

Sexual harassment is a workplace issue

Guidance and model policy



#Us Too

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Foreword

Sexual harassment is illegal. All workers, regardless of length of service, are protected from sexual harassment in the workplace by the Equality Act 2010.

Yet, in spite of this, we know it is still rife.

“Staff should never have to face any kind of abuse, let alone sexually motivated insults and attacks. The workplace should be a harassment-free zone and employers who fail to act should be held to account.”

UNISON assistant general secretary, Christina McAnea

“The government must strengthen the law to put responsibility for preventing harassment on employers. This would shift the burden of tackling sexual harassment away from individuals. And it would help end toxic workplace cultures that silence those who’ve been harassed.”

TUC general secretary, Frances O’Grady

Sexual harassment is not just a joke or banter or flirting – if it causes offence then it’s sexual harassment, whether or not the perpetrator says they meant to cause offence.

Although anyone can experience sexual harassment, women are more likely to experience sexual harassment than men and perpetrators of sexual harassment are overwhelmingly men.

Prevention is key and the first priority in dealing with sexual harassment for trade unions is to eliminate it from the workplace.

A major conclusion from the ETUC (European Trade Union Confederation) report [‘Safe at home, safe at work’](#) is that “collective bargaining is one of the most important mechanisms for preventing and addressing violence against women at work, either as part of agreements that address violence against all workers, or in relation to specific issues, such as sexual harassment at work.”

That is why UNISON has developed this guide.

Union representatives and branch officers have an important role to play in tackling sexual harassment in the workplace. We should always take complaints seriously and make sure that members feel supported. Branches can also take steps to raise awareness, which can help members to recognise the problem when it does occur.

UNISON believes that it is crucial for employers to have locally agreed policies for dealing with issues of sexual harassment in the workplace.

This guide can be used by UNISON branches and stewards to negotiate policies that prevent, tackle and deal with incidences of sexual harassment and help promote an ethos of zero tolerance.

Sexual harassment is an urgent workplace issue

UNISON believes that everyone should be treated with dignity and respect at work. Sexual harassment of any type should not be tolerated in the workplace.

However TUC research [‘Still just a bit of banter? Sexual harassment in the workplace in 2016’](#) found that more than half of all women polled have experienced some form of sexual harassment, including jokes or comments of a sexual nature, unwanted touching (such as a hand on the knee or lower back), unwanted sexual advances, sexual touching or attempts to kiss them.

The UNISON, London School of Economics and Political Science (LSE) and University of Surrey 2018 report [‘Time to Stamp Out Sexual Harassment in the Police’](#) found in their survey that half (49%) the police staff questioned had heard sexualised jokes being told repeatedly at work. One in five (19%) had received a sexually explicit email or text from a colleague, a third (33%) have faced intrusive questioning about their private lives, more than a fifth (21%) have experienced inappropriate staring or leering and almost one in five (18%) have been touched in a way that made them feel uncomfortable.

But nearly two in five (39%) survey respondents said keeping quiet was easier than complaining, and more than a third (37%) said nothing would be done if they did complain.

A more recent UNISON study of members working in health in 2019, [‘It’s Never Ok: a report on sexual harassment against healthcare staff’](#), found that nearly one in ten (8%) respondents had been sexually harassed in the last year. Of these, nearly a third (31%) said the harassment was frequent/regular, and more than one in ten (12%) said it occurred daily/weekly.

The vast majority (81%) of those harassed identified as female.

The TUC [research](#) found that “in the vast majority of cases, the perpetrator was a male colleague, with nearly one in five reporting that their direct manager or someone else with direct authority over them was the perpetrator.”

Worryingly, the [CIPD \(Chartered Institute of Professional Development\) 2020 report ‘Managing conflict in the modern workplace’](#) found a quarter of employees (24%) think issues like bullying and harassment are just swept under the carpet in their organisation.

The TUC [research](#) found that “four out of five women did not report the sexual harassment to their employer.” In addition “very few women (only 1%) reported the incident to a union rep” although, of course, some of these women may not be union members or work in an organisation where a union is not present.

However the EHRC 2018 report [‘Turning the tables: ending sexual harassment at work’](#) noted that of the respondents to their survey who did report the harassment to their trade union rep, most said they found the response helpful.

“more than half of all women polled have experienced some form of sexual harassment”

“four out of five women did not report the sexual harassment to their employer.”



Experiencing sexual harassment at work can have a devastating impact on an individual, often leading to ill-health and work-related stress, affecting both their work performance and personal life.

Clearly sexual harassment is bad for the workforce and bad for the organisation, and needs to be challenged and eliminated.

How branches can benefit from negotiating a workplace anti-sexual harassment policy

- Making sure that trade union representatives are involved in the setting up and implementation of a workplace anti-sexual harassment policy can help ensure that the workplace environment is non-discriminatory, safe and respectful for all, and that a co-operative culture is established.
- Ensuring that a good anti-sexual harassment policy is in place will help towards eradicating any sex discriminatory practices and could contribute to equal pay gap action plans.
- Ensuring a good policy is in place will help to protect our Black, LGBT+, disabled and younger members in the workplace as too often the sexual harassment can be linked with other forms of discrimination.
- Ensuring a good policy is in place will help to protect those on less secure work contracts as too often the sexual harassment can be bound up with a workplace power imbalance experienced by those in casual or precarious forms of work.
- By agreeing proper implementation of the anti-sexual harassment policy, the number of cases concerning sex discrimination and sexual harassment requiring steward representation could be reduced, freeing up steward time.
- Establishing a good anti-sexual harassment policy in practice will highlight how UNISON values its members and recognises the need to tackle discrimination in all its forms. This could also result in an increase in your branch's activist base.
- Agreeing good and fair practice for a wide range of workers can be a useful recruitment and retention tool, advertising the benefits of joining UNISON for all. It can also highlight how UNISON reps have expert negotiation skills when dealing with employers.
- Organising around sexual harassment issues is a great way to increase involvement and participation of UNISON members in your branch.

What is sexual harassment?

Sexual harassment, as defined by the Equality Act 2010, is **when a person engages in unwanted behaviour of a sexual nature, whether verbal, non-verbal or physical, that creates an intimidating, hostile, degrading, humiliating or offensive working environment.**

Examples of sexual harassment include:

- unwelcome sexual advances, propositions and demands for sexual favours
- unwanted or derogatory comments or nicknames about clothing or appearance
- leering and suggestive gestures and remarks or jokes
- intrusive questioning or suggestions about your sex life or a colleague's sex life, and discussing their own sex life
- sexual posts or contact on social media
- spreading sexual rumours about a person
- sending sexually explicit emails or text messages
- comments of a sexual nature about your or a colleague's sexual orientation
- comments of a sexual nature about your or a colleague's gender identity
- displaying offensive material, such as pornographic pictures or calendars, including those in electronic forms such as computer screen savers or by circulating such material in emails or via social media
- 'upskirting' that typically involves someone taking a picture under another person's clothing without their knowledge
- predatory behaviour
- coercion
- physical contact such as the invasion of personal space and unnecessary touching, hugging or kissing through to sexual assault, indecent exposure, stalking and rape (although rape is defined as a separate criminal offence).

UNISON members' experiences taken from UNISON's 2019 report '[It's Never Ok: a report on sexual harassment against healthcare staff](#)':

- Hannah is a care worker from the South East. A male colleague she gets on well with would touch her arms and legs while they cared for patients. At first she thought it was accidental, as they sometimes have to be in close contact to assist patients. Then he started making comments about how attractive she was. She told him she wasn't interested but he carried on and one day kissed her. She reported him and he was reprimanded. Now the atmosphere is so cold when they work together she feels anxious and sometimes doesn't want to go to work. The situation is so bad she'd rather lose money by changing shifts than be around him.
- Sally is a hospital administrative worker from the South West. She's part of an all-male team and says she enjoys the banter with colleagues and



can more than hold her own. But a regular visitor to her office has, over a number of months, made several inappropriate comments about her appearance and how much he's attracted to her. She initially brushed off his comments but he recently asked her if she'd ever fancy a 'one night stand or a quickie'. Although shocked and upset, she's reluctant to report him because she doesn't want her colleagues to think she's weak.

As noted in the UNISON [report](#), being leered at or subjected to offensive 'banter' and suggestive gestures are regular occurrences for some of the nearly one in ten (8%) healthcare staff who reported being sexually harassed in the past year.

Some had also been the victim of criminal offences such as rape, up-skirting, indecent exposure or inappropriate touching.

- "One of my team upskirted a colleague then sent the video recording to another member in the team by 'accident'."
- "A colleague touched my groin during handovers to 'show' where a patient had pain. The same person also touched around my side to 'search' for keys that I had in my pocket."
- "While I was on placement a patient attempted to take my tunic off, but none of the staff on the ward did anything."

The law

Discrimination law and sexual harassment

Under the Equality Act 2010, sexual harassment is recognised as a free standing form of discrimination. Unlike direct discrimination, sexual harassment claims do not require any comparator – in other words, it is not necessary for the worker to show that another person was, or would have been, treated more favourably. Employees are able to complain about behaviour that they find offensive even if is not directed at them.

Employers will be liable for sexual harassment committed by their workers in the course of their employment unless they can show that they took all reasonable steps to prevent the harassment. 'In the course of employment' includes acts committed in any other place where the worker is working such as offsite, at a training course, conference or external meeting, as well as other circumstances in which the worker is not actually working but are connected with work (such as at a leaving party).

The [Equality and Human Rights Commission](#) advise that "the fact that an employer has taken steps such as an investigation and disciplinary action to deal with the harassment after it has occurred, will not be sufficient on its own to avoid liability."

An individual can bring a claim in the employment tribunal where sexual harassment occurs at work. All discrimination claims do not require any length of service and employees are protected from day one of their employment. Proceedings are started by the employee sending a claim form called the ET1 to the tribunal. The employer must then file a response form called an ET3 within 28 days of receiving a copy of the claim. If the claim is heard by a tribunal, and facts are to be considered in the case, the burden of proof will fall on the

employer to provide an explanation that the harassment did not take place.

Normally, the employee would be expected to discuss the matter informally or raise a formal grievance (using their organisation's grievance or complaints procedure) with their employer to try to resolve the issue, before making a claim to a tribunal.

Time limits to lodge claims in the employment tribunal

In discrimination cases, claims must be lodged within three months (minus one day) of the act or acts of discrimination (such as the incidents of sexual harassment) about which you are complaining. Where there has been continuing discrimination or a series of acts, the date from which the time limit starts to run will differ. It can be difficult to determine if your case involves a series of linked acts or separate distinct acts, but this can affect the time limits so advice should be sought.

In the employment tribunal case of **Craddock v Fontoura t/a Countyclean** in 2010, the manager repeatedly suggested to a male worker that he should form a relationship with a new female colleague, including promising to send them on a course together so that "they could get to know each other better." Mr Craddock became increasingly embarrassed and uncomfortable in the female worker's presence due to these unrelenting remarks of the boss, which continued despite Mr Craddock's protest. The tribunal found that the manager's attempt to 'play cupid' still amounted to sexual harassment because Mr Craddock had not unreasonably perceived the conduct to have the effect of humiliating or intimidating him.

The excuse given too often by perpetrators is that it is only 'banter' or meant as a joke or as a compliment. But this is no defence in a sexual harassment case, nor is it ever appropriate to dismiss such unwelcome behaviour as trivial.

In the 2000 employment appeal tribunal case of **Driskel v Peninsula Business Services**, the female manager's complaint of sexual harassment was upheld, even though the head of department considered his comments to be acceptable 'banter'. These comments included saying that she should wear a short skirt and see-through blouse in order to be successful during a promotion interview.

Less favourable treatment for rejecting or submitting to unwanted conduct

Under the Equality Act, a worker is also protected if they are treated less favourably by their employer because she or he submitted to, or rejected unwanted conduct of a sexual nature and the unwanted conduct has the purpose or the effect of:

- violating the worker's dignity or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for that worker.

