



Sexual harassment and the Employment Rights Act:

Your guide to implementing all reasonable steps



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About this guide

Guide compiled by VinciWorks using publicly available information. We have taken reasonable care to verify information from sources we believe to be reliable. VinciWorks makes no representations or warranties as to completeness, accuracy or ongoing availability of the information contained within or to any external providers outwith our control. This guide is provided for general information purposes only and does not constitute legal, regulatory or professional advice. References to third-party products or services do not constitute endorsement.

Why sexual harassment compliance has changed

Sexual harassment compliance in the UK is undergoing a major transformation, driven by an overlapping set of new laws and requirements. In the past, employer obligations were largely reactive. Employers could be liable if harassment occurred but could defend itself by showing some preventative measures were in place. Both the Worker Protection Act and the Employment Rights Act have shifted the focus to a proactive duty on employers to prevent harassment before it happens. This guide explains these changes and what they mean in practice.

How the Worker Protection Act and Employment Rights Act interact:

The **Worker Protection (Amendment of Equality Act 2010) Act 2023** (“Worker Protection Act”) amended the Equality Act 2010 to introduce a new duty (effective from 26 October 2024) requiring employers to take **reasonable steps** to prevent sexual harassment.

The **Employment Rights Act 2025** goes even further. It requires employers to take “**all reasonable steps**” to prevent sexual harassment and reintroduces the concept of employer liability for **third-party** harassment, meaning harassment by customers, clients or members of the public. Employers must ensure they have undertaken all reasonable steps to prevent it.

In essence, the Employment Rights Act builds on the Worker Protection Act’s framework, but raises the bar on what employers must do to protect staff.

Who should use this guide

This guide is designed for **HR professionals, compliance officers, managers, and health & safety leaders**. Preventing sexual harassment is not just an HR or legal issue, it’s also a matter of workplace safety, culture, and risk management. Health and safety managers, for example, now need to treat harassment as a workplace hazard that must be assessed and mitigated, similar to any other safety risk. Senior leaders and line managers play a crucial role in setting the tone from the top and ensuring day-to-day compliance. Whether you are responsible for drafting policies, delivering training, handling complaints, or safeguarding employee well-being, this guide will provide the actionable insights you need under the new legal landscape.

The UK's sexual harassment legal framework

Sexual harassment law in the UK is built on the principle that employers are responsible for the working environment they create and tolerate. Legislation determines when employers are legally responsible for harassment, what steps they must take to prevent it, and the consequences of failing to do so. Over time, the law has moved steadily away from treating harassment as an individual dispute and towards viewing it as an organisational risk that must be actively managed and prevented.

Equality Act 2010 – definition of harassment

Under the Equality Act 2010, sexual harassment is defined as **unwanted conduct of a sexual nature** that has the purpose or effect of **violating someone's dignity or creating an intimidating, hostile, degrading, humiliating, or offensive environment** for them. In practical terms, this covers a broad range of behaviours; from sexual remarks and jokes to unwelcome touching or assault, if they meet the above effect.

The Equality Act makes employers **vicariously liable** for acts of harassment by their employees, unless the employer can show it took “all reasonable steps” to prevent it. Importantly, protection against harassment isn't limited to women or a particular group; it applies regardless of gender or orientation, and harassment can be perpetrated by anyone (coworkers, managers, or even third parties like clients). The Act also prohibits retaliation (victimisation) against anyone who complains of harassment.

Worker Protection Act 2023 – a new preventative duty

The Worker Protection Act 2023 is a landmark amendment to the Equality Act. It introduced, from 26 October 2024, a **positive legal duty** for employers to take *reasonable steps* to prevent sexual harassment. This marked a shift from the prior regime: previously, an employer's efforts to prevent harassment were only scrutinised if an incident led to a tribunal claim (as a possible defence).

Now employers must **continually assess and mitigate the risk** of sexual harassment *proactively*, not wait until a complaint is made. Compliance is dynamic. Employers should regularly review workplace risks and update their preventive measures. While the original bill for the Worker Protection Act contemplated requiring “all reasonable steps,” it was watered down during passage to just “reasonable steps” amid concerns about burdening businesses. Still, failing to meet this duty has consequences: an employment tribunal can uplift compensation by up to **25%** for a successful harassment claim if the employer didn't take reasonable steps to prevent it, and the Equality and Human Rights Commission (EHRC) can issue enforcement notices for breaches.

Employment Rights Act 2025 – a new and strengthened approach

The Employment Rights Act 2025 takes effect throughout 2026 and 2027 and significantly **toughens sexual harassment obligations**. There are three key enhancements to know.

All reasonable steps standard

The Act will require employers to take **all** reasonable steps to prevent sexual harassment, upping the standard from the current “reasonable steps.” In practical terms, this means partial measures or half-hearted compliance will no longer shield an employer – you must implement every preventative measure that is reasonably practicable for your circumstance.

Whistleblowing and NDA reforms

From April 2026, disclosures of sexual harassment will explicitly be deemed “**protected disclosures**” under whistleblowing law. This gives whistleblowers who raise sexual harassment concerns protection from detriment and automatic unfair dismissal. The Act will also **curb the use of NDAs** (non-disclosure agreements) in harassment cases. Any clause that attempts to gag a worker from reporting or discussing workplace harassment or discrimination will be legally void. Employers will need to review settlement agreements and confidentiality policies to ensure they comply.

Third-party harassment liability

From October 2026, employers will be **liable for harassment of their staff by third parties** (customers, clients, contractors, etc.) *unless* the employer can show it took all reasonable steps to prevent it. Crucially, this applies to *all forms* of unlawful harassment (not just sexual harassment) and does **not** require any prior incidents. The old “three strikes” rule which previously required an employer to ignore two prior incidents by the third party before liability has been scrapped. In short, the first instance of a customer harassing your employee could land you in tribunal if you haven’t taken steps to prevent it.

What’s Changed

✗ No “three strikes” rule

You no longer need previous incidents for liability to arise

✗ No warning period

The **first incident** can trigger a tribunal claim

✓ All types of unlawful harassment covered

Not just sexual harassment

Includes race, religion, disability, age, sexual orientation, and more

From “Reasonable Steps” to “All Reasonable Steps”

All reasonable steps standard

Under the Equality Act’s vicarious liability provisions, employers have long been expected to take “reasonable steps” to prevent discrimination and harassment. In practical terms, this implied implementing preventative measures that a reasonable employer of your size and type would undertake. Common reasonable steps have included:



Robust policies

Having a clear anti-harassment or dignity at work policy, setting out that harassment is prohibited, providing examples of unacceptable behaviour, and outlining how to report issues.



Training

Providing harassment awareness training to employees and managers so they understand what behaviour is unacceptable and how to respond if issues arise.



Effective reporting channels

Establishing procedures for employees to report concerns either formally or informally and ensuring managers know how to escalate complaints.



Taking action on complaints

Investigating any incidents promptly and taking disciplinary action when harassment is confirmed, to show such behaviour won’t be tolerated.



Monitoring and risk assessments

Keeping an eye on workplace culture, e.g. by conducting employee surveys or exit interviews and assessing risk factors like particular departments or work events that might give rise to harassment.

Before

Reasonable Steps

- ✓ Policy in place
- ✓ Basic training delivered
- ✓ Complaints investigated

Often enough to defend a claim

Minimum compliance

One-off actions

Reactive response

Now

All Reasonable Steps

- ✓ Everything reasonably practicable
- ✓ No gaps left unaddressed
- ✓ Prevention, not reaction

Proportionate

Risk-based

Ongoing

What “All Reasonable Steps” Includes



Risk assessment

Identify where harassment could happen



Targeted policies

Clear rules for staff, clients, third parties



Regular training

Role-specific and refreshed



Trusted reporting routes

Clear escalation and early intervention



Active monitoring

Culture checks, follow-up, improvement

These steps were somewhat discretionary; employers often focused on the basics (policy and one-off training) to claim the “reasonable steps” defence in tribunal. Notably, what’s considered “reasonable” is context-specific. Larger organisations have been expected to do more than very small firms. For example, a multinational company might be expected to provide regular refresher training and robust HR systems, whereas a tiny business might not have as many resources. However, **no employer** can assume harassment “would never happen here” and do nothing.

What changes under the Employment Rights Act

The move from “reasonable steps” to “**all reasonable steps**” is more than semantic. It imposes a stricter standard: employers must implement every feasible measure that is reasonably practicable to prevent sexual harassment. In other words, if a particular step could realistically have been taken to reduce the risk of harassment, an employer will be expected to have taken it. Under the previous law, some employers might have gotten away with doing the bare minimum, for example, having a policy and a one-time training session, and then arguing those were “reasonable steps.” Going forward, **partial compliance is not defensible**. Doing “some” of the things you should have done is not enough if other reasonable precautions were left on the table.

For instance, if your risk assessment shows that employees working off-site face harassment risks, say, at client meetings or industry events, all reasonable steps might include specific training or guidelines for those situations and a protocol for staff to report client misconduct. If you fail to implement those and an incident occurs, claiming you did something like a general policy won’t suffice, tribunals will ask whether you did everything reasonably expected. The government has assured that employers won’t be penalised for failing to take truly impractical or “unworkable” steps, but the onus is on the employer to prove a step was not reasonable. In practice, this change means closing any gaps in your current harassment prevention plan.

