



EUROPEAN COMMUNITY SHIPOWNERS' ASSOCIATIONS

EUROPEAN TRANSPORT WORKERS' FEDERATION

***EQUALITY OF OPPORTUNITY &
DIVERSITY IN THE EUROPEAN SHIPPING INDUSTRY
ELIMINATING WORKPLACE HARASSMENT & BULLYING***

GUIDELINES TO SHIPPING COMPANIES



TABLE OF CONTENTS

STATEMENT BY THE DIRECTOR GENERAL	2
THE SOCIAL PARTNERS	3
INTRODUCTION	4
Aims of Guidelines	5
WHAT IS HARASSMENT?	5
Examples of harassment	5
WHAT IS BULLYING?	6
Examples of bullying	6
A COMPANY POLICY ON HARASSMENT AND BULLYING	8
Commitment from Senior Management	8
IDENTIFYING INCIDENTS OF HARASSMENT AND BULLYING	9
Reporting	9
A Special Grievance Procedure	9
Confidentiality	10
Hearings	10
Resolution of case/action	11
MEASURES TO ELIMINATE HARASSMENT AND BULLYING	12
Educational Programmes	13
CASE STUDIES	14
International Cruise Liner Company	14
Military Support Ship Operator	14
Short Sea Ferry Company	15
SUGGESTED TEXT OF LEAFLET FOR SEAFARERS	16

STATEMENT BY THE DIRECTOR GENERAL

There is currently a major shortfall in the number of Europeans embarking on careers at sea. It is therefore essential that the shipping sector presents itself as an attractive one to work in, where all those employed are treated with respect and encouraged to fulfil their potential. A key component of this is a positive commitment to equal opportunities and diversity.

In 2003, the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) carried out, with the support of the European Commission, a project to assist shipping companies to eliminate harassment and bullying on board ships and to implement effective company policies on equal opportunities throughout the Member States of the EU. The project meets key objectives of the work programme of the European Sectoral Social Dialogue Committee for Sea Transport, in particular the promotion of the participation of women in the seafaring workforce.

The project was an extension of an initiative carried out by the British social partners in 2002, which resulted in the publication of guidelines to shipping companies on workplace harassment and bullying, a video entitled "Say No To Bullying, Say No To Harassment" and the customisation of a CD-Rom-based training programme entitled "Understanding Equal Opportunities" for use by shipboard and shore-side management.

The guidelines to shipping companies now exist in the languages of all maritime states of the Union, whilst the video and CD-Rom training package are also available in a number of additional languages.

The guidelines are an important example of the useful contributions of sectoral social dialogue in the enlarged European Union, and the Commission has great pleasure in recommending the materials to employers and workers throughout the European sea transport sector.

Brussels, December 2004



Odile QUINTIN

Director-General

Directorate-General for Employment, Social Affairs and Equal Opportunities of the European Commission

THE SOCIAL PARTNERS



EUROPEAN COMMUNITY SHIPOWNERS' ASSOCIATIONS

ECSA comprises the national shipowner associations of the enlarged EU and Norway. Formed in 1965 and working through a permanent secretariat in Brussels, its aim is to promote the interests of European shipping with the EU Institutions.



EUROPEAN TRANSPORT WORKERS' FEDERATION

ETF comprises 221 national trade unions set up in 40 European countries representing some 2 800 000 members. The ETF represents the interests of workers in all transport modes and fisheries.

ECSA and ETF are the recognized social partners in the European Sectoral Social Dialogue Committee for Sea Transport.

INTRODUCTION

All workers have the right to work without suffering harassment and bullying in their workplaces. Unfortunately there are many workers who do not enjoy this basic freedom. It is the responsibility of all employers to ensure that all forms of harassment and bullying of workers are eliminated from their workplaces. It is also the responsibility of trade unions and workers to make sure that harassment and bullying do not take place.

The European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) representing the trade unions believe that harassment and bullying are unacceptable and have combined to produce the following guidance to shipping companies and others in the shipping industry on what they can do to eliminate harassment and bullying.

