

---

# SEXUAL HARASSMENT

## GUIDANCE FOR MANAGERS AND SUPERVISORS

---



Women. Men. Different. Equal.  
Equal Opportunities Commission

Sexual harassment at work is a serious matter. It is sometimes viewed as a joke, but it can make people's lives a misery and seriously affect how they do their job.

Employers can be liable for the actions of their employees that cause offence to another employee at work. Employers may also be liable for acts committed away from the workplace, especially where the harassment occurs at social occasions outside work.

Managers therefore have a responsibility to prevent sexual harassment and, if this is not possible, to respond effectively when a complaint is made. Remember, if a complaint does go to a tribunal, how you handled the complaint will come under scrutiny.

These guidelines, aimed at line managers, should help you to minimise the number of complaints of sexual harassment in the workplace but, if they do occur, offer you a clear and speedy way to resolve them.

## Contents

---

What is sexual harassment?  
Your role and responsibilities as a line manager  
The law and sexual harassment  
Receiving a complaint of sexual harassment  
How to handle a complaint informally  
How to handle a complaint formally  
What to do after an investigation  
Additional notes for employers  
Sources of advice

## About the Checklist series

---

Your role as a line manager is important in delivering equality of opportunity in the workplace. To help you do this, the EOC has produced a series of Checklists aimed at line managers.

The checklists take you through typical situations, raising areas where problems could arise and giving guidance on how to handle the situation in the best interests of your staff and your organisation.

---

## What is sexual harassment?

---

When deciding what is 'sexual harassment' it's important to remember that it is the effect of the behaviour on the recipient that counts – and not how it appears to another person.

- **“It was just a bit of fun”**. Even if someone didn't mean to harass an individual, their behaviour or conduct is unacceptable if the recipient thinks it is unwanted, unreasonable and offensive.
- **It's not just women who are sexually harassed** – men are too, either by women or other men.
- **Sexual harassment** is not only unwanted physical contact or making obscene or suggestive remarks. It can be:
  - abusing managerial authority by making work opportunities conditional upon a close relationship
  - circulating emails with innuendo or 'dirty' jokes
  - displaying lewd posters
  - 'eyeing someone up' and leering
  - making personal and intrusive comments about physique and clothing
  - pestering someone for a relationship or following them around
  - repeatedly suggesting socialising after work after it has been made clear such suggestions are unwelcome, or
  - trying to share personal information about your sex life.
- **It's not always obvious**. Sexual harassment can also be more subtle, such as excluding people from work teams, meetings or networking events, ignoring people or assigning certain tasks usually associated with individual sexes (such as female team members always taking minutes, ordering and serving refreshments etc).
- **It doesn't have to happen at work**. Staff can be harassed by colleagues at conferences, away days and even when they are socialising after work.
- **It doesn't have to be directed at an individual**. It may be creating an oppressive atmosphere, such as:
  - downloading pornography from the web
  - having offensive posters or calendars around, or
  - potentially offensive 'banter'.
- **It doesn't have to occur over a period of time**. One incident may be enough if it is particularly serious.

---

## Your role and responsibilities as a line manager

---

Your role as a line manager is particularly important in dealing with sexual harassment. You are probably going to be the person that is notified of any complaint and you will have to deal with it effectively.

It's your responsibility to ensure that sexual harassment does not happen in your area and you need to be alert to the kind of behaviour that can be regarded as harassment. In addition, if you fail to deal with harassment effectively it can affect your team's ability to work together in a productive way.

- **You can help to minimise** the chances of harassment occurring by setting a good example through your own behaviour – by treating all staff and customers with respect.
- **Seeing or hearing unacceptable behaviour from colleagues and customers** but doing nothing about it can be seen as condoning harassment.
- **You should not tolerate** an environment where sexual 'banter' is common just because no one has complained. A lack of complaints does not mean there is not a problem in your area. It may mean that people are too embarrassed or fearful to come forward.
- **You need to explain the organisation's "zero-tolerance" approach** to sexual harassment to your staff. Each member of staff should have a copy of the policy and new staff need to be given one when they join the organisation. You also need to ensure that people understand that harassment is a disciplinary matter and to have a disciplinary policy and procedure.
- **Let your staff know.** Make sure that the staff you manage understand what sexual harassment is, why it is unacceptable and that sexual harassment is serious. For this reason, many organisations treat a false accusation of sexual harassment, made out of malice, as gross misconduct.
- **People are often reluctant to make a complaint** as they don't want to be seen as a troublemaker. But knowing they can get the harassment stopped with a minimum of fuss should enable people to feel they can raise the issue.
- **It won't go away.** Avoid the temptation to hope the situation will 'blow over' or sort itself out. Although it can be difficult to tackle individuals about their behaviour or actions, it is better to take action early rather than allow

---

it to worsen by doing nothing, or for the situation to be repeated with others.