Case study

Hunter v Lidl GB Ltd (2023), the well-known employer had harassment policies on paper but *did not effectively implement them*. Managers were unaware of the policies, no risk assessments were done, and the company waited for formal complaints rather than proactively preventing issues. The result? The tribunal found Lidl had not taken all steps it could have to prevent a pattern of sexual harassment, and the company lost its defence. The fallout included a £50,000 compensation award and an EHRC intervention. Having some measures is not enough if they are incomplete or ineffectively applied. Under the ERA 2025 regime, employers must be able to prove they did everything reasonably possible – simply asserting “we have a policy/training” without evidence of active, comprehensive implementation will fail.

Tribunal and regulator expectations

Both employment tribunals and regulators (like the EHRC or Fair Work Agency) will expect to see a much more **proactive approach** to harassment prevention.

This includes:



Documented risk assessments

Conducting and updating risk assessments is now seen as foundational. In the Lidl case, the *absence* of a harassment risk assessment was “pivotal” in the tribunal’s finding against the employer. Regulators will assume that without a risk assessment, an employer can’t truly know what steps are needed.



Active prevention plans

Regulators expect to see that you didn’t simply sit back until someone complained. This means evidence of regular training, periodic reminders of policies, and systems to gather concerns (like anonymous surveys or speak-up channels). An exclusively complaint-led approach – waiting for victims to come forward – is viewed as inadequate. The EHRC, in monitoring the new duty, has advised that employers should use tools like staff surveys to “spot problems early” and measure the impact of their steps.



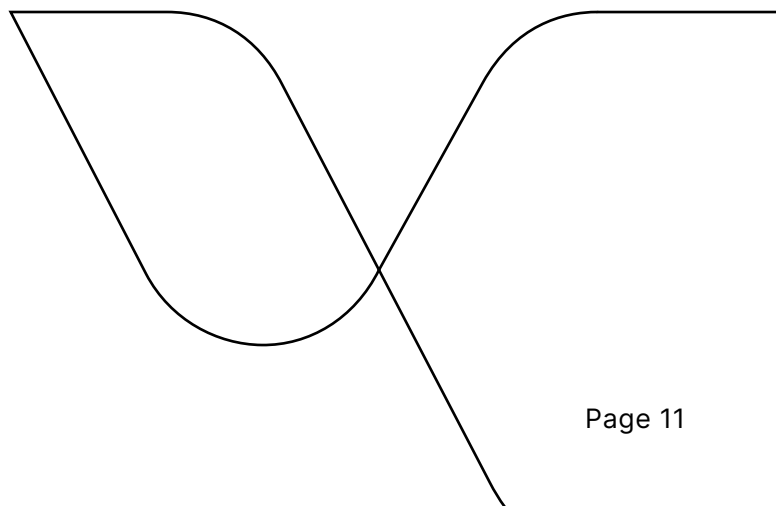
Management accountability

There is a growing expectation that leadership and line managers are engaged in preventing harassment, not just HR. Tribunals will consider whether managers were trained and responsive. If managers “closed their eyes and ears” to complaints (as the tribunal said of Lidl’s local managers), that will count against the employer’s defence. Conversely, if managers can demonstrate vigilance, e.g. intervening when they observe issues, encouraging reporting, it shows the employer’s efforts are real.



EHRC and agency oversight

With the EHRC’s commitment to use its powers more actively and the Fair Work Agency coming online in 2026, companies might be subject to investigations or spot-checks even without an individual tribunal claim. These bodies will expect to see **evidence** of compliance, such as policies, training records, reports of regular prevention activities.



Understanding sexual harassment

Statutory definition

Section 26 Equality Act defines sexual harassment is defined in law as **unwanted behaviour of a sexual nature** that *violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment* for them. This can include actions, words, or visuals of a sexual nature. A key point is that it's judged from the perspective of the person experiencing it: even if the harasser "didn't mean offense," it can still be harassment if it *had* that effect or would have had that effect on a reasonable person. The law also covers harassment related to sex or gender, for example, demeaning comments about women generally can be harassment even if not overtly sexual, and it prohibits any retaliation against someone who resists or rejects sexual advances such as treating them worse because they said no is unlawful harassment too. In practical terms, **if behaviour is sexual or sexist and it makes someone feel degraded or unsafe at work, it likely falls under this definition.**

Forms of harassment

Harassment can take many forms including **verbal, physical, visual or online**.

Verbal

Sexual or sexist remarks, comments about someone's appearance or sex life, unwelcome sexual advances or propositions, lewd or "dirty" jokes, and sexual innuendo. Even remarks couched as "banter" can be harassment if they cross the line. Repeatedly asking a colleague out after they've declined, or making suggestive comments in meetings, are examples.

Physical

Any unwelcome touching, from a hand on the knee or an unsolicited hug, to groping or more severe physical assault or rape. Physical harassment is particularly serious and can overlap with criminal offenses. Even "minor" unwanted touches are unlawful if they have the requisite effect on the victim's dignity.

Visual/Non-verbal

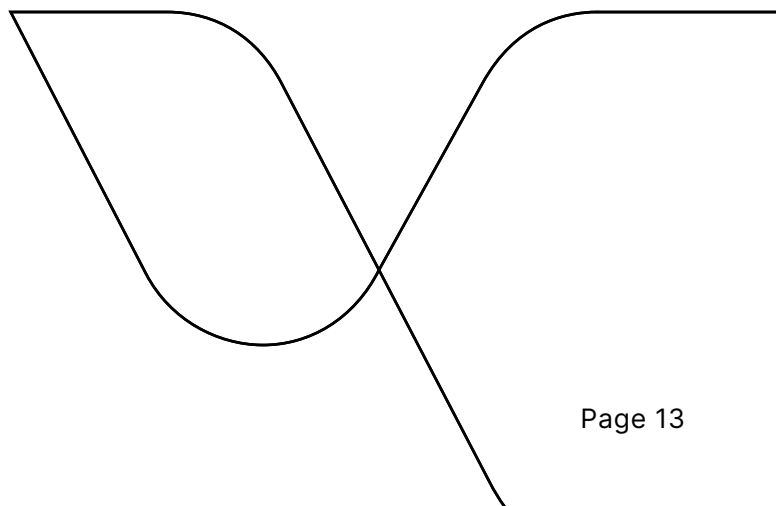
Displaying pornographic or sexually explicit images (e.g. calendars, computer wallpapers, memes) in the workplace; sending sexual images or videos to colleagues; leering or suggestive gestures. With the rise of smartphones and remote communication, sharing inappropriate images or messages via email, chat, or social media is a common issue.

Online/Social Media

Harassment is not limited to face-to-face interactions. It can occur via email, messaging platforms, video calls, or on social networking sites. For instance, posting sexual comments on a colleague's Facebook photo or sending late-night sexually suggestive texts to a coworker is workplace harassment if it's related to work in some way. Virtual meetings come with new concerns like unwelcome private messages during a Zoom call, or colleagues "Zoom-bombing" with offensive backgrounds.

Environmental/Cultural

Sometimes harassment is not one person targeting another, but a culture of inappropriate behaviour. For example, a group of staff habitually swapping sexual jokes or circulating explicit content can create an atmosphere that is hostile, even if not directed at a single individual. People in such an environment may feel harassed by the very culture, even without a personal "harasser."



One-off incidents vs. patterns

Harassment can be a one-off incident or an ongoing pattern. The law does not require that behaviour be repeated to be unlawful. A single incident of a grave nature e.g. a sexual assault, or a highly degrading remark can absolutely constitute sexual harassment. However, a *pattern* of smaller incidents can be just as harmful, if not more so, due to their cumulative effect. For instance, a few “jokes” or comments might seem trivial in isolation but occurring regularly they create a pervasively hostile environment. Employers should be mindful that sometimes victims tolerate a certain amount until it becomes unbearable, at which point they come forward describing a long series of incidents. It is much better to catch and address harassment early, even one-off remarks, before it escalates. That said, even if no one has complained about isolated incidents, do not assume they are acceptable – they may still be causing silent distress.



Risk assessment as the starting point

Under the Employment Rights Act, **risk assessment is the essential first step** in preventing sexual harassment. You cannot take “all reasonable steps” without first understanding the specific risks in your workplace. Here’s what that entails:

Why risk assessments are essential

If an employer fails to carry out a sexual harassment risk assessment, it will be **difficult to show compliance** with the duty. You need to actively identify where, how, and to whom sexual harassment might occur in your organisation. A risk assessment for harassment should parallel the approach of a health & safety risk assessment – but focusing on conduct and culture risks. By examining risk factors, you demonstrate a proactive stance. Indeed, the law’s shift implies that ignorance is no defence: *assuming* “we don’t have that problem here” is itself a breach of duty.

Every organisation should start by taking a hard look at its people, places, and processes to ask: *where are we vulnerable to harassment?* If you have not done such an assessment yet, this should be a top priority.

Identifying high-risk roles, locations, and activities

Some roles and situations inherently carry higher risk of harassment, and these deserve special attention in your assessment. Consider factors like:

Customer-facing roles: Employees who deal with customers or clients, especially one-on-one or off-premises, can be exposed to third-party harassment. For example, a lone store worker closing up at night or a consultant meeting a client off-site could be vulnerable. Roles like retail staff, hospitality workers, receptionists, and healthcare workers interfacing with patients are classic high-risk groups.

