



Line managers' guidance on sexual harassment

Contents

Introduction	1
Equally Safe at Work	2
What is sexual harassment?	3
How sexual harassment affects women and the workplace	9
Sexual harassment and the law	10
Factors that facilitate sexual harassment	12
Recognising the signs	15
Starting a conversation	17
Responding to sexual harassment	18
Third party harassment	26
Managing perpetrators	27
Policies and practices	28



Introduction

Sexual harassment in the workplace has a significant and detrimental impact on women. It's an abuse of power and undermines women's skills, talent and effort. It also creates an intimidatory or humiliating environment, discourages women from seeking promotion, and entrenches gender inequality. Sexual harassment is a form of violence against women (VAW), and while both men and women can experience it, women are disproportionately affected and it is usually perpetrated by men.

This guidance provides information for line managers on workplace sexual harassment. It aims to build capacity and increase understanding among line managers about how best to respond to and prevent sexual harassment. The guidance provides information on what sexual harassment is, examples of what it looks like in the workplace, and why women are reluctant to report. It also outlines the law around sexual harassment, how it impacts the workplace, and how gender roles, everyday sexism and workplace culture facilitate sexual harassment. Finally, the guidance provides information on how to recognise the signs an employee is being harassed, how to start a conversation, and best practice for responding to a disclosure or report.

How to use this guidance

This guidance is part of a wider learning resource on sexual harassment at work that is available, and should be used alongside the organisation's VAW policy, sexual harassment policy and employer code of conduct. Your practice as a line manager should be guided by these policies. If you are unsure about what to do, you should contact your organisation's HR department. For smaller organisations which may not have an HR department, you may want to contact a senior leader in your organisation who can advise on best practice.

On page 28 you'll see how this guidance links to other policies in your organisation.

Equally Safe at Work

Equally Safe at Work is an innovative and world-leading accreditation programme for the public sector and third sector in Scotland. It supports the implementation of Equally Safe, the Scottish Government and COSLA joint strategy to prevent and eradicate violence against women and girls. Equally Safe recognises that violence against women and girls is a cause and consequence of gender inequality. Eliminating women's workplace inequality and other inequalities in society is therefore a fundamental step in preventing VAW. Equally Safe at Work uses the shortened VAW because of its employment focus.

Equally Safe at Work supports employers to progress their work on gender equality at work and to prevent VAW both in the workplace, and in the wider community. Organisations work towards meeting criteria in six standards: leadership, data, flexible working, workplace culture, occupational segregation and VAW. Work to meet the criteria includes undertaking training and capacity building, collecting and analysing data, developing initiatives, reviewing and updating policies and practices, and disseminating resources to key people.

An integral part of Equally Safe at Work is increasing capacity in line managers to respond effectively to reports of sexual harassment and build an understanding of how to support employees affected.

EQUALLY SAFE AT
WORK

What is sexual harassment?

Sexual harassment is unwanted conduct of a sexual nature, which is intended to, or has the effect of, violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.

Unwanted means the same as unwelcome or uninvited. It means unwanted by the person who is being sexually harassed, often referred to as the victim-survivor, and should be considered from their point of view.

Even if there's no intention to cause distress, it can still have the effect of violating someone's dignity or creating an offensive environment.

Sexual harassment, while usually viewed as an issue between the harasser and victim-survivor, is a form of VAW and therefore is intrinsically linked to gender inequality. Women, especially young women, are disproportionately affected by sexual harassment.

It's important to understand that women are not a homogenous group and that victim-survivors will have different experiences because of the multiple intersecting inequalities they experience. Disabled women, racially minoritised women, refugee and asylum-seeking women, lesbian, gay, bisexual and trans (LGBT) women, younger and older women experience different, multiple forms of discrimination which impact their experience of sexual harassment and their ability to report it.

What does sexual harassment look like?

- Unwelcome physical contact, such as a hand on the knee or lower back or shoulder rubs,
- Sexual comments or jokes of a sexual nature,
- Unwelcome sexual advances,
- Receiving unwanted messages with material of a sexual nature by email or social media,
- Being forced to watch or listen to sexually graphic videos or audio,
- Sexual assault which could include unwanted touching of breasts, buttocks, or genitals, or attempts to kiss you,
- Promises in return for sexual favours,
- Displaying sexually graphic pictures,
- Feeling uncomfortable when alone with a male colleague, and
- Threats or intimidation.



Sexual harassment outside of working hours and the workplace

Sexual harassment can also take place outside of working hours and/or the workplace. It doesn't just happen face-to-face, but also through email, text and online platforms. Evidence shows that perpetrators manipulate and use new communications channels to sexually harass women.

With increased numbers of employees working from home, hybrid or remotely, incidence of online sexual harassment are increasing. While this was also happening prior to Covid-19, the changes in how people work has resulted in an increased reliance on technology in the workplace. This means that perpetrators have greater access to women that wasn't available before, for example, the ability to see when colleagues are online or the ability to send private messages or pictures constantly throughout the day.

