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HR Focus

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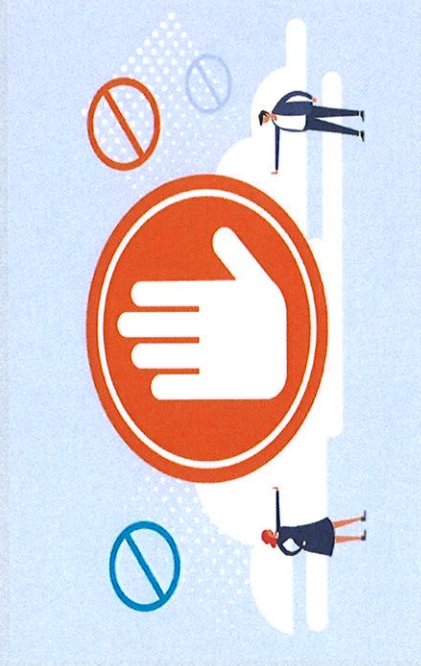
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Sexual Harassment- Changes in the law



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What is sexual harassment?

“Unwanted conduct of a sexual nature” which “has the purpose or effect of violating...dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment...”

Applies equally to people of all genders

Current law

Employer = liable for harassment in course of employment

Employer can defend harassment claim if has taken
“all reasonable steps” to prevent it from happening

But not legally required to take those steps

Worker Protection (Amendment of Equality Act 2010) Act 2023



Comes into force on 26 October 2024

New duty for employer to take “reasonable steps” to prevent employees from being sexually harassed in the course of employment

New duty only applies to sexual harassment

What are “reasonable steps”?

Not defined in legislation!

Similar to ET’s current interpretation?

Will vary depending on employer’s size/resources/industry...

Helpful guidance in EHRC’s guide (Preventing sexual harassment at work: a guide for employers)



Reasonable Steps – Tips for Employers

1. Educate and Raise Awareness

- Understand what sexual harassment is
- Mandatory training
- Additional training for managers

2. Policy

- Anti-harassment policy (clear and regularly updated)
- Bring to the attention of employees
- Include process for making and investigating complaints

Reasonable Steps – Tips for Employers

3. Culture

- Zero-tolerance workplace culture
- Encourage reporting of sexual harassment
- Monitor complaints to ensure no victimisation

4. Third Party Prevention

- Include information addressing this in harassment policy
- Encourage reporting
- Include term in all contracts with third parties to adhere to employer's policy on harassment

Reasonable Steps – Tips for Employers

5. Workplace Champions

- Provide support and advice to those who witness or experience sexual harassment
- Trained in providing support
- Not just women!

6. Staff Surveys

- Regular staff surveys so employers understand potential harassment issues/risks (internal and 3rd party)
- Consider risk assessment
- Gain insight into employee views on culture

What if employers don't comply?

- No freestanding ET claim for breach of new duty
- If employee succeeds in sexual harassment claim, ET can uplift compensation by up to 25%
- Uplift applies to all compensation for harassment
- EHRC also has power to investigate / issue unlawful act notice (without ET claim)
- Adverse public attention and impact on employee engagement

Will Labour change things?

- Want to 'properly tackle' sexual harassment
- May strengthen legal duty for employers to take all reasonable steps to prevent sexual harassment?
- May re-introduce specific liability for third party harassment?