



WORKPLACE HARASSMENT A PRACTICAL WEBINAR FOR EMPLOYERS

1. INTRODUCTION

UK employment law is undergoing significant changes in tackling harassment in the workplace, having started back in 2024 with the Worker Protection (Amendment of Equality Act 2010) Act 2023, and continuing with the Employment Rights Act 2025 (ERA).

Workplace harassment continues and according to the Office for National Statistics Crime Survey for England and Wales, in the year ending March 2025, found 22.5% of people said they had experienced sexual harassment at their place of work in the previous 12 months. Specifically:

- 7.1% of workplace harassment was carried out by a colleague (7.8% towards women and 5.3% towards men)
- 6.2% experienced workplace harassment by a third party
- 5.2% experienced sexual harassment by a client or member of the public.

In this month's Hot Topic, we will consider:

- The different forms of harassment
- What is meant by an employer's proactive legal duty to prevent harassment
- The crucial role of the line manager in preventing harassment
- The consequences of inaction
- The minimum standards in working towards taking all reasonable steps in the prevention of workplace harassment.



2. THE DIFFERENT FORMS OF HARASSMENT

For employers to fully meet their legal obligations, they must understand the different types of harassment, as each constitutes a distinct legal avenue for a claim.

General harassment (under the Equality Act 2010)

General harassment under the Equality Act 2010 is brought only in connection that the person that is discriminated against, is so, on the grounds of one of the nine protected characteristics (PCs), ten if you operate in Northern Ireland (see below).

The PCs are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

In Northern Ireland only, there is the additional one for political belief.

Harassment under this pillar is unwanted conduct that is related to one of these PCs that violates an individual's dignity or creates an intimidating, hostile, degrading, humiliating, or offensive environment.

An employer's legal duty is to take all reasonable steps to prevent this form of harassment, known as the 'anticipatory' duty.

This area of harassment law **will not** change under the ERA 25.

Sexual harassment

Sexual harassment is specific unwanted conduct that is of a sexual nature and does not need to be connected to a PC.

The Worker Protection (Amendment of Equality Act 2010) Act 2023 which was introduced in 2024, places a positive proactive duty on employers to take reasonable steps to prevent harassment from occurring during the course of employment.

The ERA 25 will broaden the legal duty on employers, by requiring them to take 'all' reasonable steps to prevent it – just as they are for general harassment discussed above. This means, employers will also have an 'anticipatory' duty in this area of harassment law to bring it in line.

Harassment by third parties

Harassment by third parties is a new distinct legal avenue coming into force 30 October 2026 when it will make employers liable for harassment that is carried out on their workers, by a third party.

A third party, being someone such as a customer, client, patient, or contractor.

Employers will have a new positive, proactive legal duty to prevent this form of harassment unless they can demonstrate that all reasonable steps have been taken to prevent it.





This legal duty aligns to that for general harassment and sexual harassment.

3. WHAT IS MEANT BY AN EMPLOYER'S PROACTIVE LEGAL DUTY TO PREVENT HARASSMENT

We have discussed the different forms of harassment and the legal duty placed on the employer, but what is meant by the 'preventative duty', also known as the 'anticipatory duty'?

A proactive legal duty to prevent harassment means to actively anticipate and stop harassment rather than just reacting after an incident has occurred.

It puts the focus on an approach that is continuous, anticipatory rather than a passive wait and see. Central to this legal requirement is the carrying out of a workplace risk assessment.

4. THE CRUCIAL ROLE OF THE LINE MANAGER IN PREVENTING HARASSMENT

Whilst the employer (CEO, business owner) holds the strategic and legal responsibility for the organisation's safety and compliance framework (individuals can also be held personally liable), the role of the line manager is critical since they are responsible for the day-to-day conduct of their employees. With these legal developments, the role of the Line Manager has shifted from a reactive one, i.e., responding to complaints, to a proactive, anticipatory duty. The law is also clear that anything that is done by an employee in the course of their employment is treated as having also been done by the employer. This is known as vicarious liability and applies regardless of whether the employer knew about the conduct or approval of it.

To avoid this liability, employers must prove that they took all reasonable steps to prevent the harassment

5. THE CONSEQUENCES OF INACTION

If an employee is harassed, whether it is because of a protected characteristic, sexual conduct or harassment carried out by a third party, if a tribunal finds the employer has failed in their preventative duty, the tribunal has the power to increase the compensation awarded by up to 25%.

Furthermore, the Equality and Human Rights Commission (EHRC) can investigate the employer and issue unlawful act notices, as was seen in the [case of Hunter vs Lidl Great Britain](#).

6. THE MINIMUM STANDARDS IN WORKING TOWARDS TAKING ALL REASONABLE STEPS IN THE PREVENTION OF HARASSMENT

In determining liability, an Employment Tribunal will consider to what extent an employer adopted the guidance set out in the EHRC's [technical guidance on sexual harassment and harassment at work](#), as well as their [employer 8 step guide for preventing sexual harassment](#). Within these guides, the EHRC sets out the minimum standards employers should be enforcing towards their legal duty of taking all reasonable steps to prevent workplace harassment. They include:

1. Anti-harassment policy

Developing a comprehensive, zero-tolerance anti-harassment policy, and communicating this expectation to the workforce as well as to third parties. A policy should provide tailored examples of prohibited behaviour relevant to the business, to ensure employees can recognise and confidently report misconduct.

Crucially, the policy must be clearly communicated and accessible to everyone. It must also be regularly reviewed, updated as needed, and backed up by mandatory training.

2. Engage your workers

Talking and engaging with your employees will help you to understand where any potential issues lie and whether the steps you have in place are working. Good employment practices that can support this include conducting



regular 121s, staff surveys, exit interviews, and to proactively encourage open door policies.

3. Assess and take steps to reduce risk in the workplace

Strategic oversight requires a formal assessment of harassment risks specific to the business. You must identify high-risk scenarios, such as lone working, public facing roles, late-night shifts, or power imbalances between senior and junior staff. To fulfil your legal ‘preventative duty,’ you must conduct, document, and continuously review a comprehensive risk assessment. Ultimately, if you have not evaluated your specific working environment, you cannot accurately determine what constitutes a ‘reasonable step’.

4. Reporting

It is critical that everyone knows how to report issues, and that there are multiple channels available in which to do so, including the ability to raise concerns anonymously. Additionally, having robust grievance and whistleblowing policies and procedures is imperative, as these provide the framework for how the business responds and acts on complaints.

5. Training

Everyone should be trained in what harassment in the workplace looks like, what to do if they experience or witness it and how to raise and handle complaints. Investment in training is critical because training is a preventative step. Training should be specific to your industry, business context and tailored accordingly to who you are training – manager, employee, investigators.

6. Dealing with complaints

Act immediately and consider how the employee wants it to be resolved, respect confidentiality, and put protections in place from ongoing harassment or acts of victimisation.

7. Dealing with harassment by third parties

Adopting the same approach to harassment by third parties is vital, and complaints of this nature must be treated just as seriously. The legal obligation of taking all reasonable steps to prevent harassment extends to harassment by third parties. This requires you to introduce mechanisms that are specifically to prevent the harassment of your workers by a third party.

8. Monitor and evaluate your actions

You cannot manage what you do not measure. You must oversee a centralised, confidential record of all harassment concerns (both formal and informal) to identify trends. As well as proactively detect hidden forms of harassment through systems such as anonymised staff surveys, exit interviews, and general annual reviews to evaluate the effectiveness of your preventative steps.

You should also review your policies, procedures and training regularly, seeking employee engagement through these processes.

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