Examples of such less favourable treatment include:

- intentionally blocking promotion or training opportunities because unwelcome sexual advances are turned down (whether by the harasser or someone else)
- derogatory comments or unwarranted criticisms as a result of refusing to go out with another member of staff who is a friend of the harasser.



Victimisation

If an employee makes a complaint or raises a grievance related to sexual harassment, or supports such a complaint or grievance by giving evidence or information, or is believed to be supporting the complaint or grievance, they are also protected from victimisation, under the Equality Act.

The employee should not be subjected to a detriment, such as being denied a promotion or other benefits because of their involvement.

Examples of victimisation include:

- being denied a promotion or other benefits because of their involvement in such a complaint
- bullying, being picked on or belittled
- ostracised or excluded, having tasks removed
- given a poor reference.

Protection from Harassment Act

Under the Protection from Harassment Act, victims of harassment can seek a civil injunction against behaviour which has caused or may cause distress and claim damages. Historically the Act was used against stalkers.

Time limits

The Protection from Harassment Act also allows a six-year period for bringing claims, which contrasts with the three-month period for the majority of employment tribunal claims.

Harassment of an employee by a third party

Originally under the Equality Act 2010 employers were also to be liable for harassment of their employees or job applicants by third parties (such as a customer or client) who are not directly under their control. However this provision was repealed in October 2013.

Although there is no legal liability under the Equality Act, action to protect employees and deter potential sexual harassment by third parties is still to be expected of employers and should be considered in any workplace policy, not least to cover any health and safety responsibilities. Employees can still bring claims under existing legislation, largely based on the employer's inaction, so employers will still need to take reasonable steps to prevent sexual harassment carried out by a third party.

The Istanbul Convention

The Istanbul Convention (Convention on preventing and combating violence against women and domestic violence) defines sexual harassment as a **form of gender-based violence or violence against women, and a violation of human rights**.

Although this Convention was signed by the UK government, it has yet to be ratified which would mean that the government would have to put in place the necessary legislative and policy changes to ensure its adequate implementation. The Convention is a document of the Council of Europe – an institution outside of the European Union so should not be affected by Brexit.

The International Labour Organisation Convention

In June 2019 at the International Labour Conference, the conference for members of the United Nations agency, the International Labour Organisation

(ILO) of which the United Kingdom is a member, [adopted a new Convention and accompanying Recommendation](#) to combat violence and harassment in the world of work.

This Convention defines violence and harassment in the world of work as “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment; the term **“gender-based violence and harassment” means violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment.**”

Although as a member of the ILO, the United Kingdom agreed to the Convention, our government is yet to ratify it, which would mean applying the Convention in national law and practice and reporting its application at regular intervals.

Why is sexual harassment so widespread?

The October 2019 report for UNISON by the Labour Research Department (LRD) on ‘Reducing the likelihood of sexual harassment at work’ found that there are certain factors, often inter-linked, that are likely to increase the chances of sexual harassment taking place:

“Employment settings

- male-dominated environments/women in male stereotype jobs
- industries where sexual harassment is widely seen as ‘part of the job’
- lone working
- precarious contracts

Organisational culture

- organisational ‘tolerance’ of sexism/sexual harassment
- large power differentials
- weak oversight of middle management
- lack of encouragement to report incidents.”

Clearly, the workplace environment, its culture, traditions and ethos will have a huge impact on the occurrence of sexual harassment, and any policies and practices that help improve equality and diversity in the workplace will help to prevent such behaviour.



One UNISON member's experience

Bawdy 'banter' was the norm within a male-dominated local government department and at first, to be part of the crowd, the UNISON member had gone along with the behaviour.

However the situation gradually became far more disturbing. Her male line manager would continually make lewd innuendos and vulgar jokes about her, and also started to touch her inappropriately. When this manager then asked for a sexual relationship with her and she had adamantly refused, his attitude towards her changed and became even more crudely sexual.

The member reported it to HR but was told that it was usual in such cases for the woman to leave the employment.

Although the line manager did apologise by email, saying that he would not do it again, he did not keep to his word and eventually the member went off sick with stress and anxiety.

On return to work and with the support of her union rep, she finally raised a grievance not only about her line manager's sexual harassment but about the discriminatory treatment from a more senior manager. This male manager had told her she should be at home with her children, that she had not earned any respect, and that it was her who was at fault, not her line manager. Unfortunately by the time the grievance was raised it was too late to take the matter further through a tribunal claim.

The grievance process was appallingly handled by the employer. A male colleague of the two managers undertook the investigation and he was clearly biased in favour of the men, focusing on investigating the woman's request for a phased return to work instead of the harassment and discrimination.

Eventually, after a number of months, the grievance was upheld based on evidence provided at the very start of the investigation.

The line manager had meanwhile benefited from a generous redundancy payout and escaped any disciplinary procedure. The woman remains off sick, though she is keen to return to work as soon as she feels safe.

As a UNISON rep has said: "It seems like we've got to change the culture where it's actually seen as normal for the woman to leave when these things happen."

The UNISON reps have now requested a meeting with the employer so that lessons can be learnt from the errors made in this case. They have also asked for the implementation of training for managers and the introduction of a robust sexual harassment policy.

An offensive work environment

Workplace sexual harassment can occur in a number of ways. Some are obvious and easy to identify. Others are subtle and more difficult to recognise. A harasser can be anyone an employee has contact with because of their work.

That person might be a:

- Colleague/supervisor/manager/board member or trustee/member of the trade union
- Client/customer/service user
- Patient
- A contractor or someone making deliveries.

In addition, it is not unusual for large employers to have on its staff a number of members from the same family, or partners who work together. For this reason, sexual harassment in relation to domestic abuse and violence should also be considered.

Sexual harassment is often found to be linked with power, either through the abuse of power by the perpetrator who feels more powerful than the target, or when the perpetrator feels powerless and uses the sexual harassment as a means of disempowering the target.

Sexual harassment need not be specifically targeted at the worker. It can be experienced when there is an offensive environment created at work, such as when there are pornographic images on display, or when sexual comments are overheard about others. For example a man may feel harassed by having to listen to colleagues making sexist 'jokes'.

In the 2004 employment appeal tribunal case of **Moonsar v Fiveways Express Transport Ltd**, the employment appeal tribunal held that male employees viewing pornographic images on the internet in the office where a female employee was present nearby could constitute sexual harassment, even though the images were not sent directly to her.

Sexual harassment can be a problem in any workplace and can affect any worker, regardless of the organisation's size or activity. It can happen anywhere in the workplace such as the canteen, toilets, staff room, or in the office. It can take place online, on social media, or by telephone or text as well as face-to-face.

Sexual harassment can also occur away from the workplace for example at a client's home or meeting place, at conferences, seminars, on training courses, staff parties, or away from work but resulting from work such as through a telephone call to your home from a client.



A discriminatory work environment

A gender-based issue

Although anyone can experience sexual harassment, women are more likely to experience sexual harassment than men, and perpetrators of sexual harassment are overwhelmingly men.

UNISON's 2019 report, [‘It's Never Ok: a report on sexual harassment against healthcare staff’](#) revealed that the vast majority of those targeted were women (81%) and incidents mainly involved perpetrators who were older (61%) than their target, and often employed in more powerful roles (37%).

The LRD 2019 report for UNISON on ‘Reducing the likelihood of sexual harassment at work’ considered a huge bank of literature on the topic of sexual harassment, including UNISON surveys.

They found a broad consensus in the research literature including that:

- “Although both men and women can be sexually harassed, women are more likely to be harassed than men and to experience it more often. Younger women are seen to be at particular risk, especially through text messages and social media.
- Men are most likely to be the perpetrators, even when men are also the targets of sexual harassment.

The evidence showed that “sexual harassment is unlikely to take place in the absence of gender harassment... One of the most accepted factors affecting the likelihood of sexual harassment at work, according to the research, is the gender profile of a workplace or the industry.”

The [Equality and Human Rights Commission](#) also confirms that “harassment in the workplace largely reflects power imbalances based on gender and is part of a spectrum of disrespect and inequality that women face in the workplace and everyday life.”

Impact on Black, LGBT+, younger, or disabled workers and those with insecure work arrangements

For Black women, the experience of sexual harassment is often bound up with racial harassment, as reported by the TUC in [‘Still just a bit of banter? Sexual harassment in the workplace in 2016’](#).

There is also evidence that women working in insecure work arrangements such as zero-hours contracts or low paid self-employment, experience high levels of sexual harassment. Additionally, they may feel less able to report problems, fearing retaliation and the loss of work. As Black workers are far more likely to be trapped in temporary and insecure work according to [TUC analysis](#) published in April 2019, potentially Black women in particular may experience more sexual harassment.

The 2019 LRD report for UNISON on ‘Reducing the likelihood of sexual harassment at work’ found that there is evidence to suggest that Black women “experience higher levels of overall harassment than others, though they may experience it differently,” and that LGBT+ people “both male and female – experience higher levels of sexual harassment than others.”

“young women are particularly wary of reporting sexual harassment, one in four due to fear of losing their job”

The TUC [2016 report](#) also concluded that younger workers are in general more likely to experience all forms of violence and harassment in the workplace, and that this includes experiencing sexual harassment. They are also more likely to be in casual or precarious forms of work.

A survey commissioned by the Young Women's Trust found that young women are particularly wary of reporting sexual harassment, one in four due to fear of losing their job and one in five for fear of being given fewer hours.

The TUC report '[Sexual harassment of LGBT people in the workplace](#)' published in May 2019 found that seven out ten LGBT workers experienced at least one type of sexual harassment at work, and almost one in eight LGBT women reported being seriously sexually assaulted or raped at work. But the problem is generally hidden with two thirds of those who were harassed not reporting it; and one in four of those who did not report the harassment being silenced by fear of 'outing' themselves at work.

BME LGBT women (as described in the report) were more likely than white LGBT women to experience serious sexual assault or rape at work. Additionally disabled LGBT people reported significantly higher levels of sexual harassment than non-disabled LGBT people.

There is clearly an issue of intersecting protected characteristics in relation to sexual harassment and these additional concerns for Black, LGBT+, disabled and younger workers must be addressed. Union reps and branches need to ensure preventative measures to deter sexual harassment in the workplace do not neglect the potential issues where the harassment may be bound up in other forms of discrimination, as well as any power imbalance.

Again these issues are too often linked with a power imbalance in the workplace. [The Equality and Human Rights Commission](#) gives the examples of when there is "a power imbalance between a senior manager and someone junior to them, where a worker with a particular protected characteristic is in a minority in the workplace or where a worker is in insecure employment. Employers should consider what action they can take to reduce power imbalances" such as taking positive action to improve diversity and inclusion.

The ETUC report '[Safe at home, safe at work](#)' identifies that "violence and harassment at work particularly affect workers in vulnerable work situations. If a worker has limited protection, he/she will not only be more at risk of violence and harassment, but will be less likely to report it for fear of losing his/her job or being subjected to retaliation in the workplace...."

The growth of non-standard work – including informal work, zero-hour contracts, agency work and casualisation – is particularly affecting women and younger workers. Unions argue that there is a strong connection between good working conditions, decent work and the dignity of workers."

This highlights yet another reason for unions to persuade employers to commit to avoiding the use of casual or zero-hours contracts or agency staff wherever possible within the organisation, and to ensure more workers are on permanent employment contracts, to help avoid a two-tier workforce.

*"seven out ten
LGBT workers
experienced
at least one
type of sexual
harassment at
work"*



An unsafe work environment

Employers have a responsibility under the Health and Safety at Work etc. Act 1974 to ensure, so far as it is reasonably practicable, the health, safety and welfare of their workers when at work, which includes protection from sexual harassment at work.

The Management of Health and Safety Regulations also require employers to assess the nature and scale of workplace risks to health and safety, ensure there are proper control measures in place to avoid these risks wherever possible and reduce them so far as is reasonably practicable where not.

