

# Personal Injury

## Harassment at work personal injury claims



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The Protection from Harassment Act 1997 (PHA) allows an employee to bring a personal injury claim against their employer for harassment they have suffered at work. An employer is vicariously liable for the actions of the employee who is harassing another employee.

The PHA states that a person must not pursue a course of conduct, which they know, or ought to know, amounts to the harassment of another.

### How to make a claim

The PHA does not define harassment. The court decides in each individual case whether harassment has occurred. The Oxford Dictionary definition is “action causing alarm or distress”, which can include speech. One act of harassment is sufficient to bring a claim. It is not necessary to prove that the person perpetrating the harassment intended causing the harassment. A claimant need only prove that a reasonable person would believe the conduct amounted to harassment, an objective test.

The harassed employee should also consider pursuing an Employment claim under discrimination legislation, which is subject to a three month time limit to bring the action.

A claim under the PHA must be issued in court within six years of the harassment.

To succeed in a personal injury negligence claim, the claimant must prove that they have suffered a diagnostic psychiatric injury. Under the PHA, the claimant only has to prove that they have suffered anxiety or distress. The defendant is the employer, who would probably have more resources to meet any damages award as compared to the person causing the harassment.

The PHA has in principle made it easier for a victim of harassment to recover damages for the injury and any consequential financial loss. However, the claimant must prove that the harassment occurred, that the harassment caused injury and financial loss, on the balance of probabilities. The claimant must produce evidence to support their allegations, e.g. witnesses, letters, text messages or emails containing harassing words.

### Funding

Legal aid is unlikely to be available fund such an action.

Cases with merit can be funded by way of a Conditional Fee Agreement (“no win-no fee”) with the backing of legal expenses insurance. A claimant may also fund the case by way of existing insurance, e.g. household buildings or contents, car insurance, credit card insurance or they may fund the claim with the backing of their trade union.

### Contact us

If you would like to speak directly to a solicitor for specialist advice please contact us.

This note is for general guidance only. Please contact us for detailed advice.