



Inappropriate Treatment at Work

Guidelines for Preventing and Dealing with Harassment
and Inappropriate Treatment in the Workplace



Regional State
Administrative Agency

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*Updated 12 March 2010
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ISSN 1456-257X
ISBN 952-479-003-3

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Summary

Inappropriate treatment in the workplace constitutes any practice or behaviour towards others that is contrary to good conduct. Inappropriate treatment can be perpetrated by employers as well as employees.

Proper conduct at work lays the basis for a healthy, well-functioning work community. The guideline standards for what is considered suitable or unsuitable conduct are defined by the staff members of each place of work. The use of rough humour, for example, must be given up if regarded as offensive. Similarly, shouting or making offensive or derogatory comments about an individual's character, personal characteristics or private life are inappropriate to the workplace. At its worst, harassment and inappropriate treatment can endanger the victim's health and seriously hamper the work community's ability to function.

The employer is entitled and obliged to manage the carrying out of work activities and to provide related instructions, rules and procedures. The limits of these managerial rights should always be clear and familiar to the entire staff. The employer must monitor the work environment, identify any failings or risk areas, and eliminate them as thoroughly as possible. The employer must also intervene in conflict situations. The employer must hear both parties and put an end to any inappropriate conduct. Failure to intervene and discuss problems early on allows inappropriate behaviour and mistreatment to continue and to worsen.

If an employee experiences inappropriate treatment, s/he must clearly indicate to the perpetrator that the behaviour is unacceptable. The employee may turn to a support person, such as the Occupational Safety and Health Representative or the Shop Steward, for assistance in doing so. If the harassment or inappropriate treatment continues, the employee must lodge a complaint with his/her manager or supervisor. If the employee's supervisor or manager is the harasser, a higher manager must be notified. The employer is obligated to intervene and terminate any inappropriate treatment.

The Occupational Health and Safety Act prohibits harassment and inappropriate treatment at work. The Occupational Health and Safety Authorities supervise and enforce the Act in the workplace. No workplace is immune to harassment or inappropriate conduct. The purpose of this manual is to guide workplaces in identifying and minimising the risks of inappropriate treatment, and in putting in-house rules of conduct and procedures in place for rapid intervention in the event of problems. Inappropriate treatment at work can be prevented and eliminated by following common procedures and rules of conduct at the workplace. Should any incidents arise, they can thus be identified and swiftly dealt with in accordance with the commonly observed rules and procedures.

Why Must the Employer Intervene in Cases of Inappropriate Treatment at Work?

The long-term consequences of inappropriate treatment for an organisation and its employees include:

- Work disruption
- Reduced efficiency
- Reduced work motivation
- Strained work atmosphere
- Declining health
- Increased sick leave absences
- Damaged company reputation due to negative rumour-mongering.

All workplaces experience difficulties and conflicts from time to time, the majority of which do not involve inappropriate treatment in the legal sense of the term. Serious problems can however arise if the work community does not have the necessary know-how to handle and resolve such initial conflicts. In a healthy, functioning work community, such problems are regarded and dealt with as professional challenges rather than personal problems, and are resolved in their early stages.

Changes in the production activities of an organisation can generate work performance-related problems. Such problems should be recognised for what they are, i.e. as consequences of the new working arrangements, and should be resolved by developing and improving operations. If the root causes of work conflicts are incorrectly labelled or understood, the solutions applied are likely to be ineffective or even damaging. As a result, the original problems will persist and matters can become personalised, easily leading to harassment and inappropriate treatment. This outcome can, however, be prevented through prompt intervention by the employer.

According to the Occupational Health and Safety Act, the employer is obliged to intervene and eliminate harassment and inappropriate treatment at work. If the employer fails to intervene in cases where mistreatment endangers the health of an employee, the employer may be held legally responsible for negligence and/or malpractice.

How do problems arise?

Time pressures, increased overtime work, information and communication problems, difficulties in keeping schedules, quality issues, and customer complaints are all common day-to-day challenges faced by an organisation and its workforce.

When confronted with problems such as these, rather than examining and improving existing operations and methods, solutions are often sought by focussing on the actions of individuals. Such instances of scapegoating or personalising of a problem can arise, for example, if an employee's working approach differs from his/her colleagues and the problems are attributed to this person instead of the team's working methods. If too much focus is placed on the actions or comments of individuals instead of searching for wider solutions, the situation can easily become further confused and proper, needed examination and development of working methods can be neglected. Another common cause of problems are internal power struggles, which can often escalate over the course of several years at the workplace, with new employees often pressured to take sides.

Often, by the time the problems are dealt with outside the work community, for example by being brought to the attention of the Occupational Health and Safety Authorities or the courts, the situation will have already persisted at the workplace for many years. Understanding the knock-on effect of how problems can escalate in the work community can help the manager to recognise the signs and to find the right solutions.