Because women are more likely to be the target of sexual harassment, the ETUC report '[Safe at home, safe at work](#)' recommends "safety and health and wellbeing at work initiatives [that] include a strong gender-based focus on the causes of and solutions to harassment and violence against women at work, and that they take into account gender inequalities and discrimination."

At the very least it means that workplace sexual harassment should be dealt in the same way as any other hazard at work. This includes undertaking risk assessments to prevent harm occurring in the first place and not just focusing on the problem once it has happened.

The law requires employers to assess the risk of work-related ill health arising from work activities. They must also ensure that these risks are removed or proper control measures are in place to avoid them where possible – and reduce them so far as is reasonably practicable.

The [Equality and Human Rights Commission](#) suggest that factors for risk assessments "may include for example:

- Power imbalances
- Job insecurity
- Lone working
- The presence of alcohol
- Customer-facing duties
- Particular events that raise tensions locally or nationally
- Lack of diversity in the workforce, and
- Workers being placed on secondment."

When considering risk prevention, it is important that employers recognise the gender differences that relate to work, including the particular risks of sexual harassment and discrimination, involvement in decision-making in the workplace and women's work/life balance issues.

Evidence shows that women are generally at higher risk of exposure to psychosocial hazards including bullying, discrimination, and sexual harassment, which all contribute to work-related stress. As already mentioned, some face additional risks if they are, for example, Black, disabled, younger, older, lesbian, gay, bisexual or trans, as well as being women.

Women often work in jobs that are isolated or have minimal team interaction, poorly paid and of low status. Evidence shows that these sorts of roles are more stressful than work that does not have these characteristics. In addition, women

are more likely to be at risk of violence because a higher percentage of them work in jobs where they provide face-to-face services to members of the public, clients, or service users.

Lone workers are inevitably more vulnerable to harassment of all forms and women who work as home care assistants for example, may be left isolated and unprotected against abusers.

Therefore employers should undertake risk assessments that focus on the safety of women working in male-dominated sectors or workplaces, on workers who are expected to work alone such as home care workers, on casual, temporary or zero-hours contract workers and agency workers, and on the safety of young, Black, disabled and LGBT+ workers.

The UNISON guidance [‘Are you at risk?’](https://www.unison.org.uk/unison-health-and-safety) includes details of the five step approach for employers to use in risk assessments for potential hazards in the workplace (available to download from www.unison.org.uk/unison-health-and-safety).

The impact of sexual harassment

The impact of sexual harassment can be devastating, leaving the recipient feeling afraid, ashamed, humiliated, and undermined. It can result in serious mental health problems such as depression, anxiety or low self-esteem. It can have a serious impact too on physical health problems such as digestive problems or sleep difficulties. Inevitably the recipient’s performance at work will be affected.

In addition, witnessing the harassment of a colleague can also be very upsetting and can impact on the health and work performance of the individual.

TUC research ([‘Still just a bit of banter? Sexual harassment in the workplace in 2016’](#)) found that whilst two fifths of women recipients of sexual harassment reported that they felt embarrassed, one in ten also reported a negative impact on their mental health, with many less confident at work, or avoiding certain work situations altogether.

Below are some of the experiences of survey respondents from UNISON’s report [‘It’s Never Ok: a report on sexual harassment against healthcare staff’](#):

- “I left the organisation. The nurse who made me feel uncomfortable made things awkward and I hated working on the same days as her.”
- “As a result of my experience, I am now more wary about treating patients that are intoxicated or under the influence.”
- “It was an incident that spooked me. I now purposely wear a larger uniform and feel myself tense up if we’re called to the area where the patient lives.”

Many respondents said it had a damaging effect on their lives. Some respondents even said they had felt suicidal, had resorted to self-harm or had been diagnosed with post traumatic stress disorder (PTSD) as a result.



More than half (55%) ended up isolating themselves or avoiding colleagues/situations at work and more than a third (35%) said the harassment affected their mental health or confidence (34%). Others (40%) have ended up wanting to leave their job.

In addition to the effects on individual workers, harassment can also have a major effect on an organisation, affecting both the performance and the morale of the whole workforce.

But it remains difficult to gain a true picture of the extent of sexual harassment because levels of under reporting are so high with a large number of workers preferring not to pursue a formal complaint.

Changing workplace policies and practices

The workplace culture

The first priority in dealing with sexual harassment is to eliminate it from the workplace. Dealing solely with the consequences of sexual harassment is not a solution to the problem because it wrongly focuses attention on individuals, rather than concentrating on the workplace culture that has allowed the behaviour to occur in the first place.

The onus should not be on the target of harassment to report it to their employer after it has happened, rather the employer should take proactive action to prevent sexual harassment in the workplace.

The TUC research ([‘Still just a bit of banter? Sexual harassment in the workplace in 2016’](#)) noted that “many of those responding to the TUC online survey identified workplace cultures that allowed sexual harassment to go unchecked and management failures to respond to complaints effectively or sympathetically. In order to tackle workplace sexual harassment, employers must ensure they adopt a top-down approach, working with all employees and managers and, where there is a recognised union, working in partnership with unions.”

All the research has shown that male-dominated work environments are linked with higher levels of sexual harassment. So an important part of tackling the unhealthy work culture is to shift the balance on what jobs and roles women are expected or allowed or encouraged to do and whether particular types of work are female or male-stereotyped.

Similarly the employer needs to consider whether women are generally not found in supervisory or management roles at their organisation, and whether sexual harassment is even seen to be just an accepted ‘part of the job’.

Extensive evidence studied for the LRD 2019 report for UNISON on ‘Reducing the likelihood of sexual harassment at work’ shows that if sexualised behaviour and sexual objectification of women is perceived to be tolerated in the workplace, there is more likely to be an occurrence of sexual harassment.

It also found evidence that the potential for sexual harassment can be reduced by actions including:

- “widespread training of staff at all levels – but with care over type of training
- employer-run awareness-raising campaigns
- establishment of clear and well publicised anti-harassment policies, with core elements covered.”

The research identifies a clear need for workplace leaders to model respectful behaviour and be seen to make efforts to stop sexual harassment, including keeping a close check on middle managers to ensure they follow the message that sexual harassment in any form will not be tolerated.

The importance of education

Key to fostering an aware and respectful workplace environment is training, not only for managers but all staff. Along with the TUC, UNISON calls for this training to be mandatory in workplaces. It is important that it is seen as an essential part of the ethos of the organisation that all are expected to participate in and to comply with.

The LRD 2019 report for UNISON on ‘Reducing the likelihood of sexual harassment at work’ found that the training “needs to be: targeted to people’s roles; tailored to the particular organisation; and occur in a ‘holistic culture of non-harassment that starts at the top’.”

In addition the report recommends ‘bystander training’ that is aimed at enabling people to recognise sexual harassment, to intervene in an effective manner if they witness it and it is safe to intervene, and to show empathy to targets of assault.

Workplace campaigns promoting respectful work behaviour and co-operation as well as raising awareness of what sexual harassment is, can also be of great value in helping to tackle the problem.

Zero tolerance in action

UNISON along with the TUC and the ILO advocate zero tolerance of sexual harassment. But this stance obviously has to be more meaningful than just a mere statement. Any policy should have a clear message that is actively promoted by the employer at all levels.

“If organisations have policies and complaint systems” concludes the ‘Workplace Harassment and Bullying in 2009: Report to UNISON’ completed by the Centre for Organisation Research and Development (CORD), “then the staff also need confidence that they will be used.”

Encouraging the reporting of incidents

A big problem in getting employers to recognise the scale of the problem of sexual harassment in the workplace, is that so many workers do not report the harassment they have experienced. This has been found to be down to a fear that they will be victimised, that the perpetrator will be protected, that the issue will not be taken seriously and because there is no clear reporting procedure.

TUC research ([‘Still just a bit of banter? Sexual harassment in the workplace in 2016’](#)) found that “of the minority of women who did report the unwanted sexual behaviour to their employer, very few saw a positive outcome. Nearly three quarters reported that there was no change and 16% reported that they were treated worse as a result.



Many of those providing anonymous testimony to the TUC cited the fear of losing their job or being victimised as a reason for not pursuing a complaint.”

UNISON's 2019 report [‘It's Never Ok: a report on sexual harassment against healthcare staff’](#) revealed that staff responded in various ways to the harassment with nearly half (46%) telling a colleague, nearly three in ten (28%) keeping quiet, a quarter (26%) telling a friend/family member outside work, and just over a fifth (23%) speaking directly to the perpetrator.

However, when it came to formal reporting, more than seven in ten (71%) shared their reasons for not doing so which included:

- They felt nothing would be done (49%)
- They'd be dismissed as oversensitive (37%)
- They feared the perpetrator(s) would retaliate (24%)
- They were scared it could harm their career (22%).

The [TUC research](#) recommends that “employers should ensure that everyone working within their organisations can use grievance procedures to raise concerns about discrimination and harassment at work, including those on zero hours or casual contracts, agency workers and contractors who may be employed by another organisation.”

Encouraging all staff to report sexual harassment as the right thing to do is important, not just leaving it to those who are the target of the harassment but those who witness it as well.

However a September 2018 [Acas commissioned YouGov poll](#) found that only 36% of workers said that they would be “very likely” to report incidents of sexual harassment if they witnessed them in their workplace, rising only to 38% if they personally experienced them. 18% of workers said they would be unlikely to report an incident if they experienced one.

The [Equality and Human Rights Commission](#) recommend that employers consider introducing an online or externally run telephone reporting system which allows anonymous reports to be made. They point out that it:

- “will ensure that those complaints that would otherwise go unreported are captured
- provides the employer with an opportunity to give complainants information about the support and safeguards that can be put into place if they were to report the matter on a non-anonymous basis
- enables the employer to take action to address the matter, even in cases where there may not be sufficient evidence to start an investigation due to the anonymity of the complainant. For example, by issuing a reminder of the policy to workers and monitoring the area of the business affected.”

However it is always preferable for workers to raise issues without anonymising their details so that specific action can be taken by the employer. A workplace environment where reporting is encouraged and known to be acted upon will benefit all and help deter sexual harassment.

Confidentiality agreements

Essential to any reporting process is the certainty of confidentiality so that employees feel safe to raise the issue.

Conversely, too often it has been the employer who has benefited from confidentiality. The imbalance of power between employers and workers has led to the unlawful and disreputable use of non-disclosure agreements (NDAs), confidentiality or 'gagging' clauses in cases of sexual harassment. Too often NDAs have been used to silence those who report incidences of sexual harassment and protect perpetrators and organisations.

Guidance from the [Equality and Human Rights Commission](#) on the use of confidentiality agreements in discrimination cases is clear:

"Employers do not have free reign over how to word confidentiality agreements. A confidentiality agreement in a worker's contract that seeks to stop a worker pursuing a claim based on an act of discrimination that happens in the future (that is, after the contract is signed) would not be enforceable. The Equality Act provides that workers cannot sign away their legal rights under the Equality Act in this way."

Whilst the previous Tory government under Theresa May announced a number of proposals in relation to confidentiality agreements, this has yet to be carried out.

"Our members are often required to sign confidentiality clauses – NHS staff are required to preserve the confidentiality of any information regarding patients.

However if a nurse is sexually harassed by a patient, her legal rights under the Equality Act mean she can speak out about the abuse without worrying about disciplinary action for a breach of confidentiality."

UNISON women's officer, Josie Irwin



What to do if you are being sexually harassed

- Speak to a trusted friend or family member.
- Speak to your UNISON rep.
- Keep a record of what has happened to you (including time, date, location and any witnesses or evidence such as copies of letters, text messages, emails, etc., as well as details of any medical help sought).
- If you feel sufficiently safe, tell the harasser to stop. You could ask them in writing. Your UNISON rep should be able to support you. Keep a record of any steps you have taken to stop the sexual harassment and of any response from the harasser.
- Speak to your line manager, or if they are the harasser, to a more senior manager or to the HR department.
- If the problem is not resolved, make a formal complaint using your workplace grievance procedure or the reporting procedure within your workplace anti-harassment policy (if there is one). Your UNISON rep should be able to support you.
- If the issue is still not resolved, you may be able to take it to an employment tribunal. Your UNISON rep should be able to support you.