Night work and environments with alcohol: Any setting where alcohol is present (bars, restaurants, events) or late-night shifts are worked tends to see higher incidences of inappropriate behaviour. Harassers often act bolder under the influence or under cover of dark, and staff in these environments (e.g. nightclub employees, hotel staff during events) may face crude behaviour from patrons.

Work-related social events: Office parties, team off-sites, conferences, and business travel (like overnight trips) are notorious flashpoints. The mix of socialising, possibly alcohol, and blurred lines between personal and professional conduct can lead to incidents. These events should be flagged in your risk assessment as needing clear guidelines and oversight.

Isolated or remote work: Employees who work remotely or in isolation might lack immediate access to help if a situation turns bad. Also, remote communication tools can be misused for harassment like messaging apps or video calls.

Power imbalances: Pay attention to contexts where there are significant power differentials, for example, junior staff or interns working under much older seniors, or a predominantly male leadership with female junior staff. Harassment often correlates with power abuse. Young workers, apprentices, or those new in their careers can be at higher risk, as harassers may target those less likely to speak up.

Diverse or decentralised worksites: If you have many locations or employees at client sites, the consistency of culture and training may vary, creating pockets of risk. Some locations might develop a “banter culture” or other problematic norms without headquarters realising. Each site or department might need a separate assessment.

Previous incidents or complaints: Obviously, if certain areas have seen incidents before, they remain a risk. Past complaints (even informal ones) are a red flag that something in that environment needs fixing.



How to conduct a risk assessment

In conducting the risk assessment, **talk to your staff**. HR and compliance might not know that, say, the delivery drivers have been catcalled by customers, or that interns feel uncomfortable with certain team outings. Use anonymous surveys, focus groups, or direct interviews to gather information on where people feel at risk. Also review HR data – are there departments with higher turnover of female staff? Any patterns from exit interviews? These can reveal hidden harassment issues.

Reviewing risks regularly

A risk assessment is not a one-and-done document. It should be a **living process**. The guidance suggests reviewing and updating your assessment periodically and whenever circumstances change. For example, if you launch a new business line (with new types of client interaction), open a new office, or significantly change work arrangements (like moving to a hybrid work model), reassess harassment risks under the new scenario.

After any harassment incident or complaint

Conduct a review: what did we miss? Was there a warning sign we overlooked? If a particular control failed e.g. an employee reported something but the manager didn't act, strengthen that in your plan. Under the new duty, employers are expected to *learn from incidents* and prevent recurrence. Regulators like the EHRC may also ask for evidence that you adjusted your preventive steps following any known issues.

Risk assessment is the cornerstone of “all reasonable steps.” By pinpointing high-risk situations such as **customer-facing roles, late-night shifts, lone working, power-imbalanced teams, and social events** – you can then target appropriate measures to those areas. The next sections will cover what those measures look like (policies, training, etc.), including the particularly significant issue of third-party harassment.

Third-party harassment: The major change

One of the most significant changes under the Employment Rights Act is the revival (and expansion) of employer liability for third-party harassment. This refers to harassment of employees by people other than their co-workers – for example, by clients, customers, contractors on site, suppliers, or even members of the public that employees interact with as part of their job.

Who counts as a “Third Party”?

Essentially, *anyone* external to the direct employment relationship who interacts with your workers could be a third-party harasser. Common examples include a customer harassing a cashier, a client making sexual remarks to a consultant, a patient’s family member harassing a nurse, a vendor’s employee harassing your receptionist, or even a guest harassing hotel staff.

The law explicitly mentions customers and clients, but it is not limited to those – it covers **anyone the employee comes into contact with due to their work**. This can even include people at work-related events e.g. someone from another company at a conference or service users in public services. As an employer, you should presume that if your staff interface with non-employees, those non-employees are “third parties” for whose harassing behaviour you may need to answer.

The end of the “Three Strikes” rule – immediate liability

Historically under the Equality Act 2010’s old section 40, repealed in 2013, employers had a very limited liability for third-party harassment and only if they *knew* of at least two prior incidents by that third party and failed to act. Hence it was referred to as the “three strikes” rule. The ERA completely **throws that out**.

From October 2026, employers will be liable for a third party’s harassment of their employee *on the first instance*, unless they can show they took all reasonable preventive steps. In short, if a single customer harasses a worker, the employer can be on the hook **even if it had no prior warning**, provided it didn’t have adequate safeguards. This puts the onus squarely on employers to be proactive: you can’t wait for a bad incident to happen twice before acting.

Note that the liability isn’t absolute, you have a defence if you took all reasonable steps to prevent it (which is why those words are so critical). But you will no longer be able to say “we didn’t know this particular customer would behave badly” as an excuse; you’re expected to anticipate that **any** third party *might* harass, and plan accordingly.

All reasonable steps in third-party contexts:

What does taking *all reasonable steps* to prevent third-party harassment involve? It means extending your harassment prevention program beyond your internal workforce to include risks posed by outsiders. Some practical steps include:



Policies addressing third parties

Update your sexual harassment policy to explicitly cover harassment by third parties. It should state that the company will not tolerate harassment *from* any client, customer, or other third party, just as it won't among staff. This sets expectations that employees should report such incidents and that the company may act including potentially refusing business from offenders.



Notices and agreements

In high-risk sectors, it may be reasonable to **notify third parties of your zero-tolerance stance**. For instance, a hospitality venue might post signs or include a note on menus that staff are to be treated with respect. Professional services firms might include harassment clauses in contracts with clients e.g. allowing staff to be withdrawn from an account if the client behaves inappropriately. While you can't control outsiders fully, you can put them on notice of expected behaviour.



Training frontline staff

Equip employees who deal with the public with skills and confidence to handle difficult situations. This might include training on de-escalation techniques, for example, how to safely respond if a customer makes an inappropriate comment or is getting physically too close. It also means ensuring they **know their rights** – that they do not have to endure harassment just because “the customer is always right.” Make sure they know the procedure for reporting a customer's bad behaviour and that management will support them.



Reporting procedures for third-party incidents

Establish a clear process for employees to report harassment by third parties. This might be integrated with your normal reporting channels, but ensure that *managers take it just as seriously as internal harassment*. Sometimes employees don't report customer harassment because they think “nothing will be done” or that their employer values the paying client more. Emphasise that reports will be addressed, and communicate what steps can be taken, for instance, assigning a different staff member, warning the client, or even banning a customer who crosses the line.



Intervening and following up

Managers should be prepared to intervene when harassment by a third party is observed or reported. “All reasonable steps” could include, say, a manager approaching an unruly customer and telling them their behaviour is unacceptable, or removing an employee from a situation and having someone else assist the customer. In more serious cases, it might mean contacting security or law enforcement. After an incident, check on the affected employee’s well-being and do not return them to that situation unless they’re comfortable.



Practical example



Imagine a consultancy firm sends a young female consultant to a long-term client. A client representative starts making suggestive comments to her and once tried to touch her at a dinner. Under the ERA, the consultancy firm could be liable if it hadn’t taken all reasonable steps.

Reasonable steps could include:

training the consultant to report any issues immediately, having a point of contact to complain about client behaviour, and indeed making it known to the client company that harassment won’t be tolerated. If the firm ignored the consultant’s reports or had never thought to warn the client, it would likely be found in breach. Conversely, if the firm had a strong policy and swiftly removed the consultant from that environment and addressed it with the client, it stands a better chance of defending itself.

Policies that stand up to scrutiny

A well-crafted and well-implemented **sexual harassment policy** is a cornerstone of prevention. However, to truly stand up to scrutiny (whether that's an employment tribunal or a regulator's inspection), a policy must be more than a document buried in an employee handbook. This section covers how to ensure your policies are effective, integrated, and evidence of real commitment.

Sexual harassment policy requirements:

All organisations should have a **specific, stand alone policy on sexual harassment**. At minimum, an effective policy should:

Define sexual harassment

Use clear, plain language to explain what sexual harassment is with examples. Make it clear harassment can come from anyone, including colleagues, managers, clients, and can be towards anyone.

State zero tolerance

The policy should unequivocally state that such behaviour is not acceptable and will lead to disciplinary action up to dismissal. This sets the tone that complaints will be taken seriously.

Outline reporting procedures

Probably the most critical part – detail how an employee can report harassment. Include multiple channels (e.g. their line manager, HR, a dedicated harassment hotline or email). Clarify that they can report a colleague or even someone external like a client. If you allow anonymous reports, mention how to do that. The goal is to make reporting as accessible and fear-free as possible.

Explain the investigation process

Give an overview of what an employee can expect if they make a complaint: that it will be handled promptly, confidentially, and impartially, and that both the complainant and the accused will have a fair chance to be heard. Mention protection against retaliation: employees who raise concerns or participate in investigations will be protected and any retaliation will be a serious disciplinary matter.



Include third-party harassment guidance

The policy should not limit itself to co-worker situations. It should encourage employees to report any harassment they experience in connection with work, even if by customers or others, and explain the company will support them and take action, for example, contacting the customer's firm, reassigning the employee, or involving authorities as needed.

Reference the law

While the policy itself should be user-friendly and not a legal treatise, noting that harassment is unlawful and citing the Equality Act 2010 and that the company has a duty to prevent harassment, shows that this is a serious legal compliance matter, not just internal rule.

Manager responsibilities

Good policies spell out that managers have a duty to uphold the policy – e.g., by monitoring their teams for issues, addressing complaints immediately, and modelling appropriate behaviour.

