



HOW TO: DEAL WITH REPORTS OF SEXUAL HARASSMENT

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. You have a legal responsibility to respond to and prevent sexual harassment, and may face financial and reputational risks if you don't act appropriately.
2. Even if you've never received a report of sexual harassment, this doesn't mean sexual harassment has never happened in your business.
3. Most women who have been sexually harassed will not report it because they fear negative consequences, they think it won't be taken seriously, or they don't know how to report it.
4. You can challenge sexual harassment by responding to disclosures or reports in a non-judgemental and supportive way.
5. You should have a clear procedure for dealing with reports of sexual harassment to ensure you're able to properly deal with reports. This will help prevent sexual harassment from happening in the first place.



6. Women who report sexual harassment want to be listened to and taken seriously, for there to be appropriate consequences for the perpetrator, and to be able to have confidence in the reporting process.
7. You can offer victim-survivors support that's available in your workplace or signpost to external specialist support services such as [Scottish Women's Rights Centre](#) and [Rape Crisis Scotland](#).



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, Improving Workplace Culture](#) and [How To Develop A Policy](#).

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 tells you what you need to do to ensure your business is able to deal effectively with reports of sexual harassment.](#)

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 WOMEN DON'T REPORT SEXUAL HARASSMENT

It's easy to think that sexual harassment doesn't happen in your business. You may never have had an employee report sexual harassment. However, an absence of reports doesn't mean it doesn't happen. Sexual harassment is often under-reported. A survey found that 79% of victim-survivors did not report unwanted sexual behaviour to their employer¹.

Women say that don't report sexual harassment because:

- They think nothing will change
- They think they won't be believed
- They think it will be treated as 'just a joke' or 'banter'
- Their colleagues or friends have reported it and nothing happened
- They worry it could have negative personal consequences, for example affecting their prospects of promotion
- The harasser is their line manager or a senior leader, or an important client of the business
- They don't know how to report it

Even where women want to report sexual harassment, they can be discouraged by the person they report it to from taking it further.

Having a clear policy for dealing with reports of sexual harassment will help encourage women to report it if it happens in your business. It will also ensure you're able to properly deal with reports. This will help foster an inclusive and safe work environment and prevent sexual harassment from happening in the first place.



WHY YOU NEED A FORMAL PROCEDURE

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 procedure to follow when dealing with reports of sexual harassment. A formal reporting procedure will mean that your people have that support. **It will also help you meet your legal obligations around 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.

Having a formal procedure for dealing with reports of sexual harassment will help:

- ensure your staff have a clear route available to them for reporting sexual harassment,
- support your managers to handle and investigate reports of sexual harassment, and
- ensure consistency of approach.



WHAT YOUR PROCEDURE SHOULD INCLUDE

The law says that, as an employer, you are required to take reasonable steps to prevent sexual harassment in your business. Having a robust written procedure will help you to fulfil this legal duty. It will also send a clear message to your staff that you take sexual harassment seriously.

Your procedure can be located within your sexual harassment policy, or published alongside it. If the latter, it should make reference to your sexual harassment policy where necessary, for example to provide information on possible sanctions or the timescales for investigations.

A good procedure should set out:

- how staff can make a report of sexual harassment whether formal or informal,
- how you will deal with reports of sexual harassment,
- information on your formal investigation process,
- information on your informal process,
- how you will protect staff who make a report, and
- the action that may be taken if an investigation finds sexual harassment has occurred.

How staff can make a report

You should set out how staff can make a report of sexual harassment. This process will be specific to your business. You may direct employees to report the matter to their line manager, a senior manager, an HR employee, or a specific designated employee.



It's important that your employees know who they can report sexual harassment to. It's equally as important that managers who may be involved in dealing with reports know what their responsibilities are in the process and how to carry them out.

How you will deal with reports of sexual harassment

You should set out a process for how you will deal with both formal and informal reports of sexual harassment. This will ensure that any staff member responsible for dealing with a report knows what to do, and will help any employee who is sexually harassed to decide how they would like to proceed with their report.

The following is an example of a simple process for handling disclosures of sexual harassment.