You can also contact **There for You** on 020 7121 5620 or email thereforyou@unison.co.uk or speak to your branch welfare officer.

If you are concerned for your own or someone else's immediate safety, ring the police on 999.

Call 101 to contact the police if the crime is not an emergency.

Information and sources of support for members

‘Your rights at work’ booklet from the TUC, focusing on women workers

www.tuc.org.uk/resource/protection-sexual-harassment-women

‘Your rights at work’ booklet from the TUC, focusing on LGBT+ workers

www.tuc.org.uk/resource/protection-sexual-harassment-lgbt-workers

Rights of Women – Sexual harassment at work advice line

Free employment legal advice to women in England and Wales experiencing sexual harassment at work.

Call 020 7490 0152, Mondays 6pm to 8pm, Tuesdays 5pm to 7pm, Wednesdays 5pm to 6:30pm. Please note the advice line is not open on bank holidays.

<https://rightsofwomen.org.uk>

Scottish Women’s Rights Centre – Sexual harassment legal service

For legal information about a case of sexual harassment.

Helpline 08088 010 789, Thursday, 5pm to 8pm.

www.scottishwomensrightscentre.org.uk/sexual-harassment/

National Stalking Helpline

This helpline run by the Suzy Lampugh Trust provides guidance and information to anybody who is currently or has previously been affected by harassment or stalking.

Freephone helpline: 0808 802 0300.

www.stalkinghelpline.org

Paladin – National Stalking Advocacy Service

Paladin was established to assist high risk victims of stalking throughout England and Wales. Helpline 0203 866 4107, 9am to 3pm weekdays except for Wednesdays when it is open 10am to 5pm

<https://paladinservice.co.uk>

Scared of Someone

Information website run by the UK charity, Network for Surviving Stalking.

www.scaredofsomeone.org

Rape Crisis England & Wales

Rape Crisis exists to promote the needs and rights of women and girls who have experienced sexual violence, to improve services to them and to work towards the elimination of sexual violence.

Freephone helpline 0808 802 9999, 12noon to 2.30pm and 7pm to 9.30pm every day.

<https://rapecrisis.org.uk>

Rape Crisis Scotland

Freephone helpline 08088 01 03 02, 6pm to midnight

www.rapecrisisscotland.org.uk

The Rowan (sexual assault referral centre for Northern Ireland)

24 hour freephone 0800 389 4424

<http://therowan.net>

**Rape Crisis Network Ireland**

24 hour helpline 1800 778888

www.rapecrisishelp.ie

Victim Support England and Wales

Free and confidential support to help you move beyond the impact of crime.

24 hour helpline 0333 251 2236

www.victimsupport.org.uk

Victim Support Scotland

Helpline 0800 160 1985, Monday to Friday 8am to 8pm

<https://victimsupport.scot/>

Victim Support Northern Ireland

Foyle hub 02871 370086

Belfast hub 02890 243133

Open Monday to Friday, 9am to 5pm

www.victimsupportni.com

Samaritans

24 hour helpline 116 123

Email jo@samaritans.org

www.samaritans.org

The Mix

Free confidential support including on issues of abuse and violence, for young people aged under 25.

Helpline 0808 808 4994

www.themix.org.uk

National Domestic Violence helpline

24 hour freephone helpline 0808 2000 247

www.nationaldahelpline.org.uk

National LGBT+ Domestic Abuse Helpline

Freephone helpline 0800 999 5428, 10am to 5pm Monday, Tuesday and Friday, 10am to 8pm Wednesday and Thursday, 1pm to 5pm Tuesday is trans specific service.

Also 020 7704 2040 to speak to someone from the Sexual Violence Support Service.

Email help@galop.org.uk

www.galop.org.uk

Men's Advice Line

For men experiencing domestic abuse.

Freephone helpline 0808 801 0327, Monday and Wednesday 9am-8pm

Tuesday, Thursday and Friday 9am-5pm

Email info@mensadviceline.org.uk

www.mensadviceline.org.uk

What can union reps and branches do?

UNISON recognises the serious nature of sexual harassment at work and the devastating impact it can have on our members.

Branches can do much to raise awareness of what is sexual harassment in the workplace. This can help members to recognise the problem when it occurs to them or to others and realise that they do not have to tolerate it.

UNISON representatives and branches also have an important role in contributing to a positive workplace culture and encouraging and promoting work on improving gender equality and challenging sexism across all aspects of the workplace, as well as improving the visibility and representation of women in union structures.

Trade unions are a vital workplace safeguard and have a long history challenging sexual harassment and victimisation in the workplace. Trade unions are uniquely placed to work with employers in order to eliminate sexual harassment and to do so on a collective basis.

Negotiating a policy that helps prevent, tackle and deal with incidences of sexual harassment in the workplace and helps promote an ethos of zero tolerance should be seen as one of the priorities for trade union reps and branches.

Union representatives and branches have an important role to play in tackling sexual harassment in the workplace. They should always take complaints seriously and make sure that the member feels supported.

The TUC report '[Sexual harassment of LGBT people in the workplace](#)' found that union members were more likely to report their experiences of sexual harassment at work to their employer than non-union members, were more likely to say it was taken seriously and more likely to say it was dealt with satisfactorily.

If a member says they have been sexually harassed, union reps should:

- **Listen carefully** to what the member says, thank them for coming to you to share their experience and acknowledge that it's not an easy thing to do, make it clear that you don't consider their reaction to be over-sensitive nor the incident to be too trivial, and that UNISON is prepared to help.
- **Discuss options** with the member on what steps are available to them, and seek their agreement before reporting the incident to management. The member should not be pressurised into formally reporting the incident nor to deal with the matter only through the informal route if this is not what they want. Sometimes the member might prefer to raise the matter first by contacting the branch equalities officer or branch secretary. Sometimes the member may be afraid to complain for fear of reprisal or embarrassment.
- **Encourage the member** to write down details of every incident of sexual harassment, including what happened, when, how and by whom, to identify any possible witnesses and to keep copies of any relevant documents such as letters, text messages, emails etc. Remember that sexual harassment often takes place without witnesses. When the member comes to you, it may be because of the 'last straw'



so you will need to supportively encourage the member to tell you if there have been previous incidences.

- **Advise the member** to ask the harasser to stop and explain that the conduct is unwelcome. Ask whether you should accompany the member to see the harasser or whether you should see the harasser yourself. Alternatively the member may want to write to the harasser. However it is important to reassure the member that it is completely understandable if they are unable to confront the harasser.
- **If the member agrees, find out whether other workers have experienced similar problems.** This can be done by using a confidential survey, organising meetings so that members can talk together about sexual harassment, and by including articles on sexual harassment in branch magazines and newsletters. Try and find out the details and dates when it occurred.
- **Discuss with the member how they wish the case to be pursued.** Advise the member to report the incident to management or HR in writing, and keep written evidence that they have made a complaint. Help the member to do this if they so wish. Support the member through the relevant grievance or complaints procedure. If the member agrees, seek the support of other workers. Take all written information about the case with you when you discuss it with management. However it is important to reassure the member that it is completely understandable if they did not previously complain.
- **If you believe that a criminal offence may have been committed by the harasser** such as sexual assault, advise the member to report the matter to the police as soon as possible. If you believe there is an ongoing risk of serious harm to the member, you should contact the police yourself and inform the member that you have done so.
- **Offer to represent and/or support the member** at any stage of the enquiry into the allegations. Ensure the member is aware of others who can give emotional support alongside you, such as the branch equalities officer, or a relevant self-organised group member, as well as external organisations (as listed on page 23). Ensure that the case is dealt with as quickly as possible by management, that each step is followed up promptly, and press for a deadline to complete the enquiry. Whilst any subsequent disciplinary action against the harasser will be private and subject to a separate disciplinary procedure, you should ensure that any solution leaves the member vindicated and feeling reassured of employer support and that the conduct will not be repeated.
- **Ensure that the needs of the member are respected** once the complaint has been resolved, for example a phased return to work if relevant. The member should not suffer any detriment and any loss should be restored.
- **If the complaint is not resolved,** advise the member to complete a case form and forward it immediately to the branch secretary who should send it on to the regional office so that a legal assessment can be made by UNISON's solicitors, and an employment tribunal application lodged if appropriate. An application to an employment tribunal for discrimination must be made within three months of the date of the last incident. This may mean that you should not wait for

the internal grievance or complaints procedure to be completed to complete and send the case form.

Keep the member informed as much as possible, and get their agreement before taking any course of action.

It is crucial that confidentiality is respected at all times. Lack of confidentiality can prevent workers from reporting sexual harassment.

Always seek advice from your regional officer as soon as possible before advising in relation to sexual harassment and the law.

Representing the harasser

If the alleged harasser is a UNISON member they are entitled to UNISON representation. They should be provided with a representative who has had no involvement in the complainant's case.

Representatives need to act fairly and be consistent with the union's rules and policies.

As mentioned previously, there is often a power dynamic involved in sexual harassment cases. Consequently the alleged harasser may have access to greater support from the union, perhaps from a regional officer rather than the workplace rep who may have less experience in such cases. So they should be **provided with a representative who is of a similar status to the person representing the complainant**, so that accusations of favouritism cannot be brought and both reps are able to carry out their role effectively.

In representing anyone accused of sexual harassment, representatives should ensure they **remain objective** and also avoid 'character assassinations' of the complainant.

There may be occasions when we cannot provide representation to a member. These occasions will be few and exceptional, but could occur, for example:

- if the member does not accept the union's advice
- the member refuses to co-operate fully with us (for example, you find that the member has not been honest and frank in telling you the facts of the case)
- the representation being sought is outside the services provided by UNISON rule
- where the member has also asked someone else to make representations to the employer
- the member appears as a witness
- in a grievance hearing, the member is the manager whose decision gave rise to the grievance. (Managers cannot expect representation when they simply carry out their functions as a manager. However, managers who themselves have a grievance or face disciplinary proceedings are, of course, entitled to assistance on the same basis as any other member)



- a member named as a co-respondent in a case brought by UNISON.

Representing members who are accused of sexual harassment presents particular problems to UNISON representatives. It is important that our actions are seen to be consistent with our values. We cannot condone or defend such actions, whether or not the complainant is also our member. Nor can we ignore or refuse outright to hear or assist a member accused of such actions.

Representatives must be careful not to presume guilt and must not ignore our obligation to advise the member and ensure a fair hearing. (It is also not in our interests that a harasser might win a subsequent appeal on the grounds of some technicality arising from not being represented.)

To achieve the balance of representing accused members and upholding UNISON principles, representatives need to **demonstrate clear objectivity and give impartial advice** focused on pursuing a fair hearing.

If further clarity is needed, advice should be sought from your regional officer.

Please find more information on this issue in UNISON's '[Member Representation Guide](#)' available to order or download from the online catalogue at www.unison.org.uk/onlinecatalogue

What an anti-sexual harassment policy should include

UNISON says we need a zero tolerance approach to sexual harassment in the workplace, one that goes beyond a mere statement and that is actively promoted by the employer.

As part of the '[Safe at home, safe at work](#)' project, ETUC found that "as violence and harassment have become mainstream workplace wellbeing-at-work issues, sexual harassment as a gender equality issue had slipped off the agenda of trade unions.... The issue is often hidden under the broader headings of violence and harassment facing all workers."

The [Equality and Human Rights Commission](#) warns that "employers should not conflate different forms of harassment. They should have different policies to deal with sexual harassment and harassment related to protected characteristics or have one policy which clearly distinguishes between the different forms of harassment."

UNISON recognises that women are more likely to experience sexual harassment than men and that there is a gender equality issue in relation to sexual harassment. This highlights the need to continue to improve gender balance at all levels of society.

