

Bullying and harassment

How to deal with complaints

As an employer you should ensure that everyone in your workplace (ie your home) is treated with respect at all times.

Employer's responsibilities

You are responsible for creating a positive working environment, free from bullying, harassment and victimisation. This means that you should:

- Challenge others if they are behaving inappropriately.
- Check your own behaviour and management style.
- Take immediate and appropriate action if any form of inappropriate behaviour is identified.
- Have an understanding of how to deal with bullying and harassment and have a process in place in case it should happen. See informal and formal procedures, below.
- Deal with complaints fairly and sensitively, and as quickly and confidentially as possible.
- Make sure your own behaviour positively influences others.
- Ensure no detriment, victimisation or retaliation happens to anyone who has been involved in a bullying or harassment situation.

Employee's Responsibilities

- Treat everyone they meet with respect.
- Make sure their conduct does not cause offence or misunderstanding to others.
- Take personal responsibility in helping to create a working environment where everyone feels valued and respected, and able to make a full contribution.
- Be aware of and have an understanding of what process should be followed in a case of bullying or harassment, see informal and formal procedures, below.

What constitutes bullying or harassment?

Harassment is behaviour that someone finds offensive, abusive or humiliating whether it was intended or not. The behaviour may be on the basis of age, disability, sex, race, religion or sexual orientation. Harassment is most likely to happen to people who are perceived as different or who are in a minority in the workplace.

It can be a single action or series of incidents. It can be obvious or direct action e.g. sexual or racial assault, or covert behaviour e.g. ignoring or deliberately excluding someone.

Harassment is not always easy to identify as comments, actions and suggestions which one person finds amusing or entertaining can be unacceptable and unwelcome to another. It may involve nicknames, teasing, name calling, or other behaviour, which is not with malicious intent but which is upsetting.

It is not the intention of the perpetrator but the deed itself and its impact on the recipient, which determines what constitutes harassment.

Discussion of harassment is often focused on sexual harassment. This is defined as unwanted conduct of a sexual nature, or other conduct based on sex, affecting the dignity of women and men at work. It is important to distinguish harassment from, for example, sexual relationships freely entered into and acceptable to those involved.

Some examples of situations which may be defined as harassment are:

- The visual display of calendars, posters or other printed material which could be perceived as offensive;
- Unwanted physical contact or over familiar or suggestive behaviour;
- Isolation or non co-operation at work, exclusion from social activities;
- Graffiti or obscene gestures;
- Verbal or written harassment through jokes about, or at the expense of, members of other races or religions, the opposite sex or the disabled;
- Unfair allocation of work/responsibilities.

If any of these things are happening in your home, or if anyone indicates to you that he or she is uncomfortable with the behaviour of people your nanny comes in contact with through their work you must take this seriously.

- Do not turn a blind eye
- Do not tell them to stop being so sensitive
- Do not say they should learn to take a joke

- Encourage everyone to respect each other's feelings.

Remember:

- The victims of harassment are often reluctant to complain. They may be too embarrassed, unsure how to go about making a complaint, concerned that they will not be taken seriously or they may fear reprisals. They may not want attention focused on the situation but just the unwanted behaviour to stop.
- Anonymity is often important to the victim of harassment. You must investigate, but indirectly if your nanny would prefer you to keep it quiet.
- The perpetrators of harassment are often oblivious to the distress they are causing. Once they become aware of it, most will be very embarrassed.
- Your swift and sensitive response can mean the difference between your nanny becoming demoralised or even leaving your employment and the return to good working relationships.

Bullying is a form of harassment that can lower someone's confidence levels – it can include negative attacks about job performance and is the misuse of power or position.

Bullying is sometimes hidden by terms such as personality clash, "macho" management, attitude problem, unreasonable or aggressive behaviour.

Some examples of bullying are:

- Physical or verbal abuse, threats or assault;
- Deliberately making someone feel small or unvalued or belittled;
- Unprofessionally criticising the performance of an employee or colleague;
- Racist, sexist or offensive comments, gestures or communication;
- Suggestive remarks or unwanted advances;
- Spreading malicious rumours;
- An employer misusing the power of their position by conducting any of the above.

Bullying and harassment could happen face-to-face, by written communications (e.g. memo, notes, email or social media) or by phone.

To sum it up, it's any actions that create an intimidating, hostile or humiliating workplace.

What bullying and harassment are not

Bullying and harassment are quite different from the legitimate pressures that may be experienced when there is a need to meet deadlines or employer's requirement.

Bullying and harassment should not be confused with managing the workplace performance of an individual or group that might include critical comments indicating performance deficiencies. Giving feedback on performance must always be carried out in a constructive way that is not humiliating or threatening.