Path of work community deterioration due to lack of proper intervention

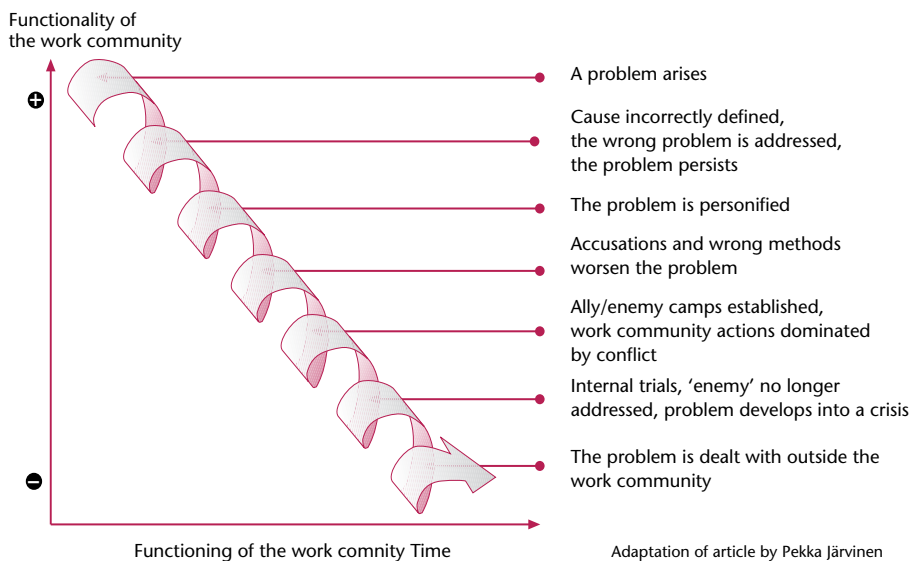


Figure 1. Deterioration over time of work community performance due to lack of prompt and appropriate intervention.

Example.

A dispute had arisen among company employees regarding customer claims made following a series of delivery delays. The finger is pointed at one employee who has recently returned from extended maternity leave. A number of changes had been made in the organisation of the company during her absence. The employee in turn felt that her work performance was under unfair scrutiny. She claimed that her colleagues were purposefully alienating her and maliciously criticising her. The employee was frequently on sick leave.

How was the matter dealt with?

Poorly: The employer was unable to define the cause of the problem and, instead, blamed the employee's lack of work motivation as well as the poor personal chemistry between the employees, stating that in such circumstances there was little that could be done. The problem continued and the employee experienced significant distress. She consulted her doctor, who repeatedly prescribed sick leave for depression. Accusations among the employees continued and work motivation dropped. The original delivery delay problems continued.

Well: The target of harassment was unable to stop the inappropriate treatment by her own efforts, despite informing her colleagues that she considered their behaviour to be offensive. The employee informed her manager, who discussed the matter with the employees. It became evident that the reason for the inappropriate behaviour was the customer complaints and the delays, for which the entire work unit had been criticised. It also became clear that the employee who had been on maternity leave had not been given appropriate training in the company's new working methods. The manager arranged training for the employee so that future errors could be avoided. The manager made it clear to the personnel that any further such inappropriate conduct at the workplace is strictly forbidden. The manager monitored the situation over time, ensured that the offensive behaviour was put to an end, and that the recurring delivery problems were rectified.

A Healthy, Functional Work Community as an Effective Safeguard

In a healthy working environment, difficulties are more likely to be identified and addressed early on before they evolve into problems that affect the functioning of the work community, and before the health of any employee is compromised. Preventing difficulties from arising requires cooperation as well as recognition of the essential elements that make up a functional work community.

Workplace cooperation does not come about by itself. It requires listening, discussion and systematic problem solving. Efficient cooperation involves dealing with arising issues before they develop into hard-to-handle problems. In this respect, the employer has primary responsibility for providing sufficient space and time for dealing with problem issues.

Maintaining openness when dealing with problems requires trust which, in turn, is generated by working together. Managers bear the greatest responsibility for establishing and maintaining trust. Fundamental requirements of the manager include: impartiality, openness, activeness, rapid intervention in conflicts and work-related problems, and provision of feedback.

It is important to take into account the role and working practices of the occupational health and safety organisations and occupational health service, not only when it comes to remedying problems, but also in terms of developing and maintaining well-being at work. The occupational health service should be there not only to intervene in crisis situations, but take the role of partner and expert at the workplace, working consistently to promote well-being at work.

The employer's duty to exercise care

Finnish law gives employers considerable freedom to determine the way in which work activities are carried out. However, this freedom comes with a number of important legal obligations. The employer is responsible for occupational health and safety. The principal obligations of the employer to promote the well-being of workplace personnel are defined in the Occupational Safety and Health Act. The main obligation is a general duty to exercise care, which obliges the employer to take into account any circumstances related to the safety and health of the work carried out so that the safety and health of the employee is not jeopardised. This includes the employer's duty to prevent harassment and inappropriate treatment and to ensure that the workplace has effective practices in place to deal with it should it occur.

