



Wales  
TUC  
Cymru

# Sexual Harassment in the workplace

A Wales TUC Toolkit  
for trade unionists

# About the Wales TUC

The Wales Trades Union Congress (Wales TUC) is the voice of Wales at work, our aim is to make Wales a Fair Work Nation. As the largest democratic membership based civic body in Wales, we represent 48 affiliated unions, who represent over 400,000 union members.

Proudly part of the TUC and the wider international union movement, the Wales TUC is the devolved authority for unions in Wales. Our biennial Welsh Congress decides on Welsh union policy and elects the Wales TUC General Council to oversee delivery through the Wales TUC General Secretary and staff.

Trade unions have equality structures including formal equality committees and self-organised groups where members can share lived experiences, organise, and work towards a fairer and better workplace, community and society.

# Contents:

Introduction	5	■ Organising and campaigning	39
What this toolkit aims to achieve	6	■ Prevention	39
What is sexual harassment	8	■ Collective bargaining	40
Where and when can sexual harassment occur?	9	■ Representation	42
Who can perpetrate sexual harassment?	11	■ When representing someone accused of sexual harassment	43
The mansphere	12	■ Health and Safety Reps	43
Sexual harassment and the workplace	13	■ Perpetrator and victim in same workplace	44
Why sexual harassment is a trade union issue	14	■ Trade unions making an impact	46
Trade unions leading on wider change	15	■ 10 steps to making a difference as a union rep	46
Sexual harassment, 'sex based' harassment and sexual assault	16	■ Trade union training activities	47
Sexual harassment and equality	17	■ Preventing sexual harassment: a safer workplaces checklist for union reps	52
What are the consequences of sexual harassment?	19	■ Sexual harassment risk factors for workplaces	56
Sexual harassment and the law	20	■ Sexual harassment policies	60
Employer responsibility and the legal duty	22	■ Tips for writing a sexual harassment policy	60
Welsh Government	23		
Section 2: Tools	26	Further information/signposting	63
■ What are employers' duties of care?	27	Endnotes	64
■ What can employers do?	29	Acknowledgments	66
■ Employers and disclosure	32		
■ Taking a trauma informed approach	34		
■ What should workers who have experienced sexual harassment at work do?	36		
■ What can Trade unions do?	39		



# Section 1



# Introduction

Sexual harassment is part of a wider, relentless culture of sexual violence and misogyny. It is not a low-level act that should be accepted as an inevitable part of everyday life. As a global issue, it is dealt with differently across the world. We have the opportunity to tackle this issue head-on to make Wales the safest place to work, live and socialise.

Whilst anyone can experience violence and harassment, unequal status and power relations in society and at work often result in women being far more exposed to violence and harassment. Sexual harassment is such a lasting, pervasive issue in workplaces that over one in two women have experienced it<sup>1</sup>. These experiences are often compounded by racism, homophobia and ableism<sup>2</sup> and are regularly minimised, excused or not believed when reported<sup>3</sup>. Experiencing sexual harassment at work impacts on mental health and wellbeing, job security and career progression and is a major barrier to workplace safety.

We all have a role to play in tackling sexual harassment and we cannot be bystanders when it takes place. It is essential for us all to question behaviours that make women feel less safe at home, at school, in public and at work. Wales TUC and our affiliated trade unions are leading the way in this work. This toolkit will give union reps the information they need to tackle sexual harassment in the workplace and stop it from happening. Unions, our reps and members are key to holding employers to account and making sure that bosses are doing everything they can to prevent sexual harassment.

# What this toolkit aims to achieve

As a trade union movement, we want to see workplaces make sexual harassment completely unacceptable and against the workplace culture. We want workplaces to actively work towards preventing sexual harassment and protecting all workers from it. If sexual harassment still takes place, we want workers to feel empowered to report it, and for bosses to take decisive and quick action to support that person.

In the wake of the #MeToo and #Time'sUp movements, which helped to empower survivors to collectively share their experiences of harassment and abuse, there has been more awareness of the prevalence and the impact that these experiences are having on women in the workplace.

These are important steps forward, but much more needs to be done. In a post-pandemic landscape, there is a unique opportunity for us to create a fundamental cultural shift to end sexual harassment in workplaces for good.

In our efforts to champion the rights of all workers in a safe and respectful workplace, we must work to bring about and embed a cultural change that promotes a zero-tolerance approach to all forms of sexual harassment and abuse. We do this whilst cultivating an environment that validates and empowers those that have experienced sexual harassment to come forward and seek support.

In this toolkit, you will find information and support to help you:

- Identify workplace sexual harassment and offer effective support to those who experience it
- Understand the legalities around workplace sexual harassment
- Navigate conversations and negotiations with employers on behalf of members who have experienced workplace sexual harassment

→ Hold employers to their legal responsibility to prevent sexual harassment from happening in workplaces

→ Campaign for a zero-tolerance approach to workplace sexual harassment through various preventative measures

**“Things need to change because the effects of sexual harassment are devastating and life-changing”**

**(anonymous, 'No Grey Area' Report from Welsh Women's Aid (2021))**

The information and guidance in this toolkit has been developed by Wales TUC Cymru in partnership with Welsh Women's Aid.

We hope that this toolkit gives you a framework to work with and allows you to act within your workplace.



# What is sexual harassment?

**Sexual harassment covers a wide spectrum of unwanted behaviours or interactions.** This can include non-consensual touching, comments of a sexual nature or sharing sexually explicit materials without permission.

**Sexual harassment is a display of power which is intended to intimidate, coerce or degrade another person. It can take place in any place or situation, walking down the street, in school, in the workplace, online or in your own home.**

No one person experiences sexual harassment in the same way as another. It is rooted in power and is often an exploitation of a power imbalance. Experiences of sexual harassment are overwhelmingly gendered<sup>4</sup>, and it is often perpetrated alongside other forms of abuse, including racism, homophobia, biphobia, transphobia and ableism<sup>5</sup>. For people who have multiple identities, the type of sexual harassment that is faced is likely to be multi-layered, making it feel harder to unpick from other forms of discrimination. For example, a Black woman may face sexual harassment which is different to a gay man, but both are real and should be dealt with appropriately.

The perpetration of sexual harassment doesn't occur in isolation – is it part of a wider culture of normalised, everyday misogyny. It is important that we keep this context in mind when dealing with or referring to sexual harassment. A lack of understanding around the long-lasting and often

deeply traumatising impacts of sexual harassment have led to a narrative about it being 'low-level', something that is tolerable and even acceptable. We must be clear that sexual harassment is not 'banter', it is not a bit of fun; it is abuse.

Workplaces will have a variety of viewpoints on whether behaviour is insulting, embarrassing, threatening, unfriendly, or demeaning. What one person, or even the majority of workers, may view as amusing banter or harmless fun, another worker may find offensive. Others may see a worker who complains about behaviour as being too emotional or sensitive. It's critical to realise that behaviour can still amount to harassment or sexual harassment even if that wasn't the original intent.

We all have a role to play in changing this culture by taking a stance that sexual harassment is wrong; it is never justified, and it has no place at work, or anywhere else in society.

## These are some examples of sexual harassment:

### Physical

- Touching, pinching, stroking, squeezing, or deliberately brushing against someone
- Leering or ogling
- Making sexually suggestive signals such as winking
- Unnecessary physical contact and touching
- Physical assault

### Verbal

- Making sexual comments or innuendos
- Telling sexual jokes, or asking about sexual fantasies



- Making insults based on a person's sex or their sexuality
- Turning work discussions to sexual topics
- Requests for sexual favours, often related to promotion
- Asking questions about a person's sex life, or passing unwanted comment(s) on their sexuality
- Remarks about a person's body or clothing

### Non-verbal

- Displaying pictures, calendars, PC desktop wallpaper or other sexually explicit material
- Sending anonymous letters of an explicit or sexual nature
- Whistling
- Unwanted gifts

### Other

- Sending unwanted e-mails, text messages, posting sexually explicit 'jokes' on an online post or to their phone
- Spreading rumours of a sexual nature about someone
- Sharing photographs or images of a sexual nature

### Where and when can sexual harassment occur?

Sexual harassment can occur anywhere and everywhere. It exists in digital, online and public areas; at work, at school, in the street, on our phones and computers. Increasingly the culture of sexism is being accessed through social media platforms, with content creators attracting huge numbers of

followers by posting misogynistic content, which is influencing particularly younger people.

Catalysed by the pandemic, the lines between work and personal life are blurred as workers work from home or use their personal messaging services or social media for workplace-based conversations. Many workplaces are actively encouraging workers to use instant messenger services to communicate at work.

Whilst it is prevalent in all workspaces, workplace sexual harassment can be heightened in some industries and in certain job roles, specifically when there is a public-facing element to the work. A survey by the health union UNISON found nearly one in ten NHS staff had been sexually harassed in the last year<sup>6</sup>, and when retail staff were surveyed by USDAW (Union of Shop, Distributive and Allied Workers), it emerged that nine out of ten young women had experienced workplace sexual harassment in the previous 12 months<sup>7</sup>. Workers who work outside of a 9-5 role may also be more vulnerable to harassment on their journeys to or from work or may be more likely to face harassment from the general public.

**“It's rife in the hospitality industry. I worked in 5\* hotels and the things the men would say and get away with is just ridiculous.”**

It is also important to consider that a significant number of workers moved to remote or online



working during the pandemic. The fact that experiences of online workplace sexual harassment increased significantly at this time<sup>8</sup> is an indicator of how endemic an issue this is in the workplace. The unprecedented merging of 'home and workplace' meant that the experience of online workplace sexual harassment was heightened for some women because they were being sexually harassed in their own homes<sup>9</sup>. Many workplaces couldn't keep up with the new demands of working from home, and simple health and safety checks on workers' environment, mental health or treatment at work were not being carried out. For workers who now continue to work at home permanently or in a hybrid way, these checks must be carried out.

Additionally, online spaces can be particularly toxic, with online abuse, cyber flashing, anonymous

trolling, threats and harassment all being commonplace. For workers whose role demands that they have a public online platform, this can be a difficult space to navigate because it is both necessary in the age of online communications, but also dangerous and a place where harassment of all types can occur or be threatened. Increasingly, workers are having to be aware of the practices of doxing, cyber flashing and the links between online hatred from communities such as Incels, crossing over to real world harassment and violence.

The sheer scale of sexual harassment in the workplace, coupled with the indiscriminate way sexual harassment pervades all public and many private digital spaces means that women have very few places in society that are truly safe or harassment-free.

**“[remote working] means less accountability for actions & less protection from others in your team if you're on your own working from home.”**

# Who can perpetrate sexual harassment?

Instances of workplace sexual harassment overwhelmingly impact women<sup>10</sup>, however, anyone of any gender identity can experience sexual harassment and anyone of any gender identity can carry out sexual harassment.

Employees or workers could experience sexual harassment from anyone they interact with because of their job, including:

- A colleague or someone they work with
- A customer, contractor, client, or member of the public
- A manager, supervisor, or someone else in a position of authority
- Someone high profile or influential in the context of their workplace

Research from Welsh Women's Aid suggests that the majority of women who have been sexually harassed at work experienced harassment from more than one perpetrator<sup>11</sup>. This demonstrates how widespread sexual harassment is in workplaces and directly challenges the misconception that sexual harassment is only carried out by 'a few bad apples'. When sexual harassment, or any form of violence against women is categorised in this way, it minimises the true scale of harassment and abuse that women face at work, at home and in public.

Sexual harassment appears to be more likely in situations where there is a substantial power difference between men and women<sup>12</sup>. This means that workplaces with a gender, ethnicity or disability pay gap are far more likely to see these power differences. Perpetrators may be abusing a position of authority by harassing someone they see as being weaker, to disempower the victim and thus increase their own power and status in the workplace.

