



HOW TO: DEVELOP A SEXUAL HARASSMENT POLICY

Think Business, Think Equality

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KEY MESSAGES

You can include these key messages in staff training, or an all-staff communication about your commitment to addressing sexual harassment if it happens, or just as a starting point to think about what you need to do in your business.

1. Your organisation has a legal responsibility to respond to, and prevent sexual harassment. A good sexual harassment policy can help you meet your legal responsibility.
2. You shouldn't wait until sexual harassment happens to take action. Having a sexual harassment policy will send a clear message to your employees that you take sexual harassment seriously.
3. Having a good policy will help build trust, encourage reporting and help create a supportive workplace culture.
4. You should ensure your sexual harassment policy is followed properly. Training senior and key staff in how to use the policy, and communicating the policy to all staff, can help you do this.



ABOUT THIS RESOURCE

NEW EMPLOYER DUTIES

As an employer, you already have a legal duty to respond to, and take steps to prevent, sexual harassment in your organisation. The UK Government will soon be introducing a new duty on employers to prevent third-party harassment in the workplace. By taking steps now to prevent and address sexual harassment in your business you can be ready for these new duties when they come into effect and prevent costly potential legal consequences.

This guide is part of a suite of resources for small and medium businesses who want to understand and prevent sexual harassment in their workplace. You can use this alongside our [Think Business, Think Equality](#) resources on sexual harassment and gender equality at work to make a positive change in your business.

The law protects employees, workers, contractors, self-employed people hired to personally do the work and job applicants from sexual harassment. This resource uses the terms ‘employee’ or ‘staff’ to cover all of these categories. When talking about a person who is being sexually harassed, this resource may refer to them as the victim-survivor.

You can find definitions of all key terms used in our [Glossary Of Terms](#).



There are three further key areas that will help you to prevent and address sexual harassment in your organisation. These are [What Your Business Needs To Know About Sexual Harassment, How To Deal With Reports](#), and [Improving Workplace Culture](#).

The resources are designed to be used together to support you to tackle and prevent sexual harassment. The action you take in each area will reinforce action in the others.

[This resource provides the information you need to develop a policy on sexual harassment in the workplace.](#)

WHY THIS RESOURCE FOCUSES ON WOMEN

We recognise that both women and men experience sexual harassment. This resource focuses on women's experiences of sexual harassment. This is because the vast majority of people who experience sexual harassment are women, while the vast majority of perpetrators are men. Research shows that where men are sexually harassed, the perpetrator is most likely to be another man.

[You need to recognise the gendered nature of sexual harassment to deal with it effectively.](#)

Different groups of staff also have particular experiences of sexual harassment, shaped by homophobia, racism and ableism. For example, LGBT people are more likely than straight



people to receive unwelcome comments about their sex life. BME women experience racialised sexual harassment, because they are characterised as being 'more sexual' than white women. Disabled women are twice as likely as non-disabled women to experience unwanted touching.

Gender inequality is the root cause of sexual harassment. Women still have less power and status than men in the workplace, and it's this that creates an environment in which sexualised comments are dismissed as 'just banter', in which women are told 'it wasn't meant that way', and in which women aren't believed. This power imbalance is even more acute for BME women, LGBT women, disabled women and young women. It is also why male harassers are rarely held accountable.

It's important to recognise and understand this if you are serious about preventing sexual harassment in your workplace. Understanding how sexist attitudes and power imbalances enable sexual harassment is the first step to getting it right.

This doesn't mean you will be treating staff differently because of their gender. When you take action to prevent sexual harassment in your workplace, you'll improve things for all your employees.



WHY YOU NEED A SEXUAL HARASSMENT POLICY

Sexual harassment is different from harassment

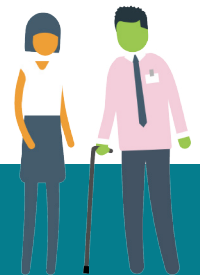
We know many employers have policies on dignity and respect at work, and equality and diversity, but when it comes to dealing with sexual harassment these aren't effective. This is because sexual harassment is very different from other types of harassment. Because of the nature of sexual harassment, it's best practice not to conflate it with other kinds of harassment, and to have a specific policy on this.

Women are the vast majority of people who are sexually harassed, while men are the vast majority of perpetrators. Sexual harassment is caused by gender inequality and is often more severe and persistent than generalised harassment, with a greater impact on the person being targeted. This is why it needs a different approach.

Sexual harassment is different from sexism

Sexual harassment is defined as unwanted or unwelcome conduct of a sexual nature. It includes a broad range of behaviours such as unwelcome touching, sexually embarrassing 'jokes', or unwanted advances.

