



Eliminating Sexual Harassment from the Modern Workplace

Guidance for employers,
trade unions and employees from the
Labour Relations Agency (LRA) and
Irish Congress of Trade Unions (ICTU)

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Northern Ireland Committee

 **Women in
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Everyone has the
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Foreword



At the very least, the workplace should be a place of safety; both physical and psychological. Sadly, for all too many people - of all genders and none - this is not always the case.

We know, for example, from a 2016 poll and research by the Trade Unions Congress (TUC) that more than half (52%) of all women polled had experienced some form of sexual harassment.¹ We know too that sexual harassment is more prevalent in some sectors. The Wales TUC have estimated that the figure is as high as 90% of young women in retail and hospitality.²

There is clearly much to do. Workplaces should be safe havens where people can be their true selves; where everyone can flourish and contribute fully, confident in the knowledge they will be treated with the utmost respect.

I am proud of the leadership shown by the Labour Relations Agency and Irish Congress of Trade Unions in developing this guidance to encourage employers and employees to come together to seek to tackle this issue.

I am grateful to the Agency's Claire Webb and ICTU's Clare Moore for bringing their considerable expertise and insights to provide practical guidance to make a positive and lasting difference to everyone at work.

Don Leeson,
Chief Executive of Labour Relations Agency



Sexual harassment and violence is unlawful, unacceptable and has no place in any workplace.

Everyone has the right to work in a safe environment where they are valued and their dignity is respected. Unfortunately, for far too many people, predominately women, this is not the case and sexual harassment remains a grim reality.

The trade union movement has been campaigning for many years to ensure that no-one is subjected to sexual harassment or violence at work and we very much welcome this partnership with the Labour Relations Agency to produce this detailed guidance as to how employers, working in conjunction with trade unions, can take proactive measures to eradicate sexual harassment and violence.

Gerry Murphy,
Assistant General Secretary, Irish Congress of Trade Unions.

We are pleased to have partnered in developing this accessible and practical guidance and have made every effort to ensure inclusiveness by consulting diverse staff groups within our respective organisations for their perspectives. The guidance includes insights from lived experiences, best practice suggestions on how to promote a good workplace practice and culture, as well as a template policy which can be adapted for organisations of any size and resources. We hope that this work will make a significant impact in encouraging inclusive and equitable workplaces where everyone can thrive and feel safe, respected and valued.

Clare Moore (ICTU) and Claire Webb (LRA)

¹ [Still just a bit of banter? | TUC](#)

² <https://www.tuc.org.uk/sexual-harassment-workplace>

Introduction

“We need a shift in culture so that every single instance of sexual harassment is investigated and dealt with.”

~ Tarana Burke, #MeToo founder

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Sexual harassment can happen in any workplace. It usually occurs where there is an uneven power dynamic between the harasser and the victim-survivor. Although sexual harassment can happen to anyone, women are more likely to be subjected to harassment and men are more likely to be perpetrators. In addition, people who are minoritised may be even more vulnerable to sexual harassment because of power dynamics (for example, people who have a disability, LGBTQIA people, ethnic minority people, etc).

The effects of sexual harassment at work can be devastating for victims-survivors and their families. Despite being unlawful, sexual harassment in the workplace is all too common and the effects can be made considerably worse by being handled poorly and/or inappropriately.

In this publication, the Labour Relations Agency and the Irish Congress of Trade Unions, endorsed by Women in Business, provide practical guidance on what constitutes sexual harassment, how it manifests in the workplace, how employers can prevent and tackle sexual harassment, and the legal context and case law.

A template policy is included. This sets out the steps employers should take, in conjunction with trade unions and employees, to create workplaces where sexual harassment does not occur and is effectively responded to if it does.

Sexual harassment is often unchallenged and under-reported; according to the TUC, 79% of women do not report their experiences.³ This can be for a number of reasons:

- The prevailing culture in the organisation does not encourage or support reporting of sexual harassment;
- The employee experiencing the inappropriate behaviours may lack confidence in their employer's response, fear the grade or power dynamic exercised by the perpetrator or they fear that complaining will lead to detrimental consequences;
- The victim-survivor has not realised that the behaviour could constitute sexual harassment; and/or,
- The gravity of the situation is minimised by the perpetrator/witnesses.

If the harassment is by a person of the same sex, the victim may be reluctant to report it if this means they have to declare their own sexual orientation, which colleagues may not be aware of, or may feel it will not be treated as seriously as male/female harassment.

In reality, many people who experience sexual harassment suffer in silence or dismiss it as being a one-off or out of character by the perpetrator.

³ <https://www.tuc.org.uk/news/unions-and-womens-groups-warn-government-not-backtrack-tougher-sexual-harassment-legislation>

“When I reported the incident of sexual harassment to HR I was under the impression that it would be formally investigated. I assumed it was serious and was frightened of the outcome, I assumed that the perpetrator would be dealt with. It turned out it was informally investigated. The process was so stressful that I joined a union during the investigation There needs to be a separate Sexual Harassment policy at my work.”

Respondent from ICTU survey

What is sexual harassment in a workplace setting?

