



The Centre for
Occupational Safety

PREVENTING AND HANDLING INAPPROPRIATE TREATMENT IN THE WORKPLACE

- Prevent and Intervene



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Introduction

Preventing harassment and other inappropriate treatment concerns the entire work community, both the employer and the employees. Fair management, transparency in decision-making and professional behaviour are the basis for preventing inappropriate treatment.

According to the Occupational Safety and Health Act (Section 28), the employer shall take measures to stop harassment and other inappropriate treatment that causes hazards or risks to the employee's health. Although the main responsibility lies with the employer, the Occupational Safety and Health Act also obliges employees to avoid harassment and other inappropriate treatment that hinders or endangers health and safety.

The purpose of this manual is to support workplaces in preventing and dealing with harassment and inappropriate treatment and in drawing up related procedures and guidelines. The publication defines the key concepts and describes the principles of professional workplace behaviour. In addition, guidelines for inappropriate treatment are issued and the employer's activities in the investigation and elimination of inappropriate treatment are discussed

in particular. The final part of the manual describes the role of the Occupational Safety and Health Authority in monitoring inappropriate treatment.

The manual also includes examples of the situations and behaviour that can be considered inappropriate and those that do not constitute inappropriate behaviour. In this way, the publication provides support when the employee or supervisor assesses whether the negative activity detected meets the characteristics of inappropriate treatment.

The publication is based on legislation and good practices that the working group hopes to put into operation in workplaces.

Preventing and Handling Inappropriate Treatment in the Workplace is meant for the management, supervisors, HR, occupational safety and health personnel, shop stewards and employees, as well as for occupational health care providers and educational institutions.

The working group thanks the representatives of the Occupational Safety and Health Authority for their assistance in finalizing this publication.

A well-functioning work community

The employer has the right to organize the work, the internal operations and other work-related arrangements as they see fit. The employer's representatives make sure that the operations run smoothly. Disturbances or problems might appear in the functioning of the work community and the responsibility for having these situations solved and handled rests with the employer's representatives, that is, the supervisors. The employer must ensure that the supervisors have the necessary skills to handle these situations.

The problems or disturbances in the work community can be caused by many different things; the amount of work, problems with quality or timetables, interruptions in the flow of information and co-operation, work load, stressful changes in the work community and organisation, insufficient recovery or lack of human and competence resources. Also, cultural conflicts or different senses of humour can lead to conflicts in the work community.

Disturbances should always be handled as work-related issues.

Employees may have different working methods or views on work. This is a natural part of the work community and can be found in all kinds of work communities. Disturbances should always be handled as work-related issues. The problems should never be personified. A well-functioning

work community is able to react quickly and solve the situation. In case this does not happen, prompt intervention by the supervisor is necessary so that the conflict does not cause disturbance in the work community or problems for the individual.

Professional workplace behaviour

Professional workplace behaviour prevents inappropriate treatment. Good behaviour in the workplace is based on taking responsibility for achieving objectives, teamwork and doing one's own job as part of these. It is essential to act in accordance with the regulations, guidelines and timetables and to offer and request assistance on your own initiative. Inappropriate behaviour must not be tolerated in any form.

A key part of professional workplace behaviour is to request feedback, evaluate one's own activity and improve accordingly. Constructive critical feedback must be given privately and face-to-face.

Positive day-to-day encounters play a major role in the functionality of the work community. This includes greeting and saying thank you when someone has done a good job or offered help and support. Good manners must be followed in the workplace. For example, employees' private matters should not be discussed unless the employees bring them up themselves.

It is helpful to set reasonable expectations for others and to have confidence in the fact that others are, in principle, benevolent. Mutual trust and respect are the basis for cooperation. In a permissive work community, different working methods are



valued in order to achieve common goals, as long as they are within mutually agreed limits.

Work-related issues, including disagreements, are dealt with in a solution-oriented and appreciative manner with those affected. Others' point of view must always be heard respectfully, regardless of one's own emotional state or the other's person, values or opinion.

From time to time, situations arise in all work communities where it is necessary to assess the best or correct way to act. Professional behaviour includes discussing different solutions.

Guidelines help with prevention and intervention

Few workplaces can completely avoid disturbances or conflicts in the work

community. A functional work community is prepared for solving any issues.

The workplace guidelines must describe the desired course of action. It is a good idea to prepare them together with the staff. The guidelines apply to all members of the work community and are an important part of orientation, also in seasonal and contract work. Guidelines should also be reviewed regularly.