The Key differences between managing and bullying are:

Managing:

- Is constructive
- Is based on fact
- Constructively criticises actions
- Is calm, dignified and professional
- Is consistent
- Provides opportunity for improvement
- Cares about the individual and their feelings
- Results in the person knowing what has to be improved and how they can begin to do it

Bullying:

- Is destructive
- Is based on perception and assumption
- Criticises the person
- Takes an angry or aggressive tone
- Is inconsistent
- Provides no opportunity for improvement since the person feels threatened
- Takes no account of the person and their feelings
- Results in humiliation and loss of confidence

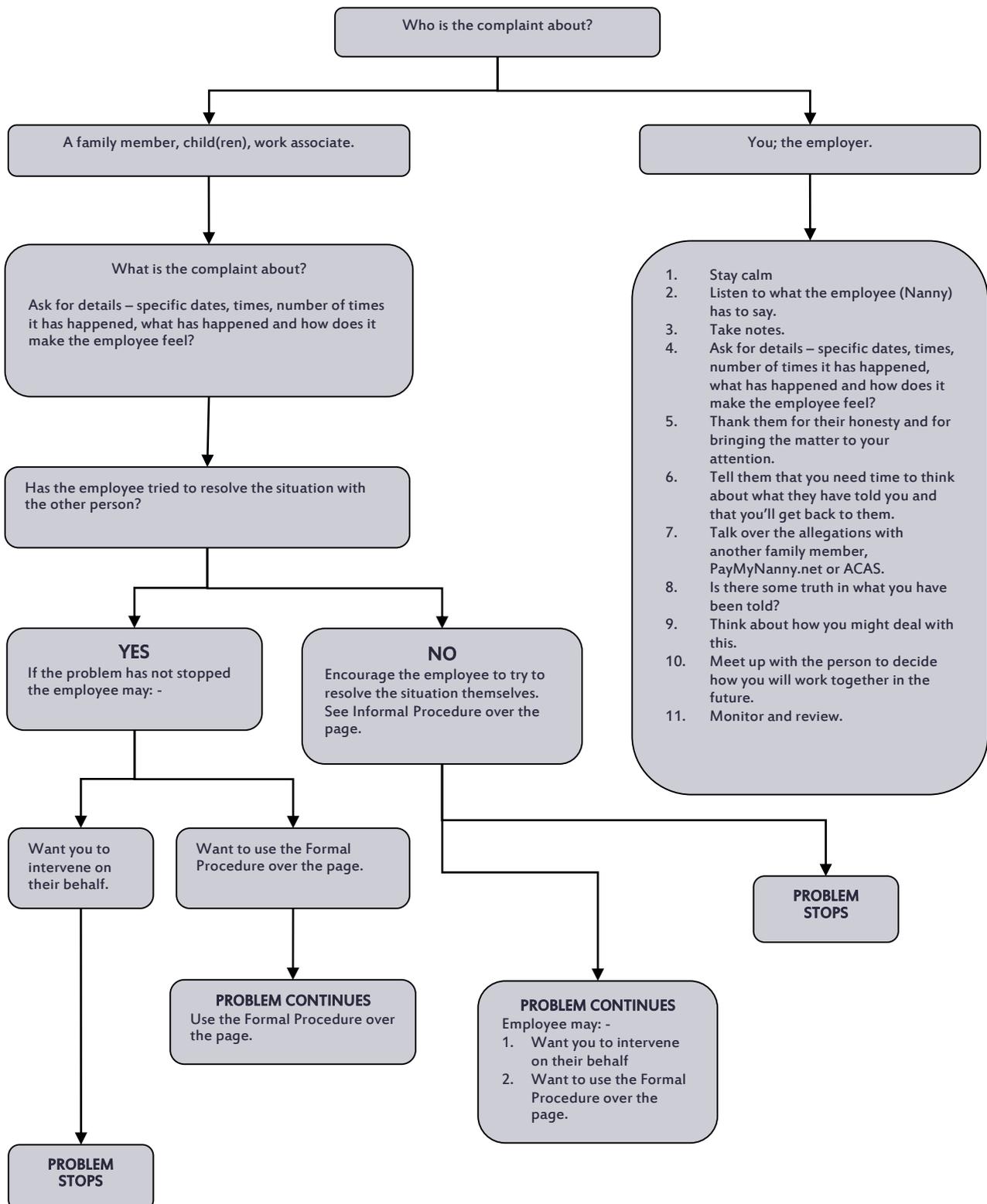
What should you do if someone tells you they are being bullied or harassed?

Sometimes people are unsure if the way they are being treated is acceptable. There are a number of things to consider, check if:

- There has been a change of work requirements, or hours, which your nanny may need time to adjust to? How can you help this?
- Can you agree changes that will make it easier for your nanny to cope?

If your nanny still believes they are being bullied or harassed follow the flow chart diagram below as a practical guide to resolving the situation.

