



UHR Conference 2025

Online 13 - 15 May

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Practical insights on how HE employers have been and should be implementing the requirements of the duty to prevent sexual harassment in the workplace

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Agenda



Re-cap: Worker Protection (Amendment of Equality Act 2010) Act 2023

Came into force **26 October 2024**

Introduces a **new proactive statutory duty** to take “reasonable steps” to prevent sexual harassment

EHRC can take enforcement steps

Empowers tribunals to **uplift awards by up to 25% for non-compliance**



Re-cap EHRC 8 Step Approach

1. Develop an effective anti-harassment policy
2. Engage your employees [e.g. surveys; exit interviews; one-to-ones]
3. Risk assess your workplace and put in place preventative measures - more on this later
4. Offer a variety of ways to report concerns (face to face, online or telephone based) including an option to raise issues anonymously
5. Training on what (sexual) harassment is; how to report it; how to respond to concerns
6. Take action promptly to resolve a concern when raised
7. Treat harassment by a 'third party' as seriously as by a colleague...
8. Monitor & evaluate your actions



OfS Condition E6 requirement to address harassment and sexual misconduct in HE institution [1 August 2025]

1. Effective policies to prevent harassment and sexual misconduct, robust procedures to address incidents, and support systems for those affected
2. Ban on Non-Disclosure Agreements (NDAs): covering allegations of harassment or sexual misconduct
3. Support and Expectations: what students and staff can expect from their institutions in terms of protection from harassment and misconduct, and where to seek support if needed.
4. Data and Monitoring: OfS will continue to monitor the prevalence of sexual misconduct through surveys and other data collection methods to ensure compliance and effectiveness of the new regulations



What does genuine “prevention” look like?

- Importance of removing fear and developing trust to create a genuine speak up culture
 - More focus on **culture** than compliance “tick box” exercise
 - Not a “one and done”
 - Need **data** on a regular basis to create a “heat map” on risk
- Leadership role modelling and accountability when things go wrong



Liability for & reasonable steps to prevent racial harassment

C was employed by an NHS Trust and worked on a full-time basis as Branch Secretary of a recognised union. H another Trust employee, wanted to terminate his UNISON membership, but his subscriptions were still being deducted from his wages.

During a discussion between C and H about ongoing deduction of union subscriptions, H became angry and made a remark to C which was capable of amounting to racist abuse.

C claimed racial harassment against both H and the NHS Trust

Was this harassment carried out by H “in the course of employment” and therefore conduct for which the Trust could be held vicariously liable?



Campbell v Sheffield Teaching North Hospitals NHS Trust [2025] EAT

H was not acting “in the course of employment” for the purposes of the EA 2010

- Although there were several connections between the incident and H’s employment by the Trust [it took place during H’s working day and, in an office, close to his working area] the conversation had been between a union official and a union member about union membership.
- Union membership was not a requirement of employment but a personal choice, so the conversation was related to a personal dispute between H and the union.

In the alternative, the Trust had taken all reasonable steps to prevent harassment

- an induction session attended by H at which the issue of “acceptable behaviour at work” and the Trust’s core values of “*affording dignity, trust and respect to everyone*” (referred to as “the PROUD values”) were emphasised;
- the annual performance assessment of H which covered the issue of whether he was acting in accordance with PROUD values;
- the display of the PROUD values on posters in areas where H worked; and
- mandatory training of H on equality and diversity issues every three years, most recently a few weeks before the incident took place. This was conducted **in small groups** and involved H going through a PowerPoint presentation. The presentation referred to the promotion of “*a positive attitude towards equality and diversity by showing respect for others, valuing people's differences and treating people with dignity*”.



Risk assessments

Not a one size fits all – tailor to the different practices & culture throughout the University

Identify different environments

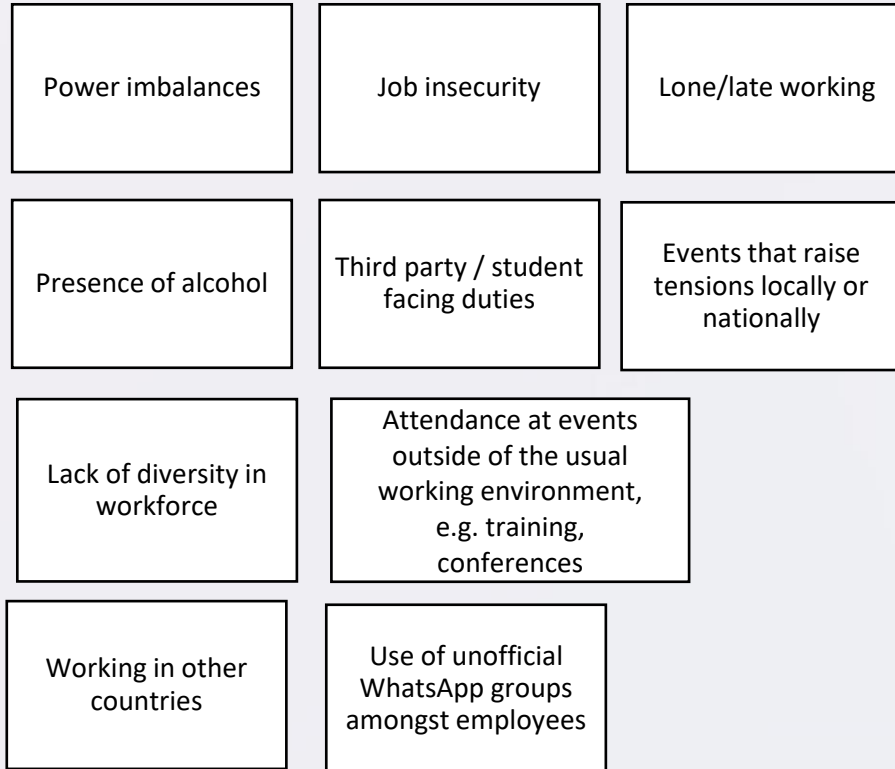
Draft questions [some student facing and some not]