Nearly one in five women report that their harasser was either a direct manager or someone else with

direct authority over them<sup>13</sup>. This creates significant barriers for women trying to report their harassment. It also emphasises the important role union reps can play in supporting victims who have come forward or disclosed harassment.

**“The majority of the time the attention was either from people in a position of power or a customer.”**

As highlighted by the Kennedy report which examined sexual harassment within the TSSA union, it's important to note that 'misogyny is not the sole preserve of men. There are women who have internalised the notion that the way to thrive, particularly in male dominated environments, is to adopt certain behaviours, mimicking the worst of male machismo. So, both men and women can be accomplices in 'keeping women in their place,' or ensuring their ongoing subordination in the workplace or wider society.'<sup>14</sup>

# The manosphere

The manosphere is a collection of online spaces, which promote masculinity, misogyny and opposition to feminism. There are many different communities that exist under this umbrella term, including Men's Rights Activists (MRA), Pick Up Artists (PUA), Incel groups and some fathers' rights groups.

Whilst each group that exists within these spaces may differ, the general ideology of each group is characterised by the promotion of masculinity and the opposition of feminism. An extensive and distinct jargon has developed out of these interactions, such as 'alpha' or 'beta' males, which is a characterisation on how sexually dominant and attractive to women a man is perceived to be.

In recent years, these communities have grown in

popularity and are far more accessible to people because of popular online social media platforms, which allows people with these views to post easily accessible video content, often appealing to young men and boys.

The manosphere can often overlap with the far right, with a belief in conspiracy theories, racism and xenophobia being a common overlap between the two ideologies.

Increasingly these online communities and content creators are influencing particularly younger men and boys and trade unions within certain sectors such as teaching are seeing the impact within the classrooms and in how young women are being treated and spoken to.



# Sexual harassment and the workplace

Employers have a responsibility to protect all workers from sexual harassment, including self-employed, freelance workers or those on a casual contract. Sexual harassment can come from colleagues, a manager or a third party such as a client, customer, patient or member of the public. It should be taken seriously if it occurs in person or online.

It's crucial that employers take all reasonable steps to prevent sexual harassment at work. This means carefully considering the workplace culture and how it can allow or foster workplace sexual harassment, then working to change the culture and set out a clear plan of action for what the consequences of this behaviour are.

If workplaces are not doing this important preventative work, they could be found legally responsible for any sexual harassment that occurs in the workplace. This preventative work means;

- training workers and managers
- outlining the consequences of sexual harassment
- believing victims when they disclose their experiences and
- ensuring that reporting incidences is safe for the victim to help them highlight what they have experienced with no fear of repercussions

If a case of sexual harassment were *still* to arise after the workplace has done everything it can to prevent it, then it would make dealing with it easier and simpler, as the consequences and patterns of behaviours within the workplace will have already been outlined to those that work there or use the services of that workplace.

Sexual harassment is a serious workplace issue which can have lasting effects on those who experience it. It's sometimes dismissed as being "banter" or

just a joke. In reality, sexual harassment often has the effect of making the recipient feel ashamed, humiliated, undermined and frightened and can have a lasting impact on mental health.

Workplaces where a culture of sexual harassment is allowed to flourish are unattractive and intimidating for workers and can create a significant barrier to women entering male dominated sectors such as construction, engineering, finance or management. For some, these experiences can drive them to leave their job.

# Why workplace sexual harassment is a trade union issue

As trade unions, we stand up for workers. We provide support, help, advice and solidarity and we fight for workers to have the best workplaces now, and for the future.

As unions we also train reps in various roles, including Shop Steward, Equality Rep, Health and Safety Rep. This means that unions play a crucial role in ensuring that all workers can do their jobs safely, free from harassment and in a fair and equitable workplace. All union reps should receive training on how to support and represent members in cases of sexual harassment and all members are expected to work against the culture which allows sexual harassment to thrive.

Often a trade union rep may be a trusted person within the workplace, and victims of sexual harassment may choose to disclose to their union rep, rather than a manager. This means that union reps need to understand how to respond to these situations appropriately. One of the most important things a union representative can do is ensure that their employer has policies for preventing and dealing with sexual harassment. It may be that the policy is part of a wider bullying and harassment or dignity at work policy or it may be a stand-alone policy. Such a policy should be seen as part of the employer's obligation to combat discrimination. It is equally important that these policies are well publicised to everyone in the workplace and are monitored and kept under regular review.

The TUC runs a number of courses on discrimination law in relation to sexual harassment, how to be sympathetic and supportive, and how to ensure that victims keep a record of any incidents, including details of witnesses. Your trade union may also run similar courses.

Union workplace representatives need to be clear on how to deal with cases of sexual harassment where both the perpetrator and the victim work in the same place, and where both are union members. Unions should have clear policies about how to ensure that

the accuser is properly represented.

Given that there is often a power dynamic at play in sexual harassment cases (the harasser has some power over the victim, whether it is greater age, or seniority, or authority). This may mean they have access to more resources to help them, if they are accused of harassment or bullying. These resources may be financial, legal, interpersonal relationships or authority. For many victims, this makes accessing justice harder because for many, the repercussions of raising their experiences could mean risking their jobs. This is unacceptable. Unions must be aware of the workplace power dynamics and how they influence victims' decisions to get a better understanding of why victims make certain choices.

It is also the case that many victims of sexual harassment may not wish to disclose to their manager in the workplace or they fear either negative repercussions or inaction if they do disclose. For many, a union rep may be the first person to whom they disclose this information and it's important that union reps feel confident in actioning this information to avoid any additional distress.

# Trade unions leading on wider change



Sexual harassment is not just a workplace issue to be addressed in isolation. It is part of a wider systemic issue in society where the power structure favours men.

This means that there needs to be a more positive framework of employment legislation and trade union rights to safeguard dignity at work. This

includes statutory rights for union equality reps and the repeal of restrictive trade union legislation.

Trade unions work in partnership with many other organisations to lobby for changes to the law to make sure that misogyny, sexual harassment and discrimination can be properly dealt with.

# Sexual harassment, 'sex-based' harassment and sexual assault

Sexual harassment is unwanted conduct of a sexual nature, 'sex-based' harassment is unwanted conduct that focuses on sex or gender. This can include making sexist or derogatory jokes about women or girls in the workplace.

Sexual assault – which includes rape, sexual touching or any sexual activity that happens without consent – is criminal behaviour and can be punishable by a court of law.

Each of these terms describes unlawful behaviour under The Equality Act 2010. All types of harassment have the potential to involve behaviour that has the purpose or effect of either of violating an individual's dignity or of creating an environment that they find intimidating, hostile, degrading, humiliating or offensive. Therefore, anyone of any gender identity that either directly experiences or witnesses sexual harassment or sex-based harassment or is impacted by the environment that these acts can create, is protected under The Equalities Act 2010.

Data from the Rights of Women Workplace Sexual Harassment Helpline shows that almost half of all calls to the helpline in its first year of operation were about instances of sexual assault<sup>15</sup>.

This highlights the alarming scale of violence that is being experienced by women in workplaces and demonstrates that there is still some confusion as to what constitutes sexual assault and how this differs from sexual harassment.

In the context of violence against women, it is important to remember that all forms of non-consensual acts of a sexual nature can leave a lasting, devastating impact on the survivor. It is important that survivors feel listened to, supported and understand what rights and recourse is available to them. Information and guidance on how to support will be explained in the chapter 'Sexual Harassment & the Role of trade union Reps'.

If you have experienced anything detailed in the information above, or if you are not sure if an incident you experienced or witnessed is sexual harassment, sexual assault, or something else – advice and support is available to you. The Live Fear Free Helpline is completely confidential and is available 24 hours a day, seven days a week.



**Llinell Gymorth    Live Fear  
Byw Heb Ofn    Free Helpline**

**0808 80 10 800**

**ffôn • tecst • sgwrsio byw • ebost  
call • text • live chat • email**



# Sexual harassment and equality

Sexual harassment is rooted in power and is often an exploitation of a power imbalance. Experiences of sexual harassment are overwhelmingly gendered<sup>16</sup> so it is one form of sexism. It is often perpetrated alongside other forms of abuse, including racism, homophobia, biphobia, transphobia and ableism<sup>17</sup>. For people who have multiple identities, the type of sexual harassment that is faced will be tailored to their identity, making it feel harder to unpick.

We know that to effectively address sexual harassment we must hear from all workers who encounter it and ensure their specific experiences are considered when designing policies to tackle it.

TUC research shows workplace sexual harassment is more prevalent for younger women, Disabled women, Black, Asian and Minority Ethnic workers, the LGBTQ+ community, migrant workers and those in insecure forms of work such as zero-hours contracts and agency work. However, while harassment can be more prevalent for these groups, other attitudes can increase the risk for different groups of workers. For example, ageism and sexism in the workplace can lead to a perception that older women are less likely to be harassed.

Occupations where workers are exposed to male 'third parties' (such as customers) also carry a higher risk for women who work in them. 56 per cent of women working in the hospitality industry have experienced sexual harassment as have 47% of those working in the services industry.

TUC research from 2021 found shocking levels of sexual harassment. 68 per cent of Disabled women reported having been sexually harassed at work, this compares to 52 per cent of non-Disabled women. This research also revealed that Disabled women experience higher levels of every type of sexually harassing behaviour reflecting the wider imbalance of power encountered at work and in wider society. The research also highlighted that many Disabled women workers experience multiple forms of

harassment pointing to workplace cultures where sexual harassment is a frequent and normalised occurrence rather than an isolated incident.

Further TUC research with the LGBTQ+ community showed that the type of sexual harassment also changed, depending on the identity of the victim. LGBTQ+ people were more likely to hear unwelcome jokes of a sexual nature, as well as more questions being asked about their sex life. Bisexual people in the research described harassment that appeared to be directly influenced by specific discriminatory stereotypes related to the sexualisation of bisexuals. One bisexual woman reported hearing 'jokes' that "no one is safe" around her.



## “I was told that all I needed was a good dick inside me and I’d be straight and also what a waste it was for all men that I was a lesbian”

### Sexual harassment of LGBT people in the workplace TUC report

In the TUC’s research Trans women were even more likely than other women to experience sexual assault and rape at work, with around one third of trans women (32 per cent\*) who responded to our survey reporting being sexually assaulted and over one in five (22 per cent\*) experiencing serious sexual assault or rape.<sup>18</sup>

As shown by the Welsh Government’s Anti-Racist Wales Action Plan published in 2022, Black, Asian and Minority Ethnic women face the double disadvantage of both race and sex discrimination in the workplace. In a survey conducted by the TUC, 37 per cent of women reported that race and gender was the reason for the verbal abuse they received.

Many Black, Asian and Minority Ethnic women feel coerced into conforming to white aesthetic norms at work, and are then objectified in hypersexualised ways. This coupled with casualisation of work, the gig economy and zero-hour jobs means that underemployment and low pay is endemic in racialised communities.

Research shows that millennials from Black, Asian and Minority Ethnic backgrounds are 47 per cent more likely to be on a zero-hours contract, compared to their White peers (University College London, 2020) and of those workers, Black women are more likely than Black men to work in zero-hour jobs.

This structural racism, sexism and discrimination means that for many Black, Asian and Minority Ethnic women, work can be a place where discrimination is almost baked into the workplace experience. When power dynamics are so explicit, this increases the likelihood of sexual harassment, meaning that Black, Asian and Minority Ethnic women are not only more likely to be unsafe at work because of sexual harassment, they are also less likely to have the power, financial resources or help when it has happened.

# What are the consequences of sexual harassment to workers?

There are social, psychological, physical, emotional, and financial consequences of workplace sexual harassment to workers. The impact on sexual harassment can be enormous and it is important that workplaces take this seriously. Sexual harassment makes people feel frightened, embarrassed, patronised, or harassed and makes the workplace hostile and scary. Employers should take reasonable steps to prevent sexual harassment from occurring.