The following guidelines might be used:

- rules for professional behaviour and good conduct at work
- principles of handling disputes and conflicts
- principles of providing feedback
- guidelines for handling harassment, inappropriate treatment and discrimination
- guidelines for workplace mediation.

The guidelines should be reviewed regularly.

Supervisors must monitor and supervise that the guidelines are followed. Not following the guidelines constitutes breaking a rule or neglecting a work-related obligation.

Other ways to prevent

Fair management and transparency in decision-making are the basis for preventing inappropriate treatment. It is also essential to train and prepare supervisors for the prevention, detection and elimination of inappropriate treatment.

According to the Occupational Safety and Health Act, the employer must systematically find out and identify the hazards and risk factors caused by work, working hours, working premises, other working environment and working conditions. It should also be considered whether these factors and

the culture of the workplace can expose the staff to inappropriate treatment.

Effective communication, interaction and the flow of information prevent the emergence of work community disturbances. Similarly, functional meeting practices, appreciating other people's views, and a joint discussion about work prevent disturbances.

It is advisable to regularly highlight the following issues in internal communication and training:

- Harassment and other inappropriate treatment must not be tolerated.
- The supervisors have the right and obligation to monitor the work community and intervene in harmful workplace behaviour.
- Everyone's own actions play a major role in preventing inappropriate treatment.
- It is important that everyone in their own role is familiar with the material dealing with the prevention and handling of inappropriate treatment.



Rights and responsibilities at work

Employer

The authority of the employer is regulated by laws, norms and good conduct. The employer has the right to organize, allocate, manage and monitor work and work tasks. The employer decides on the quality and scope of work tasks as well as the working methods and procedures in place. It is the employer's duty to make sure that the supervisors, as the employer's representatives, have the necessary means and capabilities to handle conflict situations. The employer must intervene in conflict situations and in work problems as early as possible.

- The employer exercises the right to direct in the workplace and thereby manages and monitors the work of the employees.
- The employer must treat employees equally unless there is an acceptable cause for derogation deriving from the position or the task of the employee.
- By taking the necessary measures, the employer must ensure the employees' health and safety at work.
- The employer must give the employee an adequate orientation to the work, working methods and working conditions.
- The employer must monitor the safety of the working methods and the state of the work community.
- After becoming aware of inappropriate treatment or harassment, the employer must immediately take action to eliminate them.
- The employer must not subject workers to harassment or other inappropriate treatment.
- The employer has the right to give work-related, concrete feedback to the employee.

Employee

- The employee must perform the work tasks with care under the supervision and management of the employer.
- The employee is obliged to perform the tasks observing the given instructions and act reasonably in accordance with their position.
- The employee must follow the instructions, advice and orders given by the employer within their right to direct.
- The employee must avoid harassment and other inappropriate treatment of other employees in the workplace.
- The employee has the right to equal treatment.
- When the employee feels that they are being harassed or inappropriately treated, they have the right to have the issue handled promptly.

Key concepts

Section 28 of the Occupational Safety and Health Act prohibits harassment or other inappropriate treatment that causes health hazards or risks. The law does not, however, define these concepts. All negative behaviour in the workplace does not constitute harassment or inappropriate treatment causing health hazards or risks as referred to in the law.

Inappropriate treatment is negative behaviour towards another person in the workplace, contrary to the law, good conduct or one's own duties. It is often continuous and systematic but it can also be occasional. The target may be any member of the work community.

Harassment means such situations, where a person is repeatedly and for a long time subjected to oppressive, insulting or subordinating treatment and this causes them health hazards. The actor can be a colleague, a subordinate or an outsider, such as a customer. The situation may also involve abuse of the right to direct. This is a chain of events in which a person ends up in a defenceless situation or is subject to other negative consequences. Harassment is one form of inappropriate treatment, but not the only one. Harassment is often referred to as workplace bullying.



Sexual and gender-based harassment is also covered by Section 28 of the Occupational Safety and Health Act. They may also be considered discrimination prohibited by the Equality Act.

Sexual harassment in the Equality Act, means verbal, non-verbal or physical unwanted conduct of a sexual nature by which a person's psychological or physical integrity is violated intentionally or factually, in particular by creating an intimidating, hostile, degrading, humiliating or offensive atmosphere.

Gender-based harassment means unwanted conduct that is not of a sexual nature but which is related to the gender of a person, their gender identity or gender expression, and by which the person's psychological or physical integrity is intentionally or factually violated and an intimidating, hostile, degrading, humiliating or offensive atmosphere is created.

