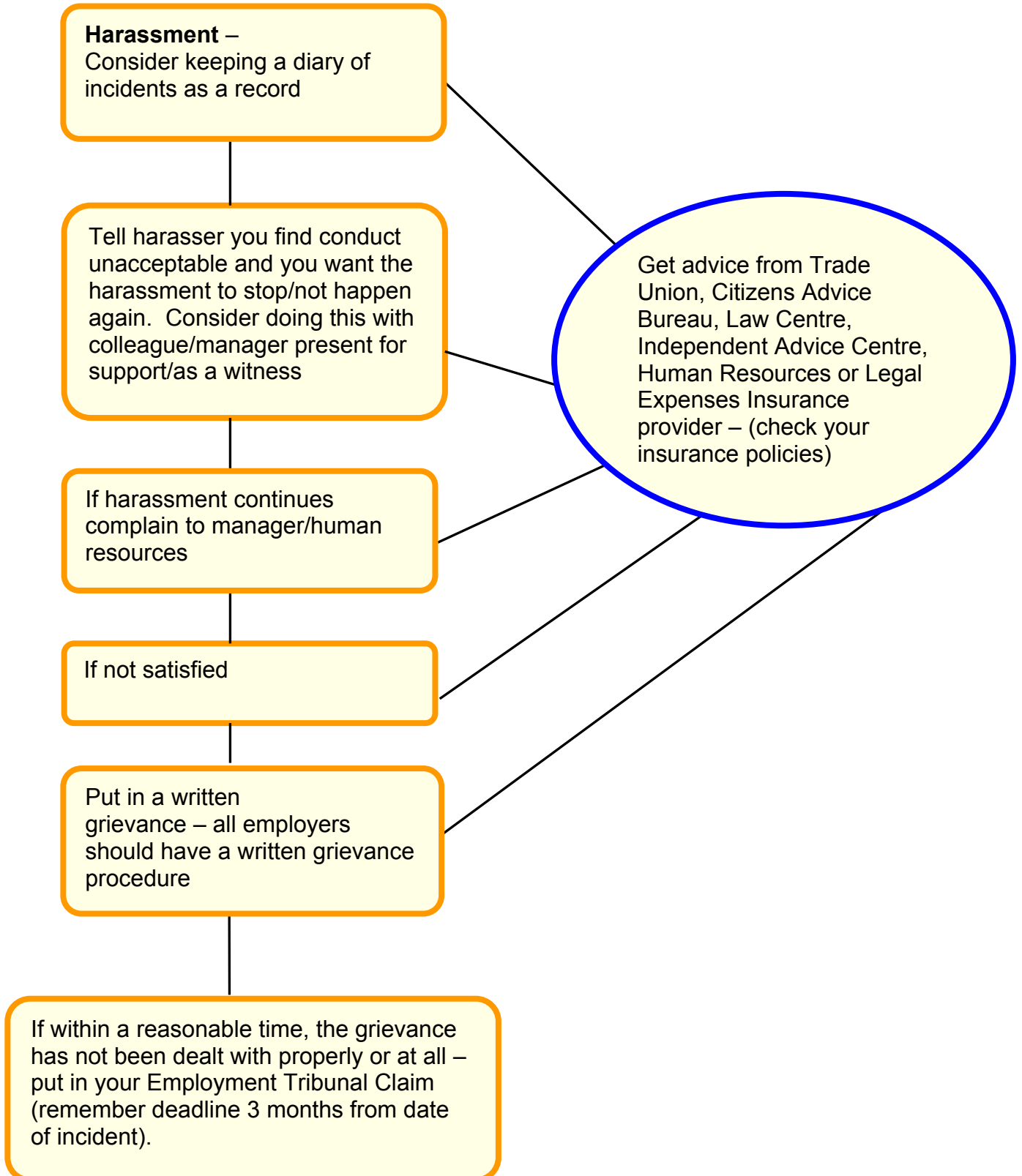
The conduct does not have to be directed at you. It can include workplace banter if you feel uncomfortable with this. It will be harassment if you complain and the banter continues.

Questions for you to consider

- Think about your workplace and the DVD's explanation of direct discrimination, indirect discrimination, victimisation and harassment. How would you be able to tell if there is discrimination or harassment against LGBT workers in your workplace? Have you seen any evidence of discrimination or harassment against LGBT workers in your workplace?
- Do you think workers in your workplace are aware of their rights and how to exercise their rights? If workers are not aware of their rights, what can you, your colleagues or your employer do about it?
- What is harassment? When is office banter harassment?

Harassment

Steps to take



Some case studies for you to think about

As well as harassment three other types of discrimination are explained in the DVD. Direct Discrimination, Indirect Discrimination and Victimisation. See if you can identify which type of treatment might have taken place in the following case studies (you may wish to refer to the legal glossary).

Case study 1

Comfort applies for promotion at work. She is rejected due to her lack of leadership qualities. Her colleague Seema is promoted from the same grade as Comfort. Seema is married. Unlike Comfort, Seema has not had any management training and has been in the company less time than Comfort has been. Comfort once brought her partner Carol to a pub outing and noticed her manager staring at them.