Perpetrators may use the ability to 'hide behind the screen' to threaten, intimidate or harass their colleagues. They may make sexual advances, inappropriate comments or jokes, or send unwanted pictures. This could include dressing inappropriately and/or being in an informal setting while on a video call, for example, on a bed.

Sexual harassment of an employee by another employee that occurs at after work socialising, or in the employee car park is also relevant to the workplace and should be reported. It doesn't need to only happen in the workplace during office hours for it to be a workplace issue.

The prevalence of sexual harassment

Sexual harassment is a form of VAW and is a cause and consequence of gender inequality in the workplace. There's greater awareness of the prevalence of sexual harassment as a result of the #MeToo movement¹, which highlighted how endemic sexual harassment in the workplace is.

In Scotland, research² found that 70% of women had either experienced or witnessed sexual harassment. Research from the TUC³ found that more than half of women (52%), and nearly two-thirds (63%) of women aged 18-24 years old reported experiencing sexual harassment at work.

¹ #MeToo is a movement started in 2006 that gained global prominence in 2017. The movement highlights the widespread prevalence of sexual assault and harassment.

² Zero Tolerance (2017) *Sexism is a waste: The need to tackle violence and misogyny in Scotland's workplaces*

³ TUC (2016) *Still just a bit of banter? Sexual harassment in the workplace in 2016*

70%
of women
experienced
or witnessed
sexual harassment



63%
of women aged
18-24 experienced
sexual harassment
at work



As well, over two-thirds (68%) of disabled women reported being sexually harassed at work⁴ and over two-thirds (68%) of LGBT+ women workers have experience at least one form of sexual harassment at work⁵.

Research within the NHS has highlighted the high number in which sexual harassment occurs across different departments. For example, in a survey of nursing staff, almost three in five (60%) respondents had experienced sexual harassment. Of those, more than half (57%) said it was perpetrated by a patient, a quarter (25%) said it was a doctor colleague and just under one-quarter (22%) said it was another nurse. Of those who had been sexually harassed, the vast majority (73%) didn't report⁶.

The British Journal of Surgery published research on sexual harassment and found that 89% of women working in the surgical workforce as consultants and trainee doctors had witnessed sexual harassment, while 63% had been the target of sexual harassment. A further 30% had been the target of sexual assault⁷.

Example

A young women had recently started working in a junior role in the organisation. After several months in post, one of her older male colleagues started to act inappropriately towards her. He would comment on her clothing, and on occasion would remove loose hair from her top or thread from her skirt. At the staff Christmas party he asked her to sit on his lap. She felt uncomfortable with his behaviour and reported to HR who viewed the various incidents as sexual harassment.



⁴ TUC (2021) *Sexual harassment of disabled women in the workplace*

⁵ TUC (2022) *Sexual harassment of LGBT people in the workplace*

⁶ Unison and Nursing Times (2021) *Survey on sexual harassment against nurses*

⁷ Begeny, C. et al (2023) Sexual harassment, sexual assault and rape by colleagues in the surgical workforce, and how women and men are living different realities: observational study using NHS population-derived weights. *BJS*, 110, 1518–1526

Reluctance to report

Sexual harassment is often underreported. A survey by TUC found that more than three-quarters of victim-survivors (79%) didn't report unwanted sexual behaviour to their employer⁸. Women reported that this was because they thought that:

- Nothing would change,
- They wouldn't be believed,
- They'd be dismissed or told they can't take a joke,
- They were unsure of the reporting process,
- They didn't know who to report to,
- They'd seen colleagues or friends report before and nothing happened, or
- They worried that it would affect their job progression.

In research by the Equality and Human Rights Commission (EHRC)⁹, survey respondents stated that reasons they were reluctant to report were that senior colleagues were seen as 'untouchable' and that their senior management team was all male and had colluded with the harasser. Victim-survivors also stated that inexperienced and unsupportive line managers were seen as barriers to reporting. Sexual harassment was often viewed as a problem that the individual, rather than the employer, had to deal with. In some cases, victim-survivors were even discouraged by their line manager from reporting it.

Women who are marginalised because of their multiple identities experience these barriers most acutely. For example:

- disabled women report that they are less likely to be believed than non-disabled women¹⁰,
- LGBT people are often silenced from reporting by fear of being 'outed' at work¹¹, and
- the harassment experienced by Black women and women of colour may be overlooked in workplaces, with responses emphasising the racist or sexual/sexist element at the exclusion of the other¹².

⁸ TUC (2016) *Still just a bit of banter? Sexual harassment in the workplace in 2016*

⁹ EHRC (2018) *Turning the tables: Ending sexual harassment at work*

¹⁰ UN Women (2020) *Sexual harassment against women with disability in the world of work and on campus*

¹¹ TUC (2019) *Sexual harassment of LGBT people in the workplace*

¹² TUC (2016) *Still just a bit of banter? Sexual harassment in the workplace in 2016*

Another reason women may not report their experience is that they don't recognise the behaviour as sexual harassment. This is because the everyday and normalised nature of it means that many victim-survivors don't label their experience as sexual harassment. This is often the result of sexist workplace cultures either in their team or more widely in the organisation.