The law in simple terms defines harassment as unwanted “actions or behaviour with the same purpose or effect of violating a person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment”. Sexual harassment occurs “where a person subjects another to unwanted conduct of a sexual nature”, for example, inappropriate sexual contact or by subjecting them to other detriments (e.g. loss of job opportunities or promotion or dismissal) for refusing sexual favours or for objecting to such behaviours.⁴

Sexual harassment can take many forms, from lewd and offensive comments (often described as “jokes” or “banter” by the harasser), inappropriate touching to sexual harassment via digital means such as text, email or online. Examples (non-exhaustive list) include

Physical conduct

- Unwelcome physical contact including patting, pinching, stroking, kissing, hugging, fondling, or inappropriate touching
- Physical violence, including sexual assault

Verbal conduct

- Derogatory or unwelcome comments on a worker’s appearance, age, private life, etc.
- Sexual comments, stories, jokes, and questions of a sexual nature

- Sexual advances
- Repeated and unwanted social invitations for dates or physical intimacy
- Insults based on the sex of the worker
- The use of job-related threats or rewards to solicit sexual favours
- Intrusive questions about a person’s private or sex life or a person
- discussing their own sex life

Non-verbal conduct

- Display of sexually explicit or suggestive material such as calendars, PC desktop wallpaper
- Digital abuse (such as sexually explicit text messages or emails) or sexual comments on social media
- Sharing of pornographic material between employees in work
- Sexually suggestive gestures
- Wolf-whistling
- Leering

The UN has a more exhaustive list of what constitutes sexual harassment – see <https://www.un.org/womenwatch/osagi/pdf/whatish.pdf>

It should be noted that some interactions can begin as consensual but become unwanted and therefore may become sexual harassment

⁴ Sex Discrimination (Northern Ireland) Order 1976

The extent of sexual harassment in the workplace and why it's important to have a stand-alone policy.

[The Equality Commission for Northern Ireland](#) (ECNI) reports that sexual harassment continues to form a significant proportion of cases relating to sex discrimination dealt with by the Commission. See more on ECNI's work [here](#).

Irish Congress of Trade Unions survey on workplace sexual harassment

In 2019, the ICTU surveyed more than 600 trade union members in Northern Ireland with experience of sexual harassment and sexual assault in the workplace. Around 73% of the responses were from women.

The results clearly indicated the scale of the problem with 3 out of 4 (75%) respondents indicating that they did not report the unwanted sexual behaviour to their employer. Of those who did report, 62% felt that it was not dealt with satisfactorily and in some instances reported that they had been treated less favourably as a result of reporting sexual harassment.

29% reported their most recent experience of sexual harassment had taken place at a work-related social event; while a sizeable minority reported being harassed by phone or text or by email, online or via social media.

A third (33%) reported that the harassment had a negative impact on their mental health, and a further 13% reported that there was a negative impact on their physical health.

At least 40% of women will experience workplace sexual harassment. This proportion is even higher for minoritised women including disabled women, minority ethnic women, people who identify as LGBTQIA and younger women.

“I had to give this person my own mobile number for a work issue, he used this to send me inappropriate text messages which increased in quantity and level of sexual talk as time went on, he waited particularly for my day off - I work condensed hours. I began to dread this day off because I knew I would waken in the morning to text messages. Even if I didn't answer them he sent a stream of text messages.”

Respondent to ICTU survey

A TUC⁵ report - Still Just a Bit of Banter? shows that of the women polled: More than half (52%) had experienced some form of sexual harassment, while thirty-five per cent had heard comments of a sexual nature being made about other women in the workplace.

A 2023 TUC report found that incidences of sexual harassment, bullying or verbal abuse were higher for younger workers⁶.



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⁵ The TUC is the trade union federation in GB, representing the interests of 5.5 million people. More information can be found at www.tuc.org.uk

⁶ [New TUC poll: 2 in 3 young women have experienced sexual harassment, bullying or verbal abuse at work | TUC](#)

The current legal framework

The Sex Discrimination (Northern Ireland) Order 1976 (as amended)

[Article 6A](#) came into effect in 2008. The Sex Discrimination Order makes it unlawful for an employer to subject a job applicant or employee to sexual harassment. The employer is also deemed to be liable when a job applicant or employee is sexually harassed by a co-worker in the course of their employment and, in some cases, by a customer or other non-employees, unless the employer can show that they took such steps as were reasonably practicable to prevent the harassment occurring.

As to what “reasonably practicable steps” an employer should take to benefit from that defence, see below in the sections on “Eliminating sexual harassment” and “Actions to prevent sexual harassment”.

An employee who harasses others in the course of their employment may also be deemed to be personally liable for their actions.

A victim of workplace harassment may seek a legal remedy (e.g. compensation) by bringing a claim to an industrial tribunal.

It should be noted that sexual harassment is stereotypically perpetrated by a man against a woman, but that men may also be victims/survivors and that harassment may be by a person of the same sex.

It is worth remembering that each case will be fact specific and specialist legal advice should be taken in circumstances where this is deemed appropriate.

Further information is available from the Equality Commission for Northern Ireland [here](#).

“It is difficult to deal with harassment in large scale organisations as no-one wants to be a witness for fear of negative impacts on their own job. I have little confidence in how a complaint will be dealt with due to past experience of an industrial tribunal relating to gender discrimination. Ranks are closed especially when the perpetrator is more senior than the complainant.”