Harassment and bullying are causes of intimidating and hostile working environments, stress, lack of motivation, unsatisfactory work performance, absenteeism, resignations and high costs. Harassment includes any inappropriate and unwelcome conduct which, whether intentionally or not, creates feelings of unease, humiliation, embarrassment or discomfort to the person on the receiving end. Bullying is a particular form of harassment that includes hostile or vindictive behaviour, which can cause the recipient to feel threatened or intimidated.

Although, in a minority of cases, those committing acts of harassment and bullying do so intentionally, in many cases there are actions which could be classed as harassment and/or bullying that are carried out unwittingly and result from outdated management styles as opposed to any deliberate malign intention. Hence the adoption and encouragement of management styles that do not involve aggressive and intimidating behaviours would also make an important contribution to the eradication of workplace harassment and bullying.

There are also strong legal and economic reasons for eliminating harassment and bullying from workplaces. There have been instances of employees who have suffered harassment bringing successful claims of discrimination, with expensive consequences for their employers. However, even leaving aside the legal considerations, it is a matter of good employment practice to foster a working environment in which workers are able to work free of harassment and bullying. Workers who suffer harassment and bullying will feel demotivated and are more likely to suffer from stress and take days off. They are also more likely to want to leave their employment, which entails additional recruitment expenses for the company.

Aims of guidelines

These guidelines aim to assist companies in recognising examples of harassment and/or bullying, identifying incidents through the use of effective grievance procedures and eliminating harassment and bullying in a way that shows clearly the benefits to all parties concerned of a harassment and bullying-free workplace. They are of relevance to shipboard and shore-based workplaces.

In doing so the company should involve its workforce and/or trade unions. Where appropriate and taking account of national legal systems, company policies on harassment and bullying should be incorporated into collective bargaining agreements.

WHAT IS HARASSMENT?

The European Directive on establishing a general framework for equal treatment in employment and occupation states that harassment shall be deemed to be a form of discrimination when unwanted conduct takes place which has the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment ⁽¹⁾.

Examples of harassment

- displaying or circulating offensive or suggestive material;
- innuendo, mockery, lewd or sexist/racist/homophobic jokes or remarks;
- the use of offensive language in describing someone with a disability or making fun of someone with a disability;
- comments about a person's physical appearance or character which cause embarrassment or distress;
- unwelcome attention such as spying, stalking, pestering, overly familiar behaviour or unwelcome verbal or physical attention;
- making or sending unwanted, sexually suggestive, hostile or personally intrusive telephone calls, text messages, e-mails, faxes or letters;
- unwarranted, intrusive or persistent questioning about a person's marital status, personal life, sexual interests or orientation, or similar questions about a person's racial or ethnic origin, including their culture or religion;
- unwelcome sexual advances or repeated requests for dates or threats;
- suggestions that sexual favours may further a person's career, or that not offering them may adversely affect their career;

⁽¹⁾ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

- leering, rude gestures, touching, grabbing, patting or other unnecessary bodily contact such as brushing up against others.

People may also be harassed at work if they are perceived by others as “not fitting in”. This is more likely to occur in a workforce with little or no diversity. Such people may be shunned and their efforts to integrate with others rebuffed.

WHAT IS BULLYING?

Bullying is also harassment and is used to describe a threatening or intimidating work environment in which a group of people or an individual may become fearful or intimidated because of the negative or hostile behaviour of another group of people or individual.

Bullying often involves a misuse of power or position and is often persistent and unpredictable. It may be vindictive, cruel or malicious. However it can also arise when a person is unaware of the effect that their behaviour is having on other persons, or does not have any intention to bully.

