

# #MeToo considerations for employers

## Steps employers should take to minimize risks of discrimination in the workplace



Discrimination is an international issue - in Europe alone, 10% of employees have reported bullying in the workplace ([EUROPARL, 2018](#)) with an unknown number of unreported cases still ongoing. Clearly, this is something that must be correctly reviewed by all employers in a long-term, preventative way, rather than in reaction to a complaint.

[Meritas](#) employment specialists discussed their recommendations at a recent meeting of their [Employment, Benefits & Immigration \(EBI\) group](#). Applicable laws vary across each country, but the team agreed on some general considerations for all employers:

### Creating appropriate policies & guidelines

- Ensure all policies are up-to-date.
- Don't overlook the importance of process, make sure you ensure fair procedure for all.
- Create implementation guidelines that demonstrate your zero-tolerance attitude to certain behaviours throughout the company, from the top down.
- Include inappropriate behaviour in your health and safety policy, allowing for low level impartial investigation and mediation where possible.

### Training employees

- Clearly communicate all policies across your entire organisation.
- Train your staff on company regulations and complaints processes - you can now be fined for having inadequate training or inappropriate culture (companies such as Lloyds of London have recently removed their on-site bar as a way of actively changing their culture).

### Dealing with incidents

- Remember your duty of care to both the victim and the accused.
- Consider both your employees' safety and reputation management by checking exactly what is required in your local jurisdiction.
- If warnings are given, these should be documented.
- If an incident goes to court, your Human Resources team should make sure they have proof (e.g. did others witness the situation/has a similar incident happened before?).

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Evidence of why these considerations are important can be seen in recent examples from Dutch case law:

**Case one:** A supervisor made inappropriate requests to a younger temporary agency worker, asking her to go on vacation and spend Christmas with him, touching her repeatedly and greeting her with hugs and greetings including "hi sweetie".

- *In this case, instant dismissal was justified because the supervisor had been warned on several previous occasions.*

**Case two:** An employee harassed a colleague during a Christmas event with insulting and hurtful remarks, touching her repeatedly despite the colleague indicating she was uncomfortable.

- *Instant dismissal did not hold up in court because this appeared to be a one-off incident. Also, the accused employee had been in service for over 40 years so the sanction seemed too severe.*

Evidently, the #MeToo discussion must be taken seriously by all employers and protective measures need to be put in place. If you would like advice on a particular issue, or you need to update your policies, please get in touch with [your local Meritas lawyer](#).