The employer is also required to continuously monitor the state of the work community and to intervene in any disputes –including cases of inappropriate treatment. In practice, the immediate supervisor's or manager's duty is to monitor the performance of the work community, while it is the upper management's duty to monitor the performance of the work community supervisors and managers.

THE EMPLOYER'S GENERAL DUTY TO EXERCISE CARE

Employers are required to

- take necessary measures to ensure the safety and health of their employees
- design and choose the measures necessary for improving working conditions as well as decide the extent of the measures and put them into practice.

The employer must also continuously and systematically monitor

- the working environment
- the state of the work community
- the safety of the work practices and
- the impact of the measures put into practice on safety and health at work.

Occupational Safety and Health Act, section 8

The obligations of the employee

Chapter 4 of the Occupational Safety and Health Act defines the obligations of the employee. The employee shall perform his work with care and follow orders and instructions given by the employer within his competence. The employee shall avoid actions that are contrary to the procedures required from him as an employee, such as inappropriate treatment of others.

The employee is obliged to inform the employer about faults and defects which may endanger health, such as inappropriate treatment. This implies treatment which causes disturbances to the performance of work tasks, specifically disturbances that the employee has been unable to terminate by himself.

GENERAL DUTIES OF THE EMPLOYEE

Employees shall avoid such harassment and other inappropriate treatment of other employees at the workplace which causes hazards or risks to their safety or health.

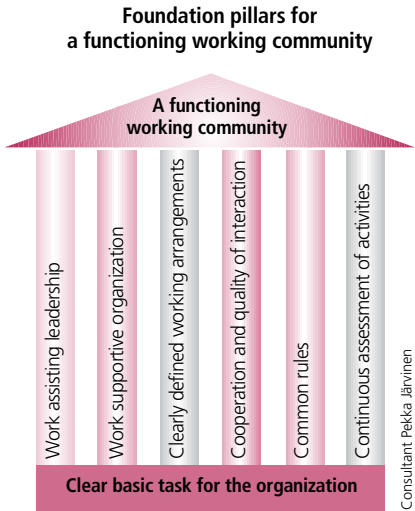
Occupational Safety and Health Act, section 18(3)

The characteristics of a healthy and functioning work community

Harassment and inappropriate treatment is often rooted in shortcomings and failings in management and in the ways in which work activities are arranged and organised. Inappropriate treatment can, and should, therefore be prevented by improving the functioning of the work community. The distinctive features of a healthy and well-functioning work community can be classified in different ways. One way is to describe the work community as a house supported by pillars. The organisation's mission forms the foundation of the work community. All members of the community should have a clear and consistent understanding of the mission. The pillars of the house are the fundamental aspects of the working environment which, when they are in good order, enable work to be carried out effectively and ensure the well-being of those carrying out the work. If there are substantial failings in any of these pillars, the risk of inappropriate treatment is heightened.

A clearly defined mission

All members of the work community should have a clear, common understanding of the purpose of existence, or mission, of the organisation. During periods of change, and in large organisations or expert organisations performing work of an abstract nature, this concept can easily become blurred. Vagueness among employees concerning the basic purpose of the organisation is often reflected within the work community as a prevalent "each to their own" attitude, where the work performance of the individual is no longer valued or considered important to the attainment of common goals.



Consultant Pekka Järvinen

Figure 2. The foundation pillars of a well-functioning working community represent concepts that have to be in order for the working community function.

Work-assisting leadership

The aim of leadership is to steer the organisation in working towards set goals. Effective, work-supportive leadership ensures that all of the needs and conditions for good work performance are met. Under good leadership, employees have proper tools and working conditions, workloads are correctly measured, and authority and responsibility are in balance. The managers operate fairly and impartially, and support and appreciate the work input of each employee. Safety management and safety control are also part of daily work routines. In contrast, a lack of leadership will have the opposite effect. Under weak or lacking leadership, employees may begin 'managing' their colleagues themselves, creating a fertile environment for disputes or maltreatment.

Work-supportive organisation

In a work-supportive organisation, work is clearly and fairly divided and organised. The effectiveness of work processes should be monitored continuously and developed and improved accordingly.

Classic signs of poor work organisation are random task allocation, task overlap, inconsistent or contradictory work instructions, and the overstepping of rules and work instructions by upper management.

Clearly defined working arrangements

In a functional work community, the employees know their role in the workplace. Orientation and guidance are carefully planned and provided for new employees, for those returning from long-term leave, and for those transferring to new assignments. Proper work orientation and instructions are also provided for work supervisors. Work assignments, working hours, working methods, and scopes of responsibility and authority are clearly defined and regularly revised. Any lack of clarity will usually become apparent, for example, during unforeseen exceptional operational situations or when implementing changes in working arrangements, leading to mistakes being made.