Sexism is different, but closely related. It describes to the non-sexual but sexist behaviours that many women face on a daily basis. For example, women being spoken over in meetings, expected to take minutes at a meeting regardless of their role, or subjected to gendered comments about



their appearance. It also includes actions that could potentially amount to sex discrimination, such as women regularly being assigned less high-value clients from their male colleagues.

Sexist attitudes enable sexual harassment.



68% of disabled women reported being sexually harassed at work¹

Managers and staff want support to deal with sexual harassment at work

Recent research on sexual harassment at work found that managers and staff want a clear policy to give them the guidance they need, whether that's dealing with reports, investigating incidents or going through the reporting process. A dedicated sexual

harassment policy will give your people that support. It will also help you meet your legal obligations on sexual harassment.

It's good for your people and good for your business

Taking action on sexual harassment at work can help you make sure your female staff are safe at work. It also sends a clear message to your employees that you take sexual harassment seriously and helps you build a zero-tolerance culture, making your business a better place to work for everyone.



WHAT TO INCLUDE IN YOUR POLICY AND WHY

You can use the information in this section to develop a sexual harassment policy for your business. The items included should be adapted to your workplace where relevant. Examples of how to do this are included.

Sexual harassment can happen to anyone, but the vast majority of victim-survivors are women. It's important to recognise and understand this if you are serious about preventing sexual harassment in your workplace.

This doesn't mean you will treat staff differently because of their gender, or have a separate policy for women and men. Understanding the gendered nature of sexual harassment means you'll be able to develop a better policy and process for tackling it. This is good for all your employees, and for your business.

It's best practice to have a separate, specific policy on sexual harassment. Larger businesses, and those with HR teams, will find this easier. However, we know that smaller businesses with fewer resources may find it more challenging to develop a separate policy. **As a minimum you should have a specific section on sexual harassment in one of your workplace policies,** for example a bullying and harassment policy, or equality and diversity policy.

Your policy should include:

- A definition of sexual harassment,
- A statement that sexual harassment is a form of violence against women,



- Examples of sexual harassment which are relevant to the workplace and reflect the diverse range of people it may affect,
- A statement that sexual harassment and victimisation won't be tolerated in your business,
- Who the policy covers and responsibilities of managers and staff,
- Where and in what situations the policy applies,
- Information on possible sanctions,
- Information on aggravating factors that will be taken into account in deciding what disciplinary action to take,
- Information on your procedure for dealing with complaints of harassment,
- Information on addressing third-party harassment,
- Protecting confidentiality, and
- A commitment to review the policy regularly.

A definition of sexual harassment, a statement that it is a form of violence against women, and examples

Your policy should include definitions of key terms to ensure your staff have a clear understanding of what sexual harassment is, how it happens and its impact in the workplace.

This will help:

- All employees to understand what is expected of them in terms of behaviour,
- Staff who are sexually harassed to identify that what is happening is sexual harassment, which may help them to report it, and,
- Managers to deal with reports effectively.



A statement that sexual harassment and victimisation won't be tolerated in your business

Your policy should begin with a statement that:

- you are committed to providing a safe working environment for your staff,
- sexual harassment and victimisation will not be tolerated in your business, by staff or third parties, and
- you're committed to taking reports of sexual harassment seriously if it happens in your workplaces.

You can also share this statement in an all-staff message from leadership. This will send a clear message that you take sexual harassment seriously.

You can find a definition of [victimisation](#) in the [Glossary Of Terms](#).

Who the policy covers and the responsibilities of managers and staff

Your policy should clarify the specific roles and responsibilities for different members of staff including line managers, HR, and colleagues.

The responsibility of line managers includes supporting employees experiencing sexual harassment and taking practical steps to ensure their safety and wellbeing.



It is important that any staff member who has the responsibility of dealing with a complaint of sexual harassment has received specific training on the matter. You can find out more information on training by contacting [Close the Gap](#).

Employees may witness sexual harassment. If this happens they should be encouraged to tell their line manager. It's important that managers and HR are aware that employees who witness sexual harassment can make a complaint without the permission of the person who was sexually harassed. If this happens the complaint should be dealt with in line with normal procedure.

Where the policy applies

Your policy should include examples of where workplace sexual harassment can happen, relevant to your business, such as:

- Your own workplace
- Another workplace e.g. a client's office
- A business trip
- A work social event such as a Christmas party, leaving do, or after-work drinks
- Online platforms including email, social media, Zoom, Microsoft Teams and Slack

It's important managers and staff understand that sexual harassment doesn't need to happen at work for it to be a workplace matter.



Information on possible sanctions

Your policy should set out that that sexual harassment or victimisation may lead to disciplinary action up to and including dismissal. For example:

- Verbal or written warning
- Suspension
- Dismissal

You're likely to have information on possible sanctions in cases of bullying and harassment in your policy on this, which you could refer to. Sanctions should be appropriate to the severity of the case and should be significant enough to act as a deterrent to sexual harassment in the workplace.