Sexual harassment has a lot of potential negative societal and human consequences, and it can make the lives of the victims unbearable. Women who experience harassment are constantly made to feel guilty, and if they report it, they sometimes risk being fired, losing out on promotions, or having to retire. When one in three women experience some form of male violence in their lifetime, it is likely that a significant proportion of women who are experiencing workplace sexual harassment are also survivors of domestic abuse or sexual violence. Experiences of misogyny and harassment at work for these women can be extremely retraumatising and emotionally distressing. Disrespectful and abusive workplaces also have lower performance and productivity and increased staff turnover.[6]

A negative impact of sexual harassment extends to the workplace itself. It lowers employee morale, which reduces productivity. In survey work carried out by the TUC, Disabled women were more likely to feel the impact of sexual harassment on their physical health.

Examples of the impacts of workplace sexual harassment:

- Feeling fearful
- Feeling vulnerable within the workplace
- Lower productivity levels
- Loss of self confidence

- Feeling embarrassed by the harassment
- Victims avoided certain work situations as a result.
- negative impact on their mental health
- negative impact on their physical health

When someone is sexually harassed it leaves them feeling threatened, humiliated, patronised or harassed, and creates a threatening, intimidating work environment. The social and human costs of sexual harassment can be very high.

Women who are harassed are always made to feel at fault, and if they complain they may be dismissed, or lose promotion prospects, or have to resign. Sexual harassment also has a detrimental effect on the workplace itself; as it affects workers' morale it makes them less efficient.

# Sexual harassment and the law

There is no single offence of “sexual harassment”, or even recognised category of offences. The Centre for Women’s Justice says that ‘a mixture of different offences from different areas of criminal law may apply in a variety of circumstances, including: sexual offences, public order offences, electronic communications offences, offences under the Protection from Harassment Act and common law offences’.

Despite various campaigns, British law trails behind other countries as some common forms of sexual harassment are not a crime under UK law. They include street harassment or ‘catcalling’, and other one-off verbal harassment. Although the latter could be considered a crime if repeated or if it reaches a certain level of severity. The everyday occurrence of harassment on our streets and public places is relentless and the laws that are supposed to be in place to protect us, don’t always do so adequately.

As a result of the Covid-19 pandemic, an unprecedented shift in working practices has transformed how and where we work. How society defines ‘the workplace’ has changed since the outbreak of the covid 19 pandemic. Some workplaces having greater flexibility, whilst others face huge challenges and pressure at work. Despite fundamental changes taking place, workplace sexual harassment continues to pose a persistent threat to workplace safety in both the online and in person spaces.

Within the context of work, sexual harassment refers to any unwanted behaviour of a sexual nature that occurs in a place of work, in a work context or during hiring and employment.

The Equality Act 2010 (Definition S 26) protects people from unlawful discrimination in the workplace and covers:

- Harassment related to a protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity,



**The Equality Act 2010 (Definition S 26) defines sexual harassment ‘as any unwanted conduct of a sexual nature which has the purpose or effect of violating the recipient’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment’<sup>19</sup>.**

race, religion or belief, sex, and sexual orientation)

- Sexual harassment
- Less favourable treatment or victimisation when an employee either rejects or submits to unwanted conduct of a sexual nature that is related to gender reassignment or sex

The Act covers those in any type of employment; full-time, part-time, casual, flexible, zero-hours or any form of precarious work, internships and apprenticeships. The Equality Act’s protections start



immediately when employment commences. An employee's rights under the Act are not impacted by probationary or trial periods of employment.

To determine exactly what Definition S 26 of The Equality Act means in relation to workplace sexual harassment and what behaviours it covers, we can break down the definition piece by piece.

Sexual harassment is conduct that is **unwanted**. This means it is uninvited or unwelcome behaviour and the person carrying it out doesn't have the consent or permission to do so from the person that is experiencing it.

The definition also states that sexual harassment is conduct of a **sexual nature**. This could be actions, language, or images of a sexual nature including, but not limited to:

- Unwelcome touching, hugging, massaging, fondling, pinching, or kissing
- Sexual comments or jokes
- Making promises in return for sexual favours
- Displaying or sharing sexually graphic pictures or posters
- Sexual intimidation, suggestive looks, staring or leering
- Sexual advances or sexual coercion
- Sexual gestures

- Intrusive questions about a person's private or sex life
- Sexual posts or sexual contact via phone or text, on social media, email, or online work platforms
- Spreading sexual rumours about a person

Sexual harassment is defined as having either the purpose or the effect of violating someone's dignity. This means that sexual harassment is a subjective experience and is determined by consequence rather than intention. Responding to an allegation of sexual harassment by saying 'I didn't mean to offend them' or 'that was not my intention', does not stop it from being defined as sexual harassment under The Equality Act if a violation of dignity has occurred.

Workplace sexual harassment also relates to violations of a professional space and so can extend beyond the feelings of an individual victim. If behaviour creates an intimidating, hostile, degrading, humiliating or offensive environment for other people at work, it can be classified as sexual harassment. Examples of this can include overhearing or witnessing other people discussing or sharing lewd or sexually explicit content in the workplace.

It is never up to the employer or a third party to determine if an experience that has taken place in a work context is sexual harassment or not. If an individual feels that they have been sexually harassed or that they have been impacted by sexual harassment, their feelings are valid, and they are protected by The Equality Act 2010.

# Employer Responsibility and the Legal Duty

Within the workplace employers have a responsibility to protect all employees from sexual harassment. The Equality & Human Rights Commission states that employers are liable for acts of harassment:

- Committed by one worker against another of their workers
- Committed by one of their workers against a job applicant or former worker
- Committed by an agent acting on their behalf against one of their workers, and
- Where there has been a failure to deal with harassment of one of their workers by a third party, or by another worker outside of employment<sup>20</sup>

**“If I was reassured from the outset that my employer took sexual harassment seriously or if they had a track record of supporting women who had called it out, I might have felt like I could have said something about what happened to me.” - Sam, care sector worker**

If an employer can show that they took ‘all reasonable steps’ to prevent the harassment, the liability no longer lies with the employer.

In 2021, The UK Government announced the introduction of a proactive Legal Duty that can see prosecutions brought against employers who are not actively taking measures to prevent sexual harassment from happening in workplaces.

The Duty holds employers to account to ‘take all necessary steps’ to protect staff from sexual harassment and to take necessary measures to prevent it from happening in the workplace.

If an employer cannot demonstrate that they have undertaken all necessary precautions in preventing sexual harassment, they can be liable for enforcement action by The Equality & Human Rights Commission (EHRC), the statutory body responsible for enforcing equality legislation.

Ahead of the implementation of the Legal Duty, the UK Government has committed to producing guidance for employers and is considering extending the time limit for bringing workplace sexual harassment cases to the employment tribunal from 3 months to 6 months. Legislative changes will be introduced “as soon as parliamentary time allows<sup>21</sup>.”

The EHRC is developing a statutory code of practice to support the implementation of this Duty. Employers can find existing guidance on implementing measures to prevent workplace sexual harassment from The EHRC in their Guide for Employers.

Although the Duty has yet to come into effect, there are a number of measures that employers can take now to prevent sexual harassment, protect workers and be fully prepared for when it is an active legal requirement.

# Welsh Government

In 2022, The Welsh Government published its five-year VAWDASV National Strategy 2022-2026, which includes a new commitment to tackle “sexual harassment and violence, and the behaviours which enable it, in all parts of our society”.

It is the second Strategy to be completed under the duty established by the ground-breaking Violence against Women Domestic Abuse and Sexual Violence (Wales) Act 2015, which also created duties on local authorities and health boards in Wales to publish and implement strategies for addressing issues like sexual harassment in local communities.

The Strategy will be delivered through a collaborative ‘blueprint approach’ with a dedicated ‘workplace harassment’ workstream. This approach strengthens the partnership between public, private and specialist sectors to tackle this issue head-on and ensure that workplaces are safe, respectful and inclusive for all employees.

Amongst its priorities, the workplace harassment workstream will promote best practice and ensure employers have the tools, skills, structures, and leadership to deal with issues of harassment. Blueprint partners will also be tasked with building a coherent and effective response to abuse of trust in public bodies.

Welsh Government has shown a commitment to working in Social Partnership with employers and trade unions, using the framework of the Workforce and Social Partnership Councils to shape the agenda.

Welsh Government says that this approach will ‘put survivors at the centre, challenge and support perpetrators to change and create zero tolerance environments to help bring about a whole-society change’<sup>22</sup>.

In Wales, trade unions and Welsh Government have been able to work in partnership to negotiate significant improvements for workers across the



breadth of workplace sectors. This work will continue with renewed focus on how issues such as sexual harassment are affecting workers and workplace cultures in Wales.

# Case Study

## Sally

I've worked at a late night venue in the Bay for several years and we've had a variety of problems to do with getting home safely - buses don't tend to run (or often don't turn up when they're meant to!) so lots of us end up paying an hour's wage or more for a taxi or an Uber home, which usually means waiting at the same taxi rank as all the drunk people we've been serving for hours.

If they've had problems with us at work, there's always a fear they'll have a problem afterwards. We've had performers at the venue ask staff to come home with them, we've had women followed around the bay after their shift (one was even chased partway home) we've had a group of people warned by police not to take certain routes back to town because of safety concerns. I normally end up waiting extra time after my shift for a buddy to travel home with. We try not to let any of the female staff walk home alone. We've had incidents with drunk customers making moves on staff and when I first started there was a list behind the bar of the most creative insults customers had made about staff because if you didn't make a joke out of it, it would really get you down.

**We've had women followed around the bay after their shift (one was even chased partway home)**









# Section 2

## Tools



# Employers

## What are employers' duties of care?

All UK employers have a duty of care towards the people who work for them. This is critical to the health, safety, and general welfare of all employees. The duty of care does not just mean caring for workers while they are at work but caring for them as a whole person – this can mean ensuring that workers are safe on their journey to work, or that they have support when they are experiencing mental health issues. It also means that employers must make sure that their workforce are safe, have healthy workplace practices, and are not at risk of harm.

By law, employers must do everything they reasonably can to protect staff from sexual harassment. This covers:

- employees and workers
- contractors and self-employed people hired to personally do the work
- job applicants

Anyone who sexually harasses someone at work is responsible for their own actions, but their employers can be responsible too – this is called 'vicarious liability' and is the employer's liability for the acts of its employees. Employers should do all they can to try to prevent sexual harassment happening in the first place.

Irrespective of the size of the workplace, employers have a duty of care responsibility, and all complaints of sexual harassment should be taken very seriously. If an employer does not carry out this role, in some cases it could lead to a serious breach of a worker's employment contract. If a worker who is a victim of sexual harassment feels they have no choice but to resign because of it, the employer could face a claim of constructive dismissal.

Employers also have a duty of care towards workers



if the experience of sexual harassment happened in non-work-related times – sexual harassment is traumatic, and the stress can impact on your work. Workplaces must be understanding of this and provide support to help you.

Employers also have a duty to take preventative measures to stop a culture of sexual harassment forming and reduce the likelihood of it happening. This applies if you work:

- At a designated workplace – an office, school, hospital, university, bus company etc
- In an online workspace – or if you use technology such as zoom or teams for work meetings
- On your journey to or from work – whether you use public transport or a car
- Workplace hubs (physical spaces where you carry out your role, but utilise technology to do so)
- If you are attending an event relating to work such as an office party or a meeting at an external location

[DISCLAIMER: The Worker Protection (Amendment of Equality Act 2010) Bill is a Private Member's Bill which at time of publishing has not been passed. The Bill is expected to create new legal duties for employers to ensure they take all reasonable steps to prevent sexual harassment and strengthen the actions that can be taken if an employer fails to take all reasonable steps in preventing a third party from sexually harassing an employee.

Employers should handle any investigation into sexual harassment in a way that is fair and sensitive to:

- the person who made the complaint
- someone who witnessed it
- someone who has been accused of sexual harassment

# What can employers do?

The below guidance is drafted in-line with advice from the EHRC, the governing body responsible for enforcing the current legislation, but updates may be relevant once the Bill has been passed.

