

Tackling sexual harassment in the workplace

A TUC guide for trade union activists

Tackling Sexual Harassment in the Workplace

What is sexual harassment?

Sexual harassment can relate to a range of different behaviours. It may be verbal or physical. It may take place in the workplace, online, by telephone or text, or at a work event such as a training course or a party. While the actual nature of the incident may vary, the common factor is that the incident involves unwelcome behaviour of a sexual nature that creates an intimidating, hostile or humiliating working environment.

▣ WHAT THE LAW SAYS

The Equality Act 2010 defines sexual harassment as unwanted conduct of a sexual nature which has the purpose or effect of violating someone's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

It is important to note that a perpetrator's claim that a comment or action was meant in jest or as a compliment is not a defence in a sexual harassment case. Nor does the harassment have to be directed at the person complaining about it.

For example, the display of pornography in a work environment or sexual comments

directed at others may create a degrading, intimidating or hostile working environment for workers even if they are not intended as the object of the comments.

It is also harassment to treat someone less favourably because they have rejected or submitted to unwanted sexual conduct.

Sexual harassment is more widespread than many people think. TUC research in 2016 found that over half of working women had experienced some form of sexual harassment. Nearly two thirds of women aged 18-24 had experienced some form of sexual harassment.

Here are some examples of behaviour that could constitute sexual harassment:

- indecent or suggestive remarks
- questions, jokes, or suggestions about a colleague's sex life
- the display of pornography in the workplace
- the circulation of pornography (by email, for example)
- unwelcome and inappropriate touching, hugging or kissing
- requests or demands for sexual favours
- any unwelcome behaviour of a sexual nature that creates an intimidating, hostile or humiliating working environment.

■ UNIONS GETTING TO GRIPS WITH ONLINE HARASSMENT

The NASUWT teaching union has carried out several member surveys on the topic of the abuse of technology. The 2016 survey found that 50 per cent of members were aware of comments or information being posted online about them in relation to their role as a teacher.

In many cases, the information posted online was extremely abusive and derogatory, including sexist comments and sexual harassment. One teacher reported rape threats being posted online. Many also reported online harassment of girls by boys in the school, including circulating naked photographs without consent.

A simple online survey, at national union, branch, or workplace level, is a good way of gathering data to inform the union's campaigning and bargaining agenda.

What counts as "in the workplace"?

Sexual harassment could happen in a range of different places:

- In the workplace
- In another workplace that is visited for work purposes (for example, a client or patient's home or workplace)
- On a work trip

- At a work social event
- On social media
- By email
- By telephone

The harasser could be a manager, a potential employer, a colleague, a client, a patient, a student or a customer. For example, a care worker might be harassed by a client when on a home visit. Or a prospective employer might demand sexual favours of an actor at a casting.

Online harassment and social media

Unions should be aware that harassment can be carried out via email and the internet, often in ways which blur the boundaries between work and life outside of work. It is important to be aware that if one employee is harassing another, or if a patient, customer, or client is harassing an employee, it does not matter that the harassment is taking place on social media, or out of work premises, it is still a workplace matter which should be taken seriously by the union and the employer.

Victimisation

Sometimes the person accused of harassment retaliates by further harassing or bullying the person who has lodged a complaint. Or in some instances an employer might treat a victim of sexual harassment unfairly because they are perceived as being "difficult" or causing problems in a team.

An employer is not allowed to victimise a worker for complaining about sex discrimination or sexual harassment at work. If a worker is victimised for complaining, or if a colleague or union rep is victimized for helping someone to make a complaint, this may constitute unlawful victimization under the Equality Act 2010.

Why sexual harassment matters to unions

Quite simply, sexual harassment is a serious workplace issue which can have lasting effects on those who experience it. Sexual harassment is sometimes dismissed as being “banter” or just a joke. In fact, 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 women workers and can create a significant barrier to women entering male dominated sectors such as construction and engineering. Sexual harassment may drive those experiencing it to leave their job altogether.

A 2014 study *Violence Against Women* by the European Union Fundamental Rights Agency found that one in three women who has experienced sexual harassment felt fearful as a result, while one in five felt ashamed of what had taken place. Subsequently, feelings of vulnerability were experienced by 20 per cent of women, anxiety by 14 per cent and loss of self-confidence by 13 per cent.

