

SEXUAL HARASSMENT IN THE WORKPLACE – GUIDANCE FOR MEMBERS

INTRODUCTION

Sexual discrimination, including sexual harassment is a major issue. High profile claims of sexual harassment reported in the media, together with movements such as #MeToo, demonstrate how widespread and frequent sexual assault and harassment is, especially in the workplace.

The CWU believe sexual harassment is unethical, unprofessional and undermines the CWU rule to actively opposing all forms of discrimination (rule 2.1.4).

This guide has been designed to help members recognise sexual harassment, make informed choices about reporting incidences of sexual harassment and to understand what support is available.

We hope members find it useful.

WHAT IS SEXUAL HARASSMENT?

Sexual harassment is any unwanted behaviour of a sexual nature that is offensive or makes you feel uncomfortable, humiliated, distressed, degraded or intimidated. It creates a hostile and offensive environment. Even if it isn't directed at you and was unintentional, something that makes you feel this way is still sexual harassment.

EXAMPLES OF SEXUAL HARASSMENT

Sexual harassment can relate to a range of different behaviours. It may be verbal or physical, it can be a one-off incident or an ongoing pattern of behaviour and it can happen in person or in other ways.

Examples of Sexual Harassment can include:

- Unwelcome touching, hugging, massaging or kissing
- Verbal remarks of a sexual nature (including jokes) directed towards you or in your presence.
- Intrusive questions about a person's private or sex life or a person discussing their own sex life.
- Spreading sexual rumours about a person.
- Gestures of a sexual nature, including lustful staring at you or part of your body
- Unwelcomed messages of a sexual nature sent to your email, direct messaging or social media
- Displays of pornographic images, drawings or objects in the workplace, including calendars, desktop screens and posters.
- Stalking
- Sexual Coercion – where a person promises or hints at advancements or benefits in return for a sexual favour or threatens adverse consequences if you do not respond favourably.
- Persistent and unwanted invitations of a sexual nature
- Sexual assault or rape

While the actual nature of sexual harassment may vary, the common factor is that the harassment involves unwelcome behaviour of a sexual nature.

WHO CAN EXPERIENCE SEXUAL HARASSMENT

Sexual harassment can happen to anyone, regardless of gender identity, sexual orientation, disability, ethnicity or age.

According to research carried out by the TUC, over 50% of women and 4% of men in the workplace have experienced some form of sexual harassment at work.

Nearly two thirds of women aged 18-24 have encountered this type of behaviour.

Women with disabilities, those from black and ethnic backgrounds and LGBT+ communities, including women in low paid insecure employment, are disproportionately more likely to experience sexual harassment in the workplace.

WHEN AND WHERE SEXUAL HARASSMENT CAN OCCUR

Sexual harassment doesn't have to take place within the actual workplace for it to be a work-related issue.

Sexual harassment can occur:

- in your workplace or other premises used by your employer
- while working from home or remote working
- on a work visit
- when you are in another location for work reasons (e.g. at another office)
- at a work-related social event (e.g. at a Christmas party or away day)
- travelling to or from work
- by phone or text message
- online, by email, on social media or on a virtual meeting.

HOW DO I KNOW IF I AM BEING SEXUAL HARASSED?

There can be a lot of 'banter' within the workplace and some may see their behaviour as a bit of fun with no ill-intent of offending anyone.

When it comes to identifying sexual harassment in the workplace, either directly or indirectly, think about the behaviour or comments that were made and focus on how they made you feel.

If the sexual behaviour or comments made you feel uncomfortable, humiliated, distressed, degraded or intimidated then it is likely you have experienced sexual harassment.

THE LAW ON SEXUAL HARASSMENT

In the UK, some regulations are in place to protect workers from harassment of all forms, including that of a sexual nature.

The Equality Act 2010 protects employees against unlawful harassment, bullying and discrimination whilst at work. The Act makes the employer responsible for removing sexual harassment from their company.

Nine protected characteristics are outlined in the Act. They are:

1. Age
2. Disability
3. Gender reassignment
4. Marriage and civil partnership
5. Pregnancy and maternity
6. Race
7. Religion or belief
8. Sex
9. Sexual orientation

Employers also have a responsibility under the Health and Safety at Work etc. Act 1974 to ensure, so far as it is reasonably practicable, the health, safety and welfare of their workers when at work, which includes protection from sexual harassment at work.