Workplace discrimination refers to a situation where the employer without an acceptable reason treats an employee or an applicant less favourably because of their personal characteristics, background or private life. An employer or an employer's representative can be found guilty of workplace discrimination. An act of discrimination may occur in job advertising, recruitment, work tasks or working conditions. Inappropriate treatment and discrimination may be equivalent or similar acts.

Inappropriate treatment is behaviour or conduct contrary to the law, general good practice or one's own work duties.



Characteristics of inappropriate treatment

Inappropriate treatment relating to work and working may include:

- inappropriate abuse of the employer's right to direct
- giving degrading orders
- changing the agreed working terms and conditions on illegal grounds
- withholding information
- repeated, unjustified intervention in a person's work
- repeatedly undermining a person's work
- changing the quality or quantity requirements unjustifiably.

Inappropriate treatment relating to interaction may include:

- exclusion from the work community
- threats, physical violence
- defamation or invasion of privacy
- sexual harassment or gender-based harassment
- slander of a person's position, reputation, personal qualities, characteristics, appearance or private life, spreading false information, public humiliation
- unjustified questioning of a person's health, work ability or mental health.

The following do not count as inappropriate treatment:

- appropriate decisions made based on the employer's right to direct, even if they may be experienced inappropriate or unfortunate
- justified, even critical feedback on work performance
- justified disciplinary actions (e.g. a warning) when taken on the basis of appropriate criteria
- work ability assessment of an employee initiated by the employer after the problems to perform the tasks have been discussed with the employee
- conflicts arising from differing opinions and interpretations about work, even if they are perceived as insulting
- dealing with work-related problems, such as inappropriate treatment, within the working community.

The characteristics of sexual and gender-based harassment are described in Finnish in *Ohjeistus seksuaalisen ja sukupuoleen perustuvan häirinnän ehkäisyyn ja toimintaan ongelmatilanteissa*, published by the Centre for Occupational Safety.

Guidelines for situations of inappropriate treatment

If you suspect or feel that you have been treated inappropriately

First, if possible, inform the person treating you inappropriately that you do not accept their actions. Tell them clearly and concretely what it is about their behaviour that you feel is inappropriate. Ask them to stop this behaviour or activity. If you feel that you cannot bring the issue up alone, ask the shop steward, OSH representative or a colleague to support you.

First, if possible, inform the person treating you inappropriately that you do not accept their actions.

If you are not sure whether it is a question of harassment or other inappropriate treatment described in the Occupational Safety and Health Act, contact, for example, the OSH representative, shop steward or supervisor and discuss your experiences with them. You can also contact occupational health care and discuss the matter with them.

If the inappropriate treatment continues

If inappropriate treatment continues, notify your supervisor. The report must be sufficiently individualized for the employer to be able to intervene. Once the supervisor has received the report, they are obligated to take the necessary measures. As a rule, this requires providing the name of the person allegedly acting inappropriately. If you do not provide a name, this will significantly limit the supervisor's ability to handle and resolve the matter. The same applies if you do not allow the case to be handled under your own name.



If the person treating you inappropriately is your supervisor, notify a higher supervisor about the situation. If no measures are taken at the workplace to investigate the matter, contact your trade union or the OSH authority.

If the person treating you inappropriately is your own supervisor, inform a higher supervisor. In such a case, the higher supervisor will give you further instructions and ensure that the inappropriate treatment stops.

It is advisable to keep a record of the incidents (time, content, what was done by yourself and the other party) for possible further handling of the situation.

If you notice inappropriate behaviour in your workplace but are not the target

- If possible, intervene.
- If necessary, notify your supervisor.

If you are suspected of inappropriate treatment

- Listen carefully to what the other party has to say and take it seriously, even if you might feel strongly or defensive about it.
- Ask the other party to be specific about what in your behaviour has been inappropriate.
- If necessary, bring up your own perspective, but do not belittle or invalidate the matter.

- Be prepared to apologize.
- Stop the inappropriate activity if the accusation is justified.
- If you feel that the accusation is unfounded, contact your supervisor, OSH representative, trade union or the OSH authority.

Guidelines for the employer

Inappropriate treatment should not be tolerated in any form. Before taking action, the situation must be handled without delay, sufficiently and impartially. It is important to identify and solve any underlying problems related to work, working arrangements or working conditions.