Cooperation and effective communication

Open communication and regular discussion forums are needed at the workplace to enable assignments, work problems and other mutual issues to be freely voiced and addressed. Objective discussion is respectful of all parties and does not resort to naming and blaming. Active listening is also vital for effective discussion. The rules of acceptable conduct for the workplace should be defined jointly by the work community itself. Managers should actively intervene to resolve conflicts – problems must never be swept under the carpet. Repeated misunderstandings and rumour mongering are hallmarks of dysfunctional communication.

Common rules

Common rules of conduct and procedure are needed in the workplace to support the everyday work of the employee. The rules and procedures for preventing and dealing with inappropriate conduct must be commonly agreed on. All members of the work community should be familiar with the rules and with the procedures to be followed if the rules are broken. If, for example, employees each have their 'own way' of carrying out work assignments or observing working hours, this can be a clear sign of a lack of common rules.

Continuous monitoring and review of operations

The basic requirements for a functional work community also include systems for monitoring and feedback. The functioning and well-being of the work community can be monitored and assessed using, for example, indicators and performance reviews. Immediate managers must actively monitor the work community and take action in the event of any problems which might result in conflict or harmful workloads. Effective monitoring assists the manager in correctly targeting these corrective measures.

Example.

Two employees accused each other of neglecting work tasks. One of the employees had been failing to follow the agreed office cleaning rota, frequently causing cleaning work to pile up for the other employee to take care of when his work shift began. The first employee justified this by saying that her primary task was to attend to the clients, which took most of her working time, and that this did not leave enough time for cleaning.

How was the matter dealt with?

Poorly: *The employee complained to his colleagues about his increased work load and the employees began gradually taking sides. The manager did not want to intervene, and instead advised the employees to resolve the problem amongst themselves, as long as the work got done.*

Well: *The manager heard about the argument and the work complaints. He realised that the root cause of the argument was poor work instructions. The order of priority of work tasks had not been clearly defined. There were also communication problems and confusion regarding common work policy. The manager clearly explained the work tasks of each employee to the staff and the order in which they were to be completed. The employees decided to draw up a set of common rules of work conduct specifying the limits for acceptable conduct and how problems are to be dealt with and resolved.*

Identifying vulnerabilities in the work environment and assessing the risks

Inappropriate treatment does not only arise between individuals. Disputes and conflict can derive from any shortcoming in work conditions, such as lack of work orientation, management or common rules. If flaws are not identified, attended to and resolved early on, problems will escalate and finding an effective solution will become increasingly difficult. Problems at work originate either from failings in physical working conditions or in the psychosocial working environment, the latter of which can be difficult to detect. Inappropriate treatment is often attributed to personal grievance when, in fact, the actual cause is a failing in the work environment.

In the same way as railings are installed to prevent fall accidents and ergonomics are improved to prevent musculoskeletal diseases, the root causes, i.e. risk factors, of harassment and inappropriate treatment at work must also be prevented. A lack of clear, common rules and poor leadership can lead to staff mistreatment, just as excessive overtime work can lead to burnout.

The employer is obligated to assess risks and hazards in the workplace and, as far as possible, eliminate them. This requirement covers risks and hazards not only in the physical environment but also in the psychosocial work environment, since psychosocial risk factors can also expose the work community to inappropriate treatment.

The psychosocial work environment can, simply put, be viewed as consisting of work factors (e.g. workload, opportunities to influence work processes, work responsibilities) and factors related to the functioning of the work community (leadership, work arrangements, cooperation). As these two areas often overlap, the psychosocial work environment must be examined as a whole.

Stages of risk assessment:

- Identify the risks and hazards caused by defects in the work environment.
- Pay particular attention to orientation and guidance, management, workload and the practicality of common rules.
- Assess the needs to improve working conditions.
- Take into consideration the assessments and recommendations of the occupational health service.
- Identify focal points for development.
- Define the goals, schedule and necessary resources.
- Designate responsible persons and monitor implementation.
- Consult experts and specific expertise as needed.

Characteristics of an effective risk assessment:

- Systematic (includes monitoring/follow-up strategies)
- Organised by the employer
- Truthful
- Targeted
- Reveals critical areas of occupational safety and health development
- Practical
- Evolves with the company
- Verifiable

ANALYSIS AND ASSESSMENT OF RISKS AT WORK

The employer shall systematically and adequately analyse and identify the hazards and risk-factors caused by the work, the working premises, other aspects of the working environment and the working conditions and, if the hazards and risk factors cannot be eliminated, assess their consequences to the employee's safety and health.

Occupational Safety and Health Act, section 10

Developing work and the work community

Well-being at work can be promoted by a range of development measures and campaigns. It is vital, however, that these measures are correctly focussed and implemented in a way that has an actual concrete impact on existing problems and risk areas. By using poorly targeted measures the employer can even damage the work community's ability to function and, as a result, increase the likelihood of staff maltreatment.

The strategies for promoting well-being at work and preventing inappropriate treatment are illustrated in Figure 3. Some of the measures, such as the provision of instruction and guidance and the identification and assessment of risks and hazards, are considered so essential that they are enforced by law.