## Preventative measures employers can take

### Proactive action

- Don't wait for sexual harassment to occur before tackling the problem. Employers should take steps to try to make sure sexual harassment does not happen in your workplace and aim to have a culture of zero tolerance of sexual harassment.
- Employers should aim to develop a proactive approach and an inclusive, supportive culture where it is clear to all employees that sexual harassment will never be tolerated and that all complaints and allegations are always taken seriously and are properly investigated.
- Remove or reduce risks of sexual harassment to make sure your workplace is safe.

### Engage with workers and union reps

- In creating a strategy to prevent sexual harassment from happening in a workplace, it is crucial that employers establish a baseline of what measures and support is currently in place. Using this information, employers should consult widely with staff and union reps and use this insight to form the basis of new or updated prevention measures.
- Anonymous staff surveys can be a useful tool to gain an insight into employees' views on the culture of an organisation and whether there are potential 'risk-areas' that need to be addressed. Running focus groups, ideally with an external facilitator, can also provide useful insight.

- Additionally, a 'climate survey' can help assess where in the organisation sexual harassment would be more likely to occur. Risk areas such as a power imbalance, the presence of alcohol, lone working or third parties should be considered, and prevention plans should be specifically tailored where additional risks are identified.
- It is important that staff feel their views and experiences are valued and will be used to actively inform procedures and underpin change. Findings should be disseminated and discussed with staff in an open and transparent manner to ensure everyone is clear about the programme of work and their integral role in developing and changing cultures. Safeguarding the anonymity of participants is imperative throughout this process.

### Policy

- Update your policies so that they are a written record of your zero-tolerance approach and they allow workers to safely report, in the knowledge that action will be taken. If you haven't got a specific sexual harassment policy in your workplace, or you haven't reviewed it in the light of the #MeToo movement, it's time you did. Employers should ensure that they have in place an effective anti-sexual harassment policy that incorporates the consultation feedback and is regularly reviewed and updated.
- Policies should set out safe reporting routes, the specific processes for receiving and responding to reports of sexual harassment, as well as what steps will be taken to remedy and prevent harassment from occurring.
- Policies should define sexual harassment and provide a broad range of examples of it. These examples should be relevant to your specific workplace and any risks identified within your climate survey and risk assessment. The policy should also acknowledge the heightened nature of sexual harassment for Black, Asian & Minority



Ethnic Women, for deaf and Disabled women and for those from the LGBTQ+ community and include a commitment to eradicating all forms of discrimination under The Equalities Act 2010.

- A guide on creating a sexual harassment policy and template examples can be found on page 60 of the toolkit.
- Consider the changing nature of 'the workplace' when drafting a policy. It is important to consider how workplaces have changed since the pandemic and how this could impact any anti-sexual harassment strategy. Shared workspaces, 'working hubs' and 'hot desks' could pose elevated risks for sexual harassment. Even if harassment is carried out by a third-party in this space, it is possible that employers can be found to be vicariously liable.
- A changing working landscape has also driven a move to more online and 'remote' working. Anti-sexual harassment strategies should therefore include a 'homeworking' policy about employees' use of digital platforms and social media. Ensuring that the strategy and any policies it includes is a live document subject to regular, routine review will help to cover and consider any changing or mitigating factors.

### **Ensure a culture of partnership with trade unions**

- A commitment to fostering a workplace culture that is safe, respectful and harassment free will only be effective if there is meaningful buy-in across the whole leadership team and management structure. Employers should take time to communicate and explain their strategy that visibly sets out a zero-tolerance approach

to sexual harassment in the workplace so that management can effectively cascade this information to the wider workforce. Working with trade unions can help provide the insights from the workforce on what needs to be changed, and can build trust that change is happening.

- It is also extremely important that any managers or senior employees undertake specific workplace sexual harassment training so that they are equipped and confident in recognising sexual harassment and dealing appropriately with complaints or disclosures. Trade unions can often help deliver training for management and workers.

### **Communicate the strategy far and wide**

- Anti-sexual harassment strategies should be reflected in formal statements released by management, should be prominent on the organisations website or intranet and should be brought to the attention of all employees through internal communications channels.
- This information should also be communicated with all suppliers and third parties that work with the employer. This will ensure that all suppliers to the employer are aware of what is expected of them and how to report instances of harassment.

### **Training**

- A company or organisation-wide training programme for all workers that is accessible, inclusive and intersectional is a crucial step in preventing sexual harassment at work. Training should be developed with violence against women specialists as well as experts from within the organisation, including trade union reps.



- Training should centre around challenging harmful normalisations, expectations and bias and provide meaningful movement towards a shared vision of a safe, equitable workplace that is free of sexual harassment.
- Consider additional, specialised training for key members of the team who can identify signs of violence against women, domestic abuse and sexual violence. These individuals can help signpost victims to necessary support services.

### **Culture change**

- Promote diversity – sexual harassment thrives on gender segregation
- Cultural change is not a tick-box exercise and doesn't happen overnight but taking the time to develop and implement a strategy that builds trust and empowers everyone to play their part increases the chances of making an effective and lasting change to the workplace environment.

### **Support**

- Provide robust support to anyone involved in a sexual harassment complaint
- Make it clear to everyone who works for you, or uses your services, that you will not tolerate sexual harassment
- If someone who works for you makes a sexual harassment complaint despite steps you've taken, this is a learning opportunity. You need to properly investigate:
  - why the steps you've taken have not worked

- if anything needs to change
- Create a workplace environment where a combination of legal and pastoral support is readily available, will reassure victims that they have options and agency when considering how they want to progress or respond to an experience of sexual harassment.
- Clear signposting to support services and information on the correct grievance process should be readily available to all employees. Ensuring this information is on the intranet or homepage, in employee handbooks and visible on noticeboards, reception desks and break rooms will help victims know the employer's stance on workplace sexual harassment and that there is support available to them.
- A list of support services can be found on page 63 of the toolkit.

### **Monitor & evaluate progress**

- When the strategy and policy has been communicated and processes put in place, monitoring and evaluation is necessary to assess effectiveness and maintain accountability. The use of regular anonymous climate surveys and exit interviews ensures leaders are kept informed of the progress being made, any barriers to strengthening progression, and any necessary adjustments to strategic plans.

# Employers and disclosure

- ☑ All reports of sexual harassment must be taken seriously and thoroughly investigated. Employers must keep in mind that most instances of workplace sexual harassment go unreported. TUC/YouGov polling indicates that four in five women did not report the sexual harassment to their employer<sup>23</sup>. Taking the step to disclose sexual harassment may feel like a daunting and re-traumatising course of action for the victim
- ☑ If an employer becomes aware of an incident of sexual harassment, they should approach the process in both a timely and sensitive manner
- ☑ A victim's experience of sexual harassment may also be intertwined with experiences of racism, ablism and homophobia and compounded by prior experiences of domestic violence or abuse. Employers should be sensitive to this fact and facilitate access to any additional external support needed
- ☑ If a victim makes a complaint of harassment or assault that may be a criminal offence, the employer should speak to the individual about whether they want to report the matter to the police and support them with this process. In cases of rape or sexual assault where there is a criminal investigation, it is possible for employers to continue to carry out internal inquiries and take necessary steps to ensure the workplace is safe for all employees whilst a criminal investigation takes place
- ☑ Because sexual harassment is defined by how that experience made the victim feel, it isn't up to an employer to prove either way if an act of sexual harassment has taken place. The priority of the employer should be to acknowledge the victim's experience, thank them for coming forward and explain to them what their options are
- ☑ Having a procedure in place that offers a range of options for victims of sexual harassment, can help to ensure that a disclosure is dealt with

appropriately. The EHRC advises that a robust anti-harassment procedure should<sup>24</sup>:

- Offer multiple reporting channels
- Explain the different courses of action that can be taken, including informal solutions and formal disciplinary processes
- Set out a range of appropriate consequences and sanctions if harassment or victimisation occurs
- Provide information and contact numbers for those working with the business or organisation that can help to support (this could be union representatives or potentially a Violence Against Women and Girls-trained member of staff)
- Provide signposting to information and helplines that offer legal or holistic support and advice on workplace sexual harassment. A list of these support services can be found on page 63 of the toolkit
- State that victimisation or retaliation against a complainant will not be tolerated
- Offer safeguarding actions that will prevent additional harassment, retaliation or victimisation being experienced by the victim

## Informal resolution

If the victim chooses to resolve the issue informally, there should be no expectation on them to resolve the issue themselves. An informal meeting (carried out in a way that ensures that the victim feels safe and supported) can be a useful step in setting out various options. Victims have the right to be accompanied to informal meetings by a chosen person or their union rep.

When facilitating an informal meeting, it is important



## Because sexual harassment is defined by how that experience made the victim feel, it isn't up to an employer to prove either way if an act of sexual harassment has taken place.

that employers are guided by and listen to the victim to determine how they can help them to resolve the issue informally.

The EHRC suggests<sup>25</sup> that the following solutions should be discussed:

- Determining if the victim feels empowered to approach the issue directly with the person that has harassed them
- Offering to accompany the victim in any discussion with the person that has harassed them
- Helping the victim to draft out their thoughts in writing
- Offering to raise the matter informally with the harasser on the victim's behalf
- Setting up a mediation session facilitated by a trained mediator
- Offering to source additional advice from external support services on behalf of the victim
- Helping to obtain advice on or assistance in dealing with issues relating to particular protected characteristics (for example, from a charity with expertise relating to a particular disability)
- Helping to obtain counselling or support for the individual

Throughout this process, it is important that the victim doesn't feel pressured into any particular course of action and is reassured that the process will be led by them at this stage.

In discussing these options, the victim may decide that an informal resolution will not effectively resolve this issue and they may want to explore other options available to them. The victim can choose to

seek a formal resolution at any point in the process.

Regardless of the decision, employers should respect the wishes of the victim. If the victim chooses to pursue no further action, it is important to keep a record of their complaint and their decision, as this may be useful evidence if the victim changes their mind. Additional support services should still be signposted to, and victims should be made aware that they can choose to pursue any one of the above options at a later date if they so wish.

The only time an employer may decide to progress with formal resolution procedures even if the victim does not want to pursue this themselves is if the incident gives an employer cause to believe that not addressing and resolving the situation could lead to significant risk to the victim or other people in the workplace. If this is the case, the reasons for this course of action need to be clearly communicated to the victim, and additional safeguarding may be required to ensure they are not victimised or at risk from additional harassment.

### Formal resolution

Employers should familiarise themselves with ACAS guidance on conducting workplace investigations and discipline and grievances at work if an employee wishes to seek a formal resolution to an experience of workplace sexual harassment. Employers can be penalised at tribunal if they don't follow the grievance process properly.

The employer should take all steps to reassure the victim and protect them from further potential harassment or victimisation whilst offering support and counselling.

# Taking a trauma-informed approach

Research from Welsh Women's Aid suggests that only 20 per cent of women who reported sexual harassment to their employer were happy with the outcome<sup>26</sup>. The reasons for this dissatisfaction are varied, but the most common response from women was that they did not think their report was believed or taken seriously.

Establishing a workplace environment that takes all forms of sexual harassment seriously and adopting a trauma-informed approach to disclosures of harassment or abuse can help women feel more empowered or comfortable to disclose their experience and seek support.

Reacting to a disclosure of harassment or abuse in a trauma-informed way simply means responding appropriately, with empathy and centring the needs of the person disclosing. If someone discloses a traumatic experience, it is important to focus on the impact that the experience has had, rather than the experience itself.