- **Record details of the incident.**
- **Inform the employee of the different ways to report,** this may include either reporting to HR or to a specific person who is responsible for dealing with reports. Where possible this should be someone more senior than the alleged perpetrator. It's critical that the employee isn't required to report an incident to the alleged perpetrator or someone who they may feel might not be objective.
- **Provide the victim-survivor with clear information on the reporting and investigation process.** This will help them to decide what they want to happen next, whether that be dealing with the matter informally or formally.
- **Reassure your employee** that victimisation or retaliation against them will not be tolerated and inform them of what to do if that happens.
- **Offer ongoing support.**



Dealing with a report of sexual harassment is a significant responsibility. Managers who have this responsibility should receive training on managing reports diligently, safely and sensitively.

Information on your formal investigation process

You should set out how formal sexual harassment reports will be dealt with.

If the person reporting wishes the matter to be dealt with formally you should have a clear process to follow. This will enable consistency and thoroughness, provide support to those responsible for dealing with investigations, and ensure the victim-survivor knows what they can expect.

You can find a sample investigation process in on page 15.

Information on your informal process

You should set out how reports may be dealt with informally.

If the person who has been harassed doesn't want any action to be taken, you should respect their wishes. However, you should recognise that an informal solution may not be appropriate or possible, for example in more serious cases. In this case it may be necessary to explain to your employee that it's necessary to deal with the issue formally.

However, there are a number of things you can do as part of an informal process:

- **Keep a record of the complaint**, and the employee's request to keep the matter confidential;
- **Work with the employee to identify solutions** which don't place responsibility on them, and that they're comfortable with;



- Offer to informally speak to the person who is harassing them on their behalf;
- Keep the situation under review by checking in with the worker to find out if the situation has improved; and
- Where the situation hasn't improved, explain to the employee that it's necessary to address the issue both for their wellbeing and that of their colleagues. This may lead to a formal process being invoked.

EMPLOYER LIABILITY

An employer will be liable for sexual harassment or **victimisation** committed by an employee unless they can show that they took all reasonable steps to prevent such behaviour. What is considered reasonable will vary for different employers, depending on size, resource and other factors. Having a good procedure can be a strong defence in the event a legal complaint is brought against you as an employer. However, it's important to remember that if the procedure isn't followed this may be a risk to such a defence.

For more information on sexual harassment and the law visit the [Equality and Human Rights Commission's website](#).



DEALING WITH REPORTS AND DISCLOSURES

If an employee discloses or reports sexual harassment, it's important to respond in a non-judgemental and sensitive way. It's important that your employee feels believed and not blamed.

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.

Some women may disclose to you without wanting to make a formal report. The way you respond can affect whether they will access further support or formally report later on. It can also affect whether other colleagues will feel able to report sexual harassment if it happens to them.

This highlights the importance of managers and/or other employees who are responsible for dealing with reports of sexual harassment. Providing support and training to these managers and other key people will help ensure they're comfortable dealing with reports. This will build trust in those women who report sexual harassment.



STEPS TO RESPOND EFFECTIVELY

Listen to the staff member and take their disclosure seriously.

Reassure them that you understand how it may be affecting their work performance and what can be done to support them.

Reassure them that their disclosure will be treated confidentially.

Respect their thoughts and ideas.

Reassure them that their needs are a priority.

Provide information about specialist support services, such as [Scottish Women's Rights Centre](#) and [Rape Crisis Scotland](#).

Offer practical support, such as access to flexible working, an employee assistance programme or mental health support.

Inform them of what the next steps are, if they want to make a formal report, or whether there will be an investigation.

Ask if there is anything else you can do support them through the process.

Organise a time to check in in the future.



FORMAL INVESTIGATIONS

The following is an example process for the investigation of formal sexual harassment reports.

1. Interview the employee and the alleged harasser separately.
2. Interview other relevant third parties, for example witnesses, or colleagues who have supported the employee, separately.
3. Gather other evidence as relevant to the case, for example copies of emails or other messages, copies of images, absence records.
4. Use all evidence to decide on the **balance of probabilities** whether or not the incident(s) of sexual harassment took place. A diligent investigation and a good understanding of workplace sexual harassment is essential to this part of the process.
5. Produce a report detailing the investigation, its findings and recommended action.
6. If the harassment is found to have occurred, decide what the appropriate outcome is, for example training for the harasser, a written apology to the victim-survivor, disciplinary action, or dismissal.
7. If the investigator cannot conclude that the harassment occurred, they may still recommend actions beneficial to the workplace, for example training on sexual harassment for staff.
8. Ensure any sanction is carried out immediately.



9. Follow up with the victim-survivor to ensure the harassment has stopped, they are satisfied with the outcome and they have access to any further support needed.
10. Keep a record of all actions taken.
11. Ensure that all records concerning the matter are kept confidential.