Investigating an allegation of bullying or harassment



Informal Procedure

If the situation appears too threatening or it's inappropriate, the employee can make a formal complaint straight away, see below.

In following an informal procedure the employee should:

- Confront the person by telling them to stop whatever it is they are doing that is causing them distress (the person may be unaware of the effect of their actions).
- If your nanny finds it difficult to tell the person themselves, they may wish to ask someone else e.g. another family member, or you, to act on their behalf, or they could write a note to the person explaining what it is they object to in their behaviour. If they speak to you advise them to:
 - To keep a record of this and their reply
 - Be firm and calm, not aggressive
 - Stick to the facts
 - Describe what happened, what affect it had on them and their work.
- If the harassment/bullying continues they should discuss the situation confidentially with you.
- You may then speak confidentially with the individual on their behalf to ask them to stop their inappropriate behaviour.
- If they don't change or modify their behaviour appropriately, your nanny can make a formal complaint – see below.

The above is not intended to result in any formal investigation or disciplinary action, but is intended to let your nanny resolve the matter personally without it going any further.

Formal Procedure

An employee can make a formal complaint if either:

- The nature of the behaviour is so serious that a second occurrence of the same behaviour would be unacceptable.
- If previous informal attempts at resolving the situation have not proved successful.

The formal complaints procedure will follow these steps: -

- Step 1** The employee should inform their employer. They will be asked to put the complaint in writing addressed to the employer.
- Step 2** The alleged bully or harasser will be notified of the nature of the complaint and given the opportunity to put forward their point of view.
- Step 3** The complaint will be quickly looked into to find an appropriate course of action e.g. a mediated solution, a view that the issue can be resolved informally.
- Step 4** If that action is inappropriate or inconclusive, then the complaint will be formally investigated to determine the facts and the credibility of the allegation. This may involve the taking of written witness statements.
- Step 5** Any statements taken from witnesses will be shown to the person making the complaint and the alleged harasser/bully for their comments before any conclusion is reached in the investigation.
- Step 6** When the investigation has been completed both parties should be given the opportunity to comment on the findings before any action is decided upon by the employer.
- Step 7** Following the investigation a decision will be taken about the complaint. If the complaint is upheld and the bully/harasser is also a fellow employee they will attend a disciplinary meeting and action taken in line with the employer's disciplinary policy. If the complaint is upheld and the bully/harasser is a family member, it will be down to the employer and the family member for the best course of action that does not leave the employee (nanny) in any detriment.
- Step 8** Regular checks will be made by the employer investigating the complaint to ensure the bullying/harassment have stopped and that there is no victimisation.
- Step 9** Retaliation of any kind against an employee for complaining or taking part in an investigation concerning bullying or harassment at work is a serious disciplinary offence.

Interviewing the Complainant

You should find out the facts of the situation from the complainant's point of view.

You should ask questions such as: -

- What specifically happened?
- Who was involved?
- When did it occur?
- How did you react?
- Was this the first time or has it happened before?
- Have you kept a diary of incidents?
- Did anyone else see this or a previous incident?
- Is there any physical or other evidence or documentation of the incident?
- How has it affected your work?
- Have you talked about this incident to anyone else?

You should do this questioning in a supportive and encouraging manner. Do not ask questions such as:

- What were you wearing at the time?
- Did you do anything to lead him/her on?
- Surely he/she was only joking?
- I know the person you are talking about; I can't believe he/she would do something like that; are you sure there hasn't been a misunderstanding?
- Do you really want me to take this complaint further?

Interviewing the alleged harasser/bully

The alleged harasser or bully must be given a full, fair and reasonable opportunity to explain his or hers version of the events before seeing the alleged harasser.

You should ask questions such as: -

- X has described an incident to me and says that you were involved; can you tell me anything about it?
- X has told me that he/she asked you not to behave in this way; why so you think X asked you this?
- Are there any witnesses who saw what happened?
- How did X react when the incident took place?

The alleged explanations may be one of the following: -

- I did it, but I thought X wanted me to.
- I did it, but I didn't think it bothered X.
- I always behave like that with others.
- I did not do it.
- I don't see the problem or issue.

If an explanation is one of the first two you should try to find out what led them to believe this.

You should come to a conclusion about which version of events is most credible. You must resist any temptation to apply your own standards of behaviour about the seriousness of the behaviour complained about.

Remember – Whether particular behaviour is regarded as offensive by the person on the receiving end is a matter for their own judgement.

Interviewing Witnesses

Remind them that their information will be kept confidential. Although it may be necessary to release names if the confidentiality prevents the effective investigation of the allegations. Remind them to keep your conversation with them confidential.

You should ask:

- X has described an incident to me and says that you witnessed it; can you tell me anything about it?
- Are there any other witnesses who saw what happened?
- How did X react when the incident took place?
- Have you seen anything like this happen before? If so, when and between who?