UNISON recognises that there is also an issue of intersecting protected characteristics in relation to sexual harassment, and that there may be additional concerns for Black, LGBT+, disabled and younger workers where the harassment may be bound up with other forms of discrimination.

These wider equality issues need to be reflected in any policy, whether an anti-harassment and anti-bullying policy or one focusing solely on tackling sexual harassment.

The ETUC '[Safe at home, safe at work](#)' project found that "some agreements have addressed the issue of third-party violence, particularly in female-dominated sectors."

UNISON says that the issue of third party sexual harassment must be addressed by the employer in policy and practice in order to protect workers.

A policy on tackling sexual harassment and bullying in the workplace should include the following:

■ A statement of commitment

The policy should demonstrate a clear commitment on the part of the employer to a zero tolerance approach to sexual harassment. It should stress that sexual harassment is unlawful and will not be tolerated in the workplace and complaints will be taken seriously, will be dealt with quickly and will be treated as serious disciplinary offences and may be considered as gross misconduct. Abuse of power over another worker should be taken into account when deciding what disciplinary action to take.

The statement should spell out the right of all staff to be treated with dignity and respect at work. This statement must be endorsed by those at the top of the organisation if it is to be taken seriously.

The policy should cover all workplaces and all workers within the organisation, regardless of the employment relationship.

■ A clear definition of sexual harassment

The Equality Act definition of sexual harassment, mentioned above, would be a good starting point, alongside some examples relevant to the particular working environment. The policy also needs to clarify that sexual harassment can take place at any level and within any relationship and is not confined to management or supervision roles, and can also be carried out by third parties (such as a customer, patient, service user, client or contractor). It needs to be clear that it can take place on or off the workplace premises and can include online harassment.

■ Prevention measures and how to make a complaint

The policy should outline the steps employers will take to prevent sexual harassment at work. The health and safety aspect and responsibilities of the employer including risk assessments should be clear within the policy, and also address potential risks from third party sexual harassment. It may cross-reference to other policies such as the organisation's health and safety and equality and diversity policies to highlight the action being taken to address power imbalances and other risks within the workplace.

It should also describe the steps to be taken when sexual harassment does occur, who to contact and what process will be followed, and include how to proceed if the harasser is the line manager. The complaints procedure should not be too restrictive nor bureaucratic. The aim is to encourage workers to report incidents of sexual harassment should they occur either experienced or witnessed, not deter them. There needs to be an appropriate reporting procedure in place that will always protect and support victims of harassment.



■ Duties of managers and supervisors

The policy should be clear on the duties of managers and supervisors including their responsibilities for eliminating and preventing sexual harassment. Managers and supervisors should be specifically trained to detect and handle sexual harassment.

The 2011 'Insight into ill treatment in the British workplace' report stressed that: "Altering the behaviour of managers is the key to the adoption of successful solutions to ill-treatment because they are responsible for so much of it, and because it is managers that leaders will use to help them extend the requirement to promote fairness and respect throughout the organisation."

■ Trade union involvement

It is important that workers are involved in the development of the policy and the role of trade union representatives is crucial to this.

The [Equality and Human Rights Commission](#) points out that "to ensure that workers' views are taken into account, anti-harassment policies and other measures to prevent and respond to harassment should be developed in consultation with recognised trade unions."

The policy should acknowledge the dual role of reps that includes educating members about sexual harassment as well as receiving complaints. Because of their role in potentially representing the harasser and the harassed, reps should also be given training equal to that of managers and sufficient time to carry out their duties. Giving them equal status to managers will promote partnerships and build confidence among staff.

Branches should actively encourage members to get involved when employers are reviewing policies and procedures associated with sexual harassment.

■ Contact officers/anti-sexual harassment officers

Some employees may find it difficult to raise concerns about sexual harassment. This may be because they are frightened, distrustful and embarrassed, or the feelings they experience make it hard to speak out to anyone. It may also be because the person doing the harassment is their line manager or supervisor. For this reason, the policy should ideally include details of independent contact officers (preferably a choice of people rather than just one officer) to provide help and support to those being sexually harassed. These officers should be specifically trained to deal with sexual harassment complaints, and are able to obtain advice on how best to resolve the issue, including getting assistance from HR or external organisations.

■ Information and training

Training and information is crucial to the success of policies on sexual harassment and in changing the workplace environment.

Following agreement the policy should be widely publicised to all new and existing staff ideally automatically sending them each a copy. In that way they will not have to request it from a manager, nor will they be seen reading it in front of colleagues in case this should then make them more reluctant to complain.

The policy of zero tolerance should also be brought to the attention of contractors, agency staff, visitors, clients etc. and form part of any contract specification.

Also, as the [Equality and Human Rights Commission](#) suggest: “if necessary, the policies should be translated for a linguistically diverse workforce or provided in an accessible format for those with disabilities.”

Both Acas and the Equality and Human Rights Commission recommend that employers publish their sexual harassment policy on their website to make it publicly available, as well as showing how it is being implemented and monitored.

Information about the policy should also be included in any staff/induction training and verbally communicated, and details can be communicated in internal newsletters, on notice boards, staff meetings, annual reminders etc.

Training programmes should include:

- details on the policy, its implementation, and promotion
- what sexual harassment means, its effects and consequences
- what victimisation means
- how to report incidents and unacceptable behaviour
- how to address issues of third party harassment if applicable
- how to get support
- the help available to those being harassed.

Records should be kept to ensure that everyone is trained and that they regularly receive refresher training.

Employees should also be encouraged to help each other, either by lending support or informing management of their concerns through the appropriate channels. The procedure should also make it clear that staff have a right to be accompanied by a trade union representative at all stages.

■ Procedure for dealing with sexual harassment complaints

Sexual harassment should not be treated as just another standard grievance; it is a very serious issue and must be treated as such. Ideally the procedure for complaints relating to sexual harassment should be separate from the usual grievance procedure for a number of reasons. Firstly, the normal procedure will not always be sufficient as the facts of each case will need to be identified in an extremely sensitive way. In addition, the sexual harassment may be from the members' line manager who is often the person a problem is raised with in the first instance in a grievance procedure.

Complaints of sexual harassment, or information from staff relating to such complaints, must be dealt with fairly and confidentially (subject to any personal legal or regulatory obligations or rights) and sensitively. This need for confidentiality should also be made clear to any witnesses who are spoken to as part of the investigation.

As with all grievance procedures, it should follow the [Acas Code of Practice on Disciplinary and Grievance Procedures](#), otherwise the employer could face having to pay an increased award at an employment tribunal if a successful claim is made. The Code also similarly suggests that “organisations may wish to consider dealing with issues involving bullying, harassment or whistleblowing under a separate procedure” recognising the seriousness of these types of complaint warranting special consideration.



Informal approaches

Both informal and formal resolution routes should be included in the procedure. In some limited circumstances, informal approaches can be used in the first instance or where the harasser is not aware that their behaviour is unacceptable. However this will not be appropriate in all cases as the member may not feel able to make an informal approach, for example where other attempts to stop the sexual harassment have failed, or if the harassment is too serious. As the [Equality and Human Rights Commission](#) states, “the procedure should not place any pressure on a worker to take this [informal] approach.”

In some cases an informal approach may be enough to make the harassment stop, especially where it is unintended. Sometimes people are not aware that their behaviour is unwelcome and an informal discussion can lead to greater understanding and an agreement that the behaviour will change.

Formal complaints procedure

Where an informal resolution is not possible, or when the seriousness of the action is such that only formal action is appropriate, the formal complaints route may be pursued by an employee, either through the organisation’s grievance procedure or one specifically designed to address complaints of sexual harassment. It must be emphasised that the route taken is the complainant’s choice, and a decision to undertake formal action must be respected. The employer may decide that it may be necessary to suspend the individual accused of sexual harassment whilst the complaint is under investigation. **Only in exceptional circumstances should the person making the complaint be moved, and only when they request such a move.**

Wherever possible the investigator should not be the same person who hears the complaint nor any subsequent appeal, in order to help ensure independence and objectivity. Because of any particular sensitivities of the case, it should be recognised that the complainant may prefer to talk to an investigator of the same sex.

A target timescale for the investigation should be set and communicated to the complainant, along with updates on progress. Should the target timescale not be met, a clear explanation should be given to the complainant by the employer. However the quicker incidents are dealt with, the better. This is especially important in maintaining trust in the procedures. Sometimes HR professionals are mistrusted by complainants, but a procedure that has timescales set out in it for responding to a formal complaint and that are followed, may help maintain confidence in the process.

On the other hand, there may be many reasons that someone who has experienced sexual harassment does not complain immediately, not least for fear of victimisation, so employers should not set a time limit within which complaints must be made.

■ Consequences if sexual harassment occurs

The policy should outline the consequences of sexual harassment potentially leading to a formal disciplinary procedure and dismissal for serious offences. It should also make it clear that any victimisation or retaliation against a complainant is similarly prohibited.

■ Access to counselling

Sexual harassment can affect a person’s mental and physical well-being. How to access counselling should be included in the policy to help workers cope better with the negative impact. Counselling services should be funded by the employer as part of their occupational health scheme or employee assistance

programme, and time off to attend counselling sessions should be paid and not counted as sickness absences. Counsellors must be trained and independent and the service must be strictly confidential. The availability of counselling and the procedure for referral should be widely publicised.

The policy should include clear information about how targets of sexual harassment can access support and advice services, including external sources.

■ Monitor and review

In common with all good workplace policies, the policy should be monitored and reviewed on a regular basis to ensure that it is achieving its objectives and continuing to be effective.

The [Equality and Human Rights Commission](#) recommends reviewing the policy annually and evaluating its effectiveness through the use of “centralised records that record complaints in a level of detail that allows trends to be analysed [but that] is still compliant with the General Data Protection Regulation (GDPR)... staff surveys... lessons-learned sessions once complaints have been resolved and feedback provided through conversations with employees. For example, during exit interviews.”

Employers will also need to consider if other workplace policies may need to be reviewed and updated in light of the sexual harassment policy, such as whether the disciplinary policy includes examples of harassment as misconduct and gross misconduct, whether IT policies include warnings against online harassment and how to report incidents, or whether the dress code potentially fosters a culture that could contribute to the likelihood of sexual harassment.

Putting the case to an employer for a workplace anti-sexual harassment policy

It's the law!

Employers are legally responsible for sexual harassment carried out by one member of staff against another, even if they were unaware of such harassment and disapprove of it (and dismiss the perpetrator when they find out what has been happening).

Employers have a duty of care to protect their workers and they will be legally liable for sexual harassment in the workplace if they have not taken reasonable steps to prevent it. In health and safety law, employers will be treated more seriously if they knew about a situation and failed to do anything.

The employer may also have legal responsibilities if they fail to deal with harassment carried out by a third party, such as a contractor, client, service user or patient, after being made aware of it, and the behaviour amounts to direct discrimination or harassment under the Protection from Harassment Act 1997.

So putting in place reasonable steps to prevent any sexual harassment occurring in the first place will obviously protect the employer.



Employers need to take reasonable steps to protect their workers

It should help in negotiations to point out that in implementing an anti-harassment policy, the employer will help to protect themselves by showing that they are taking reasonable steps to prevent sexual harassment in the workplace.

The [Equality and Human Rights Commission](#) states “there is no prescribed minimum about what an employer can do to prevent harassment and protect its workers. It is an objective test about what it is reasonable for the employer to do in the circumstances. This will vary from employer to employer depending on the size and nature of the employer, the resources available to it and the risk factors which need to be addressed within the particular employer or sector.”

However they also point out that “all employers will be expected to have in place effective and well communicated policies and practices which aim to prevent harassment and victimisation.”

Additionally “employers should continue to review whether there are any further steps it is practicable for them to take, considering issues such as whether there have been any changes in the workplace or the workforce and the availability of new technology such as new reporting systems.”