These findings are corroborated by recent TUC polling which pointed to the serious professional, financial, and psychological impact of sexual harassment.

- Two fifths of those polled reported that they felt embarrassed by the harassment.
- One fifth of those polled reported that they avoided certain work situations as a result.
- Fifteen per cent reported that they felt less confident at work.
- One in ten reported that the harassment had a negative impact on their mental health.

- Three per cent reported that there was a negative impact on their physical health.

The role of unions

Unions have a crucial role in ensuring that all workers are able to 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. 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 accuser may rely on her 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.

One of the most important thing 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

▣ CASE STUDY: TRAINING COURSE ON SEXUAL HARASSMENT

In 2016 UCU carried out a member survey on sexual harassment which revealed that a high proportion of female members had experience sexual harassment. In addition to surveying members and campaigning on the issue, UCU runs a course for reps on sexual harassment. The course is aimed at branch reps who may be dealing with individual harassment cases, negotiating policies. The course covers the following;

- ✓ *Legislation covering harassment*
- ✓ *Sexual harassment survey*
- ✓ *Harassing and sexually harassing behaviour, impact, and barriers*
- ✓ *Policies and procedures for dealing with harassment*
- ✓ *Handling harassment cases*
- ✓ *Challenging harassment in the workplace*
- ✓ *Involving members*
- ✓ *Organising around equality*

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 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 recognized 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 the Everyday Sexism campaign or the End Violence Against Women (EVAW) coalition.

Checklist for union representatives

- ☑ Check union policies and guidance
- ☑ Ensure all representatives are trained
- ☑ Negotiate effective policies with employers
- ☑ Ensure policies are regularly reviewed and monitored
- ☑ Survey members
- ☑ Work with other unions and relevant campaign organisations

The role of employers

All employees have the right to work in a safe environment free from discrimination or the fear of harassment.

While many employers may have a policy on sexual harassment in their staff handbook, it may not be well publicised or promoted and it may have been in place for some time and be due for a review. Employers should ensure that all workers are aware of the policies and understand them.

Employers should actively promote “zero tolerance of sexual harassment” type policies to customers and clients too where workers are in public-facing roles.

A good workplace policy should make it clear that there will be zero tolerance in the workplace for any form of abuse or harassment, including sexual harassment, regardless of whether it is perpetrated by a fellow employee or by a third party.

This means more than just putting up a poster. All staff should receive training on sexual harassment, and training should provide clear examples of unacceptable workplace behavior.

In considering how to tackle sexual harassment, employers should consider how practices such as lone working might place workers at risk. Employers should also consider how to protect staff from harassment and abuse where they are entering other premises as part of their work (for example, home care workers), or where they travel as part of their job (for example, business trips, site visits, school trips).

Employers in male dominated sectors should be aware that women are more likely to experience sexual harassment in male dominated environments and a culture of harassment can deter women from entering the workplace or force women out. Employers who employ young people, trainees, and apprentices should be aware that younger women are more likely to experience sexual harassment and may be

less aware of their rights or of how to report unacceptable behaviour.

Employers should ensure that there are clear, simple methods for reporting abuse or harassment, which are well publicised to all staff, including agency workers and temporary workers. As well as publicising the formal and informal methods of reporting harassment, employers should also be clear about what possible outcomes of a complaint of sexual harassment. Employers should ensure that staff are aware that sexual harassment is a disciplinary issue with serious consequences.

Employers should work with union reps in the workplace to ensure that shop stewards, equality reps, and health and safety reps all have the facilities – including sufficient time to perform their union duties and access to a private space to support members in privacy and in confidence – to perform their roles.

Checklist for employers

- ☑ Adopt and actively promote a zero tolerance policy
- ☑ Ensure that workplace social media policies are up to date and cover online harassment
- ☑ Train all staff
- ☑ Ensure clear reporting and grievance procedures are in place and that staff understand how to use them
- ☑ Review reporting mechanisms
- ☑ Work in unison with relevant unions

Find out more

For more information about the campaign, go to:
tuc.org.uk/sexualharassment

Follow the TUC Equality team at:
Twitter @TUCEquality

Other sources of information:

Acas: www.acas.org.uk

Citizens Advice Bureaux: www.citizensadvice.org.uk

Equality Advisory and Support Service

www.equalityadvisoryservice.com

EVAW: www.evaw.org.uk

Everyday Sexism: everydaysexism.com