There are a number of ways that employers can adopt a trauma-informed approach to the reporting and disciplinary process of instances of sexual harassment and other violence against women in the workplace:

- Listen, validate, support. Ensure that anyone disclosing sexual harassment, violence or abuse knows that you take the situation seriously. Acknowledge their experience and the impact it has had on them, reassure them that support is available. Employer responses that seek to minimise the claim or propose that the victim should change their working pattern to stop the harassment creates a culture of victim blaming. It is not the responsibility of a victim to modify or change their behaviour, this onus should be firmly on any perpetrator of harassment or abuse.
- Give options, not advice. Victims deserve to be able to make informed choices and have the

option of being at the centre of decision-making about their case. Their experience has likely made them feel that they have had power and control taken away from them. Offering them some control over the process empowers them to have agency in the resolution of their complaint.

- Those who have experienced sexual harassment at work may not necessarily want to undertake a lengthy disciplinary process; they may simply want their experience of harassment to stop. Consider what actions you can take as an employer or union rep to make this happen.
- Consider the gendered dynamic of those involved in the process. It could, for instance, be re-traumatising for a female victim bringing a case against her male colleague to be questioned by a senior male figure.
- Set timescales for any investigation or grievance procedure and support this with regular, clear communication. Whilst it is important that the process is carried out properly and professionally, it is worth considering how a long, drawn-out investigation and delays with no explanation will impact the victim, and the wider workforce. Setting achievable timescales and regularly updating and communicating with those involved is advised to bring about a swift and thorough resolution.
- Your workplace or organisation should speedily review a complaint, put a stop to any improper behaviours and take all necessary steps to stop it happening again.
- Public sector employers such as health, education and local government should comply with the Public Sector Equality Duty to eliminate discrimination and harassment and to advance equality.



# What should workers who have experienced sexual harassment at work do?

If you are sexually harassed at work you should not suffer in silence but should seek immediate advice from your union representative or manager. You should not feel guilty or weak or that you are to blame in some way for inviting bullying and/or harassing behaviour.

- Treat yourself with kindness. Experiencing sexual harassment is traumatic and it's okay to seek support.
- Contact your trade union and ask for your rep to help you. If you do not feel you can trust your rep, then ask to speak to the trade union officer that represents your workplace.
- Begin a diary detailing factually what is happening with the times and dates. Try to gather as much information as possible, such as emails or details of any witnesses. You should also include your own response to these incidents.
- Gather all the evidence that you have either in hard copy or on a secure computer drive where only you have access. This may include letters, emails, texts, WhatsApp messages or relevant screenshots and photographs.
- Check with your trade union rep if your workplace will allow you to take recordings as evidence. In some workplaces this may be a grievance issue so it's best to take advice on this.
- Write down your feelings at the time and your own response.
- It may be useful to find out if you are the only person being harassed or whether other people are also affected and try to make a collective complaint. Talk to colleagues and see if they will support you. Try to get witnesses to bullying and harassment incidents - try to avoid situations where you are alone with the bully and only take this action if you feel safe to do so.



## It may be useful to find out if you are the only person being harassed or whether other people are also affected and try to make a collective complaint.

- Keep copies of all annual appraisals, and letters/ memos relating to your ability to do the job. Make sure that you know exactly what your job description is so that you can check whether the responsibilities you are given match it. This is particularly important if you are experiencing bullying or harassment from a manager or senior member of staff, or if your ability to do your job is being questioned.
- Make sure you keep your union representative informed of all developments.
- You may want to tell someone who you can trust – a trusted colleague, friend or family member.
- Contact a specialist helpline such as the Live Fear Free Helpline run by Welsh Women's Aid.
- Work with your trade union representative to raise this issue at work. You may wish to highlight that this is happening and ask for it to be stopped or raise a grievance. There does not have to be a timescale to this, and your employer should take your case seriously irrespective of time passed.
- Your union rep may need to check if your workplace is adhering to their own policies so it may be helpful to find where these policies are kept, for example on a workplace intranet. Many workplaces have wider policies on harassment or unacceptable behaviour which may cover sexual harassment.
- If you wish to raise a grievance, make sure you keep copies of all correspondence both sent and received.
- If you want to report the sexual harassment as a crime, then your employer should support you to do this. This support may mean paid time off.
- Many workplaces offer independent and free access to mental health services such as

counselling or CBT, you may wish to access this support.

- If you need legal support your trade union can help by putting you in touch with solicitors.

If you feel that your problem has not been addressed at work, and you would like to make a claim to an employment tribunal then contact ACAS the Advisory, Conciliation and Arbitration Service. There are some legal discrimination claim time limits which must be followed.

Discrimination claims must be presented to a tribunal within: -

- General rule (three months less one day of act or omission complained of)
- Summary dismissal (three months from date employment terminated)
- Dismissal with notice (three months from date when notice expired)
- Constructive dismissal (three months from date of resignation, or from date when notice expired)
- Failed promotion (three months from employer's decision)
- Continuing act of discrimination (three months from last act in the series)
- Failure to make reasonable adjustments (three months from decision to do nothing, or from the expiry of a period within which the employer might reasonably have been expected to do something)



# What can trade unions do?

Unions have a crucial role in ensuring that all workers can do their jobs free from harassment. Many unions will have policies on dealing with sexual harassment. All stewards should receive training on how to support and represent members in cases of sexual harassment. This should include training on discrimination law in relation to sexual harassment, how to be sympathetic and supportive, and how to ensure that victims keep a record of any incidents, including details of witnesses. The TUC runs a number of courses on this, as may your trade union.

Union workplace representatives also need to be clear on how to deal with cases of sexual harassment where both the perpetrator and the victim are union members.

Trade unions have a unique role in tackling sexual harassment through a combination of:

- **organising and campaigning** – for awareness and better education of workers and employers, and for stronger laws to protect workers.
- **Prevention** – working with the employer to try to prevent incidences of sexual harassment from happening
- **individual representation** – providing expert support to victims of sexual harassment, both in their workplace and through legal proceedings
- **collective bargaining** – using our experience and influence to shape better workplace policies and cultures

## Organising and campaigning<sup>27</sup>

An organised workplace is one where;

- the union draws its strength from not just the number of members it has, but also the number of reps and activists;
- the union campaigns on issues that members care

about and seeks to involve them in campaign activity;

- the union reflects the diversity of the workers amongst its membership and activists.

Three organising fundamentals;

- The strength of the union is built on high levels of membership and activity
- Members are encouraged to work collectively and have the chance to campaign together on issues that they care about
- Paid officers provide support, advice and leadership to assist members to win in their workplace

## Prevention

One of the most important things a union representative can do is ensure that their employer has policies for preventing and dealing with sexual harassment. It is equally important that these policies are well publicised to everyone in the workplace and are kept under regular review. If you are aware of incidents of sexual harassment in the workplace, even if you are not working on a specific case, you should draw this to your employer's attention as it may be that current policies are ineffective, or are not being properly implemented, or that people simply are not aware of them. Carrying out member surveys is a good way of ascertaining how many people have experienced or witnessed sexual harassment. A survey could also ask whether people are aware of existing policies. If there is more than one union recognised in your workplace, you should work together to ensure that the trade union movement is presenting a united front in combatting sexual harassment. Trade union branches can also work with local or national organisations which tackle sexual harassment such as Welsh Women's Aid, the Everyday Sexism campaign or the End Violence Against Women (EVAW) coalition.



### **Steps to prevent workplace sexual harassment:**

- ☑ Make sure you have a sexual harassment statement and use it at every event so that everyone knows that there is a zero-tolerance approach
- ☑ Nominate a person to whom members can disclose, if they encounter sexual harassment at any event
- ☑ Get management to 'buy-in' to dealing with this issue properly
- ☑ Have open conversations with members about what respectful language and behaviour looks like in the culture and context of your work
- ☑ Workers must feel secure to challenge or report sexual harassment and be confident that it will be dealt with sympathetically and professionally whilst protecting them and their job
- ☑ Clearly and regularly communicate that sexual harassment will never be tolerated and that all complaints and allegations are always taken seriously
- ☑ Carry out an anonymous staff survey to assess the culture of the workplace
- ☑ Carry out a 'climate survey' to identify any elevated risk areas
- ☑ Consult with employees and union reps when creating a sexual harassment policy
- ☑ Ensure that your sexual harassment policy is intersectional and inclusive and acknowledges and addresses the barriers faced by Black, Asian and Minority Ethnic people, Disabled people, LGBTQ+ people and different age groups.

- ☑ Use all internal communications methods to share information on policy and support
- ☑ Provide mandatory anti-sexual harassment training for all staff
- ☑ Regularly review and update the sexual harassment policy
- ☑ Signpost to support services

### **Collective bargaining**

Collective bargaining is the official process by which trade unions negotiate with employers, on behalf of their members.

Collective bargaining requires union recognition within the workplace and whilst most collective bargaining arrangements in the UK are voluntary, good employers recognise the benefits that come from union recognition, such as being able to negotiate wages and other terms and conditions collectively for large groups of workers at the same time.

But the law also allows unions to make even hostile employers recognise them, if enough workers become union members and support union recognition. This is known as 'statutory recognition'.

If your employer recognises a union for collective bargaining and you are a member, improvements to your contract terms such as pay rises, negotiated by the union, should be automatically incorporated into your employment contract.

Collective bargaining with a recognised union is the best way to get decent wages, terms and conditions. If you are not already a union member, it is a good idea to join.



**Collective bargaining on issues such as sexual harassment not only protects workers but the employer too, as employers that don't take reasonable steps to prevent sexual harassment could be found legally responsible for any sexual harassment that occurs in the workplace.**

Action	What this looks like	Impact
Educate the membership about sexual harassment	<p>Holding events to raise awareness</p> <p>Inviting speakers to talk to members</p> <p>Working with organisations who specialise in this work</p> <p>Developing workshops</p> <p>Distributing literature.</p>	An educated workforce who better understand their rights at work
Include training on handling sexual harassment grievances as part of your steward training programme.	If the employers provide training for supervisors, get union stewards and officers included.	A more consistent and informed workforce who understand the correct process.
Determine the extent of the problem in the workplace.	A survey of the membership may be useful.	A better understanding of how much of an issue this is in the workplace
Negotiate anti-sexual harassment language in your collective bargaining agreement and a procedure to deal with violations.	<p>Understanding the impact of language and questioning unconscious bias.</p> <p>Recognise language which is racist, ableist, homophobic, bi-phobic, transphobic, ageist and sexist</p>	Agreements which impact all workers and have a positive impact by making a fairer workplace for all.
Negotiate for better pay and terms and conditions.	<p>Your union can provide training on collective bargaining.</p> <p>Work with the employer to give workers a route to progression.</p>	Sexual harassment thrives within unfair power dynamics and hierarchical structures. Improving pay, terms and conditions and providing access to progression
When sexual harassment has occurred, act effectively to protect the members.	Offer support, investigate and file appropriate grievances or complaints.	A responsive and effective trade union team and a more supported worker.
Be sure that the employer has an anti-sexual harassment policy that is prominently posted or otherwise effectively communicated to all employees.	If the employer has no formal policy, bring up the issue in meetings with management and help them develop one.	A policy helps have information written down so that all workers understand the consequences of sexual harassment and what it means for both victim and perpetrator
Consider the journey to and from work.	Public transport can be a commonplace event so it's important to consider the duty of care to workers	Improves worker safety at home, at work and in the community



Collective bargaining on issues such as sexual harassment not only protects workers but the employer too, as employers that don't take reasonable steps to prevent sexual harassment could be found legally responsible for any sexual harassment that occurs in the workplace.

If you're already a member but your union is not yet recognised, consider speaking to someone from your national union for advice on how to go about getting recognised.

### **Representation**

Trade union reps are often in a position where they represent victims of abuse and sexual harassment. For many people, a trade union rep may be the only person they feel comfortable disclosing this information to. This puts trade union reps in a unique position, and they must be allowed facility time to support workers who are victims of sexual harassment. See chapter on trauma-informed support for more information.