Undertaking regular risk assessments that consider the potential for sexual harassment may help identify where further reasonable steps can be taken.

It's an important part of tackling discrimination

All employers are expected to promote and support diversity in the workplace – that's a given. But how is it achieved in practice? Policies that improve gender balance and gender equality will also contribute to tackling the potential for sexual harassment within the organisation, and vice versa.

An employer's incompetent, unsympathetic or unfair handling of a complaint about sexual harassment may also amount to further harassment or acts of direct discrimination or victimisation. For example, if they treat the complaint made by a woman less seriously than they would handle a comparable complaint made by a man, or if they delay in investigating a complaint or following the grievance procedure properly, or if the alleged harasser is treated more favourably during any investigation, or if the complainant is punished somehow for alleging harassment including suspending or transferring the complainant, rather than the alleged perpetrator. A clear policy should help to address these issues and avoid further discrimination.

A healthy workplace environment will help staff be more productive

Employers should recognise that tackling sexual harassment will also help ensure that the workplace is more productive and employees are more engaged. Sexual harassment can have a major impact on an organisation, affecting both the performance and the morale of the workforce as a whole.

Therefore any policy needs to be seen to be pro-active in preventing sexual harassment as well as reacting to individual situations where it occurs.

Developing a policy in consultation with the union will also help ensure ‘buy-in’ at all levels of the organisation. The issue of sexual harassment should be seen as relevant across all areas of the workplace and for all staff, and not just something that needs to be punished as and when it happens.

The organisation could lose a skilled and experienced workforce

Workplaces where sexual harassment is tolerated will clearly be unattractive to women, driving many women to leave their job altogether or deterring them from applying to work there.

The ETUC report '[Safe at home, safe at work](#)' identifies “workplaces that have progressive human resource and equality policies, including on the prevention of harassment, as well as good consultation of workers and participation by them, are associated with higher earnings, reduced work pressure and a more satisfying work environment”.

It makes sense for any employer to develop and implement an anti-sexual harassment policy to improve their profile as an employer of choice for potential applicants, as well as helping to retain existing experienced staff.



Further information for branches and union reps

UNISON

The #UsToo campaign, calling on the government to take immediate action on sexual harassment in the workplace.

www.unison.org.uk/ustoo

'It's Never Ok: a report on sexual harassment against healthcare staff'

www.unison.org.uk/content/uploads/2019/06/sexualharassreport.pdf

www.unison.org.uk/news/press-release/2019/06/health-staff-suffering-serious-sexual-harassment-work/

'Time to stamp out sexual harassment in the police' - executive summary of the LSE/UNISON research study

www.unison.org.uk/content/uploads/2018/08/UNISON-LSE-report-Time-to-stamp-out-sexual-harassment-in-the-police-1.pdf

'Domestic violence and abuse: a trade union issue'

www.unison.org.uk/content/uploads/2017/02/24192.pdf

Resources and information for women members

www.unison.org.uk/about/what-we-do/fairness-equality/women/

'Harassment at work: a UNISON guide'

www.unison.org.uk/content/uploads/2016/12/24159.pdf

Health and safety resources and information on bullying and harassment

www.unison.org.uk/unison-health-and-safety/health-safety-key-issues/bullying-and-harassment/

TUC

Sexual harassment has no place in the workplace #ThisIsNotWorking campaign

www.tuc.org.uk/campaigns/sexual-harassment-has-no-place-workplace-thisisnotworking

'Tackling sexual harassment in the workplace: a TUC guide for trade union activists'

www.tuc.org.uk/sites/default/files/sexualharassmentrepsguide.pdf

'Still just a bit of banter? Sexual harassment in the workplace in 2016'

Research undertaken in collaboration with the Everyday Sexism Project

www.tuc.org.uk/research-analysis/reports/still-just-bit-banter

'Sexual harassment of LGBT people in the workplace'

www.tuc.org.uk/research-analysis/reports/sexual-harassment-lgbt-people-workplace

E-learning note for reps on sexual harassment

www.tuc.org.uk/bite-sized-learning

Gender checklist on occupational safety and health

www.tuc.org.uk/resource/gender-checklist-occupational-safety-and-health

ETUC (European Trade Union Confederation)

'Safe at home, safe at work' – ETUC project paper to prevent, manage and eliminate workplace harassment and violence against women

www.etuc.org/en/pressrelease/safe-home-safe-work-briefing-etuc-project

Equality and Human Rights Commission

Sexual harassment in the workplace

www.equalityhumanrights.com/en/sexual-harassment-workplace

'Sexual harassment and harassment at work: technical guidance'

Practical guidance for employers

www.equalityhumanrights.com/en/publication-download/sexual-harassment-and-harassment-work-technical-guidance

'Preventing sexual harassment at work: a guide for employers'

www.equalityhumanrights.com/en/publication-download/preventing-sexual-harassment-work-guide-employers

'Turning the tables: ending sexual harassment at work'

www.equalityhumanrights.com/en/publication-download/turning-tables-ending-sexual-harassment-work

End violence against women (EVAW)

EVAW is a leading coalition of specialist women's support services, researchers, activists, survivors and NGOs working to end violence against women and girls in all its forms.

www.evaw.org.uk

Everyday Sexism

Since the project was launched in April 2012, it has collected over 100,000 testimonies of gender inequality, harassment, discrimination and sexual violence.

<http://everydaysexism.com/>

Shouting Back

A comprehensive overview of legal rights, reporting options, support organisations and more for a wide range of different experiences and situations, inspired by the testimonies shared with Everyday Sexism.

<https://shoutingback.org.uk/>

Health and Safety Executive

Information on preventing workplace harassment and violence

www.hse.gov.uk/violence/preventing-workplace-harassment.htm

Labour Research Department (LRD)

'Tackling Harassment and bullying at work – a trade unionist's guide'

www.lrd.org.uk

Advisory, Conciliation and Arbitration Service (ACAS)

Acas is a non-departmental body, governed by an independent Council aiming to improve organisations and working life through better employment relations. Guidance includes 'Bullying and harassment at work' which can be downloaded from their website.

www.acas.org.uk



Quick checklist for tackling sexual harassment in the workplace:

- ☐ Is there a zero tolerance anti-sexual harassment policy agreed with the employer (either a separate policy or included within a dignity at work or anti-harassment and anti-bullying policy)?
- ☐ Is the policy and reporting procedure well publicised throughout the workplace?
- ☐ Does the policy include all workers including temporary and casual staff (and agency staff where appropriate)?
- ☐ Does it include:
 - a statement of commitment to enforce the policy seriously and promptly as well as the organisation's objectives
 - a clear definition of sexual harassment with examples relevant to the organisation
 - the consequences and penalties for breach of the policy, including reminding staff that sexual harassment is unlawful
 - responsibilities of management and staff
 - a clear, simple method for reporting sexual harassment including what to do if the perpetrator is the employee's manager
 - the process following a report of sexual harassment, including support and advice available to the individual making the complaint?
- ☐ Is the anti-sexual harassment policy seen as part of the employer's equality and diversity action plans?
 - Is the employer committed to improving the gender balance at all levels of the organisation? Do they have an action plan in place to improve the balance?
 - Has the employer appropriately considered any particular risks for Black, LGBT+, disabled or younger workers?
- ☐ Has the employer appropriately considered the risks of sexual harassment that may be experienced through lone working or when working away from the office such as home care workers?
- ☐ Is the anti-sexual harassment policy linked to the health and safety policy? Are appropriate risk assessments undertaken by the employer?
- ☐ Is the policy regularly reviewed and monitored to ensure that it is effective and being properly implemented?
- ☐ Does the employer actively promote the policy of a zero tolerance of sexual harassment to customers, clients, service users, patients and contractors?
- ☐ Do all staff including all managers receive training on sexual harassment from the employer, targeted to the group being trained, that includes clear examples of what is unacceptable behaviour at work?

- ☐ Does the training for all staff include awareness-raising and encouraging respect and dignity in work relationships?
- ☐ Does the training include guidance on what bystanders should do to challenge harassment?
- ☐ Does the training for HR officers, managers and supervisors include how to encourage reporting and how to respond to complaints of sexual harassment?

Branches could also consider:

- ☐ organising a confidential survey of the workplace or branch on the extent of sexual harassment (see page 40) as this can be a useful way of gathering anonymised data to highlight to employers how widespread sexual harassment is in the workplace, and whether staff feel able to report it when it does occur
- ☐ organising meetings on the issue
- ☐ raising awareness through posters and leaflets
- ☐ ensuring awareness is incorporated in appropriate training
- ☐ encouraging members to keep written records of all harassment and bullying incidents
- ☐ informing employers in writing that incidents are occurring. This must be done in a general way if a member has raised the issue in confidence
- ☐ including articles on harassment and bullying in branch magazines and newsletters
- ☐ ensuring all branch representatives have been trained in dealing with sexual harassment cases and how best to support members with sympathy and confidentiality, as well as how to deal with cases of sexual harassment where both the perpetrator and the target are union members
- ☐ campaigning in support of the ratification by the UK government of the Istanbul Convention and International Labour Organisation Convention (see page 10 for further information).



A survey could be jointly run with management or organised by the union alone. However to ensure confidentiality, identifying details of individuals should not be included in the information requested.

Model survey on sexual harassment in the workplace

Sexual harassment is when a person engages in unwanted behaviour of a sexual nature that creates an intimidating, hostile, offensive, degrading or humiliating working environment. This could include behaviour which is verbal, non-verbal or physical.

Have you experienced sexual harassment at work within the last 12 months?

☐ Yes

☐ No

How often has it happened? (tick the one that most closely applies)

☐ One-off or isolated

☐ Small number of incidents

☐ Regular/frequent

☐ Every week

☐ Every day

Who is doing the harassment?

☐ Supervisor

☐ Manager

☐ Colleague

☐ The public (clients, patients, customers, service users, contractors, etc.)

☐ Others - please specify:

.....

Did it involve any of the following? (tick all that apply):

☐ Unwanted or derogatory comments about your clothing or appearance

☐ Leering and suggestive gestures

☐ Remarks, 'banter' or 'jokes'

☐ Unwanted messages of a sexual nature

☐ Exposure to offensive material, such as pornographic images or footage, 'page three' type pin-ups or calendars (this could include electronic forms such as screen savers, emails or social media)

☐ Invasion of personal space

☐ Unwelcome sexual advances, propositions and demands for sexual favours

- ☐ Sexual assault, including stroking, hugging, kissing, touching in a sexual way
- ☐ Rape
- ☐ Other – please specify:
-

Were they.... ? (tick all that apply)

- ☐ In a more powerful work position than you
- ☐ In a less powerful work position than you
- ☐ The same level as you
- ☐ Older than you
- ☐ Younger than you
- ☐ Same age as you

What did you do about the sexual harassment that you experienced?

- ☐ I did not report it to anyone at work
- ☐ I spoke to the perpetrator(s) about it
- ☐ I told a friend/family member outside of work
- ☐ I told a work colleague
- ☐ I reported it to Human Resources/Management
- ☐ I reported it to my union representative
- ☐ I reported it to the authorities (eg the police)
- ☐ I did not know what my options were
- ☐ Other – please specify:
-

If you reported it, did you feel it was dealt with appropriately?

- ☐ Yes
- ☐ No
- ☐ Don't know

If you did not report it, why was this? (tick all that apply)

- ☐ I feared retaliation by the perpetrator(s)
- ☐ No one would believe me
- ☐ I did not want to re-live the trauma
- ☐ Too ashamed
- ☐ I would be dismissed as over-sensitive
- ☐ I would be blamed ('no smoke without fire')
- ☐ I didn't want to get the perpetrator into trouble



- ☐ No point as I knew nothing would be done
- ☐ I was scared it would harm my career
- ☐ I believed the perpetrator lacked capacity or was impaired
- ☐ Other – please specify:

What effect did/do your experiences of sexual harassment have on your work? (tick all that apply)

- ☐ I keep myself to myself/avoid certain colleagues or situations
- ☐ I have had to take time off work
- ☐ I am less likely to socialise with colleagues
- ☐ It has affected my confidence
- ☐ It has affected my work performance
- ☐ I am less likely to put myself forward for training or career opportunities
- ☐ It affected my mental health
- ☐ It made me want to leave/look for another job
- ☐ Other – please specify:

In the last 12 months have you witnessed any unacceptable sexual behaviour directed at a colleague in your workplace? This could be from staff or members of the public (clients, patients, customers, contractors, etc.)