Additionally, generic workplace policies on bullying and harassment that don't recognise gender and power dynamics, and language that doesn't accurately reflect the experience of the victim-survivors, for example, using the terms complainant, also influence whether employees will come forward about their experience.

Example

A woman working in a small third sector organisation believes that her male colleague uses the fact she is a wheelchair user as an excuse to make physical contact with her. She feels the situation is complicated by the practicalities and power dynamics of needing support from others with certain tasks. She wants to report the issue but thinks he may not realise he has been doing this. She mentions it to her line manager in their monthly 1-2-1. Her line manager states that this is unacceptable and outlines a number of actions that can be taken, including the line manager speaking to the colleague about appropriate behaviour or reporting to senior management.



How sexual harassment affects women and the workplace

The impact of sexual harassment on women

Sexual harassment affects women in a variety of ways. It can have serious psychological and professional impacts on victim-survivors. Victim-survivors report experiencing mental health problems, including feelings of anxiety and shame. As well, women have stated that they feel less confident at work and avoid certain work situations.

Many women subsequently take time off work or change jobs, meaning that sexual harassment is costly both to women's careers and to employers as they lose key people. Sexual harassment harms women's employment prospects, and as such is both a cause and consequence of women's wider inequality. Women often leave organisations where sexual harassment is common and goes unaddressed.

The impact on the workplace

Sexual harassment also has a negative effect on colleagues and the wider organisation. Workplaces where sexist jokes and comments create and perpetuate a sexist organisational culture can lead to more serious cases of sexual violence, such as rape or sexual assault; damage to the organisation's reputation; and poor employee retention. Research shows that in organisations where there is frequent sexual harassment or sexist behaviour, it negatively affects the overall wellbeing of the workforce¹³.

It's clear that sexual harassment can have serious bottom line consequences because of the negative impact on staff engagement and productivity, which in turn can undermine organisational effectiveness. Organisations with a reputation for poor practice on sexual harassment will also have a smaller pool of candidates to select from when recruiting.

Employers have a legal responsibility to employees to appropriately respond to and prevent sexual harassment, and may face financial and reputational risks if they do not act appropriately.

¹³ Campbell, H. and Chinnery, S., (2018), *What works? Preventing and responding to sexual harassment in the workplace: A rapid evidence review*, Care Insights, Care International

Sexual harassment and the law

Employers are liable for taking preventative action on sexual harassment under the Worker Protection (Amendment of Equality Act 2010) Act 2023. This duty requires employers to take further positive and proactive reasonable steps to prevent sexual harassment. It means that employers should anticipate scenarios when its workers may be subject to sexual harassment in the course of their employment and take action. It also requires employers to take reasonable steps to prevent third party harassment. Third party harassment refers to harassment perpetrated by individuals who aren't staff of the organisation, but who come into contact with staff members. This includes customers, contractors, patients, service users or community members.

The EHRC has the power to take enforcement action if employers do not comply with the preventative duty. As well, if an employment tribunal finds that a worker has been sexually harassed and has ordered the employer to pay compensation to the worker, it must consider if the employer has complied with the preventative duty. If the preventative duty has been breached, then the employer may have to pay additional compensation to the worker¹⁴.

Further information on the Worker Protection Act can be found in the EHRC's sexual harassment and harassment at work: technical guidance:

<https://www.equalityhumanrights.com/guidance/sexual-harassment-and-harassment-work-technical-guidance>

Victimisation

Victimisation is one of the biggest barriers for women reporting sexual harassment. It's important for line managers to recognise the role that fear of victimisation plays in relation to how they approach and deal with sexual harassment. Victimisation means treating an employee less favourably because they have made a complaint about sexual harassment. In this context, it could also mean subjecting an employee to poor treatment because it's believed that they may make a complaint but haven't yet.

While many of the legal requirements for sexual harassment fall under the responsibility of senior leaders and HR, as a line manager it's good practice to understand employer liability and victimisation. This may help inform your approach for supporting an employee and addressing victimisation.

¹⁴ EHRC (2024) *Sexual harassment and harassment at work: technical guidance*

Example

Maria is a core surgical trainee. Alastair, a consultant general surgeon, has been assigned as her Clinical Supervisor. During supervisor meetings, Alastair, frequently comments on Maria's appearance. He consistently draws attention to and compliments her clothing choice and refers to her as 'sweetheart' and 'dear'.



After several meetings with the same behaviour, Maria tells Alastair that she is not comfortable with his behaviour. He brushes her off, claiming it is just a joke, and he then seems disinterested in her and rushed for the remainder of that meeting.