The measures directly affecting the individual and the work community (2 and 3) are more effective promoters of occupational well-being than recreation and physical exercise based activities (1 and 4), which are not work-related and therefore only have a transitory effect. Measures that are not work-related seldom have any significant effect on the incidence of inappropriate treatment. Work-related preventive and corrective measures, on the other hand, are effective in helping prevent problems from arising at the workplace.

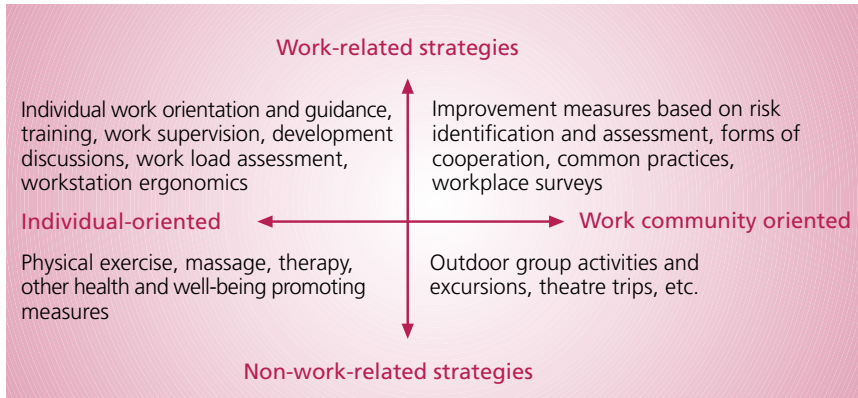


Figure 3. Strategies for creating a healthy and functional workplace.

Example.

An employee had been behaving in an inappropriate manner towards another employee. The employer was aware of the conflict but did not intervene, hoping instead that the employees would resolve the conflict themselves once they got to know each other better. The employer arranged outdoor activities and sauna evenings. The harassment continued and worsened. The employer's good intentions and social events did not eliminate the obligation of the employer to intervene in the conflict and terminate the harassment. The employer should have employed methods such as enrolling those responsible for improper behaviour in work conduct training, and drawing up and discussing common rules of conduct and procedure for the workplace together with the personnel.

Rules of conduct as common guiding principles

Resolving conflicts is the responsibility of the organisation's management. According to the Occupational Safety and Health Act, the manager has a responsibility to resolve work-related conflicts as well as conflicts within the work community.

Resolving and dealing with conflicts is costly in time and energy. It is important therefore to attempt to prevent situations from re-occurring by establishing common rules and procedures. Setting common rules for behaviour at work is a key strategy for conflict prevention and gives a clear signal to the entire organisation that inappropriate treatment is not tolerated and that swift action will be taken if harassment or maltreatment occurs. Clear, common rules also support the manager in meeting his/her duty to investigate and resolve cases of harassment or other inappropriate treatment.

The rules must determine what type of behaviour is appropriate and what is forbidden. The rules must also specify who is responsible for taking action and the required procedures to be taken in the event that someone feels that s/he is being treated in an inappropriate manner. The rules should be established as the overarching rules of conduct for the workplace, which everybody must follow. The above approach should be discussed with the entire personnel and included as a part of Occupational Safety and Health Policy.

Example.

The employees of a certain department had developed a clique culture in which unrestrained use of aggressive humour and suggestive language was considered the norm. Forcing new employees to transfer to other departments due to their 'colourful' humour was considered harmless amusement. Eventually, one new employee was driven to notify the manager that he considered the department's humour and language to be offensive.

How was the matter dealt with?

Poorly: *The department manager raised the issue at a staff meeting, stating that the team should come to an amicable agreement on the matter. The employees considered it their right to talk and behave as they had before, claiming that "this is how we've always talked". There was no common will to change behaviour, and the manager was unable to force the issue. The situation persisted unchanged.*

Well: *The manager directly addressed the issue of work conduct at a staff meeting. He clearly stated the limit of acceptable behaviour as being the point at which any individual in the work community experiences the language used to be offensive. To prevent the matter being forgotten, the manager drew up a set of common work rules and procedures for the workplace. The rules defined the limits for acceptable work conduct as well as procedures for eliminating inappropriate behaviour. The rules were then reviewed and discussed openly with the department and different corrections and changes were considered. The complaints regarding harassment and inappropriate treatment ended.*

What is Inappropriate Treatment?

Inappropriate treatment is difficult to comprehensively define. All workplaces experience arguments and conflicts from time to time which can cause distress or bad feeling among employees, and different people interpret and experience situations and incidents in different ways. While the experiences of the individual must never be written-off as invalid, a distinguishing line must be drawn between ordinary conflicts that are a normal part of working life and actual cases of harassment or other inappropriate treatment. For example, minor isolated acts of poor conduct or bad management do not constitute harassment or inappropriate treatment under Finnish law.