Respondent from ICTU survey

Constructive Dismissal

Employers have a duty not to treat employees in a way that is calculated or likely to breach the implied term of mutual trust and confidence in the employment contract. An employee with one year's service could potentially bring a claim for constructive unfair dismissal if they allege breach of the implied term – for example, because they feel the employer failed to support them – and resign in response to the alleged breach.

Unfair Dismissal

In circumstances where an employee is experiencing sexual harassment, their performance and/or attendance may be affected. When contemplating dismissal for capability or conduct reasons, an employer should attempt to explore with the employee the underlying reasons for any poor performance or poor attendance. Given that an employee may not be willing to disclose the reasons, an employer should consider if there are any warning signs that indicate harassment may be an issue. If any form of harassment, violence or abuse is suspected, an employer should consider adjustments to its disciplinary, capability or absence procedures and signpost the employee to appropriate support. Employers should be reminded of the need for a fair process in the exceptional cases where dismissal is

being considered. The Labour Relations Agency Code of Practice on Disciplinary and Grievance Procedures can be found [here](#).

Third-Party Harassment

As outlined above, it is unlawful for an employer to allow an employee to be persistently sexually harassed by a third party for example, customer or client, as per the [Sex Discrimination \(Northern Ireland\) Order 1976](#). An employer is likely to be held liable for such conduct if they have:

- Knowledge that the employee has been sexually harassed in the course of their employment on at least two other occasions by a third party, and
- Not taken reasonable steps to prevent it from happening to the employee again.

Note that it does not matter whether the third party is the same or a different person on each occasion.

It is possible that not all incidents will amount to harassment as defined by anti-discrimination legislation. However, if an employer fails to deal with any form of bullying or harassment, the victim could resign and claim constructive dismissal.

“Reporting customers isn’t taken seriously. Whilst the sexual harassment I’ve experienced has had a negative impact I’ve seen colleagues (particularly female) sexually assaulted, pinned against walls and followed home. This happens more than monthly for myself but my female colleagues experience it daily. Just because a customer is intoxicated is no excuse. Management have no power to deal with this as the owners and/or senior management don’t want to cause “embarrassment” to the perpetrators or lose the money they put in the till.”

Respondent from ICTU survey

International Labour Organisation⁷ (ILO) Convention 190 on the Elimination of Violence and Harassment in the World of Work

The UK Government has ratified ILO Convention 190 on the Elimination of Violence and Harassment in the World of Work. This binding treaty and its accompanying recommendation outlines measures and actions which should be taken by Government, employers and trade unions. The convention sets out responsibilities on Governments to recognise the effects of sexual harassment and, so far as is reasonably practicable, mitigate its impact in the world of work.

More information can be found [here](#).

The Sexual Offences (NI) Order 2008, as amended by the Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022

This legislation extends the offence of voyeurism to include image related sexual abuse, sometimes referred to “up-skirting” and “down blousing”.

More information can be found [here](#)

Criminal Law Act (Northern Ireland) 1967

In some instances, sexual harassment in the workplace may overlap with criminal law on sexual offences⁸ and there may be occasions where a victim discloses an offence to their employer/TU representative/colleague, but without consenting to the matter being reported to Police Service Northern Ireland (PSNI). The person to whom the offence has been disclosed may feel concerned that they have a legal duty to report to the PSNI, however, guidance issued by the Attorney General to the PSNI and Public Prosecution Service explains that they will not commit an

offence for failure to report it under Section 5 of the Criminal Law Act (Northern Ireland) 1967 if there is a “reasonable excuse” not to report the offence.

The Criminal Law Act (Northern Ireland) 1967 section 5 is [here](#)

The guidance issued by the Attorney General to the PSNI and Public Prosecution Service, with explanation of what constitutes “reasonable excuse” is [here](#)

“I am a heterosexual man however it has never stopped some work mates making homophobic remarks and indeed abuse towards me... all reporting of such incidents are not taken seriously by the management.”

Respondent from ICTU survey

Health & Safety

Employers have a duty to take reasonable care of the health and safety of employees, arising from common law, the [Health and Safety at Work \(Northern Ireland\) Order 1978](#) and other health and safety regulations. The [Management of Health and Safety at Work Regulations \(Northern Ireland\) 2000](#) oblige employers to conduct suitable risk assessments and identify preventative measures. Breach of health and safety obligations could give rise to a personal injury or enforcement by the Health and Safety Executive Northern Ireland, including criminal sanctions in serious cases. Further information is available [here](#).

⁷ The International Labour Organisation (ILO) is a United Nations agency bringing together governments, employers and trade unions to advance social and economic justice through international labour standards.

⁸ There are other relevant laws worth noting: (a) the Sexual Offences (NI) Order 2008 is the main criminal law statute that prohibits sexual offences; (b) the Protection from Harassment (NI) Order 1997; and (c) the Protection from Stalking Act (NI) 2022. Actions that may constitute unlawful sexual harassment under the SDO (for which civil law remedies (eg. compensation) may be available, may also simultaneously be criminal offences under these other laws, and under which the perpetrator may be punished if convicted.

