

TUC

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**Your Rights
at Work**

**Protection
from sexual
harassment**

You are protected from sexual harassment in the workplace by the Equality Act 2010.

It does not matter how long you have worked for your employer or whether you are a permanent employee, an apprentice or trainee, on a fixed-term contract or supplied by an agency, you are still protected by this legislation.

This booklet describes the offence, its impact and the rights you have to fight back if it happens.

What is sexual harassment?

The Equality Act 2010 defines sexual harassment 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.

Often the person carrying out the harassment will try to say that they were just joking or harmlessly flirting and they didn't intend to cause offence. But this is irrelevant if it has had that effect on you.

The conduct doesn't have to be specifically targeted at you either. For example, you may work in an office where men display pornography or make sexual comments about women which you regularly see or overhear. This may create a degrading, intimidating or hostile working environment for you even though none of the men have directly made comments or behaved in a sexual way towards you. It is also harassment to treat someone less favourably because they have rejected or submitted to unwanted sexual conduct.

Here are some examples of behaviour that could constitute sexual harassment:

- › indecent or suggestive remarks
- › questions, jokes, or suggestions about your sex life
- › the display of pornography in the workplace
- › the circulation of pornography (by email, for example)
- › unwelcome and inappropriate touching, hugging or kissing
- › requests or demands for sexual favours
- › any unwelcome behaviour of a sexual nature that creates an intimidating, hostile or humiliating working environment.

Sexual harassment could happen in a range of different places:

- in the workplace
- in a workplace that you visit for work purposes (for example, a client or patient's home or workplace)
- on a work trip
- at a work social event
- on social media
- by email
- by telephone.

The harasser could be your boss, a potential employer, a colleague, another manager, a client, a patient, or a customer. For example, a care worker might be harassed by a client when on a home visit. Or a prospective employer might demand sexual favours of an actor at a casting.



The impact of sexual harassment

Sexual harassment is sometimes dismissed as being 'banter' or just a joke. In fact it can have serious consequences. It can cause stress and have a negative impact on mental and physical health. Sexual harassment may drive those experiencing it to leave their job altogether.

A 2014 study *Violence Against Women* by the European Union Fundamental Rights Agency found that one in three women who had experienced sexual harassment felt fearful as a result, while one in five felt ashamed of what had taken place. Subsequently, feelings of vulnerability were experienced by 20 per cent of women, anxiety by 14 per cent and loss of self-confidence by 13 per cent.

Sometimes the person accused of harassment retaliates by further harassing or bullying the person who has lodged a complaint. Or in some instances an employer might treat a victim of sexual harassment unfairly because they are perceived as being 'difficult' or causing problems in a team.

Your employer is not allowed to victimise you for complaining about sex discrimination or 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. If you have a union rep, you should let them know that this is happening at the earliest opportunity.

What to do if you are being sexually harassed

Your employer will be liable for sexual harassment that occurred in the workplace unless they can show that they took all reasonable steps to prevent it. This would mean they had done things like adopted a zero-tolerance approach to sexual harassment, set up good procedures for monitoring and dealing with complaints and trained staff on what kind of behaviour is unacceptable.

So, if you feel safe and confident enough to do so, you should in the first instance tell the harasser to stop. You may want to have a friend or your trade union representative with you when you do this, or to have called your union helpline beforehand. You may find it easier to ask the harasser to stop in writing.

A union in your workplace can help you to enforce your rights, providing support for you to handle the issue informally or to bring a formal complaint which might eventually lead to an employment tribunal claim.

If there is no union in your workplace, you may want to seek advice from Citizens Advice (see the contacts section at the end of this booklet). Assuming it is not your line manager who is harassing you, you should also tell your manager what is happening. Putting it in writing and keeping a copy is a good way of ensuring that you have a record of events.

If it is your manager who is harassing you, you should speak to another manager, someone higher in the organisation, or to the human resources (HR) department if your employer has one.

It is a good idea to keep a record of the time, date, location and witnesses of any incidents and to keep copies of any emails, texts, online material or social media posts related to the harassment. It might be worth talking to colleagues to find out if any of them have witnessed or suffered similar treatment too.

You should also record the steps that you take to address the problem and the responses you receive from the person harassing you and from your employer. This material will prove useful if you are involved in a formal grievance or wish to go to an employment tribunal.

You can also bring a claim against the individual who was responsible for the harassment.



Taking out a grievance

If you decide to make a formal complaint, it is important you understand and follow the guidance set out in the Acas Code of Practice for Disciplinary and Grievance Procedures. This can be found at [acas.org.uk](https://www.acas.org.uk)

Key points are:

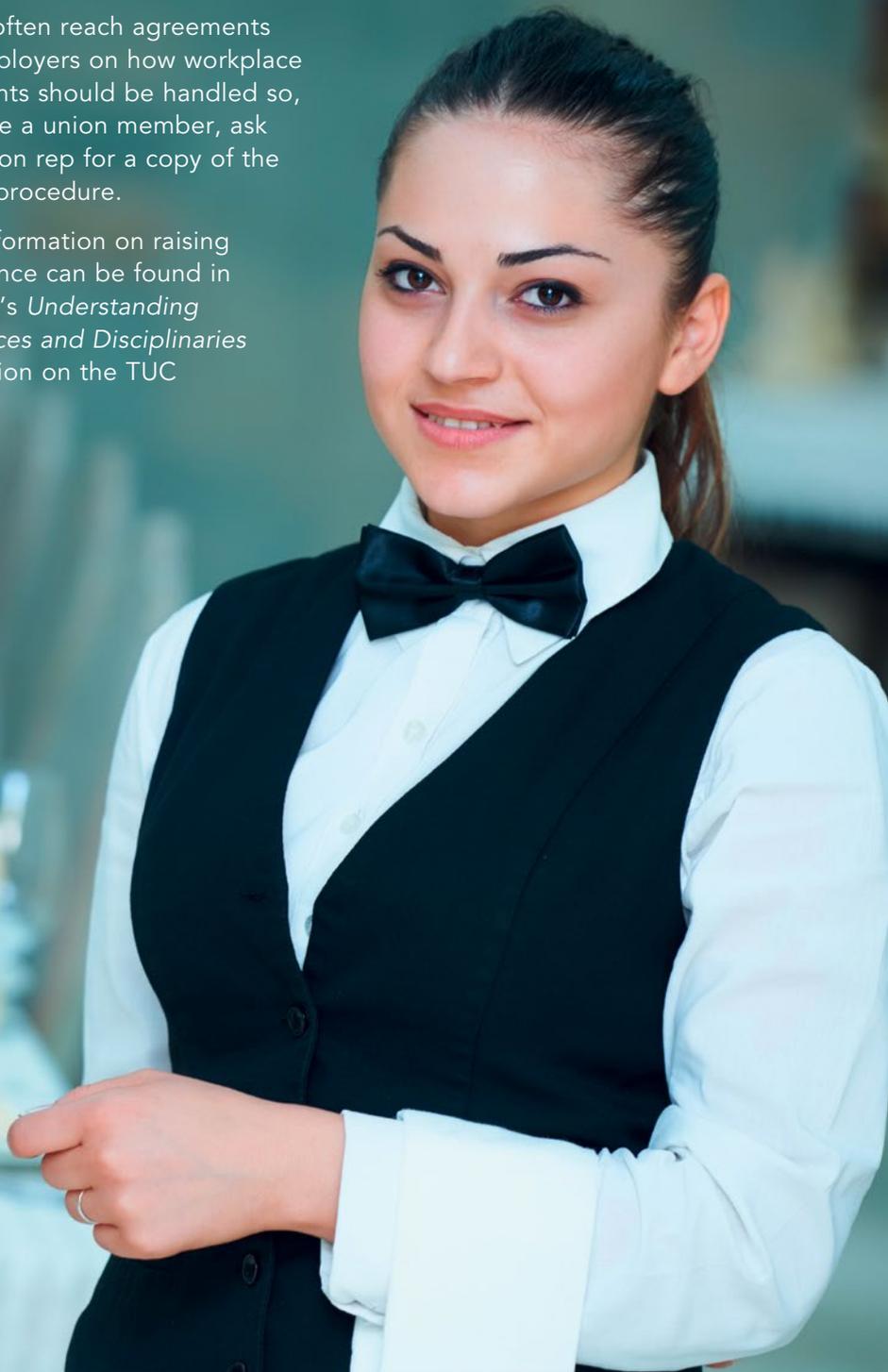
- If you cannot resolve a grievance informally then raise it formally, in writing, without unreasonable delay, and with a manager who is not the subject of the grievance.
- You should make every effort to attend a meeting to discuss the grievance.
- You have the right to be accompanied at such a meeting by a colleague, trade union representative or a trade union officer. You must act reasonably in your choice of companion and give your employer enough time to arrange for their attendance at the meeting.

Your employer must notify you of what action they have decided to take in response to your grievance in writing and without unreasonable delay and they must give you a right to appeal. Larger employers may have their own procedure for dealing with grievances. Provided that your employer's procedure complies with the Acas code, you should follow your employer's procedure.

Details of grievance procedures can usually be found in the company handbook, HR or personnel manual, on your HR intranet site or in your contract of employment.

Unions often reach agreements with employers on how workplace complaints should be handled so, if you are a union member, ask your union rep for a copy of the agreed procedure.

More information on raising a grievance can be found in the TUC's *Understanding Grievances and Disciplinaries* publication on the TUC website.



Employment tribunal claims

If you can't resolve the issue in the workplace and wish to go to tribunal you must first notify Acas that you have a potential tribunal claim. They will then contact your employer and attempt early conciliation, which means they will talk to both parties to see if the dispute can be settled before it reaches tribunal.

If you or your employer do not want to take part in early conciliation or if you are unable to reach a settlement via that process then Acas will give you a certificate that you will need when issuing your employment tribunal claim.

You must submit a tribunal claim within three months of the incident that you are complaining about (or the last incident if there has been a series of them). This time limit will be paused if you attempt early conciliation.



Contacts

Acas

Acas National
Euston Tower
286 Euston Road
London NW1 3JJ
Web: acas.org.uk
Tel: 0300 123 1100

Citizens Advice

Myddleton House
115–123 Pentonville Road
London N1 9LZ
Web: citizensadvice.org.uk
Tel: 08451 264 264

Equality Advisory and Support Service

Freepost EASS Helpline FPN6521
Web: equalityadvisoryservice.com
Freephone: 0808 800 0082

Unions today – your friend at work

The rights described in this booklet – and many others such as the minimum wage – have been won by union campaigning. Without union help and assistance many workers don't get the full benefit of their rights. Unions also help negotiate better pay and conditions than the legal minima, including far better provisions to support parents with their caring responsibilities. Every day unions help thousands of people at work and every year they win hundreds of millions of pounds in compensation for their members through legal action. To find out more about trade unions and which is the best for you visit the TUC website tuc.org.uk/joinaunion

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