



Warwickshire Pride

Registered Charity Number: 1162449

Duty to Prevent Sexual Harassment Policy

30 Second Read

- Sexual harassment occurs when a person is subjected to unwanted conduct of a sexual nature which has the purpose or effect of either violating their dignity, or creating an intimidating, hostile, degrading, humiliating, or offensive environment.
- From 26th October 2024, employers are under a proactive duty to take reasonable steps to prevent sexual harassment of workers. It includes preventing sexual harassment from workers and from third parties.
- The EHRC sets out 8 suggested steps employers could take which include having an effective anti-harassment policy and training all workers, managers and senior leaders.
- An employer may be called to demonstrate that they take reasonable steps to prevent sexual harassment by the EHRC who have enforcement powers. Also, if a claim is brought the tribunal could increase any award by up to 25% for failure to take reasonable steps.

What is Sexual Harassment?

Sexual harassment is when a person is subjected to unwanted conduct of a sexual nature which has the purpose or effect of either violating their dignity, or creating an intimidating, hostile, degrading, humiliating, or offensive environment.

Conduct 'of a sexual nature' can include a range of behaviour, for example, sexual comments or jokes, propositions and sexual advances, unwelcome touching, hugging, massaging or kissing.

If they are treated less favourably because they submitted to, or rejected that unwanted conduct, that is also sexual harassment.

See the guidance note DIS06 Harassment and Bullying for more information about harassment.

What is the preventative duty?

From 26th October 2024, following a change in the law made by the Worker Protection (Amendment of Equality Act 2010) Act, employers have a positive legal duty to prevent sexual harassment of their workers. They must take reasonable steps to prevent sexual harassment of workers in the course of their employment.

The preventative duty is an anticipatory duty. Employers should not wait until a complaint of sexual harassment has been raised before they take any action.

Do I Have to Prevent Sexual Harassment Committed by a Third Party?

Yes, the preventative duty includes worker-on-worker harassment, harassment by third parties and harassment by agents acting on behalf of the employer.

This means that employers must take reasonable steps to prevent sexual harassment committed by workers, third parties.

There are many different types of third parties that could sexually harass a worker including customers, clients, self-employed contractors or freelancers, service users, patients, students, friends and family of colleagues, delegates at a conference and members of the public.

In What Circumstances Do I Need to Prevent Sexual Harassment?

Employers need to take reasonable steps to prevent sexual harassment of their workers in the course of employment. It includes preventing sexual harassment in the workplace or in any other place where the worker is working e.g. when the worker is attending an external meeting or conference.

It can also include other circumstances in which the worker is not actually working but that are connected with work e.g. social function.

What Are Reasonable Steps?

What is reasonable will vary from employer to employer. The law does not list specific steps an employer must take.

The Equality and Human Rights Commission (EHRC) '*Sexual harassment and harassment at work: technical guidance*' explains that an employer should:

- Consider the risks of sexual harassment occurring in the course of employment
- Consider what steps it could take to reduce those risks and prevent sexual harassment of their workers
- Consider which of those steps it would be reasonable for it to take
- Implement those reasonable steps

In deciding whether a step is reasonable, the factors that may be relevant include (but are not limited to):

- The size and resources of the employer
- The nature of the working environment
- The sector the employer operates in
- The risks present in that workplace
- The nature of any contact with third parties, for example, type of third party, frequency, environment
- The likely effect of taking a particular step and whether an alternative step could be more effective
- The time, cost and potential disruption of taking a particular step, weighed against the benefit it could achieve
- Whether concerns have been raised with an employer that sexual harassment has taken place
- Compliance with any relevant regulatory standards
- Whether steps taken appear to have been effective or ineffective, for example, if a further incident of sexual harassment occurs after steps have been taken, this may indicate that additional and/or alternative action should be considered

What Should I Consider When Identifying Risks?

An employer is unlikely to be able to comply with the preventative duty unless they carry out a risk assessment.