Possible future legislative changes and best practice

The law on sexual harassment in the workplace is constantly evolving. Areas where change is likely, and which employers might like to anticipate in their approach to combatting sexual harassment in the workplace, are set out below.

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A duty to proactively prevent sexual harassment, and to take reasonable steps to prevent sexual harassment of employees from third parties. This is being progressed by the UK Government.

The Worker Protection (Amendment of Equality Act 2010) Act 2023 will come into effect in late 2024 and will only apply in GB and does not amend equality law in Northern Ireland.

The proposed changes include imposing a duty on employers to proactively “take reasonable steps” to prevent employees experiencing sexual harassment in the workplace. Reasonable steps may include having an equal opportunities policy or anti-sexual harassment policy, though the organisation should also take steps to implement the policies. What is considered reasonable will depend on size and resources of the employer, but an example would be to require customers and suppliers to follow the organisation’s equal opportunities and anti-sexual harassment policies.

The Bystander Approach and Training

Promoting and providing training on the Bystander Approach is a positive step which employers could take to build a workplace free from sexual and other forms of harassment. It encourages people to take ownership of a problem and speak up when they witness potentially dangerous situations ranging from jokes among work colleagues or friends, to street harassment or harassment on public transport.

The principle aim of the bystander approach is to create a positive culture, wherever it is implemented, where violence, abuse and/or harassment are recognised and viewed as unacceptable.

There are many different types of active bystander programmes which have been applied across sectors including schools, universities, workplaces, sports clubs, police, the military, youth and community sectors.

There is strong evidence that active bystander programmes increase participants’ likelihood of intervening and calling out poor behaviours. They have also been shown to deliver changes in attitudes, beliefs, social and cultural norms and peer group relationships that may affect conditions of perpetration and victimisation.

Active bystander intervention strategies work in response to behaviours like sexual misconduct, harassment, racism, sexism, homophobia, transphobia, and more.

It is, however, important to stress that the responsibility for eliminating sexual harassment from the workplace rests with the employer rather than the individual.

“Female teachers are vulnerable in a classroom with comments from male pupils or male colleagues. Managers in secondary schools are mostly male and laugh it off when it is addressed that you are too sensitive and the male students/colleagues don’t mean any harm.”

Respondent from ICTU survey.

The Bystander Approach could be a positive step which employers could take to build a workplace free from sexual and other forms of harassment



Tribunal Cases and Practical Lessons

McFarland v Morelli Ice Cream Ltd & Di Vito [2022]

Northern Ireland Industrial Tribunal (NIIT)
Decision Number NIIT 5722/18IT

The practical lesson of this case was the importance of a thorough investigation and action taken following allegations of sexual harassment.

Ms McFarland won her sexual harassment case against family-run business Morelli's and was awarded £20,000 by an industrial tribunal.

Over a long period of time, the Claimant was sexually harassed by a supervisor (the Second Respondent) who was also a member of the extended family which owned the business (the First Respondent). The inappropriate behaviours included a text message which the tribunal described as "obscene" and conduct that was "by any standard sleazy and sustained." The tribunal was critical of how the First Respondent dealt with the Claimant's grievances, finding that there was no proper investigation and that the word of the second respondent was taken over the claimant at face value.

Decision is available [here](#).

McNicholl v Bank of Ireland [2021]

Northern Ireland Industrial Tribunal (NIIT)
Decision Number NIIT 00002/17IT

This case was anonymised until 2021.

This case is also a cautionary tale for employers. It is not enough to have policies; there should be thorough training for HR and management, and good support throughout any process. There should also be a flow of information between managers to ensure that recurring problems are correctly addressed.

Ms McNicholl was sexually harassed by a male colleague who was nearly twice her age when she worked in the Bank of Ireland in Belfast from 2015 to 2016. The unwanted behaviours included invasion of her personal space, inappropriate comments about her personal life and appearance, and touching her hair.

The claimant was awarded over £18,000 on the basis that the conduct was in breach of the organisation's harassment policy, and that training had been inadequate. This case demonstrates that it is not enough to have policies; you must also ensure thorough training for HR and management, and good support throughout any process. There should also be a flow of information between managers to ensure that recurring problems are correctly addressed.

Decision is available [here](#).

Eliminating sexual harassment at work – building good workplace practice and culture.

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We recommend that employers take all reasonable steps to prevent sexual harassment. They should not wait until a grievance or sexual harassment complaint is made but rather adopt a proactive and preventative approach. Some core principles should act as guidelines for progressive employers such as –

- It is important to recognise that in order to constitute sexual harassment, inappropriate behaviours do not have to be as overt as physical violence or inappropriate touching. Impact on the survivor-victim in terms of the hostile, humiliating and degrading environment it creates, usually outweighs any intention of the perpetrator. Even if the alleged perpetrator genuinely did not intend to cause hurt or harm, their actions may still amount to unlawful harassment.
- An employer may incur liability for exposing employees to the harassing environment and failing to take reasonable steps to prevent the inappropriate behaviours.
- Do not minimise a complaint due to bias; employers should use the 'reasonable person⁹ standard' and consider whether a hypothetical reasonable person would consider the inappropriate behaviour as sexual harassment. The employer should give weight to the victim's perception.