Examples of bullying

- verbal or physical threats or abuse, such as shouting or swearing at staff or colleagues, either in public or in private, including derogatory or stereotyped statements or remarks;
- personal insults;
- belittling or ridiculing a person, or his/her abilities, either in private or in front of others;
- spreading malicious rumours about someone;
- sudden rages or displays of temper against an individual or group, often for trivial reasons;
- subjecting someone to unnecessarily excessive or oppressive supervision, monitoring everything they do or being excessively critical of minor things;
- persistent or unjustified criticism;
- making unreasonable demands of staff or colleagues;
- setting menial or demeaning tasks that are inappropriate to the job or taking away areas of responsibility from an individual for no justifiable reason;
- ignoring or excluding an individual e.g. from social events, team meetings, discussions and collective decisions or planning;
- making threats or inappropriate comments about career prospects, job security or performance appraisal reports.

The following expressions are sometimes used to excuse, define or refer to behaviour or situations between people at work which may involve “hidden” bullying;

- strong or robust management styles;
- a working relationship that is described as a “personality clash”;
- someone being described as “over-sensitive” or “unable to see a joke”;
- describing someone as having an “attitude problem”;
- a manager who “doesn’t suffer fools gladly”;
- failure to support a member of staff who has made a minor mistake at work.

If any employee complains of having been the victim of any of the above acts or any other act falling within the definition of harassment and/or bullying, it is important that the employer takes the complaint seriously and carries out an investigation.

A COMPANY POLICY ON HARASSMENT AND BULLYING

The company should draw up a written statement stating that harassment and bullying are not acceptable and that the purpose of the policy is to eliminate them from the workplace. The statement should set out clearly as many examples as possible of the types of behaviour that will be classed as harassment and bullying. It should also identify the persons to whom members of staff can report incidents.

The company should discuss the policy with employee representatives and/or the maritime trade unions and obtain their support for it and commitment to its aims.

Once the policy is agreed, the company should ensure that all staff, at sea and ashore, are made aware of it and understand it. They should be presented with copies of documents containing the policy and a similar document should be displayed prominently on noticeboards on ships and in shore-side offices.

The company should also consider running workshops and/or seminars to ensure smooth implementation and acceptance of the policy.

Commitment from Senior Management

The policy document should contain a message from the Chief Executive or equivalent in the company. The message should set out the company's commitment to the elimination of harassment and bullying from the workplace and the goal of a working environment in which there is respect for the dignity and well-being of all workers. In addition the company should designate a director or appropriate member of the senior management as the person with overall responsibility for the policy.

IDENTIFYING INCIDENTS OF HARASSMENT AND BULLYING

Reporting

In order to tackle the problems caused by harassment and bullying, it is important that the company actively encourages its staff to bring all incidents of harassment and bullying to its attention.

The authors of this guidance have identified that one of the most serious problems at present is that only a small percentage of incidents is reported to company management. According to a NUMAST report entitled “Fair Play” on the experiences of female seafarers, 76% of respondents claimed to have suffered sexual harassment at work but only 23% had complained to their company.

In a shipboard situation it is common for sufferers of harassment and bullying to “stick it out” until the end of the voyage and ask to be transferred to a different vessel for their next voyage, instead of reporting the incidents. This creates logistical difficulties for their company and does not enable it to deal effectively with incidents.

A Special Grievance Procedure

It is also most important that the company has procedures for the reporting and handling of complaints of harassment and bullying in which all members of staff have confidence. It is recommended that the procedure be separate from the general company grievance procedure.

The company should designate a person as the first point of reference for any member of staff who wishes to make a complaint. For complaints from shipboard personnel this person could be another member of the crew of the vessel on which the complainant is employed, a company employee based ashore, or a person from an independent organisation designated for this purpose. The latter two channels could be made available to shore-based personnel.

If the designated person is a company employee, that person should be given the authority to deal with the complaint him or herself or to choose to refer it to a higher level in the company.

In addition to the formal procedure, the company should provide for victims of harassment or bullying to have the option of resolving their complaints informally. This could

involve the victim explaining the effects of the perpetrator's actions in the presence of another person from the company who has received training in the resolution of complaints. The perpetrator would then have the chance to apologise for their actions and undertake to correct them.

The company should also consider making use of an independent third party based ashore to whom those suffering harassment or bullying might address their complaints. The company should make available to its workers a confidential helpline staffed by the third party.