Date and review

Include when the policy was last updated and indicate it will be reviewed periodically.

Integration with other policies

Ensure your sexual harassment policy is consistent and connected with your broader HR and compliance policies:

“Dignity at Work” or general anti-harassment/bullying policy – sexual harassment might be addressed within that as well as a standalone. The documents should cross-reference each other. For instance, your bullying policy should mention that sexual harassment is covered under the sexual harassment policy.

Equality, Diversity & Inclusion (EDI) policy: This typically covers non-discrimination broadly. It should echo the zero tolerance for harassment. Ensure that if your EDI policy mentions harassment, it aligns with the specific harassment policy definitions.

Whistleblowing policy: With sexual harassment becoming a “qualifying disclosure,” it’s wise to update your whistleblowing (protected disclosure) policy to explicitly list sexual harassment concerns as something employees can blow the whistle on without fear. While harassment complaints are often handled via HR grievance routes, if an employee chooses to go the whistleblowing route, perhaps because the harasser is senior or they fear bias in HR, your procedures should accommodate that. Make it clear that even if an issue is reported as harassment, it will also receive whistleblower protections where applicable.

Health & safety policy: It may seem separate, but some organisations now treat workplace harassment as a health and safety issue. If your H&S policy touches on employee welfare or mental health, integrate the idea that preventing harassment is part of providing a safe workplace.

Other related policies: Review things like your *social media policy*, *IT use policy*, *dress code*, etc., to ensure they don’t conflict. For example, if you have a social media policy, have it state that online harassment of colleagues (including via personal accounts) is misconduct and will be covered under the harassment policy. If you have a policy on relationships at work, ensure it addresses how to avoid harassment or what to do if one party in a consensual relationship feels harassed post-breakup.

The goal is a coherent framework: all policies should collectively send the message that harassment is not tolerated, victims will be supported, and wrongdoers disciplined. If policies contradict each other or leave gaps, a tribunal will seize on that as evidence of inconsistency or lack of seriousness.



Accessibility, visibility, and regular communication:

A policy that isn't known or understood by employees is as good as no policy at all. Tribunals have little patience for "paper policies" that leadership can't demonstrate are actually in effect. To ensure your policy has teeth:

Distribute and acknowledge: Provide the policy (and updates) to all employees. This can be via email, intranet, employee handbook, etc., but importantly, *get acknowledgment*. Many firms require employees to sign that they have read and understood the harassment policy upon hiring and periodically thereafter. Keep records of these acknowledgments.

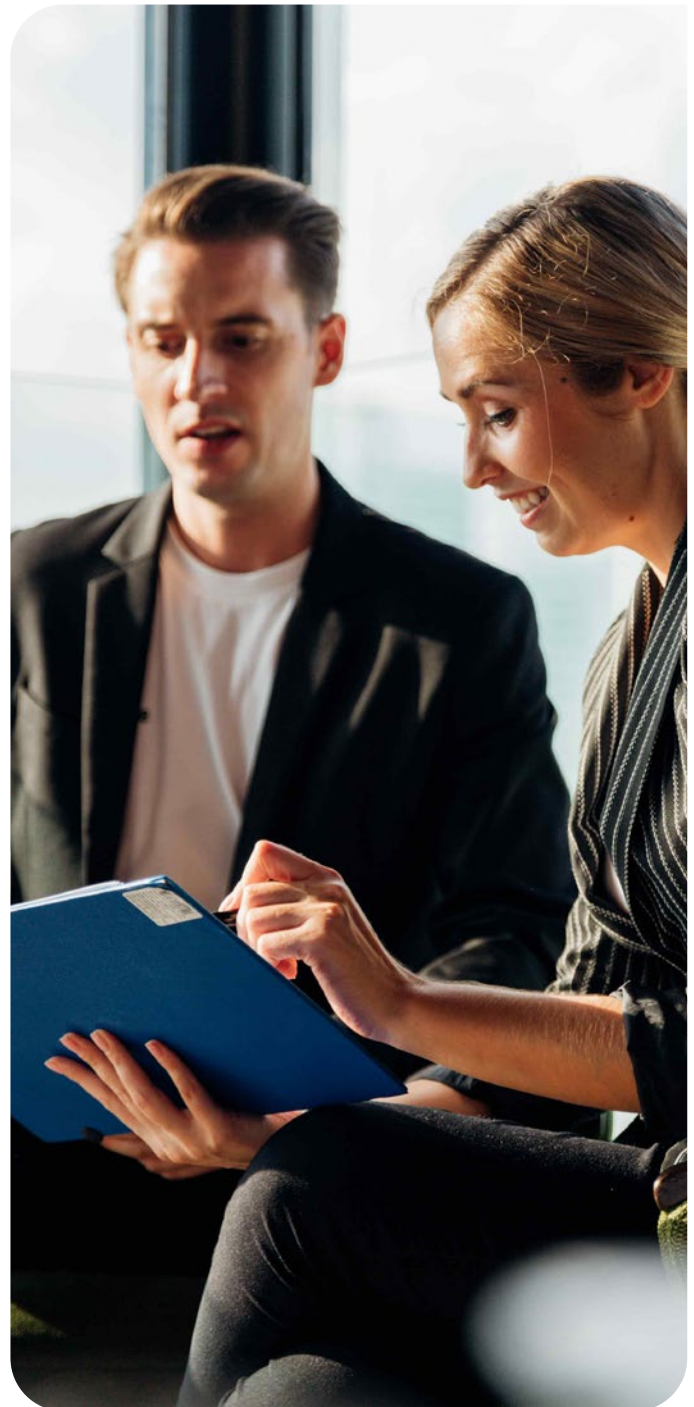
Training & discussion: Don't just email a PDF. Incorporate the policy into training sessions or team meetings and ensure the training is linked to the policy. Explain key points in plain English. Encourage Q&A. The more interactive, the better employees will internalise it.

Frequent reminders: A policy read once and never mentioned again will be forgotten. Use periodic communications to keep awareness up, for example, a periodic reminders from the CEO or HR director reasserting commitment to a harassment-free workplace and linking the policy. Post visual reminders in workplace common areas like "Harassment is not tolerated – here's how to report..." if appropriate.

Easy access: Make sure the latest policy is easy to find, e.g. on the company intranet home page or HR portal, without having to dig. If a policy is hidden in a binder on a shelf, it effectively doesn't exist for many workers.

Tailored communication: For diverse workforces, ensure the policy is in language that's understood by all.

All these efforts prove that your policy isn't just a formality. In the Lidl tribunal, one factor was that managers were not even aware of the company's anti-harassment policy, which severely undermined its credibility. Don't let that be said of your organisation.



Training expectations

Training is one of the most vital components of an employer's "all reasonable steps" arsenal. It's essentially how you translate your policies and legal obligations into day-to-day awareness and behaviour change. Under the ERA compliance landscape, the **bar for training is higher** – one-off or perfunctory training will not suffice.

Why one-off training for sexual harassment is insufficient

In the past, many employers fulfilled their harassment training "checkbox" by delivering a single session during induction or a generic e-learning module upon hire. Tribunals now view that approach as inadequate for sustained prevention.

Knowledge fades over time, workplaces and societal norms evolve, and new risks (like social media) emerge. **Regular refreshers** are necessary to keep harassment prevention top-of-mind. In fact, the tribunal case *Allay v Gehlen*, 2021 pointed out that training that had been delivered a couple of years prior and not reinforced was considered "stale" and ineffective – the employer lost the reasonable steps defence partly because it had not refreshed training and employees had forgotten it.

Training should be **ongoing** and evaluated for effectiveness. Moreover, a one-off session may not cover all situations or questions employees have. As new staff join, or people get promoted to manager roles, continuous training is needed to maintain a baseline of knowledge across the organisation.



Who must be trained and how often:

All staff, at every level, should receive sexual harassment training.

New starters: as part of onboarding, so they learn from day one what behaviour is expected. Many companies incorporate a harassment module in induction programs.

Existing employees: via periodic refresher training, for example, annually or more. An annual brief refresher or interactive discussion can reinforce key concepts and update on any changes like new laws or updated policies.

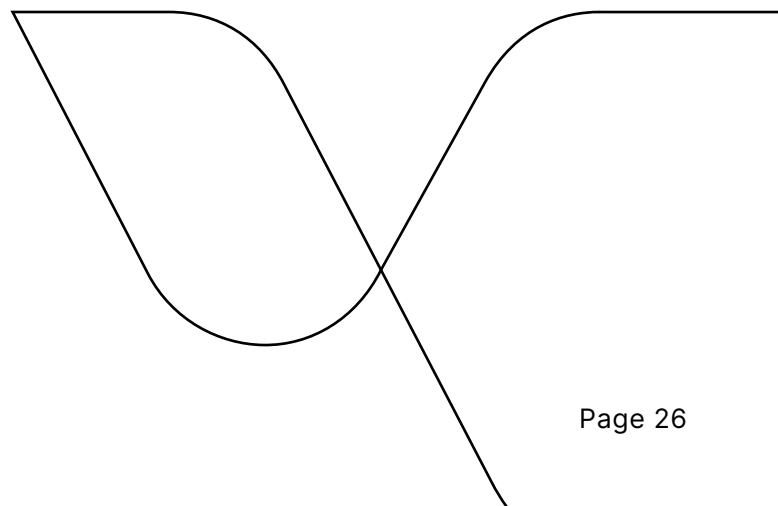
Managers and supervisors: require *additional* training tailored to their role. They must know how to handle complaints, how to spot warning signs, and how to enforce standards. A manager-specific training might cover conducting investigations, being a supportive first responder to a report, and their duty to act even if they overhear problematic remarks.