The Management of Health and Safety Regulations also require employers to assess the nature and scale of workplace risks to health and safety, ensure there are proper control measures in place to avoid these risks wherever possible and reduce them so far as is reasonably practicable where not.

WHEN IS SEXUAL HARASSMENT CRIMINAL?

Some forms of sexual harassment automatically break criminal law and are therefore crimes. These include:

- *stalking*
- *indecent exposure*
- *'upskirting'*
- *any sexual harassment involving physical contact (this amounts to sexual assault in English and Welsh law)*

Other forms of sexual harassment might also break criminal law, depending on the situation.

If sexual harassment escalates into violence, threats or sexual assault, members can report this to the police.

WHAT TO DO IF YOU ARE BEING SEXUALLY HARASSED

If you are being sexually harassed, you do not have to put up with it. It can be easy to think the problem lies with you – it doesn't.

Do not be afraid to speak up. You may find that other people have suffered the same treatment. Speak to your CWU union rep in the first instance or contact the CWU's bullying and harassment helpline on FREEPHONE 0800 090 2303. The helpline is open Mon-Fri 9am-5pm.

If you feel safe and confident enough to do so, you may wish to deal with sexual harassment informally. In which case you should inform the harasser to stop. You may want to do this with your CWU rep or with a friend or in writing. Members can use the CWU Template Harassment Letter to assist with making an informal written request for behaviours to stop. If this is not an option or you wish to make a formal report, speak to your local CWU branch who will be able to offer advice and support (where necessary).

The CWU recommend that victims of workplace sexual harassment keep a record of any instances that occur. For example, recording the time, date, location, a detailed description of what happened, what was said, how it made the victim feel, including a note of any witnesses who may have heard or seen the sexual misconduct. It is also useful to record any actions you may have taken to address the problem, for example raising it with a manager and the responses and actions taken afterward.

This information will prove useful for making formal reports and legal claims. Members can use the CWU Sexual Harassment Log Form to keep a record of the harassment they face.

WHAT TO DO IF YOU ARE A WITNESS TO SEXUAL HARASSMENT

If you are in a situation where you have witnessed sexual harassment, there are things you can do. If you feel safe and comfortable you can:

- *Tell the harasser that you object to their behaviour and ask that it stop.*
- *Talk to the person experiencing harassment, to make them aware that you have witnessed the incident.*
- *Seek advice and support from your local CWU branch or speak to the CWU's bullying and harassment helpline*
- *Report the incident.*
- *make a sexual harassment report yourself because what you've seen has violated your dignity or created an intimidating, hostile, degrading, humiliating or offensive environment for you.*

Your actions will depend on the situation and the people involved. It's a good idea to make a note of what's happened. This should include dates, time and names, including any other witnesses. Members can use the CWU Sexual Harassment Log Form to keep a record of any harassment they may have witnessed.

WILL I BE TREATED LESS FAVOURABLY IF I REPORT SEXUAL HARASSMENT IN THE WORKPLACE?

Employers are not allowed to victimise a worker for reporting about sex discrimination or sexual harassment at work. If a worker is victimised for reporting sexual harassment, this may constitute unlawful victimisation under the Equality Act 2010.

FURTHER HELP AND SUPPORT

Members requiring further support following experiences of sexual harassment, sexual assault or rape can contact:

- **Samaritans**
www.samaritans.org/how-we-can-help/contact-samaritan
- **LGBT Foundation**
<https://lgbt.foundation/how-we-can-help-you>
- **GALOP (LGBT+ sexual violence support)**
<http://www.galop.org.uk>
- **Rape Crisis England and Wales**
<https://rapecrisis.org.uk>
- **Rape Crisis Scotland**
<https://www.rapecrisisscotland.org.uk>
- **Rape Crisis Northern Ireland**
<https://rapecrisisni.org.uk>

CWU Headquarters: 150 The Broadway | Wimbledon | SW19 1RX T: 020 8971 7200 | F: 020 8971 7300
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