Whatever procedure is chosen, it is essential that all employees have confidence in it. A system whereby complaints are heard by others onboard the ship may be effective on ships with large numbers of crew members, especially if the number of senior officers on board is sufficiently large to provide for peer pressure among that group. This would normally ensure that unacceptable behaviour is not tolerated.

However, even when a shipboard procedure is adopted it is important to make shore management aware of all incidents. Where a ship has a smaller crew complement, it is advisable for a point of contact ashore to be available to crew members for the reporting of all incidents.

Confidentiality

The company needs to reassure all seafarers that they will not be disadvantaged or discriminated against by reason of making a complaint of harassment or bullying. The company should investigate every complaint and no seafarer who makes a complaint should suffer repercussions. In addition the company should protect the employment status of any complainant during the course of any investigation and afterwards. Should a complaint turn out to be vexatious or malicious, then it may be appropriate to bring disciplinary procedures against the complainant.

Hearings

Procedures should provide that hearings, including any disciplinary hearings that take place in consequence thereof, are held in confidence. Companies should advise the parties involved of their right to be accompanied by a friend or a trade union official.

As with all disciplinary and grievance hearings the principles of natural justice should be applied. The respondent should have the right to answer any complaint and give his or her version of events. Both the complainant and the respondent should be able to call witnesses. The company should also keep a written record of decisions taken.

Resolution of case /action

The company should focus on the perpetrator of the harassment when taking remedial action rather than the victim. Case law has established that it is not acceptable to move the victim to a different job or work site as a way of resolving a case of harassment or bullying.

MEASURES TO ELIMINATE HARASSMENT AND BULLYING

Many company disciplinary codes provide that certain acts which could constitute harassment and/or bullying are offences in respect of which disciplinary action against the transgressor is appropriate. Examples are assault, intimidation, coercion and/or interference with the work of other employees and conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work which is unwanted, unreasonable and offensive to the recipient.

It has been established in case law that, in cases of harassment based on sex, it is not necessary to consider whether or not the harassment suffered by the victim would have been inflicted upon a person of the opposite sex to the victim. This is because sexual harassment is conduct based on the sex of the victim and, as long as the victim suffered a detriment, then sexual harassment has taken place.

However, many acts and omissions which constitute harassment and bullying do not normally fall into any category of offence under company disciplinary procedures. In some cases the perpetrators may even be unaware of the effects of their actions, which are a result of poor or outdated management styles rather than actual malice.

The company should, therefore, take measures to encourage improvements in management styles. This could be done through the use of management training programmes and seminars. Improved management techniques would be of benefit to all concerned; it would enhance the career prospects of the managers, it would foster an improved shipboard working environment, it would contribute to the elimination of harassment and bullying and improve the efficiency of the company. It will be an important consideration for the company that it cannot afford to lose qualified personnel.

Should a member of staff continue to harass or bully other staff following such a management training course then it will be appropriate to institute disciplinary proceedings.

Educational Programmes

The company should arrange for their sea staff to participate in educational programmes making clear the undesirable effects of harassment and bullying and setting out the company's policy. Such programmes should also set out the mechanics of the company's procedures for the reporting of incidents. In addition the company should consider the provision of literature, posters and videos to underpin and reinforce the company's policies. Such training programmes should be available to all new and existing staff.

The social partners in the UK have commissioned a video entitled "Say No To Bullying, Say No To Harassment" and the customisation of a CD-Rom-based training programme entitled "Understanding Equal Opportunities" for use by shipboard and shore-side management. Details on how to obtain copies of these resources are provided in the inside back cover.

Other measures which companies could use, depending on their circumstances, include:

- nominating a suitable and appropriately trained person on board each ship or in offices ashore as Anti-Harassment and Bullying Advisor or Ethics Officer;
- establishing shipboard and/or shore-based management committees;
- appointing a member of staff as Harassment Investigation Officer;
- ensuring that each ship adopts a statement to the effect that harassment and bullying are not tolerated on board;
- establishing a review committee involving company management and seafarers' representatives/trade unions to monitor the effectiveness of the policy.