During subsequent consultations and ward rounds, Alastair stops asking Maria clinical questions and she begins to feel excluded. When she does answer questions, he sighs, tuts, or responds disparagingly, which is noticed by other doctors in her team. Maria raises this with Alastair but he responds by saying she has no sense of humour and asks her to consider how suited she is to medicine.

Factors that facilitate sexual harassment



There are a variety of factors that perpetuate sexual harassment in the workplace. Understanding the root causes will be integral for taking action to prevent sexual harassment from occurring.

Traditional gender roles

Sexual harassment in the workplace largely reflects power imbalances based on gender and is part of a continuum of inequality that women face in the workplace and everyday life.

Traditional gender roles and stereotypes around how men and women should act are replicated in the workplace, and they're a driver of sexual harassment. For example, women may be asked to take notes in meetings, or make tea and coffee when that is not part of their job. People may assume that a woman is in a lower role than she is because of her gender. It also means that men are usually in leadership or senior roles, while women are often in roles that are seen as 'women's work'. Because women do the majority of childcare and care in the home, gendered assumptions are made about their capabilities, preferences and career ambitions. Men routinely have more power in the workplace because of their higher status and pay and as a result are over-represented in decision-making roles.

Line managers should consider what actions they can take to reduce power imbalances in their team by, for example:

- taking steps to reduce feelings of isolation,
- addressing the under-representation of men or women in particular jobs,
- ensuring that decision making at senior levels is more representative of different groups, and
- providing sufficient support for workers at all levels.

Everyday sexism

Women report that their experiences are often minimised by colleagues or dismissed as 'banter'. This is because of sexist workplace cultures which enable sexual harassment to go unchallenged, and undermine women in the workplace in more or less subtle ways. Everyday sexism is visible in formal and informal interactions, and manifests in a number of ways in the workplace, for example:

- Women's contributions being valued less; for example, their ideas being dismissed in meetings, or their contributions being initially ignored, only to be repeated by a male colleague later and received positively.

- Women being assigned to fewer higher visibility projects despite having equivalent skills and experience to their male colleagues.
- Women being expected or asked to make the tea or take minutes, irrespective of their role.
- Sexist jokes and remarks dismissed as 'banter', including a preoccupation with a woman's physical appearance, including her clothes.
- The use of language which diminishes, infantilises or sexualises women, e.g. referring to colleagues as 'the girls', or calling a colleague 'darling' or 'love', which creates an environment where women feel they are seen as less valuable or held in contempt.
- Stereotypical expectations around the type of work or the position a woman, or man, would hold; for example, assuming a woman is a lower grade when she is a senior manager, or a man being assumed to be the manager of a team by a visitor from another department.
- Suggesting a female colleague only got a promotion because the hiring manager found her attractive or implying she had slept with him.
- Referring to a female manager as 'bossy' while male managers are seen as assertive and strong.
- The, often unspoken, assumption that women will organise collection sheets, gifts, and nights out for colleagues.

Everyday sexism disempowers women and makes it hard for them to feel like they can come forward. It creates a conducive environment for sexual harassment and makes it difficult for women to feel like anything will change.

Workplace culture

Workplace culture plays a central role in enabling sexual harassment and sexist behaviour. This is because organisations that tolerate this type of behaviour signal to harassers that it's normal and acceptable.

Workplace cultures are perceived to be tolerant of sexual harassment when sexually harassing behaviours go unchecked by managers and colleagues. When this happens, victim-survivors feel less comfortable reporting sexual harassment and may be worried they'll face retaliation if they do.

Establishing a positive and inclusive culture that challenges the everyday nature of sexual harassment is the first step in preventing it. Sexual harassment takes place in part because employees with sexist beliefs and attitudes believe their behaviour isn't bad and that they won't face any consequences for their actions.

Where there is clear signalling that sexual harassment won't be tolerated and has serious consequences, perpetrators are less likely to harass. Furthermore, workplace culture can affect the effectiveness of training on sexual harassment. Employees who think that their employer tolerates sexual harassment have lower levels of motivation to attend the training or engage with the content¹⁵. Therefore, unless employers effectively challenge negative culture, actions to address sexual harassment will be unsuccessful.

Another key factor to consider is stress. High levels of workplace stress can be a contributory factor in creating a working environment in which sexual harassment is more likely to occur. When there is either an excessive demand on staff and/or reduced resources, stress can arise. This is because of excessive working hours and limited recovery time, work precarity, or high levels of staff absence, sickness or turnover. In this context, workers' are overwhelmed and this can create 'hot spots' of more pervasive workplace incivility, including increased levels of bullying, harassment, verbal and physical incivility and violence, including sexual harassment¹⁶.