Sexual harassment is one manifestation of sexism. An environment in which casual sexism is normalised, can condone, excuse and even encourage sexual harassment with the result that perpetrators are prevented from facing ramifications. If employers are to truly tackle sexual harassment, they should be aware of persistent gender inequalities and attitudes about gender in their organisation.

Employers should consider whether the workplace culture enables sexual harassment and be live to things such as harassment 'dressed up' as banter, casual or normalised sexism (such as ignoring or talking over women, gendered allocation of work such as cleaning a staff kitchen or making tea), gender stereotyping, outdated cultural depictions, counter allegations of political correctness or 'woke' behaviours or labelling someone as unduly sensitive or a 'snowflake'. This is not intended to shut down conversations or prevent expressions of opinion, political, moral, religious or social speech, but it is essential that any such expressions contribute to a culture of respect and dignity, in line with the organisation's values.

It is extremely difficult to draw up a list of what can and cannot be said because there may be degrees of subjectivity in terms of what 'crosses the line' for one person may not cross it for another. In addition, a comment may stray into the realm of being personal but not cross the threshold of being sexual harassment. The demographic of the workforce, the working environment and workplace culture too may have an influence in terms of what might be considered acceptable.

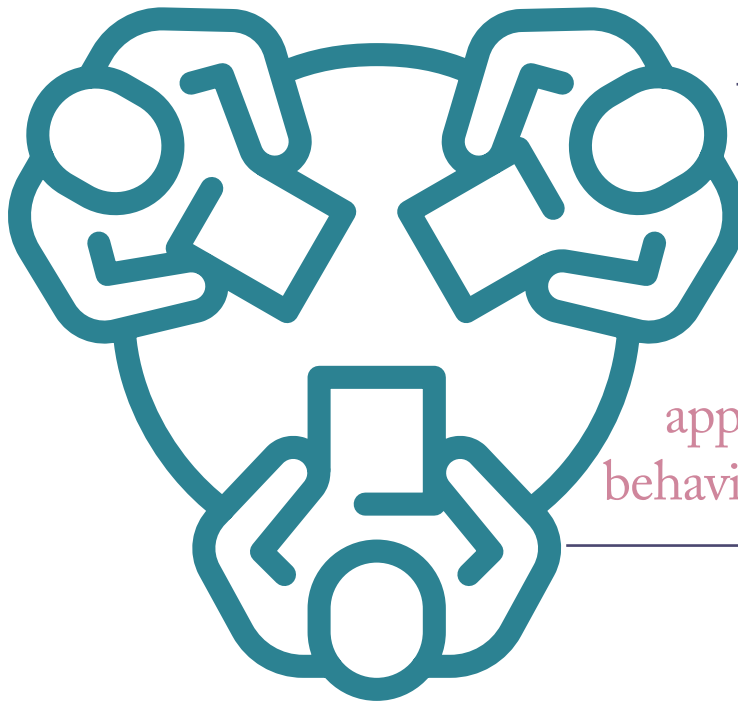
The Labour Relations Agency has produced a "Respectful Conversations" Podcast and Guide, which may be found [here](#).

⁹ "Reasonable Person Standard" has no set definition. Essentially it means an objective test to determine if the average person would be justified in drawing the same conclusions under the same circumstances or having knowledge of the same facts.

Actions to prevent sexual harassment

The list below, whilst not exhaustive, is designed to support and enable employers to diagnose the extent to which their current workplace culture, policies and procedures provide adequate protection to victims of sexual harassment and those who report it. Employers can take a proportionate approach - this list can be adapted to suit specific workplaces with known risks and is suitable for employers, regardless of sector, size and financial or other resources.

- For an employer to create a workplace culture that minimises the risk of sexual harassment it should assess and recognise the extent of the problem or potential for there to be a problem. For example gathering data from survey, grievances, exit interviews and tribunal complaints which may highlight concerns or worrying trends (whilst being aware that report rates are likely to be lower than the reality and therefore unlikely to provide the entire picture). Also, the culture should address the importance of not downplaying or excusing harassment, with attitudes such as “you know what he’s like” or “he means no harm” etc.
- Have in place an effective sexual harassment policy, which is designed in conjunction with trade unions and regularly reviewed and brought to the attention of all staff. Such a policy demonstrates that the organisation takes a zero-tolerance approach to sexual harassment. It is particularly recommended to have a standalone policy because there is often a power imbalance where sexual harassment occurs, and the policy will give options for addressing complaints (such as to HR), rather than a line manager who may actually be the perpetrator.
- Employers need to create a safe working environment where reporting is encouraged and employees feel confident to report sexual harassment and that they will be believed. It is important that those who report sexual harassment are taken seriously, given support and protected from victimisation, and where allegations are properly investigated and appropriate action taken against perpetrators.
- Ensure employees know who to report sexual harassment to, for example, manager, front line supervisor, HR or union representative and how. Consider using anonymous reporting tools to enable workers to report sexual harassment such as telephone helplines or online portals.
- It is good practice for sexual harassment training to form part of all workers’ induction procedures. A copy of the employer’s relevant policy should be provided in the induction pack.
- Be alert to work environments in the organisation where sexual harassment would be more likely to occur. Consider areas where there may be power imbalances between individuals. For example, inequalities between men and women, abuse of power between senior and junior staff, or where staff are in a customer facing role or working in isolation or in isolated locations. Also be aware to the changing nature of workplaces, and whether shared workspaces such as ‘hubs’ might increase risks for sexual harassment.
- Ensure that leaders at all levels visibly communicate their commitment to gender equality and a zero tolerance approach to sexual harassment in the workplace. They should also promote gender equality as everyone’s responsibility and part of working together as an inclusive organisation. This should be reflected in formal statements, prominent on the intranet and website, brought to the attention of all employees by other means such as during regular training, in staff meetings, on noticeboards or posters in the workplace, in staff bulletins or newsletters and in the employee handbook and integrated