- **Take charge.** It is unfair to expect your staff to tackle harassment by themselves. If they can't deal with the situation, you should step in and help.
- **Get help.** If you're not sure how to handle a complaint or situation, get advice from your HR department, other managers or your line manager.
- **If you don't have a policy** on sexual harassment, your organisation should produce one. Further information on this is presented in "Additional notes for employers" at the end of this document.
- **If you do have a policy**, as a line manager you have to make sure people know about it and understand how to make a complaint.

---

## The law and sexual harassment

---

Sexual harassment is unlawful under the Sex Discrimination Act. Lesbians and gay men are also protected, under the Employment Equality (Sexual Orientation) Regulations

An employee who experiences sexual harassment at work can seek compensation by taking a case to an employment tribunal. The average award made in a sexual harassment case topped £14,000 in 2004.

Employers can defend a claim if they can show that they took reasonable steps to prevent the employee's behaviour. Tribunals take into account whether an organisation took "reasonably practicable" steps to avoid discrimination when deciding if the employer was at fault.

If you or your organisation aren't convinced that you need to deal with sexual harassment, then bear the following in mind:

- most employees want to be treated with respect and work in a pleasant atmosphere
- you will not attract and keep the best staff if word gets round that sexual harassment occurs in your workplace
- it can cost about £4,000 to replace a member of staff
- defending a claim takes time as well as money and does little for an employer's reputation, and
- the stress involved in having to mount a detailed defence of your behaviour and actions, which will come under severe scrutiny, should also not be under-estimated.

The following case law examples will help you to understand how you and your organisation should deal with sexual harassment.

*In the case of Insitu Cleaning Co Ltd v Head (1994), an employment tribunal decided that a single act of unwanted conduct could amount to harassment. Ms Head complained about a lewd greeting she received from a manager. When an informal approach failed, she was invited to use the company's grievance procedure, but felt unable to do so and resigned. The tribunal recommended that the company should adopt a separate procedure to deal with harassment claims, rather than requiring the complainant to instigate the grievance procedure.*

---

*In the case of Morse v Future Reality Ltd (1996), Ms Morse shared an office with a number of men who downloaded sexually explicit images from the internet, which they then discussed. Although the activities were not directed at her, they caused her to feel uncomfortable and she eventually resigned citing the pictures, bad language and an atmosphere of obscenity. The tribunal held that all these factors had a detrimental impact on her and constituted sexual harassment, and the company was liable as no one had taken action to prevent the discrimination.*

*In A v B Ltd and others (1998), a female worked in a predominantly male workplace, where sexually offensive language to women was tolerated. Following a complaint of sexist language, the company put up a notice warning that sexual harassment was unacceptable, but nothing more was done. During the course of a night shift, when the female worker was the only woman in the department, she was sexually assaulted by three male colleagues. An employment tribunal upheld her claim that the employer was liable for the conduct of the three men. It found that the employer had not taken reasonably practicable steps to prevent the incident happening. The tribunal said: "Putting a notice on a noticeboard is not enough. People have to be told in the plainest terms if employers are to get the message across."*

---

## Receiving a complaint of sexual harassment

---

Dealing with harassment in your team can be difficult. However, handling it promptly and professionally will let your staff know that complaints will be taken seriously and dealt with impartially.

- **Refer to your organisation's harassment policy** and speak to HR about any help or support you may need.
- **Get help.** If you're not sure if you should handle a complaint or situation formally or informally, get advice from your HR department and other managers.
- **Informal or formal?** Where possible, it's usually better to handle complaints of harassment informally, as it can resolve problems with a minimum of anxiety for those involved. Formal procedures are usually implemented when informal attempts have failed, or where the situation is so serious that it merits formal proceedings.
- **Don't dismiss complaints** before you thoroughly investigate them. It's unacceptable for someone to claim that "it's just a personality clash", or to assume that the person complaining is "over-sensitive", or there is too much at stake because "someone's job may be on the line".
- **Take action.** You need to deal with any complaints quickly and in confidence. Neither the identity of the person making the allegation nor the alleged harasser should be revealed to the wider workforce. It's a good idea to ensure that any paperwork regarding a complaint is locked away.
- **Confidentiality** may not be practicable if a complaint of sexual harassment is raised in a small team. In such cases, the two people concerned should be advised that there should be no communication between them, directly or indirectly, in relation to the complaint.
- **Be fair.** You will need to be responsive and supportive to anyone who makes a complaint while at the same time treating the alleged harasser fairly.
- **Don't take sides.** It is important that other members of the workforce do not take sides. It needs to be made clear that other staff must not victimise or prejudice either the complainant or the alleged harasser and that this is a potential misconduct issue.
- **If there is a problem over the complainant and alleged harasser continuing to work together** you may have to suspend both on full pay for the duration of the investigation. You should never move the person

---

complaining, or pressure them to move, unless they have specifically asked for this.