Measures shall be taken on the basis of the assessment carried out by the employer in order to end inappropriate activity. When handling the situation, it is advisable to involve a supervisor who has the authority to make decisions. The employer must also monitor that everyone follows the rules and guidelines in the future. A successful solution and related concrete measures strengthen trust in the work community.

Inappropriate treatment should not be tolerated in any form.

If the employer does not take adequate measures to put an end to inappropriate treatment and the employee's health is compromised, the employer or their representative can be accused of neglecting occupational safety and health, or even of a crime against occupational safety and health. In the case of sexual or gender-based harassment, it might be a question of a discrimination covered by the Equality Act.

Receiving information

The employer's obligation to act arises when the employer notices inappropriate treatment or is made aware of it. The obligation to act always rests with the employer, regardless of whether the inappropriate treatment occurs between employees or between an employee and a supervisor. According to the Occupational Safety and Health Act and the Equality Act, the employer must also take action when an employee has been subjected to sexual or gender-based harassment.

The employer can become aware of the inappropriate treatment

- through their own actions or observations
- through a report by the victim of the inappropriate treatment
- through a report by the OSH representative, shop steward or other member of the work community
- through a report by occupational health care with the consent of the victim
- through discussions or exit interviews

- through surveys or other assessments concerning the work community.

Handling the situation

The employer must first find out all the details about the case of inappropriate treatment and then based on this information, take the necessary actions. This also applies to situations where the name of the inappropriately acting person has not been revealed. In this case, it is important to inform the reporting party that failure to provide the name significantly limits the employer's ability to act and to solve the situation.

Since the employer is obliged to act, the employer decides how the investigation is carried out and who participates in it. The employer has the right to use the help of internal and external experts, such as the occupational health care provider or a workplace mediator. Even in these situations, the responsibility for the investigation rests with the employer.



The employee cannot refuse to have their own case investigated and handled. The representative of the employer may invite the parties together or individually to discuss the matter and the incident. These discussions are confidential and meant to shed light on the facts of the matter. If the workplace has a code of conduct for professional workplace behaviour or interaction, the employer's representative may assess whether this code has been followed or not. It is advisable to draw a written record of these meetings. It is important to be aware that a joint meeting is not always a possibility. In the case of sexual harassment, for example, face-to-face encounters can be considered unsafe.

The employee has the right to a support person during the investigation process. Typical support persons are the OSH representative and the shop steward.

If the employer has been notified of several cases of inappropriate treatment, the workplace must update the assessment procedures of hazards in accordance with the Occupational Safety and Health Act. See p. 8.

If the report submitted is found to be groundless, the employer may, if necessary, use supervisory measures.

Assessment

Based on the investigation, the employer must assess whether the situation constitutes a case of harassment or other inappropriate treatment. The assessment must be based on facts and it must be carried on a case-by-case basis and as objectively as possible. The conclusion must be stated clearly to the parties.

The assessment must be based on facts.

If the conclusion is that the activity is prohibited by the Occupational Safety and Health Act, the employer must take adequate measures to stop it. When selecting procedures, the employees should be treated consistently and equally.

It is not always possible to unequivocally state whether the situation in question was an act contrary to the Occupational Safety and Health Act. In this case, it is important for the employer to monitor the situation and to make sure that the parties review the workplace rules and guidelines, such as professional workplace behaviour.

Procedures

The employer must ensure that the detected harassment or other inappropriate treatment stops.

It is often appropriate that, after individual discussions, the employer invites both parties to a joint meeting to decide how the parties shall act in the workplace in the future. It is advisable to draw up a written record describing the course of the meeting. There might also be the need for several follow-up meetings. In this case, the discussion about how the parties should act in the future will be left for the last meeting. If an agreement cannot be reached, the employer will decide.

If necessary, the employer may use supervisory or disciplinary measures, such as transferring the inappropriately behaving party to another workstation, fixing working hour arrangements or issuing a warning.

The employer's representative and the parties discuss and agree on how to communicate the handling and conclusion of the situation to the rest of the work community. If an agreement cannot be reached, the employer will decide. It is important to explain, for example, that the situation has

been settled and resolved, that everyone should behave professionally and that inappropriate treatment will be addressed. The work community, for its part, must refrain from dwelling on the handling and conclusion of the case.

Follow-up

The employer must monitor the situation and intervene immediately if the commonly agreed guidelines are not followed. It is recommended to schedule a long-term follow-up.



Workplace mediation

Workplace mediation is an action model designed for those workplace conflict situations for which solution cannot be found by the community's own actions. Its purpose is to find a solution to a dispute, disagreement or conflict that is satisfactory for all parties involved.