Executives and senior leadership: They set the tone, so they should also undergo training – both to signal its importance and to cover topics like preventing harassment in the teams they lead, and their personal liability since senior employees can also be individually sued in some cases.

HR and investigators: Your HR team or any designated investigators should receive advanced instruction in handling complaints, confidentiality, trauma-informed approaches, etc. They need to be adept at the process side to ensure it's done correctly.

Special groups: If you have employees in unique environments, consider targeted training. E.g., staff who travel a lot for work might get training on staying safe and reporting issues while off-site; customer-facing staff might get scenario-based training on dealing with harassing customers.

Bystanders: While not a separate group per se, an emerging best practice is *bystander intervention training* for all employees. This means teaching employees not just “Don’t harass,” but also what to do if they **witness** harassment. Bystanders can play a key role in prevention e.g., a colleague who sees something can intervene directly if safe, or support the victim in reporting.



What is bystander intervention training?

Bystander intervention training is increasingly seen as a game changer in harassment prevention. It empowers employees at all levels to actively contribute to a safe environment. This training teaches *all* employees the skills to **safely and effectively intervene** or speak up when they witness harassment or suspect someone is being harassed.

Key components of bystander training include:

Understanding the bystander effect and overcoming the hesitation to get involved. Many people fear retaliation or think it's "not my business" – training addresses these barriers.

Techniques for intervention: both direct and indirect. For example, directly calling out inappropriate behaviour: "Not cool, let's keep it professional" if safe to do so, or indirectly by interrupting/diverting the situation: "Hey, can you help me over here?" to pull a victim away. It also teaches when to instead seek help, like contacting security or a manager, if intervening directly would be unsafe.

Emphasising reporting: Bystanders should know how to report incidents they see, and that the company encourages this. They might witness behaviour that the victim doesn't report out of fear or embarrassment – a proactive report by a witness can alert the company to take action.

Scenario practice: Good bystander training exposes employees to various scenarios, different types of harassment, different contexts like in-person vs online, and has them work through the appropriate responses. This builds confidence so that in a real moment, they have a mental playbook of options.

The aim is to create a culture where harassment is everyone's problem to address, not something people look away from. As noted in the webinar excerpt, giving employees the tools and responsibility to act can be powerful in changing norms. Many organisations are now including a module on bystander intervention as part of their harassment training program. Consider surveying your staff on whether they feel equipped to intervene; if not, that's a gap to fill.



Try VinciWorks bystander intervention training today

Try now

Reporting and speaking up

Even with the best preventive measures, instances or suspicions of harassment may still arise. How your organisation enables **reporting** and protects those who speak up is a critical component of compliance and culture. The ERA – especially with the new whistleblowing provisions – strongly encourages creating an environment where people **feel safe to report** concerns without fear.

Clear, trusted reporting channels

Employees must know *how and where* to report sexual harassment, and have confidence that their report will be taken seriously. As outlined in your policy, you should offer **multiple channels** to report:

Line management: Many start by reporting to their direct manager. This works only if managers are approachable and trained. Ensure your managers know how to handle a harassment disclosure empathetically and promptly, not to dismiss it or judge the victim.

Human resources and compliance: A direct line to HR, e.g., a specific HR manager, a general HR inbox is vital, especially if the issue is with one's supervisor or if the employee isn't comfortable telling their boss.

Dedicated hotline: Larger organisations often use a confidential hotline or an online reporting portal. These can be run internally or via third-party providers. Make sure employees are aware of it.

Ombudsperson or harassment officer:

Some companies designate a specific individual team to handle harassment complaints, outside of the direct hierarchy. This person could be, say, a senior HR person or an independent compliance officer, who is trained in handling sensitive issues.

Union or employee reps: If applicable, employees might also raise issues through a trade union rep or employee representative, who can then alert management.

The key is to give employees **options**. One channel might not feel comfortable depending on who's involved – e.g., if your manager is the harasser, you need an alternative route. Publicise these channels frequently through posters, intranet, policy, training so no one is left thinking, "I wouldn't even know who to tell."

The benefit of alternative reporting routes

Not everyone is ready to file a formal complaint with their name on it, at least initially. Providing avenues for **anonymous reporting** can help surface issues early. For instance, an online form that doesn't capture the reporter's identity or a phone hotline answered by a third party where the caller can choose not to reveal who they are.

Anonymous reports are admittedly challenging to act on as you may have limited info, but they can still alert you to problems e.g. "Several people have reported that X department has a manager making lewd jokes". They can prompt you to investigate gently, perhaps via an anonymous culture survey or by having HR drop in on that department more often. At the very least, they highlight areas to watch.

"Informal" reporting could mean an employee just wants to talk hypothetically or off-the-record at first. Train certain individuals to handle such conversations – the employee may be seeking advice on what to do. While formal processes are important, sometimes a situation can be resolved informally if the victim prefers, e.g., a mediated conversation where the harasser is made aware the behaviour is unwelcome and agrees to stop. Be careful though: informal resolution is only appropriate for less severe allegations and only if the person affected wants it – never pressure someone into an informal route if they want a formal investigation.

Also ensure that whether a report is formal or informal, it is still documented in some way internally (even if anonymously). This helps you detect patterns (see Section 13 on record-keeping).

Bystander and witness reporting

Encourage not just victims, but **witnesses** to come forward. Many harassment instances are observed by others. They might think "Well, if the target isn't reporting, I shouldn't." Break that barrier by explicitly stating in training and policy that **anyone** who witnesses harassment or even *suspects* a colleague is being harassed should report it. Bystander intervention isn't only in the moment; it includes reporting up the chain. As part of your reporting channels, make clear that third-party reports are welcome. For example, an online form might have an option, "Are you the person affected or a witness?" Many companies have added "See something, say something" messaging around workplace misconduct reporting.

Remember to protect witnesses as you would complainants. The law's victimisation protections (and your internal anti-retaliation stance) apply to anyone who raises a concern or provides evidence. Make that known. If a witness fears they'll be ostracised or punished for tattling, they won't speak up. Ensuring **no retaliation** (and enforcing that if it occurs) is vital to maintaining trust in the system.

Links to whistleblowing and protected disclosures

With the Employment Rights Act changes, a report of sexual harassment can be a **protected disclosure** (whistleblowing) if it meets certain criteria, essentially, the person reasonably believes they are raising a concern in the public interest about wrongdoing – sexual harassment is now explicitly in that category. This has a few implications:

Employees might choose to blow the whistle externally (e.g., to a regulatory body or a lawyer) if they don't trust internal channels. If that happens, legally they are protected, but from an employer perspective, you'd prefer they come to you first. Thus, building trust in internal reporting can help avoid people feeling the need to become external whistleblowers.

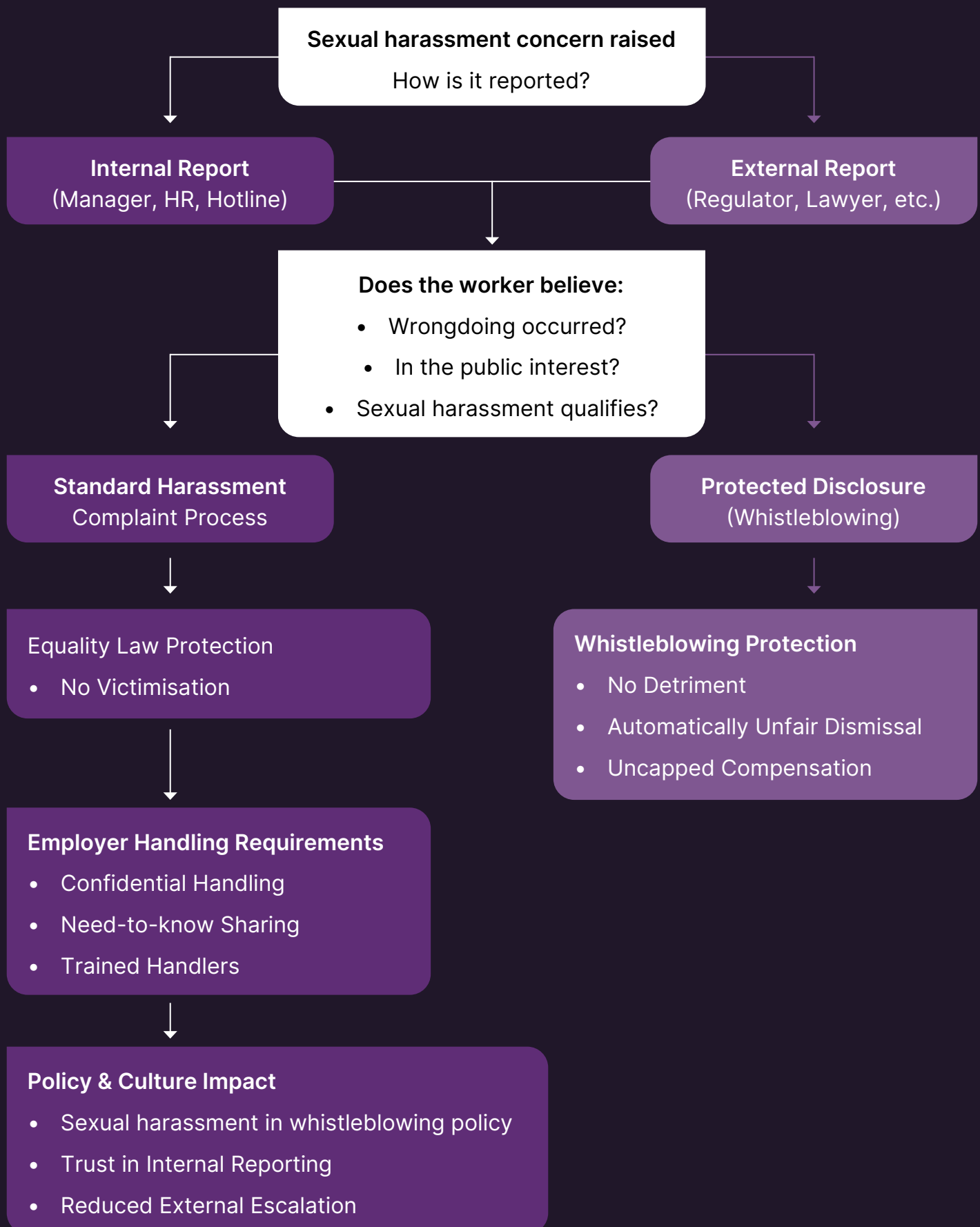
You should update your whistleblowing policy/procedure to list sexual harassment as an example of a qualifying disclosure. This signals to employees that raising such issues is not just a "complaint," it's also a protected act. It might reassure those who are afraid to come forward.