---

## How to handle a complaint informally

---

Dealing with a complaint informally can have the desired result of quickly stopping the behaviour that is causing distress, as once someone realises that people find their behaviour objectionable they will probably stop.

You need to be objective about whether the matter is one that could *reasonably be expected* to be dealt with informally. Do not be tempted to go down this route if it is not appropriate. The easier option may not turn out to be so.

Check and act on your organisation's policies and procedures for dealing with harassment. The guide below shows some basic steps to take if your organisation does not have them.

- **Stopping harassment informally.** Once you have established that there is a problem, the harasser should be spoken to and:
  - asked to stop the behaviour
  - have the impact of their behaviour explained
  - be advised that their behaviour is contrary to the organisation's harassment policy
  - have confirmed the required standard of behaviour expected of all employees
  - be advised of the consequences of continuing, and
  - told that this discussion is informal and confidential but that the situation will be monitored.
- **Offer to help.** If the victim is reluctant to speak to the alleged harasser on their own, you might want to accompany them, or speak to the alleged harasser on their behalf. Alternatively, a person in HR, a trade union representative or someone in your organisation who has been trained to handle such complaints could speak to the alleged harasser on the victim's behalf.

---

## How to handle a complaint formally

---

Usually the employee experiencing the harassment has to lodge a formal complaint. An investigation is then initiated to gather all the relevant facts by interviewing the complainant, the accused and any witnesses.

When you first receive the complaint consult with your HR department and your organisation's policies and procedures for dealing with harassment. The guide below shows some basic steps to take if your organisation does not have them.

- **When you first receive the complaint** set out the terms of reference of the investigation, what is being investigated and by whom.
- **Then set out a time frame** for the investigation. That way you will know what needs to be done and how to do it and the complainant and the alleged harasser know how long it will take.
- **What's going to happen?** The complainant and the alleged harasser should be told how the investigation will be carried out and who they will be dealing with. They should both be advised that they have the right to be accompanied to any meetings by a colleague or trade union representative.
- **Not connected.** Managers carrying out formal investigations should not be connected in any way with the allegation that has been made.
- **Prompt action.** You should aim to deal with formal complaints as quickly as practicable. Where possible:
  - within three to five working days of the complaint being made, obtain written statements from those involved and any witnesses
  - within a further three to five working days, conduct separate meetings with the complainant, the alleged harasser and any witnesses to establish the facts of the case
  - it may be necessary to have further meetings to get extra information or clarify points from earlier interviews.
- **Make and keep written records of all the meetings.** Once you have obtained all the information possible, prepare a written report that outlines the facts of the case and sets out the findings. This should be made available to both parties at the same time.
- **Communicate your decision.** Once you have made a decision you need to inform both the complainant and

---

the person against whom the complaint was made of your decision. You should do this in writing.

- **Next steps.** You will need to decide whether or not the disciplinary procedure should be invoked or some other action taken, such as providing training or counselling, or whether no further action should be taken.
- **Reintegration into work** may be necessary following the outcome of the investigation. It can be difficult for people to resume work as if nothing has happened. You need to provide a framework of support, this could involve counselling services, ensuring that the person returns to an environment that is safe and neutral – i.e. where there are no reprisals. You will need to check on their progress periodically and health and safety management provides the framework to do this.

---

## What to do after an investigation

---

After the investigation, your organisation's policies and procedures should be followed.

Ideally, you should meet with the individual who made a complaint to ensure that no further harassment or victimisation has occurred, either from the harasser, their colleagues or line management. A similar meeting should also be held with the harasser to check that they have not been victimised.

The following are possible outcomes and actions you may consider:

- **If a complaint hasn't been upheld or the evidence is inconclusive**, you could offer mediation sessions with both parties or consider offering voluntary transfers.
- **If there is sufficient evidence of serious unacceptable conduct** – formal disciplinary action should be taken which could include a verbal warning, a written warning, transfer or dismissal.
- **If a complaint has been upheld** and the behaviour was unintentional and the actions regretted, you could provide counselling for both parties, awareness training for the perpetrator or consider using your organisation's disciplinary procedure.
- **If a complaint has been upheld**, the complainant may not wish to work with the harasser. If it is agreed that further contact between the two would be unacceptable you should try and do this. Ideally it should be the harasser who is moved. If it is the complainant who is moved, ensure that such a move does not disadvantage them in any way.
- **If a complaint has been upheld and the harasser remains in your employment**, you should ensure that they are made fully aware of your organisation's policies on sexual harassment and equal opportunities and of the law in this area.

---

## Additional notes for employers

---

If you don't have clear procedures for dealing with sexual harassment you may face a claim of constructive or unfair dismissal from either the person being harassed or the alleged harasser.