It's necessary that employers, and individual line managers, understand why sexual harassment is occurring and communicate to staff that it's unacceptable. Reviewing and reflecting on workplace practice is a good place to start. For example, reviewing how easy it is for employees to make a report of sexual harassment or looking at how recent reports of sexual harassment have been dealt with. Employers can also undertake an audit of the workplace culture to understand employee experiences and monitor the prevalence of sexual harassment. It's important to remember that sexual harassment is not just an individual issue but also an organisational challenge that affects everyone.

Example

A line manager of a waste depot site noticed that in the employee change room there was a sexually explicit calendar displayed. The line manager organised a team meeting to inform his colleagues that having sexually explicit material on display was inappropriate and not tolerated by the council. The line manager continued to explain that displaying this material created a negative workplace culture that perpetuated sexist beliefs and attitudes.



¹⁵ Walsh, B. M., Bauerle, T. J. & Magley, V. J. (2013) *Individual and contextual inhibitors of sexual harassment training motivation*, Human Resource Development Quarterly, 24(2)

¹⁶ Searle, R. (2019) *Sexual Misconduct in Health and Social Care: Understanding Types of Abuse and Perpetrators' Moral Mindsets*.

Recognising the signs



Victim-survivors are reluctant to report their experience because of a fear of not being believed, being judged or believing nothing will change. Therefore, it's good practice to be able to recognise the signs that someone may be experiencing sexual harassment and start a conversation with them. It's important to remember that these signs also apply to employees who are working from home or working remotely. It may be harder to detect but you should remember these staff members may also be affected. Examples of how you may be able to recognise sexual harassment, or other forms of VAW, include:

Changes in an employee's performance. This may include:

- Changes in the quality of their work for unexplained reasons, despite a previously strong record,
- Suddenly starting to miss deadlines,
- Turning down professional developments or training opportunities,
- Minimal participation or contribution in team meetings,
- Unresponsive in online chats, or constantly offline, and
- Visibly uneasy or tense during team meetings, if on video.

Changes in their attendance, which may include:

- Being persistently late without explanation or leaving early,
- Working extra hours for no reason, or coming in early or staying late to avoid office hours, and
- Having more frequent or sporadic absences without explanation.

Behavioural signs could include:

- Avoiding lunch or coffee breaks or socialising at the end of the day,
- Withdrawing from previous sources of support, including team chats or catch-ups,
- Changes in their behaviour such as becoming quiet, or avoiding speaking to colleagues,
- A loss of confidence and self-esteem,
- Avoiding certain male colleagues or being visibly uncomfortable around male colleagues,

- Feeling depressed, anxious, distracted, or having problems with concentration,
- Increased stress or being easily overwhelmed,
- Being withdrawn or detached, and
- Being easily startled.

And finally, physical signs may include:

- A change in their appearance, such as the amount of makeup worn or clothes they're wearing,
- Fatigue or exhaustion,
- Increased physical tension,
- Panic attacks,
- Sleeping and/or eating disorders,
- Substance use and/or dependence, and
- Depression and/or suicide attempts.

This list isn't exhaustive and there may be other signs that something is not right. However, if you do notice anything happening, it's a good idea to start a conversation to check in.

Identifying sexual harassment

It's good practice to be aware of what is happening in the workplace. There may be signs that sexual harassment is happening, beyond informal and formal complaints. Line managers should use routine one-to-one meetings to give women an opportunity to raise issues with them, even where there are no warning signs of harassment, for example, through:

- Informal one-to-ones,
- Sickness absence or return to work meetings,
- Meetings about performance, and
- Exit interviews.

Starting a conversation



Women affected by sexual harassment may not discuss what's happening because they don't know how to report, or what support is available. If you suspect one of your team is being sexual harassed or affected by another form of VAW, you should facilitate a conversation. There may be cases where you try to do this and the employee chooses not to disclose or report. If this happens, it's important to respect their decision. Respecting their decision can show that you're approachable and non-judgemental.

Questions you can ask to start the conversation may include:

- I've noticed that you're not yourself lately, is everything okay?
- Is everything alright at work?
- Is there anything happening at work that's concerning you?
- I've noticed you've had some sickness absence recently, is everything okay?
- I've noticed you have missed a few deadlines recently, is everything okay?
- What can I do to support you right now?
- Are there any adjustments we can make?

As well, some helpful responses during the conversation may include:

- It's okay if you'd rather not talk about this now, we can speak again later/ tomorrow/next week.
- It's important to me and the organisation that you are comfortable at work.
- We are here to support you and to ensure you feel safe at work.



Responding to sexual harassment

If an employee discloses or reports sexual harassment, it's good practice to respond in a non-judgemental and sensitive way. Some women may disclose to you without wanting to make a formal report to HR. The way you respond can affect whether they will access further support or formally report later on. It can also affect whether other colleagues will come forward in the future. It's important that the victim-survivor feels believed and not blamed.

Women report that their line managers sometimes seem uncomfortable or unsure what to say after they disclosed or reported. Some women have reported that after reporting, their line manager avoided the topic or made inappropriate jokes or comments. Some women also said they felt let down or unsatisfied with what happened and waited months before going to HR to further report it.