Train those handling complaints that a harassment complainant has *two layers* of protection: one under Equality law (no victimisation for a harassment complaint) and one under whistleblowing law (no detriment for protected disclosure). The whistleblower protection is particularly strong – any dismissal for having raised a harassment complaint (however it's raised) could be automatically unfair and uncapped in compensation.

Emphasise confidentiality in handling reports. Whistleblowing law doesn't *guarantee* anonymity, but it does require that the concern be handled appropriately. Often, treating a harassment report with the same care as a whistleblower report means sharing info only on a need-to-know basis, and perhaps offering the reporter some say in how widely it goes initially.

Sexual Harassment as a Protected Disclosure

Employment Rights Act Flow Chart



Protection from retaliation

Retaliation or “victimisation” is illegal and company policy must forbid it. This means an employee must not be treated unfairly, ostracised, denied opportunities, or punished in any way for reporting harassment or being involved in an investigation. Under the Equality Act, victimisation itself can result in a tribunal claim even if the original harassment claim doesn’t succeed. Under the Employment Rights Act changes, if the report counts as whistleblowing, any **detriment** (even subtle retaliation) is unlawful as well.

What can you do to ensure this? A few best practices:

Remind all parties: When a complaint is filed, explicitly warn the accused (and relevant managers) that retaliating against the complainant or any witnesses *will* lead to disciplinary action. The same goes for co-workers. Sometimes coworkers not directly involved might shun or gossip about a complainant; management should quash that and support the person.

Interim measures: In some cases, to protect a reporter, you might need interim measures during an investigation e.g., changing reporting lines, allowing paid leave, or moving the alleged harasser. Do this in a way that doesn’t disadvantage the reporter. Often, it’s wise to remove the alleged harasser pending investigation (suspension or reassignment) rather than moving the victim to avoid looking like you’re sidelining them, unless the victim requests a change for their own comfort.

Post-investigation follow-up: Whatever the outcome, check in with the complainant over the following weeks and months. Are they experiencing any backlash? Sometimes retaliation is subtle: missed promotions, cold shoulder from team members, so vigilance is needed. If the person who was complained about remains in the organisation, ensure professionalism is maintained.

Confidentiality vs. transparency: It’s a balance. You want to keep the matter as confidential as possible to prevent office gossip which can lead to subtle retaliation or stigma, but also ensure the complainant doesn’t feel it’s swept under the rug. Even if you can’t divulge details of any disciplinary action to them, make clear that their voice was heard and they’re doing the right thing. Also, managers who need to know in order to protect the employee from retaliation should be looped in discreetly e.g., the employee’s manager if the issue was with a client, so the manager can ensure that client doesn’t interact with them again.

Promoting a speak-up culture: A speak-up culture is a hallmark of an organisation that truly tackles harassment. When employees see that issues can be raised *safely* and *something will be done*, they are far more likely to alert you to problems early – which is exactly what the law expects under the preventative duty. Encourage open communication, make reporting channels visible, keep the process fair and confidential, and absolutely shield those who speak up from any form of reprisal.

Responding to incidents

No matter how robust your prevention, you must be prepared to respond decisively and fairly when a sexual harassment incident or complaint does occur. How you handle incidents can make the difference between a one-time problem that's resolved versus a full-blown legal case or cultural crisis. Here we outline the best practices for responding.

Immediate Response and Safeguarding: Upon receiving a report or witnessing an incident, **act immediately to ensure safety and well-being:**

Listen and assure: If an employee comes forward with a complaint, the first response should be to listen carefully and **thank them for speaking up.** Acknowledge their courage and assure them the matter will be taken seriously. If they are visibly distressed, you might involve a counsellor or ask if they need a friend present. The initial handling can greatly affect their trust in the process.

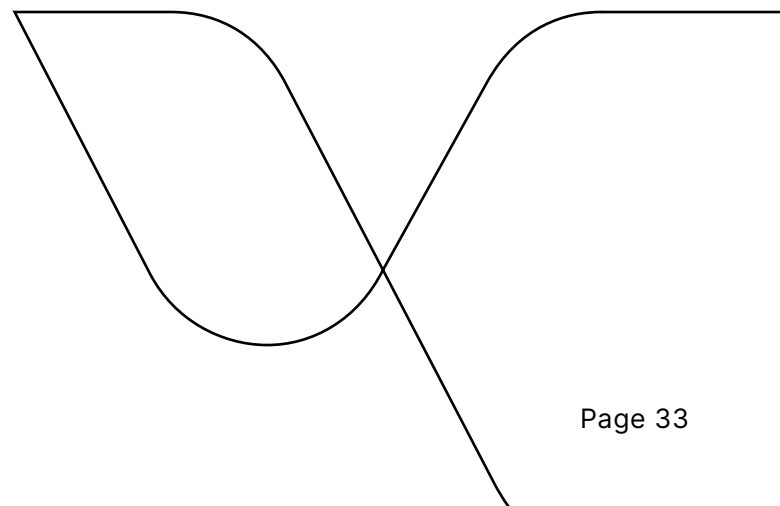
Remove immediate danger or discomfort: If the alleged harassment is ongoing or the harasser and victim still work near each other, take prompt steps to separate them to prevent further harm. This could mean scheduling changes, different reporting lines, or in serious cases, suspending the alleged harasser (with pay) pending investigation. Suspension isn't disciplinary per se; it's a neutral act to allow a fair inquiry and protect all parties.

Preserve evidence: If the incident involved physical evidence (like graffiti, notes, emails, screenshots of messages), secure those. For example, save and print offensive emails, take photos of any visual harassment, and so on. Instruct IT to preserve relevant data if needed.

Consider investigation setup: Quickly decide who will investigate such as an internal manager, HR, an outside investigator for serious or senior-level cases. Ensure this person or team has the time, training, and impartiality needed i.e., no conflict of interest with the parties involved.

Safety measures: If there's any threat of violence or physical safety concerns e.g., stalking or sexual assault situations, involve security or even law enforcement. Make sure the victim is safe going home if the incident happened on-site. At minimum provide a taxi or an escort if they feel shaken.

Confidentiality: Remind everyone involved (the complainant, the accused, witnesses) that the matter should be kept confidential to protect the integrity of the process and privacy. However, also assure the complainant you won't keep them in the dark, you will update them on progress as appropriate.



Investigation standards and timescales

A proper **investigation** is the backbone of responding to a harassment claim. Some key standards:

Promptness: Investigations should start ASAP after a complaint. The longer you wait, the harder it is to collect evidence and the more the victim feels ignored. Ideally, within a day or two of the complaint, the investigator should be conducting interviews.

Impartiality: The investigator (or panel) should be neutral, not a close friend of either party, not someone who might be influenced by hierarchy. In sensitive cases, using an external investigator or law firm can provide an unbiased approach.

Interviews and evidence: Plan to interview the complainant, the accused, and any witnesses. Use open-ended questions, avoid blame or disbelief. For the accused, give them a full chance to tell their side and respond to each allegation without revealing any more confidential info than necessary. Document interviews carefully, detailed notes or recordings/transcripts if possible. Gather any physical evidence, emails, CCTV if available.

Confidentiality and sensitivity: Keep the circle of information tight. When interviewing witnesses, don't divulge unnecessary details – just gather what they know. Be sensitive in questioning – e.g., for sexual harassment, the interviewer should be trained to ask questions without victim-blaming ("What were you wearing?" type questions are inappropriate and can re-traumatise). Instead focus on factual sequence and the feelings/effects on the person.

Timeframe: There's no hard rule, but aim to complete investigations in a **reasonable timeframe**, usually days or a few weeks, not months. If it's complex and taking longer, keep the parties updated: "the investigation is ongoing, we anticipate finishing by X date". Unreasonable delay can itself be a breach of trust and might come up in a tribunal as employer inaction.