A policy that gives examples of unacceptable behaviour, makes clear to employees the kinds of actions that won't be tolerated. It also spells out what is considered to be inappropriate behaviour and should help to stop problems before they start.

If complaints are made, having a policy should help to sort them out quickly and informally and reduce the chances of you having to defend an employee's claim at a tribunal. In addition, people will know they do not have to put up with sexual harassment and what they and their employer can do about it.

If your organisation doesn't have one, you should put together a policy that covers sexual harassment. If you do have one, or have a general policy on harassment or equal opportunities, review it after you've read these guidelines to ensure that it does the job you want.

- **Train staff on the policy** and the procedures for making and dealing with complaints. Talk about what kinds of behaviours could offend colleagues and customers. Inform employees that have a responsibility to discourage harassment by making it clear that they find certain behaviours unacceptable. Run this training periodically to ensure that new members of staff understand the policy and procedures.
- **Publicise the policy** through posters and put the policy on your company intranet and in your staff handbook. Publicising the policy informs staff of their right to complain and to whom, and that their complaint will be treated fairly and quickly. Regular publicity and discussion enables more people to raise the subject without fear of embarrassment.
- **Providing training for a number of staff** to deal with complaints of sexual harassment also ensures that you will have someone else in the organisation to talk about a complaint with and seek advice and support from, while maintaining confidentiality. It can be difficult and stressful to handle such complaints alone. You do need to be confident that your supervisors and managers act consistently on company policy.
- **You should have people of both sexes trained** to hear complaints of sexual harassment. Given the sensitive and potentially embarrassing nature of such incidents, it is probable that a person making a

---

complaint will wish to speak about it to someone of the same sex as themselves.

- **Monitoring.** It's essential to periodically check if your policy is being successfully implemented. The organisation should review what happened with any complaints you received. Were the correct procedures followed? Did the cases highlight any other action your organisation needs to take?
- **However, it's not enough just to have a policy;** you have to make sure people know about it and understand how to make a complaint, as tribunals take into account whether an organisation took "reasonably practicable" steps to avoid discrimination when deciding if the employer was at fault.
- **Your organisation's managers need to take a "zero-tolerance"** to sexual harassment. Each member of staff should have a copy of your policy and new staff need to be given one when they join the organisation. They will also need to ensure that people understand that harassment is a disciplinary matter and to have a disciplinary policy and procedure.

*In Caniffe v East Riding of Yorkshire Council (2000), Ms Caniffe was sexually assaulted by a colleague while at work. Her claim of sex discrimination failed as the tribunal considered that by having disciplinary, grievance and personal harassment policies in place that had been drawn to the attention of all employees, the council had discharged its liability. However, the tribunal had not considered what further steps the council could have taken, and Ms Caniffe successfully appealed against this decision. The employment appeal tribunal ruled that the proper approach tribunals should take when deciding on liability was, firstly, to identify whether any preventative steps had been taken by the employer and, having done so, to consider what further steps the employer could have taken which were reasonably practicable. The implications of this case are that employers cannot simply argue that there was nothing they could do to prevent it. They could argue that they have an anti-harassment policy in place, but again this will not help if the policy is found to be inadequate.*

## More detailed guidance

---

If the information in this checklist hasn't answered all of your questions about how to manage sexual harassment, then please see our more detailed guidance on this subject, Sexual harassment: manager's questions answered, available on our website.

---

## Sources of advice

---

### **ACAS**

*ACAS provides information, advice and training and works with employers and employees to solve problems and improve performance in the workplace.*

Tel: 0845 747 4747

[www.acas.org.uk](http://www.acas.org.uk)

### **Equality Direct**

*Equality Direct is a confidential telephone advice service for employers, providing help on managing equality issues.*

Tel: 0845 600 3444

[www.acas.org.uk](http://www.acas.org.uk)

#### **Great Britain**

Arndale House,  
Arndale Centre,  
Manchester M4 3EQ.  
Email: [info@eoc.org.uk](mailto:info@eoc.org.uk)  
Website: [www.eoc.org.uk](http://www.eoc.org.uk)  
Fax: 0161 838 8312  
Tel: 0845 601 5901

#### **Wales**

Windsor House,  
Windsor Lane  
Cardiff CF10 3GE.  
Email: [wales@eoc.org.uk](mailto:wales@eoc.org.uk)  
Website: [www.eoc.org.uk](http://www.eoc.org.uk)  
Fax: 029 2064 1079  
Tel: 0845 601 5901

#### **Scotland**

St Stephens House  
279 Bath Street, Glasgow,  
G2 4JL.  
Email: [scotland@eoc.org.uk](mailto:scotland@eoc.org.uk)  
Website: [www.eoc.org.uk](http://www.eoc.org.uk)  
Fax: 0141 248 5834  
Tel: 0845 601 5901