

Equality Act 2010 – Employer Liability for Harassment of Employees by Third Parties

Stonewall Response

Introduction

1. Stonewall is pleased to respond to the Government Equalities Office consultation on the Equality Act 2010 – employer liability for harassment of employees by third parties.
2. Stonewall was founded in 1989 to lobby for lesbian, gay and bisexual equality in Britain. Stonewall became a registered charity in 2003 and has worked extensively with all major parties to secure legal equality for lesbian, gay and bisexual people.
3. This response deals with a number of general issues raised in the consultation document that are relevant to Stonewall's work.

Overview

4. Stonewall was integral in securing important protections for lesbian, gay and bisexual people in the Equality Act 2010. We believe the third party harassment provisions within the Act are an important step forward for gay people in Britain and allow them to be confident that they are protected from harassment and valued by public services.

Employers

5. Stonewall works with more than 600 major organisations across the public and private sectors employing more than five million people between them. The vast majority of those partner organisations fully support the way that the new Act has simplified existing legislation.
6. Through our Diversity Champions programme we work closely with these employers to develop gay-friendly workplaces. None of the organisations we work with have expressed concerns regarding third party harassment protections or indicated that they feel they are unnecessarily bureaucratic or burdensome.
7. Stonewall has seen no evidence that the third party harassment protections contained in the Equality Act are being used duplicitously or over-zealously. Indeed, we believe the legislation has been implemented in a manner that protects both employees from harassment and employers from unreasonable litigation.
8. If evidence were to arise that employers were being unreasonably burdened by third party harassment allegations we would recommend the government produce updated advice – available in plain English – so employers and employees are both clearly aware of the protections contained within the Act.

9. Given that the provisions have only been in place since 2010, we feel there is insufficient evidence that third party harassment protections have been ineffective or overly burdensome.
10. Stonewall believes that the success of this legislation cannot be judged solely on the amount of cases brought forward under the provisions. The existence of these protections ensures that employers give due regard and take necessary and proportionate preventative steps to ensure lesbian, gay and bisexual staff are protected from homophobic harassment in the workplace.

Harassment

11. Stonewall's latest research, *Living Together 2012*, reveals that in the last five years 2.4 million people of working age have witnessed verbal homophobic bullying at work and 800,000 people of working age have witnessed physical homophobic bullying at work.
12. With such worrying levels of homophobic bullying in Britain's workplaces, many lesbian, gay and bisexual people would be legitimately concerned if there were any indications that legislation to protect them was being weakened. At present, the law gives a clear reassurance that they are protected from homophobic abuse.

Red Tape

13. Stonewall supports the government's desire to remove unnecessary and burdensome red tape. The Equality Act itself represents a significant rationalisation of 116 separate pieces of legislation into one single Act. By both simplifying the law and strengthening it in important ways to help tackle discrimination, it contributes to economic competitiveness.
14. The Third Party Harassment protections in the Equality Act provide a simplified means of redress rather than the piecemeal approach suggested under the proposals relating to duty of care, health and safety and the Protection of Harassment Act 1997.

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