Due process: Ensure the accused has a fair chance to respond. Share enough details of the allegations with them so they can meaningfully answer. You don't necessarily give them copies of a complaint letter if one exists, but you must outline what they're accused of in detail. If they provide witnesses or evidence, follow those leads too.

Support during process: Offer support to the complainant throughout, whether it's counselling, a mentor checking in, or at least periodic status updates. Also consider support for the accused: being accused of harassment is stressful too. Without pre-judging, you can offer them counselling or remind them of resources, and that they can also have representation or a companion in any formal hearing per Acas Code for disciplinary meetings.



Supporting complainants

The person who reported (or the victim, if someone else reported it) should be treated with care:



Communication

As noted, keep them reasonably informed. While details of disciplinary actions might be confidential, you can inform them when the investigation is done and whether their complaint was *substantiated* or not.



Emotional support

Offer flexible work arrangements if they need time or space, some might need a day off to collect themselves, or prefer to work from home for a bit. If they request to not work with the accused person while it's pending, accommodate that if you can, though avoid it looking like a penalty to them.



No pressure to “prove” beyond telling the story

Some victims fear they won't be believed without hard proof. Emphasise that you take their report seriously and will do your best to corroborate through investigation. Don't make them feel on trial.



Aftermath

If the complaint is substantiated and action taken, ensure the complainant isn't then left in an awkward position. For instance, if the harasser was their manager and is fired or moved, support the transition, maybe a check-in meeting with the next manager about how things are going. If the complaint wasn't substantiated or no action was taken, gently explain why (as much as you can) and discuss other options like if they want to request a transfer or mediation, etc., although they might not want any further steps. Always reiterate the no-retaliation guarantee and encourage them to speak up if any issues continue or new ones arise.

Disciplinary action

After the investigation, you'll need to decide on outcomes:

If the harasser is an employee

Follow your disciplinary procedure (which should align with the Acas Code of Practice). If the evidence confirms misconduct, appropriate disciplinary action should be taken. This can range from a formal warning to termination, depending on severity. Sexual harassment is often considered gross misconduct justifying summary dismissal, especially for serious incidents. Lesser actions (training, demotion, transfer) might apply for minor or first-time issues, but be careful: a slap on the wrist for clear harassment can send a message that you tolerate it. Always document the rationale. If you decide allegations are not proven, document that too and be prepared to show you had a legitimate, non-discriminatory reason for that decision. Especially if later the complainant goes to tribunal; you want to show it was a thorough investigation.

If the harasser is a third party

You obviously can't "discipline" a non-employee in the same way, but you must still act.

Depending on who it is:

If it's an employee of a client or vendor, you *should* report the behaviour to their employer (with the victim's consent ideally) and ask that person be removed from dealings with your staff.

Escalate through professional channels, for example, a letter from your management to the client's management. Most reputable organisations will take action on their side if their employee harassed someone.

If it's a customer or member of public, you may decide to ban them from the premises or service (temporarily or permanently) if the conduct was egregious. For instance, pubs and airlines regularly ban abusive patrons. Document these decisions, and you may need to inform the person, e.g., a trespass notice for a harassing customer).

In any case, let your employee know what steps you're taking on their behalf. It's incredibly validating for a victim to see their employer stand up to a client or customer for them. Even if it's as simple as re-assigning them away from that client and having a serious talk with the client about the issue, that action is important.

If the third-party's conduct might be criminal (sexual assault, stalking), support the employee in reporting to police if they choose. Some employers might report on their behalf if it's an immediate safety issue, but usually it's the victim's decision. Provide time off or resources for them to pursue legal action if needed.

Follow policy and consistency: Ensure whatever actions you take align with your harassment policy and past practice to avoid claims of unfair process. If your policy says "zero tolerance" and implies termination for harassment, be cautious about deviating from that without strong reason.

Learning lessons and updating controls:

After resolving an incident, a compliant employer will conduct a “post-mortem” to improve for the future:

Debrief: The HR or compliance team and perhaps a small committee including a senior leader should review: What indicators did we miss? Did the harasser have past issues we overlooked? Did the victim or witnesses hint at problems before formal reporting? Use this to refine your risk assessments, e.g., maybe now you identify a new risk factor like “off-site client events need more oversight” or you learn that the night shift was lacking supervision.

Policy and procedure revision: Was the incident handled smoothly? If there were glitches, e.g., confusion about who should investigate, or a lack of clarity if an anonymous complaint can trigger formal action, update your procedures. Sometimes an incident reveals a gap in policy. Fill it.

Training updates: Real scenarios can be powerful training tools (anonymised of course). If a particular type of harassment occurred that wasn’t well covered in training, say, same-sex harassment, or harassment via an internal chat app, incorporate that into future training examples. Ensure the harasser (if still employed) or even just as a general note to others gets appropriate re-training.

Monitor the environment: After a known incident, it’s wise to keep an eye on the work area involved. You want to ensure no residual hostility or “sides” forming if colleagues knew about it. Sometimes team mediation or a facilitated discussion on respect might help if the situation caused a rift. Also, it can be useful to do a follow-up climate survey or one-on-one check-ins in that team a few months later, to ensure no further issues and that people feel safe.

What to remember

Effectively responding to incidents not only resolves the immediate problem but helps prevent future ones. It also demonstrates to employees that the company lives its values. When staff see that harassers are dealt with firmly and fairly, it reinforces the preventive culture. They know management means business.

Conversely, if incidents are mishandled or swept under the rug, everything else (policies, training) loses credibility. So, put as much effort into your response protocols as your preventive measures – both are required under the mandate of taking “all reasonable steps.”

Protected disclosures and NDAs

Recent changes under the Employment Rights Act significantly intersect sexual harassment compliance with **whistleblower protections** and restrictions on non-disclosure agreements (NDAs). Employers must navigate these carefully to avoid running afoul of the new rules and to ensure they aren't improperly silencing victims or witnesses.

Sexual harassment as a protected disclosure:

As of April 2026, a disclosure of information by a worker about sexual harassment will explicitly count as a “**qualifying disclosure**” under whistleblowing law. In practical terms, if an employee reports (in good faith) that someone in the organisation has engaged in sexual harassment, they are now a **whistleblower**. This is true whether they report internally (to a manager or HR) or externally (to a relevant authority). The law was amended to make this clear because previously, harassment might not have been seen as “in the public interest” or fitting the categories of wrongdoing; now it's firmly included.

The implications are:

The person raising the concern is protected from any form of detriment or dismissal stemming from that act of whistleblowing. This adds an extra layer on top of the Equality Act's victimisation protection. For example, if a person is demoted or given a bad evaluation because they complained about harassment (even if the underlying harassment claim doesn't succeed or isn't tribunal-worthy), they could claim whistleblower retaliation, which has uncapped compensation and no length-of-service requirement to bring a claim.

Dismissal of an employee *mainly* because they alleged sexual harassment will be automatically unfair (six months service needed, no cap on award). It's also likely to be seen as unlawful victimisation under the Equality Act. Either route, it's a serious legal breach.

The company cannot insist that such allegations be kept purely internal. While organisations might prefer internal reporting, if an employee chooses to go to, say, the EHRC or even the press (to the extent it might be protected as disclosure to e.g. an MP or other party), that could be protected. Tread carefully before taking action against someone who spoke out externally about harassment; get legal advice, because the whistleblower protections are strong.

For employers, the best approach is to treat anyone raising a sexual harassment complaint with the same caution and protocols as you would a whistleblower raising, say, financial misconduct. This means rigorously avoiding retaliation and possibly even extending whistleblower-style support, like an independent contact they can speak to, or moving them out from under any manager they accused, etc.

The ERA's change basically underlines that **harassment complaints are not to be trivialised**. They have the same legal weight as reporting fraud or safety violations.

Culturally, promote the idea that speaking up about harassment is a public good, e.g. creating a safer workplace for all. Some firms even link their whistleblowing and harassment reporting channels, given the overlap.

Limits on confidentiality and NDAs

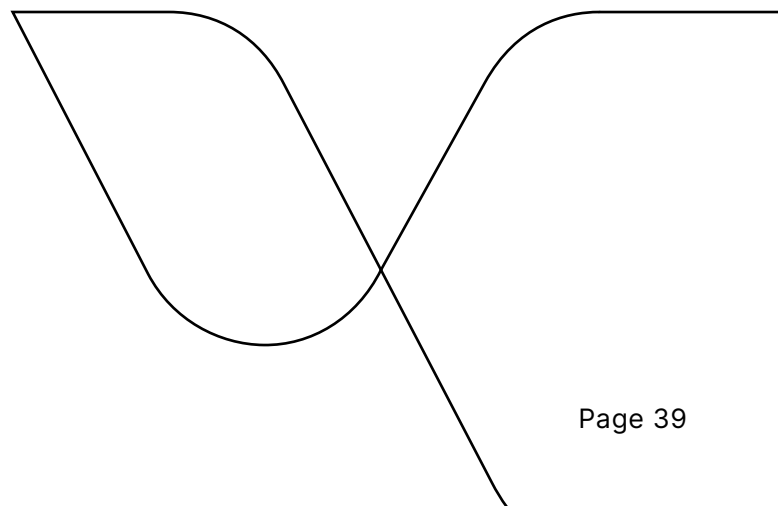
Non-disclosure agreements (NDAs) – often clauses in settlement agreements or contracts that prevent a party from discussing certain issues – have been a contentious topic in harassment cases. Historically, many settlement agreements with harassment victims included confidentiality clauses to keep the matter secret. There's growing consensus (and now law) that such gagging is often contrary to the public interest. The Employment Rights Act will render **void any contractual term that seeks to prevent a worker from making allegations or disclosures about work-related harassment or discrimination**.