- ☐ Yes
- ☐ No

Did it involve any of the following? (tick all that apply):

- ☐ Unwanted or derogatory comments about their clothing or appearance
- ☐ Leering and suggestive gestures
- ☐ Remarks, 'banter' or 'jokes'
- ☐ Unwanted messages of a sexual nature
- ☐ Exposure to offensive material, such as pornographic images or footage, 'page three' type pin-ups or calendars (this could include electronic forms such as screen savers, emails or social media)
- ☐ Invasion of personal space
- ☐ Unwelcome sexual advances, propositions and demands for sexual favours
- ☐ Sexual assault, including stroking, hugging, kissing, touching in a sexual way
- ☐ Rape

☐ Other – please specify:

.....

Was the behaviour you witnessed during the last 12 months...?

(tick the one that most closely applies)

- ☐ One-off or isolated
- ☐ Small number of incidents
- ☐ Regular/frequent
- ☐ Every week
- ☐ Every day

What did you do about the sexual harassment that you witnessed?

(tick all that apply)

- ☐ I did not report it to anyone at work
- ☐ I intervened and told the perpetrator(s) that their conduct was wrong
- ☐ I reported it to Human Resources/Management
- ☐ I reported it to my union representative
- ☐ I reported it to the authorities (eg the police)
- ☐ I did not know what my options were
- ☐ Other – please specify:

.....

If you reported it, did you feel it was dealt with appropriately?

- ☐ Yes
- ☐ No
- ☐ Don't know



The following policy can be used in the workplace to promote a working environment free from sexual harassment.

Please note that the text in square brackets [...] indicates where you need to complete information specific to your workplace, or else are notes for you to consider in relation to your negotiations.

Please do adapt and develop this policy as appropriate to your workplace. It may be more appropriate for your workplace to incorporate important aspects within an existing dignity at work or anti-harassment and bullying policy, rather than negotiating a new separate stand-alone policy focusing on sexual harassment. But it should clearly distinguish between the different forms of harassment.

Model preventing sexual harassment at work policy

Policy Statement

[Name of employer] is committed to providing an inclusive and supportive working environment for everyone who works here. This includes a zero tolerance approach to sexual harassment and recognises appropriate steps should be taken to achieve this.

The aim of the policy is to set out expectations of behaviour by our staff, protect all staff from sexual harassment and foster a working environment that supports the dignity and respect of all workers and is free from any form of bullying or harassment.

[Name of employer] will take seriously and investigate any complaints of discrimination, harassment or victimisation, using the agreed procedures and respecting confidentiality.

This policy is part of **[name of employer]**'s commitment to ensuring the health and safety and wellbeing of all the workforce.

This policy is part of **[name of employer]**'s commitment to equality and diversity. We are committed to creating a workplace that respects and values each other's differences, that promotes dignity and combats prejudice, discrimination and harassment.

This policy seeks to benefit the welfare of individual members of staff; retain valued workers; improve morale and performance and enhance the reputation of **[name of employer]** as an employer of choice.

All workers will be made aware of **[name of employer]**'s policy forbidding the sexual harassment of any worker by another worker and will be expected to comply with this policy. Sexual harassment will be treated as a disciplinary offence. Appropriate disciplinary action, including warnings, compulsory transfers (without protection of wages or salary), and dismissal for serious offences, may be taken against any worker who violates this policy. Abuse of power over another worker will be taken into account when deciding what disciplinary action to take. **[Ensure that these details are reflected in the disciplinary procedure.]**

[Name of employer] also recognises that it has a responsibility to protect workers from sexual harassment at work by members of the public and contractors. All staff have the right to be treated with respect by the public they

provide services to or work with. The sexual harassment of staff by members of the public and contractors will not be tolerated and workers are encouraged to report it to their line manager and/or Contact Officer. Full details are found in a separate policy **[state name of policy and where it is found, for example 'Preventing violence to staff policy, found within the staff handbook'.** **Alternatively include the details here, outlining, as advised by the Equality and Human Rights Commission, "that third party harassment can result in legal liability... what steps will be taken to prevent it. For example, warning notices to customers or recorded messages at the beginning of telephone calls; what steps will be taken to remedy a complaint or prevent it happening again. For example, warning a customer about their behaviour, banning a customer, reporting any criminal acts to the police, or sharing information with other branches of the business."].** Contractors will be required to comply with that policy as part of their contract.

All workers have a clear role to play in helping to create a work environment in which all forms of bullying or harassing behaviour is unacceptable. In particular, workers should be aware of their own conduct, avoid colluding with inappropriate behaviour and co-operate fully in any complaints procedure.

Scope of policy

This policy applies to all staff who are employed by **[name of employer]** on and off the premises, including those working away from their main office or normal place of work, and those on temporary contracts.

This policy is supported by and developed with the trade unions representing the employees. It will be communicated to all staff using a variety of methods including training, information and publicity, team briefings, departmental meetings and in-house publications.

Definition of sexual harassment

[The definition should be unambiguous and include examples of sexual harassment that may be relevant to your particular working environment and the circumstances where it might occur.]

Sexual harassment is unlawful. As defined by the Equality Act 2010, it is when a person engages in unwanted behaviour of a sexual nature, whether verbal, non-verbal or physical, that creates an intimidating, hostile, offensive, degrading or humiliating working environment.

It is also unlawful to treat someone less favourably because they have either submitted a complaint of sexual harassment or have rejected such behaviour.

What is important is not necessarily the action, but how the recipient feels about what has been done and whether or not it is unwanted.

An individual can experience sexual harassment from someone of the same or different sex. It may be persistent or an isolated incident. Sexual harassment may be obvious or it may be subtle and more difficult to recognise. It can take place at any level and within any workplace relationship and can also be carried out by third parties (such as service users, patients, clients, visitors or contractors) **[amend as appropriate to your workplace].**

It can happen anywhere in the workplace such as the canteen, toilets, staff room or office. It can also occur away from the workplace such as at a client's home or office, at conferences, training courses, staff parties and other social events related to work. It may be face to face or in written communications, on



the phone, while using social media and any other form of online interaction including email communication in or outside of a work situation. It may take place in private or in public. Whatever form it takes, it is unwarranted and unwelcome to the individual.

The list below shows some examples of common forms of sexual harassment but is by no means exhaustive.

Examples of sexual harassment include:

- unwelcome sexual advances, propositions and demands for sexual favours
- unwanted or derogatory comments or nicknames about clothing or appearance
- leering and suggestive gestures and remarks or jokes
- intrusive questioning or suggestions about your sex life or a colleague's sex life, and discussing their own sex life
- sexual posts or contact on social media
- spreading sexual rumours about a person
- sending sexually explicit emails or text messages
- comments of a sexual nature about your or a colleague's sexual orientation
- comments of a sexual nature about your or a colleague's gender identity
- displaying offensive material, such as pornographic pictures or calendars, including those in electronic forms such as computer screen savers or by circulating such material in emails or via social media
- 'upskirting' that typically involves someone taking a picture under another person's clothing without their knowledge
- predatory behaviour
- coercion
- physical contact such as the invasion of personal space and unnecessary touching, hugging or kissing through to sexual assault, indecent exposure, stalking and rape (although rape is defined as a separate criminal offence).

Prevention measures

[Name of the employer] recognises that there are many organisational measures that can help prevent sexual harassment in the workplace. These include:

- good management practice, including competent, respectful people management, recognition of sexual harassment and appropriate intervention
- undertaking risk assessments that include consideration of power imbalances, job insecurity, lone working, customer-facing **[or client or patient or service user-facing]** duties, lack of diversity in the workforce **[refer to the health and safety policy and where details can be found]**
- appropriate induction and training on sexual harassment and about this policy for all staff, including supervisors, managers and new staff. This will include information on what constitutes harassment and, for managers and supervisors, on what their responsibilities are. Trade unions will be invited to

speak at training sessions on sexual harassment. A copy of the policy will be made available to all staff on the intranet, and a copy will be provided to all new workers on induction. If appropriate, the policy will also be available to all staff on the intranet in translated versions for linguistically diverse workforce. Additionally the policy will be available in various languages and accessible formats such as braille, large print and sign language

- specific training for Contact Officers and all managers and supervisors potentially responsible for investigating complaints
- awareness-raising about the issues of sexual harassment and the requirement of respectful behaviour
- ensuring workers have somewhere to go for a confidential discussion of their situation and signposting ways of taking further action
- improving the gender balance at all levels of the organisation ***[refer to the gender pay gap action plan and the equality and diversity policy action plan and where details can be found]***
- improving diversity and inclusion at all levels of the organisation ***[refer to the equality and diversity policy action plan and any development or mentoring scheme for under-represented groups]***.

Responsibilities of managers and supervisors

Managers and supervisors should ensure that all workers are aware of this policy and understand their own and the employer's responsibilities. Training on sexual harassment will be provided to all managers.

Managers and supervisors have a particular responsibility to ensure that within their area of control, everyone has the right to be treated with dignity and respect. They should:

- always challenge any unacceptable behaviour in the workplace
- respond to complaints of sexual harassment swiftly, sensitively and objectively and be aware of behaviour that would cause offence, if necessary reminding workers of expected standards
- deal explicitly with third party perpetrators (such as service users, patients, clients, visitors or contractors) ***[amend as appropriate to your workplace]*** with a view to withdrawing service or ending a contract or banning from the premises if behaviour is not moderated
- ensure that this policy is followed and that there are thorough investigations if required. A Contact Officer ***[or suitably trained member of HR]*** will assist any line manager in dealing with complaints of sexual harassment.

All complaints of sexual harassment must be dealt with confidentially using the agreed procedures and in accordance with the data protection policy.

Managers and supervisors have an additional responsibility to be exemplars of acceptable behaviour. They should be aware that an abuse of their positional power will send mixed messages about what is acceptable behaviour, and will only serve to condone harassment.

A line manager's failure to actively implement this policy within their area of responsibility or to fail to deal with sexual harassment when they become aware of it could constitute a breach of the policy and disciplinary action may be taken.



Contact Officers

[Name of employer] recognises that there can be difficulties in raising the issue of sexual harassment and bullying, particularly if:

- the immediate manager is doing the harassing
- the worker is reluctant or too embarrassed to raise the matter with their manager, or feels the manager may lack the skills, knowledge or sensitivity to deal with complaints of harassment
- the worker finds the prospect of using the formal procedure intimidating.

[Name of employer] is committed to ensuring that such potential difficulties are overcome so that allegations of sexual harassment are raised and can be acted upon.

To help ensure this specially trained officer(s) – the Contact Officer(s) – have been designated to deal with complaints of sexual harassment and to offer advice to workers who believe that they or their colleagues have experienced sexual harassment.

The main role of the Contact Officer(s) is to:

- provide sympathetic assistance to workers with complaints of sexual harassment
- explain to them how the procedures for making a complaint operate
- establish the main details of any complaint
- channel the complaint to the appropriate manager for action if the worker decides to take the matter further.

[Name of employer] will ensure that Contact Officers receive special training in carrying out their role.

Contact Officers will discuss cases in complete confidence and will not divulge information to any other person without the agreement of the worker.

A worker who comes to Contact Officer(s) to talk about sexual harassment is under no obligation to take further action. The Contact Officer(s) are there to help workers decide what they want to do. Workers who have been sexually harassed are not obliged to refer their complaints to Contact Officer(s). It is entirely up to them whether they do so. However, the nomination of Contact Officer(s) is an additional means of ensuring that such workers are not discouraged from bringing forward complaints.