CASE STUDIES

International Cruise Liner Company

The company published a Harassment, Guest Relations and Crime Policy in 2000. It is set out in a leaflet which was given to all employees at a series of workshops organised by the company.

The workshops set out the purpose and benefits of the policy, definitions of key terms in the policy, video exercises and group discussions. The leaflet gives a list of key terms, examples of behaviours that do and do not constitute sexual harassment, reporting procedures and the consequences for those who act in breach of the policy.

There is also a section entitled “Where To Go For Help”, which lists the persons to whom incidents can be reported. It also provides contact details for the responsible person ashore.

Military Support Ship Operator

This operator produced a booklet entitled “Stop It! – Harassment and Bullying Will Not Be Tolerated”, which was issued to all members of staff. The booklet contains a personal message from the Commodore underlining his commitment to the policy. It includes a comprehensive list of examples of harassment and bullying and a checklist for staff members to consider whether aspects of their behaviour constitute harassment or bullying, unwittingly or otherwise. It also includes a list of seven people to whom staff members can speak if they are suffering harassment or bullying, some of whom are on board, some ashore, some external to the organization and some who are reached via a confidential telephone line.

In addition to the booklets, the operator organises seminars for all staff at which they are encouraged to recognise examples of harassment and bullying. The operator has produced a video concerning harassment and bullying, which is used at the seminars to generate discussion about the subjects.

Short Sea Ferry Company

This company organises “Policies and Procedures” seminars ashore for supervisors and managers, at which company policies on equal opportunities and the prevention of harassment, are explained. The equal opportunities policy states that, whilst much

can be achieved by the development of legal measures, real progress can only be made through a supporting culture and real belief in the moral and business case. It also sets out the responsibilities of staff members at different levels of the company for the policy.

The policy on the prevention of harassment gives examples of types of behaviour that are treated as harassment and states that those found by the company to have committed acts of harassment will be subject to company disciplinary action and possible criminal procedure. It also sets out the grievance procedures available to staff for reporting incidents of harassment.

SUGGESTED TEXT OF LEAFLET FOR SEAFARERS

Rights and responsibilities of seafarers

No worker should be harassed or bullied in their workplace. All workers have a responsibility for ensuring that their workplaces are free of harassment and bullying and your company takes these issues very seriously.

Do you harass or bully other workers?

Harassment includes any act which creates feelings of unease, humiliation, embarrassment, intimidation or discomfort to the person on the receiving end.

Bullying includes any negative or hostile behaviour that makes a recipient feel fearful or intimidated.

You may be unaware of the effect that your own actions have on other workers.

For example:

- do you consider that your way of doing a job is always right?
- do you raise your voice at other workers?
- are you sarcastic or patronising to other workers?
- do you criticise individuals in front of others?
- do you criticise minor errors and fail to give credit for good work?
- do you shun any other workers or spread rumours or malicious gossip?

If you are concerned that aspects of your behaviour could be considered harassment or bullying, your company will help you eradicate these aspects. However you should approach your line manager and seek assistance – don't wait until a complaint is made against you!

Have you been harassed or bullied at work?

Your company will treat all complaints of harassment and bullying seriously and in confidence.

Your line manager on board and personnel manager ashore have been trained in dealing with complaints of harassment and bullying. You may approach either or both to report any incidents you have suffered.

If you do not feel comfortable raising a complaint yourself, you may ask a friend or colleague to do so on your behalf.

You will not be victimised by the company for making a complaint, provided it is not vexatious or made maliciously.

Remember, it is the victim's perception of any actions that counts. If YOU feel you have suffered harassment or bullying, the company will act.

Name of the Company:

Contact person on board:

Contact person ashore:

Further details on the training package can be obtained from Videotel, address :

Videotel Marine International Ltd
84 Newman Street
London
W1T 3EU
United Kingdom

In addition there is a CD Rom – "Understanding Equal Opportunities" available from Easy i, address :

Easy i Ltd
42 The Square
Kenilworth,
Warwickshire
CV8 1EB
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