

The employer's responsibility in workplace harassment

By Naseeba Sadak

This year from the 25th of November to the 10th of December is the annual 16 days of Activism against Gender Based Violence. However, as an employer it is your responsibility to always maintain a harassment free working environment for your employees.

In terms of the Employment Equity Act 55 of 1998, harassment of an employee is a form of unfair discrimination, and it is prohibited on any one or combination of grounds of unfair discrimination. Employers must also take note of the Code of Good Practice on the prevention of Violence and Harassment in the Workplace which expands upon the definition of workplace harassment and bullying and sets out further obligations for employers in relation to harassment in the workplace.

Every company should have a sexual harassment policy. This policy should record matters such as reporting, the obligations of the employer, advice and assistance available to a victim of sexual harassment, what procedures should be followed when sexual harassment has been reported, and the possible disciplinary sanctions if the perpetrator is found guilty of sexual harassment. Implementing an employee harassment policy does not release employers from liability if a worker is the victim of harassment. Employers must make a good-faith effort to prevent harassment in the workplace and remedy a harassment situation if a worker files a complaint. Employers are liable for harassment if they are made aware of harassing behaviour and fail to take action to correct the situation. Employers have a duty to all employees to show respect to victims of discrimination that occurs in the workplace and to provide a safe working environment.



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