Investigating staff should be confident in applying proportionate sanctions and should have a range of appropriate sanctions available. This information will also support managers in investigating complaints of sexual harassment and making decisions on outcomes.

Information on aggravating factors

Your policy should state that abuse of power over a more junior colleague will be taken into account in deciding what disciplinary action to take.

Perpetrators can use seniority and influence to exert power in a sexual harassment situation. Women are often sexually harassed by a colleague that is senior to them in the organisation. It's much more difficult for a woman to report sexual harassment if the harasser is their line



manager or a senior leader. Managers may also be less likely to be investigate reports against more senior colleagues because they're concerned they may face personal consequences, such as their progression being blocked or even being dismissed.

Information on your procedures for reporting and investigating complaints of sexual harassment

You should have clear procedures on reporting and investigating complaints of sexual harassment. You can include these in a specific section of your sexual harassment policy, or as a separate document.

A policy is not enough on its own to ensure any complaints of sexual harassment are dealt with effectively. Your policy and procedures will be mutually reinforcing and help you meet your legal obligations and mitigate risk to your business.

Our resource on [Dealing With Reports Of Sexual Harassment](#) will help you create a reporting and investigation procedure that works for your business.

Information on third-party harassment

Your policy should set out what third-party harassment is and that it will not be tolerated. It should encourage staff to report incidents of third-party harassment so that you can take action to address it.

You can have a separate section on third-party harassment or make specific reference to it in the relevant parts of your policy.



Your staff may feel reluctant to report sexual harassment by a client or customer. They may be worried about negative repercussions for them, or think you won't act because you don't want to lose the client's business. It's important you make it clear to your staff that they have a right to feel safe at work.

You have a responsibility to protect your employees from third-party harassment. Where third-party harassment happens it's important that you follow through on your policy and take appropriate steps, for example by speaking to a client about their behaviour, banning a customer or reporting criminal acts to the Police.

Protecting confidentiality

Your policy should include a statement assuring staff any information they disclose about sexual harassment will be treated in the strictest confidence.

Managers are responsible for ensuring information is not disclosed and that all employees are aware of their responsibility in relation to confidentiality.

A commitment to review the policy

Your policy should commit to periodic reviews of the policy to ensure it is functioning well.

This will enable you to demonstrate that you have taken reasonable steps to protect your staff from sexual harassment and identify any issues that may have arisen if your workplace has had a report of sexual harassment.



WHAT NOT TO DO

The purpose of your policy is to make it clear how managers should deal with reports of sexual harassment. This includes the practical steps involved in receiving reports and carrying out investigations, but also the overall approach they should take.

Employers must be neutral and begin from the position of taking the matter seriously and treating it as credible. This is not the same as beginning from an assumption of guilt against the person being reported. If you don't treat reports of sexual harassment as credible this may create legal risks for your business.

Don't use language in your policy that may influence the view a manager may take about a report of sexual harassment. For example, referring to potential 'malicious or vexatious' complaints in your policy is likely to deter women from reporting in the first place as they fear they won't be believed or may face punishment for doing so.



HOW TO BE A SECTOR LEADER

Tackling sexual harassment in the workplace is the right thing to do. It also makes clear business sense. You will position your organisation as a leader on tackling sexual harassment and benefit from an enhanced organisational reputation. This will help you attract and retain the best people and expand your customer base.

The action you take to prevent and address sexual harassment in your business will also foster an inclusive workplace culture, building staff morale and loyalty. This is good for productivity and innovation, and your bottom line.

Become a leader on preventing sexual harassment now, by using our resources to improve your business practice and culture. You can access our full range of resources [here](#).

LEGAL OBLIGATIONS AND LIABILITIES

The law says that employers are required to take reasonable steps to prevent and address sexual harassment. What is considered reasonable may depend on the size of your business, the type of work you do and associated risk factors. If you don't take action you will be legally responsible for sexual harassment in your workplaces. You may face financial and reputational risks if you don't act appropriately.

You can find more information on your legal obligations on the [Equality and Human Rights Commission's website](#).



LEGAL DISCLAIMER

While every effort has been made to ensure that the explanations given here are accurate, only the courts or tribunals can give authoritative interpretations of the law.



REFERENCES

1. TUC (2021) Sexual harassment of disabled women in the workplace
2. TUC (2016) Still just a bit of banter? Sexual harassment in the workplace in 2016



Close the Gap works in Scotland on women's labour market participation. We work with policymakers, employers and unions to influence and enable action that will address the causes of women's inequality at work.

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Close the Gap

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MANAGED BY ROSA

Close the Gap (SCIO) (known as Close the Gap) is a Scottish charity, no SC046842.

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