Training for those carrying out assessments

Consolidate results and develop tailored action plans/mitigation of risk



Focus on Prevention: Identifying Risk



What risk factors may make it more likely harassment or sexual harassment could take place at work?

What steps could the employer take to minimise these risks?



Communication & engagement

- Start with senior leadership team
 - highlight implications of enforcement action by EHRC; impact on reputation, investigation, section 23 agreements etc.
 - Senior leader sponsor
- Signage and posters on campus
 - Involve marketing team to avoid negative reactions



Training

- Mandatory training, face to face and small groups work best
- Scenario based to best illustrate the different forms that sexual harassment can take
- Trigger warnings at start: some may well have sensitivities based on past experiences
- Agree some may make clumsy statements in the session but so long as this is not disrespectful [e.g. mocking anyone] are we all ok with that?
- Do not record
- Active bystander/intervention training



G was required to attend an equality and diversity training course as part of her induction training. Part of the course raised the question 'what are discriminatory words?'. The trainer made the point that people find different words offensive and just because you do not find something offensive yourself it does not mean that no one else will.

The tutor wrote two racially derogatory words on a flip chart and then asked the delegates to shout out the most derogatory and offensive words that they could think of. One of the racially derogatory words on the flipchart was shouted out three times. G was the only black person in the room. G left the training in shock and was subsequently signed off sick.

Her grievance was rejected on the basis that the purpose of the exercise was to show that discriminatory language could cause offence.

G brought a claim of racial harassment against an employer. Did her claim succeed?



Georges v Pobl Group Ltd [ET]

There was no intent to offend but given the use of the racially derogatory word by the trainer and by three others, it was reasonable for G to feel extremely offended and uncomfortable

The words used were deeply loaded and offensive words with distressing racial connotations and clearly had the effect of creating a degrading and offensive environment for G and violating her dignity.

Although the underlying purpose of the training was entirely appropriate there was no explicit rationale as to why the words, both racially offensive, were written on the flipchart to start the ball rolling and the training was conducted insensitively.



Harassment by third parties

The Equality and Human Rights Commission (EHRC) takes the view that **the anticipatory duty to prevent sexual harassment covers sexual harassment from customers, clients and other third parties**, and that they can take enforcement action on that basis.

Currently workers cannot bring a tribunal claim against their employer for harassment by third parties *[but consider direct or indirect discrimination claims based on employer's lack of action]*.

The Employment Rights Bill [ERB] makes employers liable:

- if their employees are harassed by third parties in the course of employment.
- unless they can demonstrate that they took “all” reasonable steps to prevent all forms of harassment **[not just sexual harassment]**

ERB adds a disclosure about sexual harassment to the topics that can qualify as protected “**whistleblowing**” *[NB Interim relief]*



Risks of harassment to staff by students



In some subject areas, the student body may be male or female **dominated**;

- Any differences in **age** between staff and students;
- Possibility of students being **alone** with teaching staff;
- Likelihood of staff and student contact going beyond teaching and extending to **social and other activities** still within the course of employment for the staff member;
 - possibility of **alcohol** being involved in social occasions
 - students may not be used to **expectations of 'professional' behaviour** at social events



Preventing third party harassment: suggested action

Carry out **risk assessment** to identify risks of third-party harassment [include workplace socials, industry conferences and external training events]

Terms of business with third party suppliers outlawing third party harassment and **training for students and other third parties**

Ask other organisations for details of their sexual harassment risk assessment and prevention measures if staff are going to be working on their premises

Training for managers [on how to intervene/ respond to third party harassment] and for staff on how to support one another and speak up

Review of policies to ensure that they address third party harassment, explain how to report this and identify support available



Conferences & social events

Cover this in training: conduct may lead to disciplinary action up to and including dismissal if committed outside work [e.g at a Conference]

Create an accessible early response reporting system [similar to “Ask Angela”]

Set clear expectations for behaviour at work-related social events, including guidelines on alcohol consumption



Measuring progress

Monitor employee satisfaction rate through surveys and feedback [qualitative based on perceptions and experiences]


Tracking and follow up after resolution of complaints

Impact on absenteeism rates, turnover and DEI statistics

Impact on volume of reporting: expect an increase in year 1

Employee surveys with numbered ratings: identifies any downturn in instances and helps to see areas where further focus is needed





Any final comments or questions?





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