

# Harassment in the Workplace. A Carrier's Perspective

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Every morning we wake up to headlines similar to the ones below, a daily ritual becoming as common as a cup of coffee or a piece of toast. While industries like Entertainment and Politics have captured the bulk of the attention, sexual harassment and inappropriate behavior can exist across any type of industry or any size of company. The media spotlight may seem new, but inappropriate behavior and sexual harassment has long been on the minds of insurance carriers in the space (who have always worked with their insureds to institute training, risk management and best practices around the matter to help foster a safe working environment for all). As an industry, we need to continue to better understand our exposure and educate our insureds.

## **"Sexual Harassment Earthquake Shakes American Politics"**

— NBC NEWS 11.27.17

## **"Men at Work Wonder if They Overstepped With Women, Too"**

— NEW YORK TIMES 11.10.17

### **Don't Panic**

While the world is focusing on the headlines, this is not the time to panic due to the heightened nature of the risk. If anything, we need to confront this issue head on in order to proactively understand our exposures as well as help educate both brokers and clients on the best practices available. When underwriting employment practices liability today, the traditional questions are no longer enough. As we ask our insureds to review their practices and to make sure their policies and procedures are up to date, we as an underwriting community need to do the same.

Assessing the industry, employee size and demographic along with geographic location remain characteristics still paramount to exposure, but in this environment, we need to conduct a deeper dive. Our first action should be to assure that the company has a handbook and controls in place for employment issues, inclusive of a zero tolerance policy for sexual harassment or retaliation. There should also be clear procedures for employees to follow in order to safely report these instances. While this may be standard procedure for larger organizations flush with resources, many smaller companies (the US Small Business Administration estimates there are nearly 4 million businesses with under 15 employees) may not have formal or written policies in place. If confirmed,

you can move into more in-depth analysis. If not, carriers should work with brokers to offer risk management services to help these companies become proactive.

### **Some sample questions are:**

- When was the last time the insured reviewed all policies and procedures related to employment practices?
- After internal review, was outside counsel utilized to make sure the current policies are contemporary and up to date?
- Have all manuals and bylaws been reviewed to make sure they are up to current standards?
- What is the process around employee complaints? Is there one? If not, is there a plan to put one in place and who is helping to develop that plan?
- What resources are available in the event something happens? Does the insured have a hotline to call?
- Has the insured been educated on any broker or carrier risk management services available via their employment practices coverage? If so, have these services been utilized?

### **Insurance Policies Offer More than Just Coverage**

Getting comfortable with the exposure is one piece of the puzzle. Creating a work environment that includes best practices around respect and inclusiveness is the best way to avoid or mitigate these risks. Policyholders and companies are proactively working to establish risk management strategies around harassment and other employment issues, but must also focus on their corporate DNA and culture.

Many Employment Practices Liability insurance policies can actively support clients in these risk management efforts. In addition to the balance sheet and financial protection insurance coverage provides, clients can also benefit from the expertise of professionals who handle these types of claims and consult on best practices every day. Many Employment Practices policies include risk management services as part of the policy, **at no additional cost**. Understanding these services and how to access and utilize them is more important than ever. They can be a great HR resource with services ranging from handbook builders, employer hotlines, harassment training and even confidential advice. Understanding what is available and utilizing it appropriately is an excellent supplement to any robust risk management program.

Being educated on how the policy works is also more important than ever. Too often claims are reported very late in relation to when the wrongful act had occurred and when that act triggered a claim. This could lead to a denial of coverage due to late reporting, or, could create additional costs that could have been mitigated by involving the insurer earlier in the process.

### Carrier Perspective and Advice

As the world continues to grapple with the shocking allegations and consistency of harassment in the workplace, carriers with an insurance portfolio in the employment practices space must be prudent in understanding their own exposure. Within the hysteria and hype there is also an opportunity to diligently assess the exposure, take corrective action and become a beacon of best practices for clients.

For starters, assess the key components of your portfolio. What is the average limit you have exposed? What is the average retention? Understand the geographic spread of your risk and if there is any aggregation to certain jurisdictions. Assess the portfolio by industry and note any areas where you may have concentrated exposure. Compare all of that to the historical loss ratios to determine what if any action is needed.

As we expect our insureds to consider their own procedures and to be mindful versus reactionary in their decisions, we must do the same. It is understandable to think that a portfolio could need some adjustment when it comes to rate, retention or coverage, but those decisions need to be made methodically and communicated openly.

And most importantly, it is time to be vocal with services available and contemporary with offerings for insureds that can help them build a culture to be proud of. Investing in expansive risk management services during this movement could ultimately be the key toward helping in a cultural shift and creating better work environments and thus, better risks across the board.

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### It's a New World

We are at the beginning of a cosmic shift in awareness and work culture. This upheaval will hopefully help to create a safer work environment for all. With that shift comes confusion for businesses trying to navigate their way through it. As an underwriting community, asking the right questions can help our clients better understand the exposure and serve to educate insureds and brokers on steps to take to reduce risk and protect their organizations in the future. Establishing clear risk management policies related to harassment and employment issues can no longer be considered optional, it must be compulsory. In addition to coverage protection in the event of a claim, insurance can also be a driver to help implement effective risk management strategies that encourage a more respectful and productive work place.

### Risk Management Tips Companies Should Adopt

Allied World offers comprehensive EPL coverage with value-added risk management resources offered through the workplace HELPLINE, powered by Enquiron®. Their [Four Strategies to Prevent Workplace Sexual Harassment](#) is a must read. Additionally, **Gwen Stokes**, VP, Risk Management, AWAC Services Company, member company of Allied World recommends the following strategies:

- Recognize inappropriate behavior and address it immediately.
- Encourage employees to "call out" inappropriate behavior.
- Adopt a "Zero Tolerance" policy and "hold the line" regardless of the perpetrator's rank or position in the organization.
- Listen to the accuser(s) and take their complaint(s) seriously.
- Reinforce your sexual harassment policy – Provide training during orientation and on an annual basis. In light of recent events in the news, a "refresher course" may be in order.
- Ensure that non-employees (consultants and vendors) understand and uphold the organization's Code of Conduct in the course of their interactions with employees, visitors, etc.
- Establish a mechanism to allow employees to anonymously report inappropriate or threatening behavior– for example, an anonymous hotline managed by an outside firm.

### QUESTIONS?

Contact your local Allied World Underwriter.