The mediator is not there to solve the problem but rather to empower the parties to find a solution themselves. The mediator guides the process and helps the parties reach an agreement. The mediator ensures

that everyone receives safe and equal treatment and that all parties are heard. The mediator also assesses the fairness of a possible agreement from the perspectives of all parties.

The mediator can be a representative of the occupational health care or an external expert that has been trained on mediation and is accepted by all parties. For example, an OSH representative, who has been trained on mediation, may act as an internal mediator in the workplace.



Occupational Safety and Health Authority

Occupational safety and health authority supervises the employers. The authority-initiated control aims to monitor that the employer carries out the necessary measures to prevent and avoid harassment in the workplace. The purpose of customer-initiated control is to check that the employer, after being notified of harassment in the workplace, complies with their obligation to act in accordance with the Occupational Safety and Health Act in order to stop the harassment. It is important to note that contacting the OSH authority does not always lead to a control measure.

It is not the responsibility of the OSH authority to assist the customer at the workplace, to mediate conflicts or to seek compensation for inappropriate treatment.

The nationwide telephone service of the OSH authority (tel. 0295 016 620) provides guidance and advice to employers and employees to investigate and handle harassment and inappropriate treatment in the workplace.

The OSH authority also supervises the Non-Discrimination Act in working life: the prohibition of discrimination, the prohibition of discriminatory job advertising and the employer's obligation to promote equality. The prohibited grounds of discrimination covered by the Non-Discrimination Act are age, origin, nationality, language, religion, belief, opinion, political activity, trade union activity, family relationships, health, disability, sexual orientation or other personal reasons. In the cases of discrimination related to gender, gender identity or gender expression, the Ombudsman for Gender Equality should be contacted.

The OSH authority's online service provides additional information on harassment, inappropriate treatment and discrimination, as well as on the role of the OSH authority in monitoring them.

The OSH authority's telephone service provides guidance and advice.

The Non-Discrimination Ombudsman and The Ombudsman for Equality

The Non-Discrimination Ombudsman gives general guidance relating to preventing discrimination and promoting equality in the workplace. The Ombudsman's online service provides guidelines to support equality planning and good practices for promoting equality. In addition, the Non-Discrimination Ombudsman may assist victims of discrimination in the investigation of discrimination reports.

The Ombudsman for Equality supervises the compliance with the law on the equality between men and women and the compliance with the prohibition of discrimination, in particular. The Ombudsman also provides guidance and advice on issues related to the Equality Act, discrimination based on gender, gender identity and gender expression, and the promotion of gender equality. When detecting a violation of the Equality Act, the Ombudsman for Equality seeks to end the unlawful conduct by offering guidance and advice, for example by instructing the employer to change their procedure.

Statutes

Occupational Safety and Health Act (738/2002)

Act on Occupational Safety and Health Enforcement and Cooperation of Occupational Safety and Health at Workplaces (44/2006)

Occupational Health Care Act (1383/2001)

Equality Act (609/1986)

Non-Discrimination Act (1325/2014)

Employment Contracts Act (55/2001)

Criminal Code (39/1889)

Sources and further information

Järvinen, P. 2018. Ammatillinen käyttäytyminen. Tie onnistumiseen. Alma Talent. (In Finnish only)

Laiho, M., Ryömä, A., Satama, S. & Teerikangas, S. 2020. Aktiivinen työkaveruus arjen voimavarana. TYÖ² - Yhteistyön työyhteisö -hankkeen loppuraportti. Publications at Turku School of Economics. Series E-2:2020. Turku School of Economics. (In Finnish only)

Ravantti, E. & Moilanen, S. 2020. Kymmenen kysymystä ja vastausta työyhteisösovitteista. The Centre for Occupational Safety. (In Finnish only)

Sortti, T. 2019. Työturvallisuusrikokset. Henkinen työsuojelu. Edita Publishing Oy. (In Finnish only)

The Ministry of Social Affairs and Health 2016a. Ohje häirinnän ja muun epäasiallisen kohtelun valvonnasta. Työsuojeluvalvonnan ohjeita 6/2016. Ministry of Social Affairs and Health, Occupational Safety and Health. (In Finnish only)

Ministry of Social Affairs and Health 2016b. Yhdenvertaisuuden ja syrjinnän valvonta. Työsuojeluvalvonnan ohjeita 2/2016. Ministry of Social Affairs and Health, Occupational Safety and Health. (In Finnish only)

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