There are many cases where victims may not report sexual harassment, but as victims they will feel the consequences of it. It may impact their performance at work, and/or their mental health. Some workers may only disclose that they are victims of sexual harassment when they are going through disciplinary procedures for another issue. Therefore, sensitively asking members who are being represented what other issues are taking place at work is a useful conversation to have, as it provides a more rounded insight into what that worker may be dealing with, or how much they have had to mask their feelings at work.

Victims of sexual harassment have the right to be accompanied by their trade union representative/shop steward at every stage, including when an issue has been investigated and the outcome is delivered. The outcome should also be communicated in a letter or email and sent to the trade union rep who is representing the victim.



### **When representing someone accused of sexual harassment**

The alleged harasser should be told the result of the investigation in a face-to-face meeting.

The alleged harasser may be accompanied by their trade union representative/shop steward. Where the investigation decides there was sexual harassment the unions should have clear policies about how to ensure that the accuser is properly represented. Given that there is often a power dynamic at play in sexual harassment cases (the harasser has some power over the victim, whether it is greater age, or seniority, or authority), it is crucial that unions are sensitive to the fact that the accused may be better placed to seek greater support from the unions. For instance, the accused may seek representation from a regional official rather while the victim may rely on their shop steward who may have less experience in such cases. Unions should be aware of this dynamic and should ensure proper representation for victims of harassment.

If the accused is found guilty of harassment, then disciplinary action may be taken, such as redeployment at work, or if the case is more severe, sacking. If an investigation decides that there was no harassment, then the alleged victim may appeal, but may also ask to be redeployed at work.

### **Health and safety reps**

Ensuring employers are abiding by their duties to create and maintain healthy and safe workplaces comes within the remit of health and safety reps, who have statutory rights. Challenging harassment in the workplace should be seen not simply as part of the remit of equalities reps but also as part of the remit of health and safety reps. Instead of encouraging only 'anti-sexual harassment champions' who are statutorily toothless in the workplace, trade union membership and recognition should be encouraged in order that there is a more equitable balance of power in the workplace.

# Perpetrator and victim in same workplace

Sexual harassment in the workplace includes situations of unwanted sexual advances or conduct that occurs between co-workers in the workplace. These behaviours interfere with an individual's job and create a workplace environment that is intimidating, hostile, or offensive.

It is increasingly common for partners to meet at work or end up working together. However, it's also highly likely that the workplace may be the place where workers experience sexual harassment. It is crucial that it is dealt with in a timely and sensitive way to protect the person who is experiencing sexual harassment and to ensure that the perpetrator stops this behaviour.

As a pre-emptive measure, all employers should work with trade unions to develop a policy and education programme for their workplace. Employers should establish a robust framework and policies to counter any potential harassment or discrimination against women, including unconscious bias, and these policies need to cover every aspect of employment including recruitment and selection, training, and promotion. To ensure that everyone in the organisation knows how to voice any concerns and what steps will be carried out, a clear protocol should be given to all staff members regarding how to make a complaint and to whom. Line managers need to have the knowledge and assurance to carry out the organisation's policies and respond to any complaints or issues. They should also be capable of handling disagreement and having honest and caring dialogues with people.

For those who experience sexual harassment, they may wish to inform the harasser that their actions are inappropriate and unwelcome but it's not a requirement. They may just want to stop it happening again and in order for a worker to reasonably expect their employer to provide support, the problem must first be brought to the employer's attention. However, this can be challenging for victims of sexual harassment and can create huge concerns about whether it would be handled sensitively.



Employers need to start from a position of believing the victim. If a worker has approached their manager, then already they have taken a huge leap of faith. It is not an employer's role to invalidate the victims' experiences or tell them that they are overreacting/ being too sensitive.

Organisations should treat any form of alleged harassment seriously, not just because of the legal implications and because it can lead to under-performance, but also because people have the right to be treated with dignity and respect at work. Any evidence of discriminatory behaviour or harassment among staff, whatever their gender, needs to be investigated and acted on swiftly and a clear message sent out that it will not be tolerated.

Additionally, employers have a responsibility to offer support to all employees – be they victims,



perpetrators or colleagues of someone involved – to ensure that all staff are comfortable in their workplace. This can mean ensuring that perpetrators have access to programmes that can help them understand their behaviours.

It is important for perpetrators to understand that sexual harassment is unacceptable and the person who is being harassed may take action against them. In some cases, a harasser may not know, understand or be willing to accept that their actions are offensive but that does not mean that their behaviour can be tolerated in the workplace.

If an individual engages in sexual harassment and that behaviour is reported, the harasser may face serious consequences. At work, the harasser may be reprimanded, demoted, or terminated. Additionally, if the conduct rises to the level of sexual assault, the

harasser may face criminal charges.

There are also serious consequences for organisations from a wider perspective. People who experience bullying or harassment are more likely to be depressed and anxious, less satisfied with their work, have a low opinion of their managers and senior managers, and want to leave their organisation.

Additionally, if the company is large or well-known, sexual harassment may receive news coverage, especially in cases where multiple employees have reported incidents of harassment. This could cause damage to the employer's reputation, particularly if the employer has been slow to react or poor in its response actions.

# Trade union actions making an impact

## 10 steps to making a difference as a union rep

1. Survey members to find out what types of sexual harassment is happening or how safe they feel at work
2. When collectively bargaining on issues such as pay, recognise that feeling safe and comfortable at work is a huge issue and should be included in any discussions with management.
3. Sexual harassment often happens when there are imbalances in power – Check your gender pay information. Employers with over 250 employees must report this to the Government. This can help you work out what imbalances exist
4. Ensure all representatives are trained on the issue of sexual harassment – Wales TUC has training which is available to help with this
5. Negotiate with your employer to ensure that your workplace has effective and inclusive policies, an example is found in this toolkit
6. Ensure policies are regularly reviewed and monitored and that workers are regularly reminded about these policies
7. If you have workers who are working in different locations (in an office, in a hospital, school, at home, in the community or at a workplace hub for example) make sure that your advice is tailored to the type of workplace as there may be quite different issues in various places
8. Work with other unions and relevant campaigning organisations to make links and increase knowledge on this issue
9. If you recognise a culture of sexual harassment at work where workers feel there is a serious or imminent threat to be at work and your employer has failed to carry out activities to change the workplace, then Section 44 of the Health and Safety Act may apply
10. Consider the journeys staff members make to and from work and how this can be made safer



# Trade union training activities

These activities may be useful for trade union activists, members and reps to carry out as part of a training course on sexual harassment.

## Trade union activity 1. What would you do?

### Aims of the activity

To help you:

- Work with others to explore examples of sexual harassment that may arise in the workplace and
- Understand sexual harassment from the perspective of a rep.

### Resources required

You may wish to take notes or use flip chart paper to collect thoughts.

This task can be adapted for both online and in person training sessions.

### Task

In small groups, choose a short scenario listed below. Have a discussion on how you would respond to the following situations as a union rep. Think about both informal and formal approaches.

Elect a spokesperson to report back.

Each scenario and group feedback should take around half an hour to complete.

1. A member tells you in strictest confidence that their manager has been asking them inappropriate questions about their sex life. Your colleague identifies as being pansexual and the manager has asked questions because they are 'curious'. These questions and comments make your colleague feel uncomfortable, but because they are on zero hours employment contract, they don't feel that they can raise it.
2. A Disabled woman in the workplace feels uncomfortable around a man who works with her. Under the guise of 'helping her', the man in question has touched the woman in a way that has made her feel uncomfortable. The woman does not need and has not asked for the help that the man has given her. She doesn't feel comfortable accepting help from him anyway as he has already shown that he is disrespectful of her boundaries.
3. A couple who work together have split up. One ex-partner has been using the work messenger service to bombard the other with messages about getting back together and has been turning up at their department trying to find opportunities to talk. Colleagues have noticed this, and the atmosphere has become uncomfortable for everyone, but nobody has reported it.
4. A new employee complains that other workers are making it difficult for her to fit in. They don't seem friendly and she's struggling to settle into the job because she has received no help to complete new work that she is not familiar with. This morning she found a sexist joke pinned to the workplace notice board, and it makes her feel uncomfortable.
5. A workplace has a culture of 'banter' and colleagues have many social opportunities together so mix a lot within and outside the workplace. The team isn't gender balanced and a group of colleagues have set up a secret scoring system of women based on their attractiveness over WhatsApp. This is known by management but has not been acted upon.
6. A union member complains that the union rep in their department is spreading rumours about a worker's sex life. Other work colleagues are now ignoring the member and want nothing to do with them. Management have tried to resolve this by suggesting that the member is moved

to another work site. But this is not what the member wants to happen, and the scenario is causing them great distress.

7. A woman announces her pregnancy at work, but a colleague asks her questions that make her feel uncomfortable like 'how long have you been trying?', 'is the baby wanted?', 'has your sex life changed now that you are pregnant?'. She feels uncomfortable but doesn't want to say anything because she's pregnant and worried about rocking the boat.

### Report back

This may form part of a wider discussion with other groups comparing your findings.

### Remember

Negotiation and assertiveness go hand in hand. It's important to have confidence in what you are offering, what you are prepared to accept and presenting your case effectively. Assertive behaviour is a fair and clear means of getting your message across. It is important to develop a professional relationship with the people you have to negotiate with. You must try to separate the person from the issue even though this is not always easy. Try to focus on interests, rather than positions.

## Trade union activity 2. Planning a negotiation role-play

For this activity, split into group A and group B. Each group will be assigned a scenario.

### Group A

The scenario:

You are a member of a trade union whose membership is mainly women. However, your branch committee and its officers are mainly white men and they aren't showing much support to women to become active at branch level.

The union's Annual Conference is taking place shortly and you have received notice of a branch meeting. The purpose of the meeting is to discuss what motions the branch will submit to the agenda and who goes as a delegate. Sexual harassment has been an issue for some time, and you would like to submit a motion around this.

A few members have met to discuss this and have drafted a motion which is inclusive of the experiences of LGBTQ+ people, Black, Asian, and Minority Ethnic women, Disabled women, and younger and older women. You would like to propose this motion and ensure that a woman leads the delegation. The branch committee you will be negotiating with are likely to be disinterested or not aware of the need for this work.

### Task

- Discuss the tactics you will use to have the motion accepted by the branch as its motion to the Annual Conference.
- Consider *tactically* who will propose and who will second it and who else will speak on the issue. You may also wish to nominate one of the women as a conference delegate.





- You have 20 minutes to allocate roles and prepare the strategy or tactics you will use
- You will have five minutes to speak.
- Nominate 1 or 2 people to observe how you prepare and put the case forward and ask observers to give feedback.
- The objective of the role play is to practice planning and carrying out a negotiation and so, for the purpose of this exercise, the actual wording of the motion is unimportant.
- There will be time to debrief and evaluate within the full group afterwards.

### Group B

The scenario:

You are members of a union which is predominantly women. However, your branch is overly represented by men. There are no proactive

activities that the branch is currently undertaking to encourage a more diverse group of people to join.

The Union's Annual Conference is taking place shortly and you have received notice of a branch meeting which will discuss who goes as delegates to the conference and what motion the branch will submit for the agenda. The branch can send four delegates to the conference and the normal practice has been to send the officers, who are all white men.

You see no reason to change this practice as the work gets done, and you feel that it is the work that is important-not who delivers it. You also wish to submit a motion on health and safety on the conference agenda. There has been talk that some members want a motion on sexual harassment to be submitted by the branch but you can't see what the workplace can really do to prevent sexual harassment.

### Task

Discuss the various attitudes members of the branch might adopt if a motion on sexual harassment is

proposed. Attempt to get a variety of responses, including some which are not in total opposition. Agree who will put forward the varying responses.

- You'll have 20 minutes to allocate roles and prepare the strategy or tactics you will use
- You will have six/seven minutes for performance
- Nominate 1 or 2 people to observe how you prepare and put the case and give feedback
- The objective of the role play is to practice planning and carrying out a negotiation
- There will be time to debrief and evaluate within the full group afterwards

### Trade union activity 3. Phases of negotiation.

"Negotiation is about getting what you want from someone without jeopardising the relationship"

In this activity, split into two groups. The first group will represent the union side and the second group will represent the management side.