Case study 2

Bill's workplace has a compassionate leave clause allowing a day's paid leave. Bill is gay and he wants to visit his civil partner in hospital following a motorbike accident. He is told this will not be possible as the clause is only for married couples to visit each other in hospital.

Case study 3

Joseph is a young gay man who is out and proud. He doesn't like to attend the team social functions. He does not like the atmosphere as there are a lot of homophobic jokes told once people have had a few drinks. He has complained about the jokes but he was told that he did not have a sense of humour. Another colleague suggests that if he looked a bit more straight he might find it easier to fit in with the team.

Case study 4

Constance is upset that her friend Amarjit is being treated badly as a lesbian. She goes to tell the manager what is going on. The next week Constance is disciplined for spreading malicious rumours.

◆ See page 6 for case study answers.



Module Three – options for action

The Law states that all employers should have a grievance procedure.

If you are in a small workplace there may not be a Trade Union representative or Human Resources person that you can go to for help. You should get advice from your local Citizens Advice Bureau, Law Centre, Independent Advice Centre or check any insurance policies you have – you may have an insurance policy that provides for free legal advice/ representation.

Questions for you to consider

- Does your workplace comply with the law?
- If you were being harassed would you know where to go for assistance in your workplace?
- Does your workplace have a harassment policy? Do you know where to find it? Is it up to date?
- If somebody came to you for help/assistance would you know what to advise them?
- If you were discriminated against, for example, denied promotion/training/ a job on grounds of sexual orientation would you know what to do?



Module Four - Employment Tribunals

Questions for you to consider

- What do you think the emotional impact will be on a worker who is challenging discrimination?
- Do you know where to go locally (organisations or individuals) for support and to start a possible challenge?
- Do you know anyone who has gone through the process of legal action due to discrimination or harassment at work? What was their experience?
- Do you have any suggestions on how the procedure could be improved or adapted for the LGBT community. What would they be?
- How would you support and encourage a friend or colleague in taking legal action to enforce their rights at work?



Module Five - Where do we go from here?

Question for you to consider

- How can your workplace improve rights for LGBT workers?

◆ See page 6 for some suggested answers.

Answers

Answers to case studies on page 6 (Module 2)

Case study 1

If the reason for the failure to promote is Comfort's sexuality then she will have a claim for direct discrimination. This is direct discrimination - she has been treated less favourably (i.e. not offered promotion) on the grounds of sexual orientation.

Case study 2

Bill has been subjected to indirect discrimination because the criterion (marriage) for obtaining compassionate leave is one that puts same sex couples at a disadvantage. Bill cannot comply with the criterion and therefore this is discriminatory.

Case study 3

Joseph has been subjected to harassment. He is working in a culture that tolerates homophobic jokes. He has been subjected to a humiliating comment – i.e. he does not fit in as he does not look straight.

Case study 4

Providing she acted in good faith, Constance has been subjected to victimisation. She has done a protected act, i.e. complained to her manager about discrimination, and she has been treated less favourably (disciplined) because she has made the complaint.

Answer to question on p. 5 (Module 5)

- How can your workplace improve rights for LGBT workers?

Some suggested answers:

- Recruit fairly
- Ensure harassment policy covers LGBT workers
- Tackle bullying and harassment
- Train staff both at induction and during employment
- Ensure employee benefits, such as pensions, do not discriminate
- Treat staff fairly
- Build a culture of respect for LGBT staff

Other sources of information

For further information and guidance see below:

ACAS www.acas.org.uk See excellent free guide called 'Sexual orientation and the Workplace.' See also Employment Tribunals video called 'How to prepare and what happens at the Hearing'. You can also sign up to the free E learning topics one of which is sexual orientation discrimination

Employment Tribunals Service www.employmenttribunals.gov.uk

Guidance on how to complete forms, downloadable forms and guidance on how to prepare for a hearing

Legal Action Group www.lag.org.uk. The following publications may assist:- 'Employment Law: an advisor's handbook', 'Discrimination Law Handbook', 'Employment Tribunal Procedure', and 'Employment Tribunal Claims: Tactics and Precedents'.

Law Society www.lawsociety.org.uk

Also has books published on this topic. See 'Discrimination in Employment: Law and Practice' (second half on running tribunal claims) and 'Employment Tribunals - A Practical Guide'.

Law Centres and the Law Centres Federation

There are 60 Law Centres in England, Wales and Northern Ireland, which belong to the Law Centres Federation.

In Scotland there are 8 Law Centres which belong to the Scottish Association of Law Centres.

Law Centres employ solicitors, barristers, legal advisers and community workers to provide a comprehensive legal service to their local communities. They specialise in social welfare law which focuses on areas which make a major difference to people's lives, e.g. discrimination, immigration and asylum, housing and homelessness, welfare benefits and employment. They offer free, independent, confidential and specialist advice and representation, aiming to help people use the law and the legal system to access justice.

To find out if there is a Law Centre in your area please go to www.lawcentres.org.uk

