

Client Newsletter: Employers duty to take reasonable steps to prevent sexual harassment

The new legal duty on employers to take “*reasonable steps*” to prevent sexual harassment in the workplace under the Worker Protection (Amendment of Equality Act 2010) Act comes into force on 26 October 2024.

The new duty means that if an employee succeeds in a sexual harassment claim an uplift of 25% of the compensatory award may be applied. Claimants are therefore likely to point towards a lack of policies, procedures, or training aimed at preventing the abuse they suffered.

1. What you need to know:

- Risk assessments

Failure to conduct a sexual harassment risk assessment will result in an employer most likely being in breach of the preventative duty.

- What is considered a reasonable step?

This will depend on the organisation’s size, resources and working environment. However, for all organisations reasonable steps will include, risk assessments, reviewing policies, ensuring there are proper channels for reporting complaints and training.

- Third party harassment

Whilst employers are not legally liable for the harassment of staff by third parties under the Equality Act 2010, the preventative duty extends to the prevention of sexual harassment by third parties. Organisations will need to consider what risks are posed to staff from third parties specific to their

business and what steps they may need to put in place to combat those risks.

- Focus on pro-activity

Employers have a duty to respond to concerns urgently, understand how to take appropriate action, and provide an outcome in a timely manner.

- Complaints to the EHRC

The Final Guidance states that workers can report concerns directly to the EHRC, so we may see more employers being contacted directly by the EHRC and being required to explain what compliance steps they have taken.

2. New Employer 8 Step Guide from the Equality and Human Rights Commission

1. Develop an effective anti-harassment policy, which should be reviewed and updated as necessary.
2. Engage with staff on sexual harassment risks and the effectiveness of preventative steps taken, including conducting 1-1 meetings, surveys and exit interviews.
3. Conduct a sexual harassment risk assessment to understand risk factors within the organisation and identify the steps needed to comply with the preventative duty.
4. Put in place both informal and formal processes to report and deal with workplace harassment, while keeping centralised and confidential records of the complaints raised.

5. Train staff at all levels on what sexual harassment in the workplace looks like, what to do if they experience or witness it and how to handle any complaints of harassment.
6. Thoroughly consider how to deal with sexual harassment complaints including taking into account how the individual wants the complaint to be dealt with, the duty to protect against ongoing harassment, maintaining confidentiality and dealing with complaints/communicating the outcome in a timely manner. NDAs should only be used in situations where it is lawful, necessary, and appropriate to do so.
7. Take necessary steps to prevent third party harassment, considering an appropriate reporting mechanism and carrying out risk assessments where staff might be left alone with a third party.
8. Monitor and evaluate your effectiveness in addressing workplace sexual harassment. This process can involve reviewing formal and informal complaints to spot patterns, comparing survey feedback over a period of time, encouraging workers to provide feedback on efforts being made to comply with the prevention duty and acting on lessons learnt after any complaints of sexual harassment are resolved.

3. What you should do now:

Conduct a sexual harassment risk assessment based on the risk factors specific to your organisation, identifying any risks and taking steps to mitigate those risks

Review and update your policies, procedures and include relevant questions in exit interviews and employee surveys

Provide training on sexual harassment to increase workforce awareness and provide training for managers on how to deal with complaints.

Ensure you have effective mechanisms to regularly review compliance with the preventative duty, such as staff surveys, complaints monitoring and anonymous reporting channels.

How Altogether HR can help you:

We can work with your Leadership and HR teams to ensure you are compliant with the new legislation. Services we can provide include:

- Providing a risk assessment template
- Reviewing and amending your current anti-harassment policy, reporting procedures and exit interview templates
- Employee awareness training
- Manager training
- Providing an induction training presentation
- Providing a confidential complaint reporting service and conducting investigations

For more information, please contact us: info@altogetherhr.com