A list of Contact Officer(s) can be found **[provide details of where to find this list.]**

Responsibilities of workers

All staff have a responsibility to contribute to a respectful and productive working environment. They have a duty to assist in the creation of a safe working environment, where unacceptable sexual behaviour is not tolerated.

Every worker has a personal responsibility to:

- ensure they understand the nature of sexual harassment
- be aware of how their behaviour may affect others and to uphold the standards of behaviour set within the team

- work within the policy guidelines including co-operating fully in any investigation undertaken
- be aware of sexual harassment and challenge unacceptable behaviour where appropriate if it is safe to intervene.

Possible ways of intervening include telling the harasser that their behaviour is unacceptable; distracting either the harasser or the target to defuse the situation and also checking in with the target of the behaviour after it has taken place. It is validating for them to know that another person believes what has happened is not acceptable

- reporting incidents of sexual harassment when witnessed, or supporting targets of sexual harassment in reporting it, and co-operating in an investigation into alleged sexual harassment.

Workers should report any instances of harassment, victimisation or discrimination experienced whether they are the target of the behaviour or they have witnessed it. Reporting is necessary in order to address the issue both for the worker's own well-being and that of their colleagues. However **[name of employer]** recognises that there may be many reasons that someone who has experienced sexual harassment may not complain immediately.

If a worker is found to have sexually harassed, victimised or discriminated against another worker, then they will be seen as having committed a disciplinary offence.

Trade union involvement

Consultation will take place with the recognised trade union on the implementation, development, monitoring and review of this policy.

Because of their role in potentially representing an alleged harasser and a complainant, trade union representatives will be given training equal to that of managers and supervisors and sufficient time to carry out their duties.

Trade union representatives are able to assist their members who have been the targets of harassment, including supporting them in making complaints.

[Name of employer] encourages all members who are concerned about harassment to speak to their trade union representatives.

[Name of employer] will allow trade union representatives and members paid time off to attend union provided training courses on sexual harassment at work.

[Name of employer] will support the union's activities on raising awareness and tackling the issue of sexual harassment amongst their members.

[Name of employer] recognises that women are more likely to experience sexual harassment than men and gender inequality can contribute to workplace sexual harassment, and that it may also intersect with other forms of discrimination and harassment.

[Name of employer] is committed to jointly agreeing with the trade union ways of tackling all forms of discrimination including the gender pay-gap, and improving equality and diversity within all aspects of the workplace.

Procedures

An individual can deal with sexual harassment in various ways, ranging from asking the person to stop the behaviour, to informal discussions with the Contact Officer, or to making a formal complaint.



You do not have to be the recipient or target to make a complaint about sexual harassment. If you see it happening or become aware of the problem you have the right to complain about it. Tackling sexual harassment is everybody's responsibility.

Some people are unaware that their behaviour in some circumstances is sexual harassment. If it is clearly pointed out to them that their behaviour is unacceptable, the problem can sometimes be resolved. With this in mind, this policy includes informal as well as formal action to deal with complaints of sexual harassment.

Informal action

1. If possible, a worker who believes that they have been the subject of sexual harassment or has witnessed it should, in the first instance, ask the person to stop the behaviour and make it clear what aspect of their behaviour is offensive and unacceptable, and the effect it is having. This can be done either verbally or in writing. If the sexually harassed person or witness feels unable to approach the person responsible directly, a Contact Officer, work colleague or trade union representative can make this initial approach.
2. If a worker is approached informally about stopping their unwelcome or upsetting behaviour, they should not consider the reaction to be over-sensitive nor the incident to be too trivial but should remember that different people find different things acceptable and everyone has the right to decide what behaviour is acceptable to them and to have their feelings respected by others. An apology and assurance that the behaviour will not be repeated may be enough to end the matter.
3. If a worker who believes that he or she has been the subject of sexual harassment or has witnessed it is unable to adopt the above approach, or the sexual harassment is of a very serious nature, they can approach a Contact Officer who will provide informal advice in confidence. No further action will be taken without the consent of the worker making the complaint.

Confidential advice is also available to other workers who themselves may not be the subject of sexual harassment but are concerned about the sexual harassment of others.

4. If a worker complains of sexual harassment but does not want to take the matter any further, the employer will keep a record of the complaint and periodically check in with the worker to find out if the situation has improved. The employer will respect the wishes of the complainant but there may be some circumstances where the harassment is of such a serious nature that the employer will need to take action because of the high immediate risk to the safety of the complainant, their colleagues or someone else the harasser may come into contact with. In such situations, the employer will put in place appropriate safeguards to prevent further harassment, or victimisation of the complainant.

Formal action

If informal action does not stop the sexual harassment, or a formal complaint is made from the outset, the complaints procedure should be initiated and a formal report should be made. Throughout this procedure, the complainant and the person against whom the complaint is made has the right to be accompanied by a trade union representative or by a colleague, and to seek informal advice from a Contact Officer.

1. A worker who believes that they have been the subject of sexual harassment should formally report the alleged act or acts to their line manager, or if the person doing the harassment is the line manager, a more senior manager. Where possible, the worker should set out details of the complaint in writing with specifics as to dates and times and an account of what the sexual harassment is alleged to consist of.
2. All complaints will be handled and investigated in a timely and confidential manner. The complainant will be invited to a meeting to the manager within **[specified time limit]** of reporting the alleged act or acts. The worker has the right to be accompanied by a trade union representative or a work colleague at this meeting.
3. Confidentiality will be maintained at all times including by witnesses spoken to as part of the investigation, subject to any requirement to involve external agencies where a criminal offence may have been committed or where maintaining confidentiality would pose a risk to the complainant, or to others. Workers shall be guaranteed a fair and impartial hearing whether they are the harassed or the harasser. Breach of confidentiality may be a disciplinary offence.
4. As a first stage in a thorough investigation of the complaint, a senior manager will arrange to interview separately both the complainant, and the person against whom the complaint has been made, with a representative if requested. Wherever possible the investigator will not be the same person who hears the complaint nor any subsequent appeal, in order to help ensure independence and objectivity. Because of any particular sensitivities of the case, it is recognised that the complainant may prefer to talk to an investigator of the same sex.
5. A target timescale for completion of the investigation will be set and communicated to the complainant, along with updates on progress. Should the target timescale not be met, a clear explanation should be given to the complainant by the employer.
6. Wherever possible, **[name of employer]** will try to ensure that both the complainant, and the person against whom the complaint has been made are not required to work together while the complaint is under investigation. In a serious case, the person against whom the complaint has been made may be suspended while investigation and any subsequent disciplinary procedure are undertaken as a precaution for the protection of the complainant or to prevent interference in the investigation. Such suspension will be for as short a time as possible and will be on full pay.
7. Following the investigation, the senior manager will give a detailed response in writing to the complainant including outcomes wherever appropriate or possible, including action taken to address the specific complaint if it is upheld, and any measures taken to prevent a similar event happening again in the future.
8. If the investigation reveals that the complaint is upheld, prompt action designed to stop the sexual harassment immediately and prevent its recurrence will be taken. In such circumstances, if relocation proves necessary, the alleged harasser and not the complainant will be relocated unless the person complaining requests otherwise.
9. Disciplinary action up to and including dismissal may be taken in accordance with the staff disciplinary procedure if a complaint of sexual harassment is upheld. Appropriate adjustments will be made to enable



the complainant to participate in the disciplinary process without fear of victimisation. ***[Ensure that these details are reflected in the disciplinary procedure.]***

10. If the sexual harassment is believed to be a criminal offence, such as a sexual assault, indecent exposure, stalking and offensive communications, the senior manager should advise the complainant to report the matter to the police as soon as possible and give them appropriate support. In cases where the police are involved, ***[name of employer]*** will liaise with the police regarding the disciplinary process and take advice on how to conduct a fair process. ***[Ensure that these details are reflected in the disciplinary procedure.]***
11. If it is believed that there is an ongoing risk of serious harm to an individual, the senior manager will contact the police themselves and inform the complainant that they have done so.
12. Workers shall be protected from intimidation, victimisation or discrimination for filing a complaint or assisting in an investigation. Retaliating against a worker for complaining about or assisting in an investigation of sexual harassment is a disciplinary offence. ***[Ensure that these details are reflected in the disciplinary procedure.]***
13. Any decisions taken under this procedure do not preclude any worker from pursuing a grievance in the usual way under the staff grievance procedures and/or reporting the matter to the police should they believe that a criminal offence may have been committed.
14. The complainant has the right to appeal against the decision following the investigation within ***[specified time limit]*** of receiving the decision from the senior manager. Any appeal must be made in writing, stating the reasons for the appeal.
15. An appeal meeting will be arranged with a more senior manager not previously involved in the procedure who will consider the appeal. The worker will be given the opportunity to put forward their case and explain why they are not satisfied with the outcome. The meeting may be adjourned by the person hearing the appeal, if it is considered necessary to undertake further investigation. The meeting will be reconvened as soon as possible.
16. The decision of the person hearing the appeal shall be final.

Review and monitoring

Adequate resources will be made available to fulfil the aims of this policy. The policy will be widely promoted, and copies will be freely available and displayed in ***[name of employer]***'s offices and through the staff intranet ***[amend as appropriate to your workplace]***.

This policy will be reviewed jointly by unions and management, on a regular basis. The initial review of effectiveness will take place six months after this policy comes into effect. Thereafter, reviews will be carried out at intervals of not more than 12 months.

[Name of employer] will also periodically monitor how successful it is in creating a workplace free of sexual harassment by other means which may include confidential staff surveys, training, raising awareness of harassment and bullying in general and undertaking risk assessments.

Support for workers who have experienced sexual harassment

[Name of employer] recognises that sexual harassment can affect job performance and cause stress, anxiety or other mental health as well as physical health problems. Where sexual harassment causes deterioration in job performance, this will be treated as a health problem and the person will be encouraged to seek help under the terms of this policy. There will be no discrimination against individuals suffering from stress caused by sexual harassment.

Access to independent and trained counsellors will be available to all staff. This service will be strictly confidential between the counsellor and member of staff. No details or records will be disclosed without the written permission of the member of staff concerned.

Workers who have been sexually harassed will be offered paid time off to attend counselling sessions. Contact details of counsellors will be publicised in **[state where]**, so that staff can make arrangements for counselling as and when they wish.

Confidential support, practical information and advice is also available for individual employees from the employee assistance programme. **[include a link or signpost to further information.]**

Where the workers' complaint is not upheld, or it is upheld but results in disciplinary action short of dismissal of the harasser, mediation and/or an offer of redeployment may be offered to affected parties.

Further information

Trade union contacts

[complete details]

Equality Advisory and Support Service (EASS)

www.equalityadvisoryservice.com

For advice on discrimination issues.

0808 800 0082

Protect

<https://protect-advice.org.uk/>

Confidential advice for individuals who have witnessed wrongdoing in their workplace but are unsure how to raise their concerns.

020 3117 2520

Rights of Women – Sexual harassment at work advice line

<https://rightsofwomen.org.uk>

Free employment legal advice to women in England and Wales experiencing sexual harassment at work

Call: 020 7490 0152, Mondays 6pm to 8pm, Tuesdays 5pm to 7pm,

Wednesdays 5pm to 6:30pm. Please note the advice line is not open on bank holidays.

Scottish Women's Rights Centre – Sexual harassment legal service

www.scottishwomensrightscentre.org.uk/sexual-harassment/

For legal information about a case of sexual harassment

Helpline: 08088 010 789, Thursday, 5pm to 8pm.

Local advice centres

[complete details]



Signatories

This agreement is made between **[name of the employer]** and UNISON, a registered trade union.

This agreement comes into force on:

DATE:

This agreement will be reviewed on:

DATE:

SIGNED for **[name of the employer]**

DATE

SIGNED for UNISON

DATE



#Us Too

unison.org.uk/ustoo

UNISON
the public service union