Assessments should identify the risks, and the control measures identified to minimise the risks. Factors to consider may include, for example:

- Power imbalances
- Job insecurity, e.g. use of zero hours contracts, agency staff or contractors
- Lone working and night working
- Out of hours working
- The presence of alcohol
- Customer-facing duties
- Particular events that raise tensions locally or nationally

- Lack of diversity in the workforce, especially at a senior level
- Workers being placed on secondment
- Travel to different work locations
- Working from home
- Attendance at events outside of the usual working environment, e.g. training, conferences or work-related social events
- Socialising outside work
- Social media contact between workers
- The workforce demographic, e.g. the risk of sexual harassment may be higher in a predominately male workforce.

There are certain factors that may increase the risk of sexual harassment. An employer should consider these factors when thinking about how it can comply with the preventative duty. The factors include, but are not limited to:

- A male-dominated workforce
- A workplace culture that permits crude/sexist 'banter', or other disrespectful behaviour
- Gendered power imbalances (e.g. where most junior staff are female and most senior managers/leaders are male)
- Workplaces that permit alcohol consumption
- An expectation that workers will attend social events/conferences outside of the workplace or stay away from home overnight (particularly if alcohol is being consumed)
- Lone or isolated working
- Working alone with a third party
- Night working
- An insecure/casual workforce
- A failure to respond appropriately to previous reports of sexual harassment
- No policies or procedures to prevent or respond to sexual harassment
- Workers that have more than one protected characteristic, for example, disabled people, ethnic minorities and people from the LGBTQ+ community

are more likely to experience sexual harassment than people who do not have these protected characteristics

- There may be risks that only affect one job role or worker – these should still be considered and addressed

What Steps Do the EHRC Suggest Employers Take?

EHRC explains that all employers must take action to prevent sexual harassment as no employer is exempt from the sexual harassment preventative duty.

Whilst it does not give an exhaustive list, EHRC has set out eight practical steps to illustrate the type of action an employer could take to prevent and deal with sexual harassment in the workplace:

1. **Develop an effective anti-harassment policy.**
2. **Engage your staff** to understand where any potential issues lie and whether the steps you are taking work.
3. **Assess and take steps to reduce risk in your workplace.**
4. **Reporting:** Use a reporting system that allows workers to raise an issue.
5. **Training:** Workers, including managers and senior staff should receive training on a regular basis.
6. **What to do when a harassment complaint is made:** Take steps immediately to resolve the complaint.
7. **Dealing with harassment by third parties:** Take reasonable steps to prevent sexual harassment from third parties, for example:
 - a. Attach signage to the walls of the areas within the workplace where customers are present to warn that sexual harassment of staff is not acceptable.
 - b. Inform third parties i.e. suppliers of your zero-tolerance sexual harassment policy within your supplier documentation.
 - c. Inform customers by recorded message at the beginning of telephone calls of your zero-tolerance policy on sexual harassment.
8. **Monitor and evaluate your actions:** Log the steps that you have taken and continue to review their effectiveness.

What are the Implications for an Employer if They Do Not Comply with the Preventative Duty?

Whilst a standalone claim cannot be brought in an employment tribunal for breach of this preventative duty, if an employer does not comply with the preventative duty, the EHRC has the power to take enforcement action against the employer which includes:

- Investigation
- Issue an unlawful notice if the employer is or has been the subject of an investigation, confirming that they have found an employer is in breach and that the employer is required to prepare an action plan setting out how it will remedy any continuing breach and prevent future breaches
- Enter a formal, legally binding agreement with an employer to prevent future unlawful acts
- Ask the court for an injunction to restrain an employer from committing an unlawful act

An employer can be in breach of the preventative duty, and enforcement action can be taken by the EHRC, even if an incident of sexual harassment has not taken place.

Where there has been an incident of sexual harassment and a claim is brought in an employment tribunal, an employer can be held vicariously liable for the acts of its employees. To defend it, an employer would have to be able to show that it took all reasonable steps to prevent sexual harassment. Whether the preventative duty has been complied with and to what extent must be considered by the tribunal. If the tribunal is satisfied that the preventative duty has been breached, it may order the employer to pay additional compensation to the worker. The amount of the compensation uplift must reflect the extent to which the employment tribunal considers the employer has not complied with the preventative duty and can be an increase of up to 25%.

Last reviewed: February 2026

Next review due: January 2027