Provide training for managers on their responsibilities in maintaining appropriate standards of behaviour in the workplace

into the appraisal process by recognising inclusive behaviours. This should also be communicated with organisations that supply workers and services to the employer.

- Training should be tailored towards the nature of the employer, the target audience and the employer's policy to maximise impact. Consider offering bystander training to a cohort of staff and refresh it a regular interval.

Provide training for managers on their responsibilities in maintaining appropriate standards of behaviour in the workplace, the procedures to follow where an employee reports sexual harassment, who to go to for support and how to support employees. It is also important to provide training on maintaining confidentiality during an investigation and how to prevent or address victimisation of employees who have made a report of sexual harassment. Ensure that reasonable steps are taken to protect employees against third party harassment, by, for example, making customers and suppliers aware of the organisation's equal opportunities and sexual harassment policies,

and requiring them to follow them. Ensure that third party harassment by a customer or client is included in the sexual harassment policy and that complaints are taken seriously and dealt with promptly.

- It can be useful to have a nominated workplace champion, confidential Dignity at Work Advisors or Harassment Officers to monitor sexual harassment issues, oversee training, and offer support to employees experiencing sexual harassment. This is an opportunity to speak in confidence with a trained person in the organisation perhaps before making a formal complaint can be helpful for some employees, as is support during the process.
- Monitor all sex discrimination and sexual harassment strategies to ensure that they are working effectively.
- Consider quantitative and qualitative data from confidential staff / Equity, Diversity and Inclusion pulse surveys or staff engagement groups to confirm whether the policies and strategies to prevent sexual harassment are perceived by staff to be equitable and effective.

Sexual Harassment Policy

The sample policy below helps you to demonstrate your organisation's commitment, and sets out your approach to dealing with workplace issues relating to sexual harassment. Various clauses are included in each section of the policy. You can choose those clauses that suit your specific organisation and amend them as necessary.

1. Introduction

[Name of organisation] is committed to providing a safe, inclusive and supportive environment for all its employees free from discrimination on any ground and from harassment at work including sexual harassment, where everyone is treated, and treats others with respect and dignity. Sexual harassment is unlawful and [Name of organisation] operates a zero tolerance policy for any form of sexual harassment in the workplace. All allegations of sexual harassment will be treated seriously, investigated promptly and dealt with confidentially and sensitively. Any person found to have sexually harassed another will face disciplinary action under our Disciplinary Procedure.

This policy covers sexual harassment which occurs in the workplace (including remote working at home) and outside work, such as at work-related events or social functions.

This policy applies to all [Name of organisation] employees, casual workers and agency workers.

[Name of organisation] will not tolerate sexual harassment from outside the organisation either. It applies to all consultants, contractors and also covers harassment by third parties such as customers, suppliers or visitors.

This policy does not form part of any employee's contract of employment, and it may be amended at any time.

This policy has been [agreed OR implemented following consultation] with the [Name of Trade Union(s), Staff Representative].

This policy can be made available in alternative formats such as large print, Braille, audio recording or in an ethnic minority language upon request. Requests for alternative formats can be made to [your line manager OR the HR Department].

This policy should be read in conjunction with [list other relevant workplace policies for example equal opportunities, flexible working, absence, disciplinary etc].

2. Responsibility for this policy

The [Board of Directors OR Position OR Committee] has overall responsibility for the effective operation of this policy. The [Director OR Head of HR Department OR Position] has delegated responsibility for overseeing its implementation.

Overall day-to-day responsibility for the management of this policy within [insert name of organisation] rests with the [line manager OR the HR department].

All staff are encouraged to report any incidents of sexual harassment and to support colleagues who have experienced sexual harassment. Reports can be made to [Insert Job Title OR HR OR trade union].

Victimisation is when someone who reports harassment is treated unfairly by their employer or by other employees, and is unlawful. [Insert name of organisation] takes victimisation as seriously as harassment and will discipline anyone found to have engaged in it.

This policy is reviewed [annually] by [Head of HR Department OR Position] in consultation with the [Name of Trade Union(s), Staff Representative].

3. Definition of Sexual Harassment

Sexual harassment is defined as unwanted conduct of a sexual nature which has the purpose, or the effect, of violating their dignity, or of creating for them an intimidating, hostile, degrading, humiliating or offensive environment.