In this task;

- The trade union side will discuss an action to tackle sexual harassment. They will then meet with the management team to negotiate this.
- The management side will discuss within their team, the barriers to implementing any action on sexual harassment and will try to negotiate with the trade union team to reduce any actions that management have to take.

Each team should meet for 10 minutes to discuss their plans, before joining together to negotiate.

As a trade union side, try to follow the phases set out below to discuss within your team how you will negotiate your proposed actions

#### Phase 1 Prepare

- Work out your most desired objectives
- Be very clear about what you are offering (a proposal) and what your 'bottom line' position is
- Work out what the position of the other parties is

#### Phase 2 Discuss

- Set out your opening positions
- Offer supporting arguments
- listen actively and probe

#### Phase 3 Propose

- Don't get too bogged down here
- Look out for 'signals' of movement
- Make tentative proposals

#### Phase 4 Bargain

1. Only concede in exchange
2. Trade concessions which you can afford
3. Use the language of If/Then

#### Phase 5 Clarify

- Summarise agreement
- Clarify gaps between
- Be sure the parties can deliver



# Preventing sexual harassment: a safer workplaces checklist for union reps

## Section 1: Working environment

Questions to consider	<input checked="" type="checkbox"/> <input type="checkbox"/>	Levels of risk Low Med High	Possible preventative action
Do staff report a culture of banter or casual sexism which is hard to challenge?	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Are members of staff required to work at night?	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Do members of staff work alone or in isolated workplaces?	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Specifically, do members of staff work alone at night?	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Do staff interact with third parties (e.g. contractors or members of the public) at work?	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Are staff expected to work with third parties alone?	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Do members of staff have to leave their main place of work often for work-related activities?	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Are there certain members of staff who are often placed on night shifts or lone shifts or shifts with only one other member of staff?	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Do staff members work in high-pressured, competitive or stressful environments?	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Is alcohol consumed while staff are working (by staff or third parties)?	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Are members of staff expected to socialise with third parties e.g., at events or conferences with contractors or clients?	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	

## Section 2: People

Thinking about who experiences the above, are they...	<input checked="" type="checkbox"/> <input type="checkbox"/>	Notes – are particular groups being placed in certain environments, are there any patterns between characteristics and working environment?
Women?	<input checked="" type="checkbox"/> <input type="checkbox"/>	
Young people?	<input checked="" type="checkbox"/> <input type="checkbox"/>	
Disabled workers?	<input checked="" type="checkbox"/> <input type="checkbox"/>	
LGBTQ+ workers?	<input checked="" type="checkbox"/> <input type="checkbox"/>	
Black, Asian and minority ethnic workers?	<input checked="" type="checkbox"/> <input type="checkbox"/>	
Migrant workers including those who may not be confident to make a complaint in English?	<input checked="" type="checkbox"/> <input type="checkbox"/>	
Agency staff including freelancers and those on zero-hours or temporary/short-term contracts?	<input checked="" type="checkbox"/> <input type="checkbox"/>	

## Section 3: Outside the working environment

Questions to consider	<input checked="" type="checkbox"/> <input type="checkbox"/>	Levels of risk Low Med High	Possible preventative action
Do staff often socialise?	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Is alcohol present when staff socialise?	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	

## Section 4: Management structure and reporting process

Thinking about your structures and processes

Questions to consider	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	Levels of risk Low Med High	Possible preventative action
Are there strong hierarchies in the workplace with some people who have a lot more power than others?	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Do staff members have limited networks or not many ways of interacting with more than one line manager?	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Does the workforce have a lack of diversity? Or is it segregated amongst vertical and horizontal occupations and levels?	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Does the leadership and management of your organisation have a lack of diversity? Think of key characteristics such as class, ethnicity, disability and gender.	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Does management consult with workers to decide working patterns, rotas, shifts and late night/early morning working patters?	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Is there clear signposting to staff on who they can talk to, besides their line manager, if they are having issues at work?	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Do staff members know who the trained people are that they can report an incident of sexual harassment to?	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Do staff members know the informal reporting process for sexual harassment?	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Do staff members know the formal reporting process for sexual harassment?	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Do freelancers, agency workers and self-employed contractors have access to safe reporting mechanisms and know who they can report directly to?	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
Do staff members know what sexual harassment is?	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	

<p>Do informal and anonymous reports of sexual harassment outnumber formal reports made to the management team? Low rates of formal reporting can be a sign of distrust in management and in the reporting measures; this is why we recommend conducting regular climate surveys.</p>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
<p>Does the organisation collect data on the number of reports of sexual harassment?</p>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
<p>Are there any trends or hotspots in the management team's records of sexual harassment reports over the last three years?</p>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	

### Section 5 Preventative action

What steps should be taken, in order of priority?

1
2
3
4
5

# Sexual harassment risk factors for workplaces

Risk Factor	What this means	Why This is a Risk Factor for Harassment	How risk can be reduced
Lack of diversity within the workforce	<p>The workplace tends to hire the same type of people.</p> <p>Workplace may be predominantly white, male or have a culture where leadership is only provided from one group of people.</p> <p>Any diversity within the workplace is not representative of the general population. For example, only employing one Black woman or only hiring Black workers in low paid jobs.</p>	<p>Workers who are part of a minority group may feel alone and vulnerable, making them less able to use their workers' rights.</p> <p>Workers in the majority group may feel that they can act in a different way towards minority represented groups of people than they do towards people in the majority group. If this behaviour is negative, then that can perpetuate a very poor workplace culture.</p>	<p>Increase diversity at all levels of the workforce, with particular attention to ensuring fairer contract types and fair pay, as well as ensuring equal opportunities for progression pathways within the organisation.</p> <p>Monitor working relationships and create a culture of action, so that if a worker highlights discrimination in any form, they are believed and know that the workplace will take meaningful action to stop it happening again.</p>
Zero-hour contract jobs	<p>Workers working in jobs where they do not have a guarantee of how many hours they will work.</p> <p>Workers who do not have a permanent contract with the employer.</p>	<p>Women are more likely to undertake lower-paid roles and temporary roles. Whilst workers who work within the gig economy do have rights, they are often unable to ever exercise them because they are not protected by a proper contract at work.</p> <p>Often workers in the gig economy receive lower pay and are less likely to afford access to justice or cannot afford to 'rock the boat' and report sexual harassment in case they face any negative consequences.</p>	<p>Provide all workers with decent jobs. This means proper contracts with meaningful hours a proper rate of pay, and associated work benefits such as maternity leave, sickness pay and paid holiday leave.</p> <p>Ensure that workers feel able to report sexual harassment with a guarantee that they will not face consequences for doing so.</p>



Risk Factor	What this means	Why This is a Risk Factor for Harassment	How risk can be reduced
Cultural and language differences in the workplace	Workers with different cultures or nationalities. Segregation of employees with different cultures or nationalities.	Employees who do not speak English as a first language may not have access to the same information about their rights and may be more subject to exploitation. Different cultural backgrounds may make employees less aware of how they should expect to be treated at work.	Ensure that workers who have different cultures and nationalities are trained in understanding laws, workplace norms, and policies. Think of alternative ways to communicate what sexual harassment is. This could include getting support from outside organisations or translating key documents.
Social divisions in world issues, highlighted on social media	Increasingly polarised world views and discussion of current events occurring outside the workplace. Social media has both exacerbated this and reflected the changes in public discourse.	As issues become ever more global, and are available to access on social media, differences in opinions spill over into workplace discussions and culture. This may make harassment inside the workplace more likely or perceived as more acceptable.	Remind the workforce of the types of conduct that are unacceptable in the workplace and model good working practices based on tolerance and respecting of the views of others.
Workplaces with 'high value' (actual or perceived) employees.	Well paid and powerful members of staff, often in powerful positions within a workplace.	Management may be reluctant to jeopardize high value employee's economic value to the employer. High value employees may perceive themselves as exempt from workplace rules or immune from consequences of their misconduct.	Apply workplace rules uniformly, regardless of position or value to the employer. If a high-value employee is found to have conducted sexual harassment, others may be affected by this behaviour, so consider providing additional guidance, support, and opportunities to disclose to other workers.

Risk Factor	What this means	Why This is a Risk Factor for Harassment	How risk can be reduced
Workplaces with significant power disparities	<p>A large gap between the best paid workers and the lowest paid workers. Often leading to a similar size gap in power within the workplace.</p> <p>Employees holding positions usually subject to the direction of others, e.g., administrative support staff, nurses, janitors, etc.</p> <p>Gendered or racial power disparities (e.g., most of the low-ranking employees are women, or Black, minority ethnic women)</p>	<p>Supervisors feel emboldened to exploit low-ranking employees.</p> <p>Low-ranking employees are less likely to understand complaint channels (language or education/training insufficiencies).</p> <p>Undocumented workers may be especially vulnerable to exploitation or the fear of retaliation.</p>	<p>Apply workplace rules uniformly, regardless of rank or value to the employer.</p> <p>Pay attention to relations among and within work groups with significant power disparities.</p>
Public facing workplaces	<p>Dealing with members of the public.</p>	<p>Fear of losing a sale or tip may compel employees to tolerate inappropriate or harassing behaviour.</p> <p>Workers such as nurses, doctors or other health workers may face sexual harassment from people within their care.</p>	<p>Workplaces must operate a zero-tolerance approach that encourages reporting of these issues and provides immediate support to workers who report cases of sexual harassment from members of the public.</p>
Isolated workplaces or workplace hubs	<p>Physically isolated workplaces</p> <p>Workers working alone or have few opportunities to interact with others.</p> <p>Workers working in workplace hubs, where they may work with others who are not employed by the same employer.</p>	<p>Harassers have easy access to their targets.</p> <p>There may be no witnesses in cases of sexual harassment or violence.</p>	<p>Consider restructuring work environments and schedules to eliminate isolated conditions.</p> <p>Ensure that workers in isolated work environments understand complaint procedures.</p> <p>Create opportunities for isolated workers to connect with each other (e.g., in person, online) to share concerns.</p>

Risk Factor	What this means	Why This is a Risk Factor for Harassment	How risk can be reduced
Workplaces that tolerate or encourage alcohol consumption	<p>Alcohol consumption during and around work hours.</p> <p>A culture of after work drinks or workplace social occasions always revolving around the consumption of alcohol.</p>	Alcohol reduces social inhibitions and impairs judgment.	<p>Ensure that workplace social occasions are not always centred around alcohol consumption.</p> <p>Train co-workers to intervene appropriately if they observe alcohol-induced misconduct.</p> <p>Remind managers about their responsibility if they see harassment, including at events where alcohol is consumed.</p> <p>Intervene promptly when customers or clients who have consumed too much alcohol act inappropriately.</p>

# Sexual harassment policies

## Tips for writing a sexual harassment policy

When writing workplace policy on sexual harassment it helps to:

- Develop a separate and stand-alone policy
  - Explains who is covered by the policy (scope)
  - Ensure buy-in from every level of the organisation/ workplace
  - Engage with workers to ask them what they need from a workplace policy
  - Collaborate with trade unions and, where appropriate, equalities networks
  - State the organisation's zero tolerance policy for staff, volunteers, partners and contractors committing harm, exploitation or abuse
  - Outline the responsibilities of the organisation
  - Update regularly, with a view to continuous improvement focused on developing and maintaining a respectful workplace
  - Work with trade unions to put the policy into action through developing workplace campaigns and awareness raising
  - Enforce the view of the organisation/workplace that harassment of any kind is not acceptable
  - Clearly define the consequences for sexual harassers
  - Refer to protection of whistle-blowers (for anyone who discloses malpractice)
  - Address the full spectrum of sexist hostility and unwanted sexual advances
- Emphasise the importance of victim-led, trauma informed resolution
  - Ensure that this policy is supported by clear policies and procedures on equality, diversity, bullying, harassment, grievance and disciplinary action
  - Comply with the conciliation service's codes of practice and Equality and Human Rights Commission advice.

