

## **Assault at Work – Sexual Harassment / Assault**

Sexual harassment in the workplace is prohibited by the Employment Equality Acts 1998 (as amended). The legislation places responsibility on an employer to prevent the sexual harassment of its employees. Employers will be legally responsible for the sexual harassment of its employees by other employees, its customers/clients and/or its business contacts.

Examples of sexual harassment can include lewd comments, suggestive texts /emails, asking an employee about his / her sex life or unwanted gifts of a romantic or sexual nature. However, sexual harassment can also include unwanted kissing, the touching of breasts and/or genitals, slapping, uninvited massaging and other forms of sexual assault.

Compensation under the Employment Equality Acts 1998 (as amended) is for having suffered the sexual harassment and/or assault. It is not compensation for the effect of the sexual harassment and/or assault on a person's health. Sexual harassment and/or assault can be traumatic and can have a damaging effect on an employee's health. It can cause a lot of stress and anxiety which can lead to an employee becoming very ill. It can cause an employee to develop depression or post traumatic stress disorder. It can lead to an employee having to take time off work and this brings its own financial difficulties. This can be a difficult time for an employee and he/she may be under the care of a General Practitioner and/or a Psychiatrist. If an employee has suffered a recognisable psychiatric injury, it may be appropriate to submit a claim to the Personal Injuries Assessment Board (PIAB) to claim for compensation for the injuries, any out of pocket expenses and any loss of wages. These type of personal injuries cases would be based on individual tortious acts committed by employees/customers/business contacts during the course of employment which caused another employee to suffer injuries for which the employer is vicariously liable. These cases would also be based on negligence by the employer in failing to provide a safe place of work. However, such cases would not be the usual type of personal injuries case. Accordingly, it is very important that an employee would seek the appropriate legal advice before embarking on such a case.

There are strict time limits for these cases. A claim before the Workplace Relations Commission under the Employment Equality Acts 1998 (as amended) must be brought within 6 months of the most recent incident of sexual harassment / assault. Any negligence claim for personal injuries must

be brought within 2 years of the first incident of harassment / assault, if each incident of harassment / assault is to be included. A case for assault and battery can be brought within a period of 6 years from the date of the assault. A solicitor with experience in both employment law and personal injuries litigation can assist you with the appropriate legal avenues.

If you have been involved in an assault in the workplace and suffered injuries as a result, you should: -

- Speak to your GP and discuss the incident and the impact which it has had on both your physical and mental health. Follow all medical advice given to you, including attending for counselling sessions or any referral to the mental health services.
- Report the incident and details of your symptoms to your direct line manager. Ensure that you comply with any company procedures for reporting sexual harassment / assault in the workplace. Given the very sensitive nature of reporting such details, a solicitor can assist you with this process, if you require such support.
- Record the names of all witnesses. You, or your solicitor, can obtain a copy of any CCTV footage pursuant to data protection legislation.
- If your GP is certifying you as unfit for work, submit all medical certificates to the employer.
- Speak to a solicitor with experience in both employment law and personal injury litigation and obtain advice about pursuing the appropriate legal avenue.

When an employee has suffered injuries at work, either physical or psychological or both, it may result in having to take some time off work to recover. In the absence of a sick pay policy at work, this can have a big financial impact on a household. Loss of income is a financial loss and can be included in the personal injury claim. Provided certain requirements are met, employees may be able to receive their public holiday payments if the sick leave falls on a public holiday.

If you have suffered injuries as a result of an assault in the workplace and would like to enquire about bringing a case, contact our office and schedule an appointment to meet with Michelle Loughnane, Partner.

**\*Before acting or refraining from acting on anything in this guide, legal advice should be sought from a solicitor.**

**\*\*In contentious cases, a solicitor may not charge fees or expenses as a portion or percentage of any award of settlement.**