

Swearing in the Workplace!

According to research carried out by the Aziz Corporation earlier in 2006, 36% of managers accepted swearing as part of the workplace culture.

Traditionally, swearing has been associated with male-dominated industries such as construction and warehousing as well as highly pressurised environments, however, there is a perception that it is becoming commonplace in other types of workplace.

Gordon Ramsay, who regularly appears on TV as a highly visible role model perpetuates the message that swearing in the workplace is ok. He defends this highly directive management style by professing it is needed to get the best out of his staff. As a highly successful businessman, a view can be taken that it works. However, individuals who have been on the receiving end of such a management style may take a different view.

Notably there is the high profile case, which reached the law courts in 2003 with *Horkulak v Cantor Fitzgerald* where Horkulak was awarded £1m damages after suffering verbal abuse from the Chief Executive.

Likewise being subject to bad language from colleagues can have an adverse affect on some individuals as demonstrated by the *Green v Deutsche Bank* case. Green suffered several mental breakdowns due the treatment she received from colleagues which included verbal assaults and was awarded £800,000 to compensate for the past and future damage to her career as a company secretary.

This case demonstrates the mental and physical trauma the use of bad language in the workplace can cause. Although an extreme case, employees should be empowered to have the ability to say stop and to have managers and colleagues listen to them.

A workplace culture that promotes the use of swearing can have a knock on effect to the business particularly if clients and customers are offended by such behaviour possibly causing lost business and reduced profits. A company's reputation may also be at stake giving out an impression of a lack of professionalism.

Swearing can be seen as an inability to articulate, which at any level should not be acceptable. The use of bad language is tantamount to bullying, harassment and verbal assault, which is covered by various pieces of legislation notably the Sex Discrimination Act and Human Rights Act. Swearing that is of a discriminatory nature is a definite no-no and can be subject to legal action being taken.

An additional piece of legislation is the Protection from Harassment Act 1997, which is primarily a criminal measure aimed at dealing with stalkers. However, it is very widely drafted and covers any "course of conduct" which alarms a person or causes them distress. This would include verbal harassment and

bullying. The Act both imposes a criminal penalty and allows the court to award damages for harassment. Cases can be brought up to six years after the event.

It was used in the case of *Majorowski v Guy's and St Thomas' NHS Trust* where in 2005 the Court of Appeal decided that in cases of workplace harassment, an employer can be liable for conduct by an employee in the course of their employment. This means that if a manager bullies subordinates, there is a risk of a claim for damages even where there are no grounds for a discrimination claim and no physical or mental injury has been sustained. Majorowski won his case of “vicarious harassment”

The boundaries and management of employee behaviour in this area should be defined by a bullying & harassment policy, a professional code of conduct and as a “belt and braces” approach the implementation of an additional aggression and violence at work policy. All of these should incorporate the use of bad language and verbal assaults in the workplace and the consequences for ignoring company policy with use of the disciplinary policy. Swearing and the use of bad language is part of conduct and ultimately can be a reason for fair dismissal. The implementation of a swear box with proceeds going to charity may also be considered.

Ideally companies should adopt zero-tolerance with a top down approach lead by senior management.

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