Steps to respond effectively include:

- Listen to the staff member and take their disclosure seriously.
- Reassure them that you understand how it may be affecting their work performance and what can be done to support them.
- Reassure them that their disclosure will be treated confidentially.
- Respect and accept their thoughts and ideas.
- Reassure them that their needs are a priority.
- Provide information about specialist support services, such as Scottish Women's Rights Centre and Rape Crisis Scotland.
- Offer practical support, such as flexible working, employee assistance programme or mental health support, or suggest contacting their union representative.
- Inform them of what the next steps are, if they want to make a formal report, or whether there will be an investigation.
- Ask if there is anything else you can do support them through the process.
- Organise a time to check-in in the future.

If the victim-survivor doesn't want any action to be taken, you should respect their wishes. However, there are a number of things you can do:

- Respect the victim-survivor's wishes not to make a formal complaint. They may wish to make a complaint at a later date.
- Keep a record of the disclosure, and the victim-survivor's request to keep the matter confidential. Also, outline to the victim-survivor where the record will be kept and for how long.
- Offer to informally speak to the perpetrators on behalf of the victim-survivor.
- Keep the situation under review by checking in with the worker to find out if the situation has improved.
- Where the situation hasn't improved, explain to the worker that it's necessary to address the issue both for their well-being and that of their colleagues.
- Identify with the victim-survivor how to ensure she feels safe at work. For example, are there areas of the workplace where she may see or run into the perpetrator, or activities that are triggering.

What are our obligations as an employer if someone doesn't want to report?

A common question that's raised in response to an employee not wanting to make a formal complaint of sexual harassment against a colleague is around the employer's liability for not taking action. As well, employers often worry that if a formal complaint isn't made, and they're aware of the behaviour of the alleged perpetrator, they may be putting other colleagues, service users or members of the public at risk. As a line manager, it's helpful to understand some of the limitations that arise without a formal complaint and what role you play in highlighting risks to HR.

If a victim-survivor doesn't want to make a formal complaint, taking action through the grievance process is not an option. There may be cases where, as an employer, you decide to act, this could be because of an anonymous report, multiple people disclosing incidents relating to the same alleged perpetrator or because of the risk the alleged perpetrator poses to the victim-survivor(s) or other colleagues. In these cases, as part of preventative duty in the Worker Protection Act, the EHRC states that employers will need to undertake a risk assessment to determine the potential challenges that could arise from taking action without a formal complaint. Also, the

risk assessment must consider the potential impact of not taking any action against the alleged perpetrator, for example, putting staff at risk of further harassment or abuse. If the employer does decide to take formal action, they should explain this to the victim-survivor and ensure that support is put in place to prevent victimisation. Further detail on taking actions without a formal complaint can be found in guidance from the EHRC¹⁷.

As some forms of sexual harassment, such as sexual assault, are criminal acts, victim-survivors should be provided with information on how to report to the police. If a victim-survivor doesn't want to report to the police, this should be respected. However, there may be certain circumstances where an employer reports to the police due to the risk the alleged perpetrator poses to the workplace. The employer should weigh up the risk of reporting to the police contrary to the victim-survivor's wishes, against any risk to the safety of the victim-survivor, colleagues and third parties if the matter is not reported to the police. As well, it's important to discuss this with the victim-survivor ahead of time to ensure that they don't feel power or control is taken away from them.

As a line manager, if you are aware of multiple complaints against the same alleged perpetrator, or are concerned about the risk the alleged perpetrator poses to the victim-survivors, colleagues and service users, it's good practice to inform the victim-survivor of your concerns and highlight that you will be speaking to HR. It's important to remind the victim-survivor that you respect their decision not to report, and that HR may take action without a formal report.



¹⁷ Equality and Human Rights Commission (2024) *Sexual harassment and harassment at work: technical guidance*



If the employee wants to formally report, to deal effectively with complaints of harassment, you should:

- Provide information on how to make a complaint. This shouldn't be too prescriptive so they don't feel discouraged. For example, they should not be required to make a complaint on a specific form.
- Inform them of the different ways to report, this may include either reporting to HR or, where in post, a gender-based violence support officer. Informing victim-survivors of the different ways to report is important to ensure that they are not required to report an incident to the perpetrator or someone who they may feel will not be objective.
- Offer different support mechanisms for victim-survivors and for managing perpetrators effectively.
- Reassure the employee that victimisation or retaliation against her will not be tolerated and inform her of what to do if that happens.

As a line manager, your priority is to support the victim-survivor in the workplace and ensure their safety. Following a formal report, the organisation will take forward the complaint and conduct an investigation. The investigation may be challenging for the victim-survivor, and it's good practice to ensure that she feels supported. As well, at this stage a risk assessment will be conducted to prevent further harassment and victimisation. If the alleged perpetrator is also on your team, or works closely with your team, you may want to speak to HR or a senior leader about how to manage this. It may be a good idea, and is common practice, to suspend the alleged perpetrator, or change where they are working until the investigation is over. This is because other team members, as well as the victim-survivor, may be at risk working with the alleged perpetrator and it may impact their physical and mental health.