Even if such behaviour is not intended to cause offence or distress, if that is the effect of the conduct, then it could be considered as sexual harassment. Someone may be sexually harassed even if the conduct was not directed at them because of the environment it creates for them.

Sexual harassment also occurs where a person is treated less favourably than others for having submitted to or rejected sexual harassment in the past.

Sexual harassment is unlawful and may constitute a criminal offence.

Sexual harassment can involve one of more incidents and actions constituting harassment may be physical, verbal and non-verbal. Examples of sexual harassment include, but are not limited to:

Physical conduct

- Unwelcome physical contact including patting, pinching, stroking, kissing, hugging, fondling, or inappropriate touching
- Physical violence, including sexual assault
- Physical contact, e.g. touching, pinching
- Giving unwanted gifts

Verbal conduct

- Unwelcome comments on a worker's appearance, age, private life, etc.
- Sexual comments, stories and jokes
- Sexual advances
- Repeated and unwanted social invitations for dates or physical intimacy
- Insults based on the sex of the worker
- The use of job-related threats or rewards to solicit sexual favours
- Intrusive questions about a person's

private or sex life or a person discussing their own sex life

Non-verbal conduct

- Display of sexually explicit or suggestive material
- Digital abuse (such as sexually explicit text messages or emails) or sexual comments on social media
- Sexually-suggestive gestures
- Wolf - Whistling
- Leering

Anyone can experience sexual harassment, regardless of their sex, sexual orientation, and sex of the harasser. Intersecting forms of sexual harassment may also occur, such as racialised sexual harassment and sexual harassment targeting LGBT+ people.

All sexual harassment is prohibited whether it takes place within [*Organisation name*] premises or outside, including at social events, work-related events, trips or social functions. Sexual harassment will not be tolerated by employees of [*Organisation name*], clients, customers, casual workers, contractors or visitors. The organisation will make such parties aware of the organisation's equal opportunities and anti-sexual harassment policies which they will be required to follow. Complaints of inappropriate behaviour by clients, customers, casual workers, contractors or visitors will be taken seriously and dealt with appropriately.

4. Complaints procedures: Informal steps

Anyone who is experiencing sexual harassment can, if they feel comfortable can deal with the matter informally by taking the following action:

- Have a confidential discussion with a designated harassment officer to explore options available
- The victim/survivor may decide that they do not wish to take any further action.
- The victim/survivor might inform the person(s) responsible for the behaviour

that the conduct is offensive, unwanted and unwelcome and that it must stop. Approach the alleged harasser, with the support of a trade union representative, stating that the behaviour is offensive, unwelcome and should stop

- The victim/survivor may decide to ask a designated confidential harassment officer/dignity at work advisor to approach the alleged harasser on their behalf

Alternatively, the person experiencing sexual harassment can approach *[insert job title OR HR]* who can help resolve the issue. When *[insert job title OR HR]* receives a complaint of sexual harassment they will:

- immediately record the dates, times and facts of the incident(s)
- ascertain the views as to what outcome the colleague wants
- ensure that the colleague understands the company's procedures for dealing with the complaint
- provide support and guidance on how to address the issue informally [which may include facilitating discussion between both parties to achieve an informal resolution]
- discuss and agree next steps
- keep a confidential record of all discussions

In certain circumstances it may be appropriate for *[insert organisation name]* to take further action, for example where the harassment is so serious that there is a risk to safety. If the organisation decides that it must take further action then they will explain the action to the person making the complaint and ensure that appropriate safeguards are in place to prevent further harassment or victimisation and arrange any necessary support.

Formal complaints mechanism

Reporting the complaint

Anyone who is affected by sexual harassment and wants to make formal

complaint should contact *[insert job title OR HR]*. The complaint should set out full details of the conduct complained of, including the name of the harasser, the nature of the harassment, date(s) and time(s), witnesses and any other relevant information.

Formal investigation

Complaints will be investigated promptly, sensitively and confidentially. Where possible, an investigating manager, not previously involved in the matter, will be assigned to collect details of the alleged harassment and to allow the alleged offender to give their side of the case. The investigation will be carried out thoroughly, impartially and objectively with due respect for the rights of all people concerned. It is recognised that there may be circumstances where an individual feels more comfortable discussing the complaint with an investigator of a particular gender due to the sensitivities of the circumstances. This will be accommodated where possible and the employer will consider appointing an external investigator.

This investigation process may include meetings and gathering witness statements as appropriate. There is a right for the person making the complaint to be accompanied by a trade union representative or colleague only, but in some circumstances a friend or family member may be permitted to attend to provide emotional support.

Where appropriate, the alleged offender may be transferred to another work area during the investigation procedure or suspended on full pay.

The investigator will then arrange a meeting with the alleged harasser to discuss the allegations. The alleged harasser may also be accompanied by a trade union representative or colleague.

If the complaint is against a third party such as a customer, supplier or visitor the organisation will consider the most

appropriate action for the individual's protection pending the outcome of the investigation. Where possible, the matter will be discussed with the third party.

Parties to the investigation will be kept regularly informed of the progress of the investigation and the person who has made the allegations of sexual harassment will be supported throughout. Once the investigation has concluded, the investigator will provide a factual written report to [insert job title] to consider the complaint.

