

## Harassment and the Contractor

### Introduction

Harassment of any form is unacceptable. And within an employment situation most of us are probably aware of what to do if we feel we've been harassed. Most workplaces have a procedure for dealing with harassment. The Guild's Policy Manual, for example, has a clear process for answering any claim of harassment.

However, almost all writers in this country work on contract where there are not necessarily policies and procedures in place to protect them. What does a contractor do if they find themselves subjected to harassment by the person they are working for?

### What Is Harassment?

Harassment is the improper assumption of power by one person over another, including the use of power to insult, dominate, manipulate or disadvantage. Harassment can affect our ability to work, lower our self esteem and cause health problems. And it takes many forms. Sexual harassment, unwelcome and non-reciprocated verbal and/or physical sexual conduct, has the highest profile but is no means the only type of harassment that commonly occurs in a working situation. Other forms of harassment include racial, intellectual, emotional, religious harassment or harassment on the grounds of sexual orientation, gender, disability or ethical belief. Some suspected harassment may actually be situations of misunderstood or unintentional behaviour. However, in other cases the harassment is very obviously intended.

### What Can You Do About Harassment?

So what should you do if you are being harassed while working as a contractor? For example, what if you working on a script for a producer and they make unwelcome sexual advances?

First, you should realise that even though you are a contractor, you are covered by the law. The Human Rights Act 1993 outlaws discrimination and harassment. The definition of 'employer' in the Act includes the employer of an independent contractor. Therefore, any writer under contract is protected from harassment and has recourse to the legal solutions available under the Act. Formal processes for dealing with problems include dispute resolution or hearings under the Act.

However, the Act acknowledges that disputes are usually more successfully resolved if they can be resolved by the parties themselves. If you choose to take action on a case of harassment here are a couple of suggestions for informally dealing with the situation:

- Speak to the harasser if you feel able to do so and tell them you don't like the behaviour. Ask the harasser to stop that behaviour or else you will follow up the matter formally. It is helpful to have a friend or family member present when you talk to the harasser to provide support.
- Write a letter to the harasser asking them to stop or else you will follow up the matter formally. A letter is a good way of helping you organise your thoughts and in cases where you have been harassed you may feel uncomfortable speaking directly to the harasser.
- If the harasser works for a company, speak to the appropriate person in their workplace and ask them to speak to the harasser.

## **Fear of Termination**

Many writers may feel powerless to act because the contracts they work under contain arbitrary termination provisions. These provisions are designed to enable a producer to remove a writer from a project if the writer simply isn't 'working out'. This is a creative decision and as disempowering as it is, it's a fact of a writer's life. However, in the case of a harassment complaint that same provision could be misused. A writer may fear that if they take action against a harasser they may find themselves unfairly shuffled off a project. Writers should be aware that such action is illegal under the Human Rights Act.

## **Conclusion**

If you believe you have been harassed while working under a contract and you are not comfortable dealing with the situation by yourself you should seek the Guild's help. We can assist you to work through the matter with your harasser and help protect your rights under the contract. We treat every situation in a confidential and appropriate manner, providing advice and support where necessary.