Case study: Identifying sexual harassment

Louise recently started working at the council headquarters. She's an administrative assistant for the learning and development team. She enjoys her job and generally gets along with her colleagues.



One of the managers in the team, Gary, has started giving her a lot of unwanted attention. He'll often follow her to the kitchen, and because of where her desk is located, he'll stop and chat every time he walks past.

At first, Louise thought Gary was just being friendly, but over the past few weeks it's starting to make her feel uncomfortable. He started to make inappropriate comments about her clothing, and has flicked her ponytail when walking past. He also tried to give her a shoulder rub, after saying she looked stressed. She's unsure about whether she should report this because she's new and he's been working at the council much longer than her. He's popular with her other colleagues and she's worried they'll think she's making a big deal out of nothing.

Nadiya, Louise's line manager, noticed that recently Louise was not herself at work. She had noticed that Louise appeared uncomfortable around their other colleague, Gary. Nadiya organised an informal catch-up with Louise in a private room in the office. She asked if everything was alright with Louise and asked if she felt comfortable working with the team. Louise shared that Gary was giving her unwanted attention but she didn't want to be seen as a problem. Nadiya stated that if Gary was acting inappropriately or making her feel uncomfortable, that this would be considered sexual harassment and could be reported formally to HR. Louise was worried that she would be blamed. Nadiya reassured her that sexual harassment is taken seriously by the council and that it's never the fault of the victim-survivor. They discussed options for reporting and Nadiya offered further information on the sexual harassment policy, specialist support services and support that could be provided by the council.



Case study: Starting a conversation

Samia noted that the behaviour of one of her team members, Nicola, has recently changed. Nicola was primarily working from home, and has stop participating as much in the online team meetings, and had stopped joining the team tea breaks. Nicola seems distracted and detached from work.



Samia decided to speak to Nicola about this during their regular one-to-one meeting. She asked whether everything was alright at home or at work, and if there was anything that Samia could do to better support her. Nicola shared that one of their colleagues, Allan, had been messaging her a lot on Microsoft Teams, even after work hours. Nicola was working on the project that Allan was leading on, so felt pressured to respond. Nicola also shared that he'd accidentally sent her an inappropriate picture, and later apologised. He also would often try to talk about sexually explicit tv shows or movies with her. Nicola said she felt very uncomfortable but didn't want Allan to get in trouble.

Samia reassured Nicola that what was happening was unacceptable. She outlined what support was available Nicola, and the process for reporting, if she wanted to do that, and asked what would be best for her. Samia reminded Nicola that she could access the employee assistance programme if she needed to, and signposted her to specialist support services such as Scottish Women's Aid and the local Rape Crisis centre. Samia also organised a date for them to check in again in the future.

Confidentiality

When an employee has disclosed or reported, it's good practice to be clear that the information they shared will be kept confidential. Line managers are responsible for ensuring privacy is protected and that all employees are aware of their responsibility in relation to confidentiality. It's very important that the disclosure or report is not discussed openly in the office to avoid stigmatisation or victimisation of the victim-survivor.

Ensuring confidentiality in the workplace is important for building and maintaining trust, and for ensuring open and honest communication. Confidentiality is particularly important in smaller and rural communities, where there is a greater likelihood of people in a community knowing each other.

Assessing risks relating to sexual harassment

To comply with the Worker Protection Act, it is recommended that employers conduct a risk assessment to consider the factors that might increase the likelihood of sexual harassment and the steps that can be taken to minimise them. This may include looking at where there are power imbalances, a lack of diversity, a lack of job security, lone working, or working directly with patients, service users or community members.

However, risk assessments can also be an important mechanism after a formal report. If a colleague reports harassment or victimisation to you, or HR, it's important to assess any further risks to the victim-survivor, other colleagues or customers during the investigation process. Within a health care setting, this may also include reporting to professional bodies. For example, this may include royal colleges, the General Medical Council, or the National Nursing or Midwifery Council.

There are a number of things to consider when conducting a risk assessment. If a formal complaint has been made against a colleague and it's under investigation, it's important to conduct a risk assessment. However, it's also important to ensure that you are not making a decision about what happened before due process. What you should consider is if there are risks to the victim-survivor, other colleagues or service users during the investigation. This should also be done with the victim-survivor, if she's happy to do it.

If the victim-survivor hasn't formally reported, you may want to conduct an informal risk assessment. As a line manager, when doing a risk assessment, you should seek assistance, if needed. It's important that the focus of the informal assessment is on ensuring the safety of the victim-survivor. For example, offering flexible working arrangements, or ensuring they don't have to work on their own in the office.