Deciding on appropriate action

The investigating manager will determine if there is a case to answer and what action, for example recommending invoking the disciplinary procedure, is to be taken next. The matter will be dealt with under the organisation's Disciplinary Procedure and in accordance with both the law on discipline and dismissal in the Labour Relations Agency's Code of Practice on Discipline and Grievance. The nature of any sanctions will depend on the gravity and extent of the harassment and aggravating factors, such as abuse of power or previous inappropriate behaviour. Sanctions are included within our Disciplinary procedure but could include verbal or written warnings, transfer of role, demotion, or dismissal for gross misconduct.

The decision, and a full explanation of how the decision was reached, will be communicated to the person making the complaint, in writing, without unreasonable delay. Where appropriate, the decision should set out what action the employer intends to take. The person making the complaint should be informed that they can appeal if they feel that their complaint has not been satisfactorily resolved.

Appeals

Where the person making the complaint of sexual harassment considers that the matter has not been satisfactorily resolved,

they may appeal in writing to {*INSERT JOB TITLE or HR*}, setting out the full grounds of appeal, within [*TIMEFRAME*] the date the decision was notified.

The appeal should be dealt with impartially and as far as possible it is important that it is conducted by a more senior manager who has not previously been involved in the case. This shall take place without unreasonable delay at an appeal meeting to which all parties involved shall be invited with the right of accompaniment.

The independent senior manager will confirm their decision in writing to all parties involved, within [*INSERT TIMEFRAME*]. There is no further appeal route in [*INSERT ORGANISATION'S NAME*]

Victimisation

[*INSERT ORGANISATION'S NAME*] takes a zero-tolerance approach to victimisation. Anyone who complains of sexual harassment or who in good faith participates in any investigation must not suffer any form of victimisation or a detriment as a result. Anyone who is found to have victimised someone in this way will be subject to disciplinary action under the Disciplinary Procedure. If anyone believes that they have been victimised, they should report the matter to [*INSERT JOB TITLE OR HR*]. If the matter is not resolved, it should be raised formally through this procedure or the organisation's Grievance Procedure.

Keeping records

It is important, and in the interests of all parties involved, to keep written records during the complaint process for future reference. Records should be treated as confidential and kept in accordance with the Data Protection Act 1998. Relevant records should be given to the person making the complaint including any formal minutes that may have been taken. In certain circumstances, for example, to protect a witness, the employer might withhold some information.

Further information and help:

Labour Relations Agency

James House
2-4 Cromac Avenue
Belfast BT7 2JA

Third Floor
Richmond Chambers
The Diamond
Londonderry
BT48 6HN

03300 555 300

www.lra.org.uk

Irish Congress of Trade Unions

45-47 Donegall Street
Belfast
BT1 2FG
028 9024 7940

www.ictuni.org

Equality Commission for Northern Ireland

Equality House
7-9 Shaftesbury Square
Belfast
BT2 7DP
028 9050 0600

www.ecni.org

Northern Ireland Human Rights Commission

4th Floor Alfred House
19-21 Alfred Street
Belfast
BT2 8ED
028 9024 3987

www.nihrc.org

Law Centre NI

2nd Floor
Westgate House
Belfast
BT1 6ED
028 9024 4401

www.lawcentreni.org

The Rainbow Project

23-31 Waring Street
Belfast
BT1 2DX
028 9031 9030

www.rainbow-project.org

HereNI

23-31 Waring Street
Belfast
BT1 2DX
028 9024 9452

www.hereni.org

Cara Friend

23-31 Waring Street
Belfast
BT1 2DX
028 9089 0202

www.cara-friend.org.uk

Raise Your Voice

Women's Resource and
Development Agency
6 Mount Charles
Belfast
BT7 1NZ
028 9023 0212

[www.raiseyourvoice.
community](http://www.raiseyourvoice.community)

Disability Action

Portside Business Park
189 Airport Road West
Belfast
BT3 9ED
028 9029 7880

www.disabilityaction.org

Northwest Forum of People with Disabilities

58 Strand Road
Londonderry
BT48 7AJ
07802 852152

www.nwdisabilityforum.org

Migrant Centre NI

Unit 3 Cido Business
Complex
Charles Street
Craigavon
BT66 6HG

NOTES



Labour Relations Agency

We provide an impartial and confidential employment relations service to those engaged in industry, commerce and the public services.

Our services include the provision of advice on good employment practices and assistance with the development and implementation of employment policies and procedures. The Agency offers a wide range of training seminars/webinars, briefings and workshops.

Website: www.lra.org.uk
Telephone: 03300 552 220 (Switchboard)
03300 555 300 (Workplace Information Service)
Email: info@lra.org.uk
X: [@LRA_NIreland](https://twitter.com/LRA_NIreland)



Irish Congress of Trade Unions

The ICTU is the trade union federation representing affiliated trade unions across the island of Ireland. Trade unions can bargain collectively for their members on salary and important terms and conditions as well as workplace policies, including on the menopause. Trade unions can also provide advice to members as well as representation when engaging with employers.

Website: www.ictuni.org
Telephone: 028 9024 7940
Email: info@ictuni.net
X: [@NIC_ICTU](https://twitter.com/NIC_ICTU)