



UHR Conference 2025

Online 13 - 15 May

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The Employer's Duty to Prevent Sexual Harassment

With Simon Robinson & David Sillitoe



Agenda

- Overview of the Equality Act 2010.
- What is sexual harassment?
- What is the new duty for employer's to prevent sexual harassment?
- The effects of sexual harassment on an organisation.
- Steps employers can take to prevent sexual harassment.
- Interactive scenarios on spotting and dealing with signs of sexual harassment.



Overview of the Equality Act 2010

- Law protecting individuals from discrimination, harassment and victimisation on the basis of certain personal (and protected) characteristics.



What is harassment?

Harassment

- Unwanted conduct which relates to one of the following protected characteristics:
age, disability, gender reassignment, race, religion or belief, sex, sexual orientation.
- The unwanted conduct has the purpose or effect of violating the individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.

Sexual Harassment

- Unwanted conduct of a ***sexual nature.***
- The unwanted conduct has the purpose or effect of violating the individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.



Examples of sexual harassment

The EHRC guide advises that unwanted conduct of a sexual nature includes a wide range of behaviour, such as:

- Sexual comments or jokes.
- Displaying sexually graphic pictures, posters or photos.
- Suggestive looks, staring or leering.
- Propositions and sexual advances.
- Making promises in return for sexual favours.
- Sexual gestures.
- Intrusive questions about a person's private or sex life, or a person discussing their own sex life.
- Sexual posts or contact on social media.
- Spreading sexual rumours about a person.
- Sending sexually explicit emails or text messages.
- Unwelcome touching, hugging, massaging or kissing.



Harassment in action

Marcus has recently joined a Technology Company as a Project Manager in London. Marcus has relocated from Yorkshire for this role.

Helena is also Project Manager at the Company and has worked there for a couple of years. Helena has just been introduced to Marcus.

After the morning team meeting, Helena sits on the edge of Marcus's desk and says, *'Do you want me to show you around the city? We could go for a couple of drinks'*.

- **Do you think Marcus could have a claim for sexual harassment under the EA 2010?**



Harassment in action

Samuel is member of the Admin Team at a Marketing Agency, working in an open-plan office.

His line manager, Rebecca, occasionally comes over to his desk to provide help with his work.

On a few of these occasions, Rebecca has briefly massaged Samuel's shoulders whilst assisting him.

- **Would Samuel have a claim for harassment under the EA 2010?**



Duty to prevent sexual harassment

- Mandatory duty to take reasonable steps to prevent sexual harassment in the workplace.
- Proposal from the Employment Rights Bill to take this further to require employees to take 'all' reasonable steps to prevent harassment.



What are 'reasonable steps?'

The EHRC Guidance clarifies that there is no set minimum for what constitutes reasonable steps; it will vary by employer.

Reasonable steps could include:

- Implementing robust anti-harassment policies;
- Risk assessments;
- Regular training to workers on harassment, sexual harassment and victimisation;
- Regular training to managers who deal with complaints;
- Establishing clear reporting mechanisms for harassment complaints;
- Creating a positive and inclusive workplace culture which discourages harassment;
- Detecting harassment by proactively watching for warning signs i.e. increased absenteeism, poor performance, changes in behaviour, resignations, exit interview comments.



Reporting and responding to reports



Consequences for employers

- Compensation uplift by up to 25%;
- Enforcement by the EHRC.



What happens when things go wrong internally?

- Besides legal implications, together with monetary / compensation consequences for the organisation and potentially named individuals, there can be further consequences.
- Cultural consequences on the organisation.
- Reputational impacts – what does this look like for a public sector organisation with the responsibilities this organisation holds to outline and eradicate discriminatory and exploitative practices?
- Dividing the workforce; feeling of discontent and an unsettled workforce.
- Developing of anxiety, depression and other health impacts on victims of such treatment at work.
- High staff turnover.
- Wasted resources and time that could be better spent on priorities of the organisation.



What about 'banter'?

- When it comes to claims of harassment, 'banter' is no defence when it comes to potential claims of harassment!
- Even if you and others think it is “just a joke”, you need to consider whether the subject of the joke does too.



Don't be a bystander

- Laughing along supports the bullying and harassment to continue.
- By not setting clear boundaries – you are reinforcing that the behaviour is acceptable.
- Do not be complicit.
- Speak out and demonstrate that you do not agree with the behaviour.
- You can also raise concerns confidentially with the HR team.
- If multiple people tell the perpetrator that they do not agree with their actions, this can have a significant impact on stopping that behaviour from intensifying.
- Support the individual being targeted to report their experiences.
- Do not turn a blind eye to behaviour you know to be wrong.
- Promote individuals coming forward to report this behaviour – they will be protected from victimisation and supported through their complaint.
- Resources are available – support people through troubling times.
- If you do not feel safe or comfortable directly speaking out against the individual – speak to a trusted manager who does!



Thank you very much!





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