Similarly, decisions or measures taken under the managerial authority of the employer cannot be seen as inappropriate treatment, even though they may be experienced as such. The authority of the employer at the workplace is governed by laws, standards and good practice. The rights of the employer include the right to plan, allocate resources and supervise work. The employer also has the right to exercise decision-making authority in terms of the quality and scope of work tasks, as well as working methods and workplace practice.

What is not inappropriate treatment?

Since a concise definition of inappropriate treatment is difficult to provide, it may be more helpful to define what is considered not to be inappropriate treatment. Inappropriate treatment is not involved if:

- conflicts arise due to work-related decisions or interpretations
- work-related problems or tasks are dealt with among the members of the work community
- the manager takes justifiable measures with respect to work performance or takes justifiable disciplinary action, e.g. issues warnings
- the employer initiates a working capability assessment of a certain employee after having first discussed the problems with the employee concerned.

THE EMPLOYER'S SCOPE OF AUTHORITY

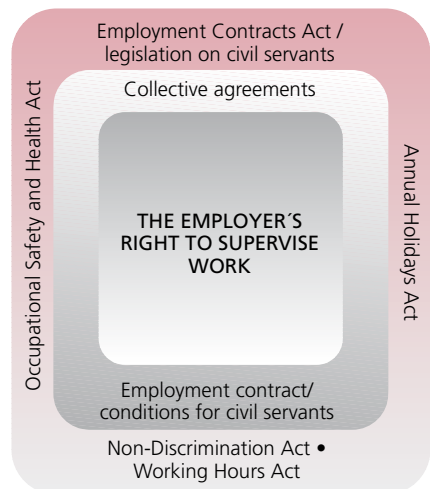


Figure 5. The employer has the authority to decide on work-related issues which are not regulated by laws and agreements, e.g. working methods, work quality and scope, and working practices.

Example.

At a workplace where employees had been traditionally at liberty to take their holiday when they pleased, the employer decided that customer service staff were to schedule their holidays to ensure sufficient year-round staff coverage. Considerable changes to holiday arrangements were introduced. Although the change was focussed solely on a minority group of employees, and these considered the treatment to be unfair, the employer's decision does not qualify as inappropriate treatment.

What is inappropriate treatment?

Inappropriate treatment means any practice or behaviour towards others in the workplace that violates good conduct, work obligations or the law. The treatment is usually systematic and persistent, and perpetrated either through demeaning or offensive acts or through neglect or exclusion. Inappropriate treatment is a psychosocial hazard which can negatively impact employee health and the functioning of the work community.

Inappropriate treatment can be, for example:

- slander or defamation regarding an individual's character, personal qualities, characteristics, mental health or private life
- exclusion from the work community
- continuous, unjustified interference in an individual's work, or unjustified changes in the amount or nature of their work
- threats
- physical violence
- inappropriate abuse of management authority
- changing agreed working conditions on illegal grounds
- giving degrading orders

The employer's duty to intervene

The Occupational Safety and Health Act prohibits any harassment or other inappropriate treatment that causes hazards or endangers employee health, and specifies that the employer must, according to available means, take measures to remedy any such situation. However, not all negative behaviour that occurs in the workplace constitutes health-endangering harassment or inappropriate treatment in the eyes of the law. The manager must judge each claim of harassment or inappropriate treatment on its own merit and provide an appropriately

measured response, based on the precise nature of the incident. Even if the matter does not legally constitute health-endangering harassment or inappropriate treatment, the manager must always assess whether the problems brought to light by the complainant require alternative measures, such as the improvement of managerial methods or cooperation practices.

Harassment and inappropriate treatment can be perpetrated by employers and employees alike. Regardless of whether the harassment occurs between employees or between employee and manager, the obligation to take action is always with the employer. However, the employer can only be prosecuted if the situation has been allowed to continue after coming to the employer's knowledge. As cases of harassment and inappropriate treatment often go undetected for some time before the employer becomes aware of it, the importance of prompt action by the employer is clear.

The employer may not treat their employees inappropriately and must intervene to terminate any inappropriate treatment as soon as it comes to their attention. The employer's obligation to intervene is effective from the moment he is informed of the inappropriate treatment. If the employer is aware of the harassment and allows it to continue, they are guilty of offence under the Occupational Safety and Health Act.

HARASSMENT

If harassment or inappropriate treatment of an employee occurs at work and causes hazards or risks to the employee's health, the employer, after becoming aware of the matter, shall take measures for remedying this situation by the available means.

Occupational Safety and Health Act, section 28

Work Discrimination

The Finnish Non-Discrimination Act (21/2004) forbids discrimination in the workplace. According to the Act, work discrimination applies if the employer places an employee in an inferior position to other employees, for reasons based on his/her person, background or private life. Prohibited grounds for discrimination include: age, national or ethnic origin, nationality, language, religious conviction, political persuasion, state of health, disability, sexual orientation or other reason concerning the employee's person such as wealth, family relations or place of residence. Discrimination on the basis of gender is prohibited under the Equality Act. Under Finnish law, prohibited discrimination is not committed if the act in question involves none of the above-mentioned grounds for discrimination.

