

Dealing with sexual harassment in the workplace – guidance for branches and members

1 Introduction

1.1 In 2014 UCU conducted a survey amongst its women members into sexual harassment. The survey sought information about a range of issues relating to the respondents' experiences of, responses to, and awareness of sexual harassment in the workplace. It received 1,953 of which three were men. Altogether 1,046 respondents (54%) reported personal experience of some form of sexual harassment at work. Two thirds (66%) of respondents reported having been sexually harassed by a colleague, while just over a quarter (27%) by a student. Half of respondents said that their experience of sexual harassment was a one-off incident while half reported that it was a series of incidents over a longer period. 9% said that their experience was still ongoing. In response this guidance was developed as part of a programme of work to assist branches in how to deal with sexual harassment in the workplace and support members who experience this.

2 What is sexual harassment?

2.1 Sexual harassment is defined in the Equality Act 2010 as "unwanted conduct of a sexual nature which has the purpose or effect of violating someone's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them". It can take many forms, including:

- Unwelcome sexual advances, propositions and/or demands for sexual favours
- Unwanted or derogatory comments about appearance or clothing

- Leering and suggestive gestures and remarks
- Offensive material being displayed, such as pornographic pictures, page three type pin-ups or calendars (including electronic form on computer screen savers or such material being circulated by email)
- Physical contact such as the invasion of personal space and unnecessary touching
- Offensive feedback/comments via social media
- Sexual assault

3 The effects of sexual harassment

3.1 The effects on people who experience sexual harassment are many and wide ranging, for example: impact on relationships with colleagues and personal relationships, embarrassment, anger, irritability, anxiety, loss of confidence and self-esteem, loss of sleep, fear of going to work or of losing job altogether (if they were to challenge the harassment), depression, loss of appetite and time off work or leaving the job.

4 Your rights at work

4.1 An employer is not allowed to victimise you for complaining about sexual harassment at work. If you are victimised for complaining, or for helping a colleague to make a complaint, you can make a claim for unlawful victimisation to an employment tribunal. You should tell your union rep what is happening at the earliest opportunity.

4.2 "Victimisation" is a term used in discrimination law to describe action by an employer, against an employee, in retaliation for involvement in bringing, or supporting, a complaint of discrimination.

5 How to stop sexual harassment at work

5.1 If you are harassed, this is what you can do:

- Don't think it's your fault or that you "asked for it"
- Keep a log of when, where it occurred, what was said and done
- Seek support from your union rep
- Speak to other people at work and find out if they have the same problem from the harasser
- If the harasser is a supervisor or manager, keep records of your job evaluations, assignments and promotions etc.
- Speak to the harasser in the company of someone else (ideally your union rep). Be specific about what you do not like and demand that it stops
- If you don't want to speak to the harasser yourself, ask someone else to do

so or consider writing a letter. It is a difficult thing to do, but can often prove very effective

6 Sexual harassment is a trade union issue

6.1 Sexual harassment is an issue which trade unions should actively deal with, as it is often the result of power relations in the workplace, so the most vulnerable and least protected workers are most likely to be under threat. Unions play a major role in outlawing sexual harassment at work in the following ways: pushing governments to introduce legislation; taking up cases, raising awareness and providing training as well as negotiating with employers on the issue.

7 Checklist for union action

- Identify a named rep for dealing with sexual harassment complaints
- Include a clause against sexual harassment in collective bargaining agreements and equal opportunities policies
- Agree a procedure with employers on cases of sexual harassment (see Appendix A)
- Ensure that employers carry out thorough and timely investigations
- Ensure that any actions resulting from the investigation are carried out without delay
- Ensure that employers take action so that harassment does not occur again in future (e.g. training)
- Push employers to abide by national agreements and prepare complaints when they do not take action
- Ensure complainant is supported and kept informed of what is happening

8 Other steps unions can take

8.1 Lobby government for improved sexual harassment legislation, exposing inconsistencies and gaps in implementation.

9 UCU training

9.1 UCU has developed a training course in dealing with individual harassment/sexual harassment cases, negotiating around policies that protect members or wish to challenge harassment, in particular sexual harassment more broadly in the workplace. For details about forthcoming training dates, please go to: <https://www.ucu.org.uk/training>

UCU takes any harassment very seriously. If you feel unable to approach your branch at this point, please contact your regional office. You can find details of your regional office here: <https://www.ucu.org.uk/yourcontacts> You can also contact the national Equality and Participation Unit for advice: <https://www.ucu.org.uk/article/2200/Equality-and-participation> If you have any comments on this, please contact Charlotte Nielsen: cnielsen@ucu.org.uk

APPENDIX A

Model procedure for dealing with complaints of sexual harassment

Introduction

Any employee who believes s/he has suffered or is suffering sexual harassment has the right to raise this through the following procedure.