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.

THE IMPORTANCE OF COMMUNICATION

You should keep your employee informed of progress, as appropriate, and ensure the investigation is completed in a timely manner. Where the process is drawn out this can have a significant detrimental impact on the employee and may cause her to lose confidence in the process. Having a clear process, and ensuring those investigating have sufficient support and capability, can help avoid this.

The investigation process must avoid unnecessary delays and balance speed with safety, thoroughness and credibility. While it isn't possible to set a definitive timescale, you can set a target timescale. For example, you might state that normally investigations will be concluded within 3-4 weeks, however some cases will take longer because of their nature or complexity.



Investigations should be carried out diligently, thoroughly and in as timely a manner as possible. Managers or other key people who are responsible for investigating complaints of sexual harassment should have read and understood your sexual harassment policy and be clear on the reporting process.

Because of the difference between sexual harassment and generalised harassment, and its gendered nature, it's best practice for investigators to receive specific training on handling sexual harassment investigations. In order to be able to investigate properly they need to have a clear understanding of what sexual harassment is and why it happens. They also need to be aware of its impact on the women in your workplace and on your business. Our resource [What Your Business Needs To Know About Sexual Harassment](#) is a useful guide on this.

Investigators should create a plan prior to beginning their investigation. Rushing into an investigation without planning can lead to errors. Their plan should include considering what questions they need to ask in order to gather information and form a clear picture of what happened. It's critical that investigators don't ask inappropriate questions, such as asking the employee about their sexual history.

You must inform the employee and the alleged harasser of their statutory right to be accompanied to any formal grievance hearings by a trade union representative or nominated colleague.



SUPPORTING YOUR EMPLOYEE

Ensuring that there are no negative repercussions from reporting is an important part of supporting employees through the reporting process. You should take steps to ensure that employees are safe and that they're not treated differently or exposed to further risk.

There are a number of ways to support your employee. For example:

- changing desk position or office layouts to move the alleged perpetrator away from them,
- moving the alleged perpetrator to a new location (this may be during an investigation),
- encouraging the employee to keep records of any incident in the workplace or any continued inappropriate behaviour, and
- ensuring that any personal information that is kept on the victim-survivor is not accessible to other staff members.

It's also important for line managers (unless they are the alleged perpetrator) to check in with the employee to see how they're doing. This simple step shows them that you value them and are aware of the ongoing impact of dealing with sexual harassment. Once the process is concluded, it's useful to seek feedback from employees who have gone through the process to identify if there were any issues or concerns and identify potential improvements.



MANAGING PERPETRATORS

When managing an alleged perpetrator in the workplace, it's best practice to prioritise the needs of the employee who has reported sexual harassment. It's important to recognise that both employees have rights, and if there is an investigation, that it will be handled with due process.

During this time, the employee can also be supported in a variety of ways in the workplace, such as by enabling flexible working, looking at reallocation of work, and signposting to specialist support services or the employee assistance programme. You may want to offer relocating either the employee or alleged perpetrator but the person who made the report of sexual harassment should not be forced to move. During an investigation, to ensure the safety of staff, you may want to relocate the alleged perpetrator. It's important to make sure that any actions you take are fair and in line with best practice.

You could also conduct a risk assessment to determine how best to manage the situation. The risk assessment should be conducted with the employee who reported sexual harassment because they will know the situation best. It should also look at risks placed on other colleagues and the wider workplace.



RECORD KEEPING AND CONFIDENTIALITY

When an employee has disclosed or reported, it's good practice to be clear that the information they shared will be kept confidential. You are responsible for ensuring privacy is protected and that all employees are aware of their responsibility in relation to confidentiality. It's very

important that the disclosure or report is not discussed openly in the workplace, or any location where it could be overheard, to avoid stigmatisation or **victimisation** of the victim-survivor.



EXTERNAL SUPPORT AND EXPERTISE

Dealing with reports of sexual harassment can be a daunting process for an employer. Bringing in external expertise on workplace sexual harassment and gender equality will help you to ensure your policy and processes are good quality, and that best practice is integrated into your approach. Experts can also deliver training for key people on dealing with disclosures and reports of sexual harassment and other important aspects of the issue.

You can find out more information on available support and training by contacting [Close the Gap](#).

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 (2020) BME women and work
2. TUC (2016) Still just a bit of banter? Sexual harassment in the workplace in 2016
3. Fawcett Society (2021) Tackling sexual harassment in the workplace



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

Published June 2022