According to the Non-Discrimination Act, discrimination means:

1. Treating a person less favourably than another person is treated, has been treated or would be treated in a comparable situation (direct discrimination); Example: a person suffering from epilepsy is denied a job although s/he is the most competent applicant and the disease would not cause any impediment to carrying out the work.
2. An apparently neutral provision, criterion or practice causes a person particular disadvantages compared to other persons (indirect discrimination). Example: language requirements imposed by a cleaning company that are irrelevant to the job of cleaning indirectly reduce the ability for foreigners to find work with that company.
3. Deliberate infringement of the dignity of a person or a group of persons by creating an intimidating, hostile, degrading, humiliating or offensive environment based on discrimination (harassment). This is considered a serious form of discrimination. Employers and employees are forbidden from acting in any way that offends others due to discrimination. For example, the employer must remove posters from the workplace if they cause serious offence to any other person or group of persons.
4. Instructions or orders to discriminate. Example: an order from a manager to the staff, or given within the hearing of the staff, to discriminate against colleagues of a particular ethnic origin.

Targeting inappropriate treatment or similar actions at persons who take measures to safeguard equality or at persons who participate in such actions is also prohibited. This clause, referred to as prohibition of victimization, means, for example, that the employer is not allowed to tighten the monitoring of an employee's work performance after the employee has contacted the Occupation Safety and Health Inspectorate, due to suspicions of discrimination.

Example.

The unit manager constantly scolds and shouts at a particular employee and gives him/her the worst work shifts. If sustained, such inappropriate treatment could damage the employee's health.

If the employer fails to intervene immediately after having been informed and the matter is not resolved, the matter becomes a question of illegal harassment under the Occupational Safety and Health Act.

If the behaviour described above is directed toward a foreign employee (discriminating grounds), it is a punishable case of work discrimination. In practice, harassment and discrimination often involve similar or identical acts.

Stopping Inappropriate Treatment

Guidelines for managers

The manager is obligated to intervene whenever inappropriate treatment in the workplace comes to their knowledge. Intervention must be direct, prompt and effective. The commonly agreed procedures for dealing with inappropriate treatment in the workplace must be observed. The handling of the matter must involve a manager who has decision-making authority and who has a legal duty to intervene in the matter in question.

Clarify what has occurred

The first task for the manager is to determine precisely what has occurred. Both parties should be heard separately. The intervening manager must be prepared for the fact that the opposing parties' versions of events will usually differ, and must allow adequate time for proper investigation of the matter. It is important that the person(s) claiming harassment or other inappropriate treatment as well as the accused are both given equal opportunity to be heard. A written record should be made of the facts surrounding the matter. Once the manager has determined the parties' views, the matter is opened up for joint consideration with the parties involved, during which the necessary measures for amending the matter are jointly agreed. If necessary, the manager can turn to an occupational health service expert for assistance.

Define the facts in legal terms

The manager must accept that the parties are likely to approach the issue on emotional grounds and provide conflicting versions of events. It is the manager's task to examine the matter impartially, and to steer the discussion towards concrete facts and events and on the resulting impact of these on staff health and safety. The definition of inappropriate treatment as constituting any behaviour, act or neglect that is against the law, agreements or good practice must be borne in mind when defining the actions and events that have occurred. The problem should therefore always be described in terms of an action, pattern of behaviour or neglect, so that they can be compared to the obligations laid down in legislation. Inappropriate treatment should not be defined in terms of attitudes, personal chemistry, personal characteristics or other concepts that do not describe how work-related obligations are being violated.

Example.

The manager behaved inappropriately towards his employees by shouting and making derogatory personal comments.

How was the matter handled?

Poorly: *The employer took no action, stating that the manager has a colourful personality and does not mean any harm.*

Well: *After having been informed about the situation, the employer defines the manager's behaviour as being in violation of his work obligations. The employer provides the manager with clear instructions on required work conduct and on the disciplinary actions to be taken if his inappropriate behaviour continues. The employer monitors the situation and ensures that the problem is amended.*

Intervene promptly in serious offences

If a manager considers that an incident does not constitute harassment or inappropriate treatment, this must be reported and clearly justified to the parties involved. In more serious cases where the manager considers a valid case of inappropriate treatment to have occurred, the manager has the authority and duty to act promptly to prohibit any such further maltreatment in the workplace. It is the manager's duty to clearly state to the employees which conduct is unacceptable within the work community. A record should be made of all decisions made and guidelines and instructions given. If the guidelines and instructions are insufficient to rectify the matter, the employer has the right to take disciplinary action such as issuing warnings.

Employees must always be dealt with equally for similar offences. It must also be ensured that the staff is clearly aware of the supervisory and disciplinary consequences of committing a serious offence.

Eliminate the causes

The employer should investigate the root causes of harassment and inappropriate treatment in the workplace. Any identified problems relating to work tasks or work arrangements and their corrective actions must be documented. By eliminating these practical problem areas, the root causes of harassment and inappropriate treatment at work are also reduced (See: The characteristics of a healthy and functioning work community and Identify vulnerabilities in the work environment and assess the risks).