## Furthermore, you will need to:

1. Examine the work and workplace to identify what factors could put people at risk. These can be in relation to the environment you work in, for example, consumption of alcohol or lone working are often factors that increase the risk of sexual harassment. Analyse the results of your anonymous climate survey to identify job roles, locations and groups of workers, which will identify areas of higher risk for sexual harassment.
2. Think about structures – abuse of power is at the root of sexual harassment. Do certain individuals hold more decision-making power that could potentially lead to an opportunity for sexual harassment? Working in high-pressured, competitive and stressful environments can sometimes make people more at risk from demands for sexual favours, for example, where a person hints at better career prospects in return for a sexual favour.
3. Assess the chance, high or low, that somebody could be harmed by the factors identified. Any factor that increases the opportunity for sexual harassment to happen should be addressed but assessing the chance will help you decide how to prioritise action. Assessing also includes thinking about who is impacted (section 2 of the checklist). When doing the whole checklist make sure you have included those workers who may

be less visible – homeworkers, agency workers, contractors and freelancers.

4. On the basis of this assessment, decide what prevention or control measures should be taken to prevent the possibility of harm. Looking at your levels of risk, decide what is the highest priority and focus on this first. Here are some examples of possible measures:

- Have an anti-sexual harassment policy in place that includes all workers, including freelance and self-employed workers. The policy should be widely and frequently communicated through a range of channels e.g. inductions, team meetings and all-staff communications. These communication methods should ensure that all workers including agency staff and self-employed workers are aware of the policy and how it affects them. This policy should also be made clear to any stakeholders your workers come into contact with, e.g. clients, customers or patients.
- Make clear and publicly display materials supporting a zero-tolerance approach to sexual harassment. This includes casual sexism and banter that are the building blocks for sexual harassment. Tackling masculinised and sexist cultures are essential parts of building preventative cultures in the workplace.
- Have regular mandatory training for all workers, with enhanced training for senior leaders and line managers. Training should be tailored to the workplace environment and audience; intersectional; from a trauma informed perspective; and repeated at interim periods.
- Have at least three people to whom workers can report sexual harassment. These could be a trade union representative, line manager, member of your human resources team or a harassment 'champion'. You should offer

three options in case someone does not feel comfortable approaching one of them.

- You should offer support for those dealing with disclosures of sexual harassment and those leading this work within your organisation. This may include access to counselling through an employee support scheme or setting up specific access to trauma-informed support.
- Clearly present the reporting procedure and frequently remind all workers where they can access it, for example during a staff induction, when engaging a self-employed contractor or in employment contracts.
- Ensure staff do not work alone with those consuming alcohol.
- Ensure staff working alone or with the general public in high-risk situations have access to immediate report and support facilities.
- There may be people who are covered by your policy who are not fluent in English; think of different ways to communicate what sexual harassment is. This could include getting support from outside organisations or translating key documents.
- Have enhanced training and support for those who are more likely to be approached with reports of sexual harassment.
- Have a budget for staff to get taxis home at night instead of relying on public transport, even if they live close by.
- Have recorded messages at the beginning of any phone line, online or in-person meeting or conference, stating that harassment in any form, including sexual harassment, will not be tolerated and saying who individuals can report any incidents or concerns to.

- In all documents and communications about sexual harassment reiterate that it can happen outside of the usual working environment including at staff socials and via email, social media and direct messaging.
5. Make sure that policies include a “bypass” procedure which allows initial complaints to be filed with someone other than an immediate supervisor, who may be the harasser.
  6. Implement the prevention or control measures and regularly evaluate them for effectiveness.
  7. Review the checklist on a regular basis. This should be at least annually but could be more frequent if there are relevant organisational changes, for example, the opening of a new location or after a period of high staff turnover. Update and refresh the checklist as necessary. Use your annual climate survey to identify whether staff think risks have been reduced, whether there are any new emerging risks and whether measures are robust enough and are being properly implemented.

# Further information/ signposting

If you have been affected by any of the issues raised in this toolkit, you can seek further support from

- ACAS - Advisory, Conciliation and Arbitration Service: 0300 123 1100
- Bawso: 0800 731 8147
- Citizen's Advice Advicelink (Wales): 0800 702 2020
- Equality Advisory and Support Service: 0808 800 0082
- Eye to Eye Wales: 01443 202940
- Hourglass: 0808 808 8141
- Latin American Women's Aid: 020 7275 0321
- LawWorks: 020 7092 3940
- Male-Rape.org.uk: [www.male-rape.org.uk](http://www.male-rape.org.uk)
- Mankind Initiative: 01823 334244
- The Mix: 0808 808 4994
- National Live Fear Free Helpline: 0808 80 10 800  
[info@livefearfreehelpline.wales](mailto:info@livefearfreehelpline.wales)
- NHS Direct Helpline: 111
- Refuge: 0808 2000 247
- Rights of Women Equality Advisory and Support Service: 020 7490 0152
- Samaritans: 116123
- Stonewall Cymru: 08000 50 20 20
- The Survivors Trust: 0808 801 0818
- Women Connect First: 029 2034 3154
- Victim Support: 0808 1689 111

# Endnotes

- 1 TUC (2016)
- 2 'Still Just A Bit of Banter'
- 3 Government Equalities Office 2020
- 4 Welsh Women's Aid 'No Grey Area' Report, p.8 (2021)
- 5 Government Equalities Office 2020 Sexual Harassment Survey (p32)
- 6 TUC (2016) Still Just A Bit of Banter p.5
- 7 (Unison 2019) 'It's Never OK'
- 8 Usdaw (2018)
- 9 Discrimination: Sexual harassment at work survey
- 10 Rights of Women Survey: Workplace Sexual Harassment During Covid-19 (2021)
- 11 'No Grey Area' report, Welsh Women's Aid (2021)
- 12 TUC (2016) 'Still Just A Bit of Banter'
- 13 'No Grey Area' report, Welsh Women's Aid (2021) p.3
- 14 Hunt, C et al (2015) Reviewing sexual harassment in the workplace – an intervention model
- 15 TUC (2016) Still Just A Bit of Banter
- 16 The Kennedy Report HYPERLINK "<https://assets-eu-01.kc-usercontent.com/81b3452f-5056-01c8-b2c8-1c901bd27e20/e9997caa-16f9-4a19-b2a5-ae36e72c021b/Kennedy%20Report%20Final%20February%202023.pdf>" Kennedy Report Final February 2023. pdf (kc-usercontent.com)
- 17 <https://rightsofwomen.org.uk/news/womens-sexual-harassment-advice-line-data-reveals-almost-half-of-all-callers-sexually-assaulted-in-the-workplace-and-systemically-discriminated-against-by-employers/>
- 18 Government Equalities Office 2020 Sexual Harassment Survey (p32)
- 19 TUC (2016) Still Just A Bit of Banter p.5
- 20 HYPERLINK "[https://www.tuc.org.uk/sites/default/files/LGBT\\_Sexual\\_Harassment\\_Report\\_0.pdf](https://www.tuc.org.uk/sites/default/files/LGBT_Sexual_Harassment_Report_0.pdf)" LGBT\_Sexual\_Harassment\_Report\_2019\_AW.indd (tuc.org.uk)
- 21 <https://www.legislation.gov.uk/ukpga/2010/15/contents>
- 22 Sexual Harassment & Harassment At Work', EHRC 2020 (p.40)
- 23 'Consultation on Sexual Harassment in the Workplace: Government Response (4.2)
- 24 HYPERLINK "<https://www.gov.wales/violence-against-women-domestic-abuse-and-sexual-violence-strategy-2022-2026-html#97932>" Violence against women, domestic abuse and sexual violence: strategy 2022 to 2026 [HTML] | GOV.WALES
- 25 TUC (2016) Still Just A Bit of Banter
- 26 EHRC, 'Sexual Harassment & Harassment at Work: Technical Guide' 2020 (p.66)
- 27 EHRC 'Sexual Harassment & Harassment at Work: Technical Guide' 2020 (p.68)
- 28 'No Grey Area' report, Welsh Women's Aid 2021 (p.9)
- 29 HYPERLINK "<https://www.tuc.org.uk/sites/default/files/OrganisingatWork2018.pdf>" Activist Template (tuc.org.uk)





# Acknowledgements

We would like to acknowledge the work of so many in this campaign. Their dedication, hard work and determination to create safer, equal and healthier workplaces is inspiring and we hope to continue working with you to create a campaign which has a lasting impact.

- Welsh women's aid, in particular Charlotte Archibald who has co-authored this work. She has shown huge dedication and commitment to tackling sexual harassment and her activism in undertaking this work.
- Sara Kirkpatrick, Welsh Women's Aid for working in collaboration with Wales TUC and for providing leadership on this.
- Rhianydd Williams for co-authoring this report on behalf of the Wales TUC
- Flick Stock for her endless enthusiasm, her incredible organisation skills and her work on this toolkit.
- Linsey Imms, For editing this toolkit and for inspiring us with her innovative and practical solutions to tackling sexual harassment.
- Shavanah Taj for her leadership on this work within the Welsh Trade Union movement.
- Julie Cook for her diligence in making sure that this is an issue that Trade Unions are focussed on dealing with.
- Joyce Watson MS for her eagerness to work on this campaign and her energy and dedication to highlighting this issue at every opportunity.
- Jane Hutt Minister for Social Justice, for her pioneering work in spearheading this issue and for the leadership in striving to make Wales to be the safest place to be a woman.
- Frank Duffy who designed this toolkit. Their patience, skills and adaptability has created a toolkit to be proud of and their creative input has been invaluable.
- Thanks to Cymen for their professionalism and the translation services ensuring this toolkit can be fully bilingual.
- Women's Council of the Isles delegations from the Scottish TUC, Wales TUC, the Irish Congress in Northern Ireland and in the Republic of Ireland and the TUC. Your work has inspired this work and we stand with you in solidarity in tackling this issue within and outside of our movement.
- Members of the Wales TUC General Council. For their consistent support on this work and for championing it within their unions.
- The EHRC for their Sexual harassment and harassment at work: technical guidance which has informed this toolkit.
- To all respondents of the Wales TUC survey on sexual harassment for telling us your stories, for broadening our understanding of this issue and for providing us with evidence of the scale of this issue. None of this work is possible without you.
- Finally, we'd like to thank all women in the Trade Union movement who have fought so hard to campaign on sexual harassment. We stand together to make our movement a safe place to work, and to lead the way in creating other safe workplaces and a safer society for us all.

The Wales TUC would also like to acknowledge with thanks the information and guidance incorporated into this toolkit from existing TUC guidance, including the following publications: Gender in Occupational Safety and Health

- **Health and Safety Organising Transforming the workplace** – guide for trade union activist by TUC
- **The Women and leadership Training manual** by The Northern Ireland Committee – Irish Congress of Trade Unions.
- **Sexual harassment of disabled women in the workplace** by TUC
- **Tackling and preventing sexual harassment**  
An update from the TUC Executive Committee working group
- **BME women and work** TUC equality briefing
- **Preventing Sexual Harassment** An implementation framework for union reps by TUC

© 2023 Wales TUC

This toolkit is also available in the Welsh language.

All TUC publications can be provided for dyslexic or visually impaired readers in an agreed accessible format, on request, at no extra cost. This toolkit will be regularly updated, so we would welcome any comments or suggestions on how it could be improved. Please let us know if you notice anything that is out of date, unclear, or that you think may need correcting or updating.

Contact:

e: [wtuc@tuc.org.uk](mailto:wtuc@tuc.org.uk)

t: 029 2034 7010

Published by:

Wales TUC Cymru,  
1 Cathedral Road,  
Cardiff  
CF11 9SD

[www.wtuc.org.uk](http://www.wtuc.org.uk)