In cases where there has been more than one allegation against a staff member, or the allegation is considered to be putting others at continued risk, a risk assessment should be conducted to prevent any further action. Risk assessments are an integral part of meeting the preventative duty and advised by the EHRC. Further information on conducting a risk assessment can be found in guidance from the EHRC.

Providing support

Following a risk assessment, it may be useful to implement a support plan. A support plan is a way to ensure the safety of victim-survivors in the workplace. A support plan can include making small changes in the workplace to support victim-survivors and prevent further victimisation.



Practical steps you can take to support the victim-survivor include:

- Changing desk position or office layouts to move the perpetrator away from the victim-survivor.
- Moving the perpetrator to a new location (this may be during an investigation).
- Changing work patterns or workload to help manage the impact of trauma symptoms and other mental distress.
- Organising cover to avoid certain service users, patients or clients.
- Agreeing that the employee won't have to participate in a meeting composed exclusively of male colleagues if she doesn't want to because this is triggering.
- Providing an escort or asking a colleague to walk with them to their car or bus stop.
- Have a list of local specialist support services that's easily accessible and signpost to appropriate organisations such as Rape Crisis centres, Scottish Women's Rights Centre and the Rape Crisis Scotland national helpline.
- Ensure that the victim-survivor can take time off work if needed. This may include time off for appointments with lawyers or with the police. This can be provided through special leave or sickness absence.
- Ensure that any personal information that is kept on the victim-survivor is not accessible to other staff members and adheres to the organisation's policies for storing confidential data.
- Encouraging the employee to keep records of any incident in the workplace or any continued inappropriate behaviour.

Third party harassment

Employees may be experiencing sexual harassment by a customer, visitor, patient, service user or community member. This is called third party harassment and should be taken seriously. It's important that employers and line managers take steps to prevent and respond to third party harassment. This means conducting a risk assessment to determine whether staff may be at increased risk of third party harassment and also taking action to prevent it.

If a victim-survivors reports third party harassment, if they feel comfortable, this should be formally recorded. In this situation you should also highlight what can be done to support them and the steps that can be taken to ensure their safety.

Example

A homecare worker reported to her line manager that one of her service users was sexually harassing her. She reported that he would make inappropriate comments about her and her body. He had also on several occasions touched her or attempted to touch her inappropriately. She informed her line manager that it made her feel uncomfortable. The line manager stated that since he was an older service user that he probably didn't know what he was doing and dismissed her disclosure. The homecare worker decided to report it to HR and was informed that their duty as an employer was to protect their employees from third party harassment.



Managing perpetrators

When managing an alleged perpetrator in the workplace, it's best practice to prioritise the needs of the victim-survivor. It's important to recognise that both employees have rights, and if there is an investigation, that it will be handled with due process. During this time, the victim-survivor can also be supported in a variety of ways in the workplace, such as by enabling flexible working, looking at reallocating work, and signposting to specialist support services or the employee assistance programme. You may want to offer relocating either the victim-survivor or alleged perpetrator but women should not be forced to move. During an investigation, to ensure the safety of staff, you may want to relocate the alleged perpetrator. It's important to make sure that any actions you take are fair and in line with best practice.

Policies and practices



There are a number of employment policies that should be available to support your approach as a line manager. This may include:

- **Sexual harassment policy.** It's important to have a standalone policy to address the gendered nature of sexual harassment. Generic bullying and harassment policies usually don't have a gendered analysis of sexual harassment. This policy will have been developed as part of Equally Safe at Work.
- **VAW or gender-based violence policy.** This policy will have been developed as part of Equally Safe at Work and provides further information on sexual harassment as a form of gender-based violence.
- **Equality and diversity policy.** This will provide information on the Equality Act 2010, the organisation's commitment to equality and the importance of preventing discrimination and harassment in the workplace.
- **Disciplinary procedure.** This may be necessary after a formal report and when managing a perpetrator in the workplace. It will provide information on the organisation's approach to managing misconduct.
- **Policies on communication systems such IT, email and internet use.** These policies are useful for when a victim-survivor is being harassed online and therefore should include information on sexual harassment.
- **Flexible working policy.** This can be helpful for supporting victim-survivors in the workplace.
- **Special leave policy.** The special leave policy is helpful for victim-survivors who may need time off for meetings with the police, or counselling appointments.
- **Employee assistance programme.** This may be helpful for supporting staff's wellbeing and provide mental health support to victim-survivors.

You should be aware of the policies that exist and where to find them. If you are unsure. If you do not have regular access to a computer, a member of the HR team will be able to provide a printed copy.

166 Buchanan Street,
Glasgow, G1 2LW
0141 572 4730
esaw@closethegap.org.uk
equallysafeatwork.scot



Equally Safe at Work is delivered by Close the Gap,
Scotland's expert policy advocacy organisation
working on women's labour market participation.

Close the Gap **www.closethegap.org.uk**

Close the Gap (SCIO) (known as Close the Gap) is a Scottish charity, no SC046842.