Monitor the observance of guidelines and instructions

The employer must ensure that guidelines and instructions given are followed and that any inappropriate treatment in the workplace is both terminated and does not re-occur.

Ensure that work conduct rules are followed

It must be ensured that each employee is made familiar with and follows the rules of work conduct. The common rules of work conduct should be periodically reviewed and updated jointly with the entire personnel (*See: Rules of work conduct as common guiding principles*).

Guidelines for the employee

If an employee experiences inappropriate treatment at work, the first port of call is to determine whether the workplace has any standard policy or procedures in place for addressing the problem. The employee must also directly inform the harasser or perpetrator of the inappropriate treatment, whether this is a manager or a colleague, that they consider the behaviour to be offensive and unacceptable. The employee should explain to them in concrete terms why they consider the act or behaviour in question to be offensive or inappropriate. If this does not rectify the situation, or if the employee feels unable to directly address the matter alone, s/he may turn to a support person such as a colleague or the Occupational Safety and Health Representative or Shop Steward to assist in addressing the perpetrator. Choosing not to address the harasser or perpetrator directly may, in the worst case, be interpreted as the complainant's acceptance of the role of victim. In such a case, the harassment or inappropriate treatment is likely to continue and to worsen.

Once the employee has explicitly informed the perpetrator that their behaviour is unacceptable, the perpetrator is considered to be fully aware of the negative consequences of their behaviour, and any continuation of such behaviour will be considered deliberate. To assist further handling of the matter, it is important that the form and frequency of the inappropriate treatment as well as the reactions of the complainant are documented. If the harasser or perpetrator continues his/her behaviour despite being requested to desist, s/he should be informed that the manager will be notified about the matter.

The employee must then either directly or through a support person request the employer to intervene. If the perpetrator is the immediate manager, s/he should be informed that the matter will be brought to the higher management's attention. Similarly, if the immediate manager fails to take the matter and the perpetrator to hand, the complainant must call on higher management to intervene.

Guidelines for support and occupational health service personnel

The Occupational Safety and Health Representative, the Shop Steward, the Occupational Safety and Health Manager and the Occupational Health Service provide support for the workplace and for individuals in cases of harassment or inappropriate treatment. Colleagues may also serve as support persons for complainants. The primary task of the support person is to listen and provide moral support. S/he may also assist the complainant in pursuing the matter, and can help the complainant to gain a better perception of the situation by bringing an outside perspective and helping the complainant to evaluate the situation from various points of view. It is often beneficial to evaluate the situation also from the employer's point of view.

The occupational health service usually becomes involved when the employee falls ill as a consequence of harassment or inappropriate treatment at work. At this stage, the actions of the occupational health service are typically focused solely on improving the health of the employee and, in many cases, the victim forbids the occupational health service from contacting the workplace to address the problem.

Granting sick leave to the victim is beneficial in the short-term, but does not address the root causes of work-related illness. Therefore, when planning the role of the occupational health service at the workplace, the health service and the workplace should agree on procedures for dealing with and eliminating inappropriate treatment. The procedures for referring identified problems to the workplace for investigation and corrective action should be documented in agreements and work policies.

Early intervention helps to stop harassment and maltreatment from becoming established in the workplace and, as a result, maintains and promotes employee health. The occupational health service may also assist as an impartial expert in dealing with cases of harassment or other inappropriate treatment at work.

Occupational Safety and Health Authorities – guidance and enforcement

The Finnish Occupational Safety and Health authorities provide instructions and guidance for employees, employers and support persons to help them to deal with problems at their source, i.e. the workplace. A considerable proportion of cases reported to the OSH authorities are resolved at the workplace once the matter is brought forward and the parties involved are informed of their obligations and responsibilities.

The OSH authorities are tasked with monitoring compliance with occupational safety and health laws and regulations. With respect to harassment and inappropriate treatment, the OSH authorities ensure that employers observe their duties as prescribed under the Occupational Safety and Health Act (738/2002). The OSH authorities enforce monitoring controls on the employer to ensure that any harassment or other inappropriate treatment at work which causes a health risk or hazard to employees is eliminated. If failings are identified, the employer is issued instructions or requests to observe their legal requirements. In cases of suspected breach of law, a request for preliminary criminal investigation may be submitted to the police.

Finland's five Occupational Safety and Health Divisions

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Inappropriate treatment at work constitutes any practice or behaviour towards others that is contrary to good conduct. In serious cases, inappropriate treatment can endanger the health of the victim.

The purpose of this manual is to guide workplaces in putting in-house rules of conduct and procedures for rapid intervention in place in the event of harassment or other inappropriate treatment. Inappropriate treatment at work can be prevented by following common rules and by ensuring prompt, effective intervention.

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LSSAVI

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ISSN 1456-257X

ISBN 952-479-003-3

www.tyosuojelu.fi