If the victim does not want to make a formal complaint, the employer still has an obligation to consider whether the event should be investigated.

Appointing 'persons of confidence'

The union and the employer should appoint several persons of confidence designated to deal with complaints of sexual harassment. These should be of both sexes or non-binary and appropriately trained.

Where persons of confidence have not yet been appointed, there should be a named first point of contact.

Keeping a log – respect confidentiality

The union and/or the employer should keep a record of complaints. This should be kept securely.

At all times both the victim and the alleged harasser have a right to absolute confidentiality.

Draw up a list of behaviour that constitutes sexual harassment

These could include:

- Unwelcome sexual advances, propositions and/or demands for sexual favours
- Unwanted or derogatory comments about appearance or clothing
- Leering and suggestive gestures and remarks
- Offensive material being displayed, such as pornographic pictures, page three type pin-ups or calendars (including electronic form on computer screen savers or such material being circulated by email)
- Physical contact such as the invasion of personal space and unnecessary touching
- Offensive feedback/comments via social media
- Sexual assault

Dealing with complaints informally

There may be occasions when the victim feels able and prefers to deal with the complaint informally. However, s/he should not be persuaded against her/his will not to make a formal complaint.

Employees who have been harassed can decide to resolve it informally by:

- Approaching the alleged harasser, with the support of a union rep, person of confidence or colleague, saying that the behaviour is offensive, unwelcome and should stop.
- Asking one of the designated persons of confidence to approach the alleged harasser on his/her behalf.
- The employee may decide not to approach the harasser, but simply to log the complaint with one of the designated persons of confidence
- The informal complaint should be recorded
- The alleged harasser should be informed of any complaint against him/her and given the opportunity to amend his/her behaviour. Any logged complaints should trigger either informal or formal proceedings.

Dealing with complaints formally

The alleged victim

Approach the union first.

Employees should approach one of the persons of confidence to make a complaint and the date of this complaint should be logged.

A person of confidence should invite the employee to a meeting. The employee may be accompanied by a trade union representative or colleague.

The detailed complaint should be set out in writing

At the meeting the victim should be told that the complaint will be investigated and witnesses questioned, and that the alleged harasser has the right to a fair hearing.

If the alleged action is serious, then it may be necessary to relocate or temporarily suspend the alleged harasser.

This investigation is usually part of the official grievance procedure.

The alleged harasser

The alleged harasser, who may be accompanied by a trade union representative or colleague, meets with the person of confidence, is informed about the complaint and given a chance to answer the allegation.

The harasser is told that the matter will be dealt with formally and that his/her responses are also logged and that this investigation is part of the official grievance procedure.

Note: When making a formal complaint, the ACAS Code of Practice for Disciplinary and Grievance Procedures should be followed. (See 'More information')

Investigating the complaint

Establish the terms of reference for those who investigate the complaint. The designated persons of confidence should investigate the complaint impartially.

The person(s) investigating the claim will meet with any known witnesses or anyone else to establish the facts. Witnesses will be interviewed in private, not in the presence of either the alleged victim or alleged harasser

All information will be kept confidential but records of meetings must be kept

Communicating a decision

To the complainant

The person who made the complaint, who may be accompanied by their trade union representative, will be told the outcome of the investigation by the person of confidence. It will also be recorded.

To the alleged harasser

The alleged harasser will be told the result in a face-to-face meeting with the person of confidence. It will also be recorded.

The alleged harasser may be accompanied by their trade union representative.

Where the investigation decides there was sexual harassment

The victim

The employer should take all steps to reassure the victim and protect him/her from further potential harassment or victimisation whilst offering support and counselling.

The harasser

Disciplinary action will be taken, such as redeployment at work, or if the case is more severe, dismissal.

Where the investigation decides there was no harassment

The alleged victim may appeal, but may also ask to be redeployed at work.

More information

UCU bullying and harassment toolkit

<https://www.ucu.org.uk/harassment>

TUC protection from sexual harassment guide

https://www.tuc.org.uk/sites/default/files/Protection_From_Sexual_Harassment_2016_Know_Your_Rights_Booklet_LR.pdf

ACAS Code of Practice for Disciplinary and Grievance Procedures

<http://www.acas.org.uk/?articleid=2174>

The ACAS Code of Practice on disciplinary and grievance procedures gives practical guidance for handling these issues in the workplace. Failure to follow the Code doesn't make a person or organisation liable to proceedings, however, an employment tribunal will take it into account when considering relevant cases.