In other words:

If an employee experiences harassment, you cannot enforce an agreement that prohibits them from reporting it to authorities or speaking about it entirely.

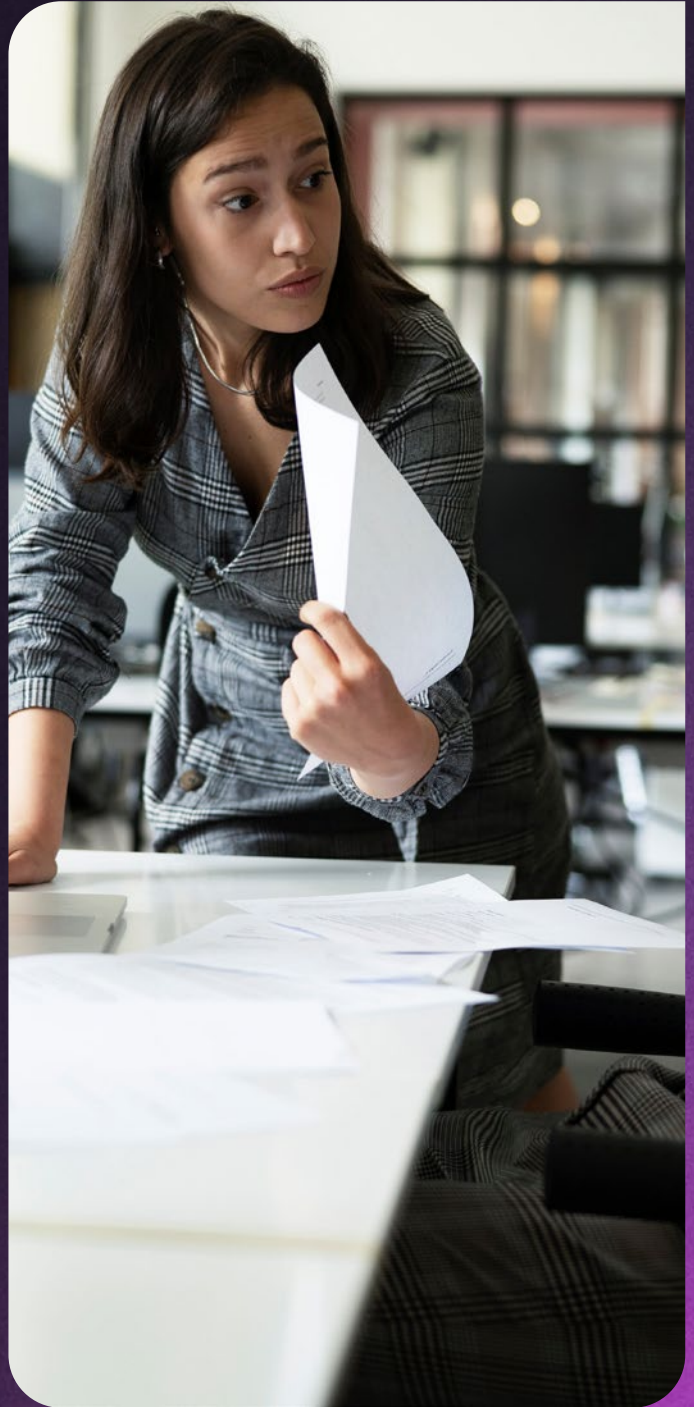
Clauses that attempt to stop someone from “disclosing” harassment likely won't hold up. For instance, you could not discipline someone for breaching confidentiality if they chose to tell the police, their lawyer, or even colleagues in some cases, about a harassment incident – at least not under a broad NDA.

This doesn't mean all confidentiality in settlements is dead, but it **must be limited**. Typically, allowed wording might say the parties agree to keep the financial terms confidential and not to make disparaging comments, but **carve out** the ability for the person to discuss the harassment itself with e.g. family, professionals, or to report to regulators. In fact, even before this law, ethical guidelines suggested including carve-outs in NDAs for harassment cases (for reporting crimes, etc.). Now it's going to be mandatory.



In sum, the ERA 2025 pushes employers toward **transparency and accountability**: you cannot quietly pay off victims and you must treat harassment complaints as seriously as any whistleblowing. The Fair Work Agency and EHRC will also likely be watching how NDAs are used in this context.

The best practice is to create an environment where NDAs are rarely needed – because you handle the issues properly and fairly to begin with. When you do use confidentiality clauses, make them legally compliant and not overly restrictive. Above all, don't give in to the temptation to protect a high-value executive at the expense of an employee's rights; the long-term damage (legal and reputational) can far outweigh the short-term discomfort of addressing it head on.



Key takeaways

If your organisation's harassment prevention measures were put on trial (literally or figuratively), the question is: what can you show to demonstrate your commitment and actions? Remember these key things

A written, up-to-date **sexual harassment policy** and proof it's been communicated e.g., a memo or email rollout, training slides.

A **risk assessment document** identifying harassment risks and listing steps taken to mitigate them. Ideally dated and signed off by leadership. If you have specific assessments per department or site, even better.

Training records: who was trained, on what content, and when. This could be a Learning Management System report. Also any materials such as presentations, handouts, e-learning modules as evidence of the content quality.

Reporting mechanism details: evidence of your reporting channels – for instance, a print-out of the hotline poster or intranet page, or an example of communications to staff about how to report.

Incident logs: An internal log of harassment complaints (this might be kept by HR or compliance). It should record at least basic info: date, nature of complaint, who handled it, outcome, actions taken.

Investigation procedures: perhaps a template or written procedure for how you investigate and a couple of anonymised case summaries to illustrate your process and responsiveness. If EHRC or FWA came knocking, you could say, "Here's how we approach complaints, and here are examples of actions we took."

Leadership oversight: meeting minutes or reports that went to the Board or senior management about harassment issues. For example, an annual report on "Dignity at Work" incidents and training completion rates. This shows the tone from the top and that leadership is informed and driving improvements.

In essence, treat harassment prevention like any other compliance program (e.g., anti-bribery or H&S) – maintain an **audit trail** of what you have done.



Reviewing existing Worker Protection Act compliance:

Start by assessing where you stand today, under the current law (Worker Protection Act):

Have you implemented the *reasonable steps duty* introduced in 2024? If you carried out a risk assessment and took steps for the WPA, pull out that documentation. Check that those steps are all in place. For example, maybe you identified a need for refresher training but haven't rolled it out yet – now's the time.

Policy check: Update your sexual harassment policy if you haven't since the WPA came in. Does it reference the employer's duty to prevent harassment? Does it include third-party harassment and encourage reporting early (since waiting is no longer necessary)? Ensure it's aligned with any EHRC guidance issued after WPA.

EHRC technical guidance: The EHRC updated its technical guidance for sexual harassment at work when the WPA duty took effect. Cross-check your current practices against their recommended steps. They provided an eight-step framework including policy, engaging staff, risk assessment, reporting, training, responding to complaints, third-party harassment, and monitoring). Treat it as a checklist.

Gap analysis of WPA implementation: Maybe you intended to do certain things by now – e.g., schedule annual harassment training – but they slipped due to other priorities. List those and fast-track them. Under the WPA alone, failure to do reasonable steps could bump a tribunal award by up to 25%.

Engage stakeholders: Talk to your internal networks or conduct surveys to get feedback on whether they've noticed improvements since the new duty or if there are still concerns. This can highlight areas that need work before the ERA kicks in.



Gap analysis for “All Reasonable Steps”

Once you’ve solidified the basics, pivot to what **additional** measures might be needed to meet the higher “all reasonable steps” standard:

Review the list of all reasonable steps you can think of or which are recommended (such as policy, training, multiple channels, leadership comms, etc.). Are you doing all of them? If not, why not? If a measure is reasonable and you have no strong justification for skipping it, plan to implement it.

Consider consulting an external expert or legal advisor to audit your program. They might spot something you missed, e.g., perhaps you have not explicitly covered harassment via social media, or your anonymous hotline isn’t well publicised.

Re-run your **risk assessment** with fresh eyes. Involve representatives from various levels – sometimes employees will suggest reasonable preventive steps management didn’t think of.

Identify resource gaps: do you need additional training to handle the expected volume or complexity of work? Should you budget for an external investigator on retainer for serious cases? It’s better to allocate that now than scramble during a crisis.

Technology aids: Evaluate if tools can help, like tracking software for training, apps for reporting (some companies use apps where employees can report anonymously or find resources on harassment). These might be reasonable especially for larger organisations.

Priority actions checklist

Redraft policies to incorporate “all reasonable steps” language and third-party liability. Get leadership approval and plan a re-launch campaign.

1. Training surge

If you haven't done comprehensive training recently, roll out eLearning so everyone is up-to-date. Ask your provider about new modules if needed for bystander or manager training. Also plan a training calendar so you know when the next refresh after 2026 will be.

2. Communication plan

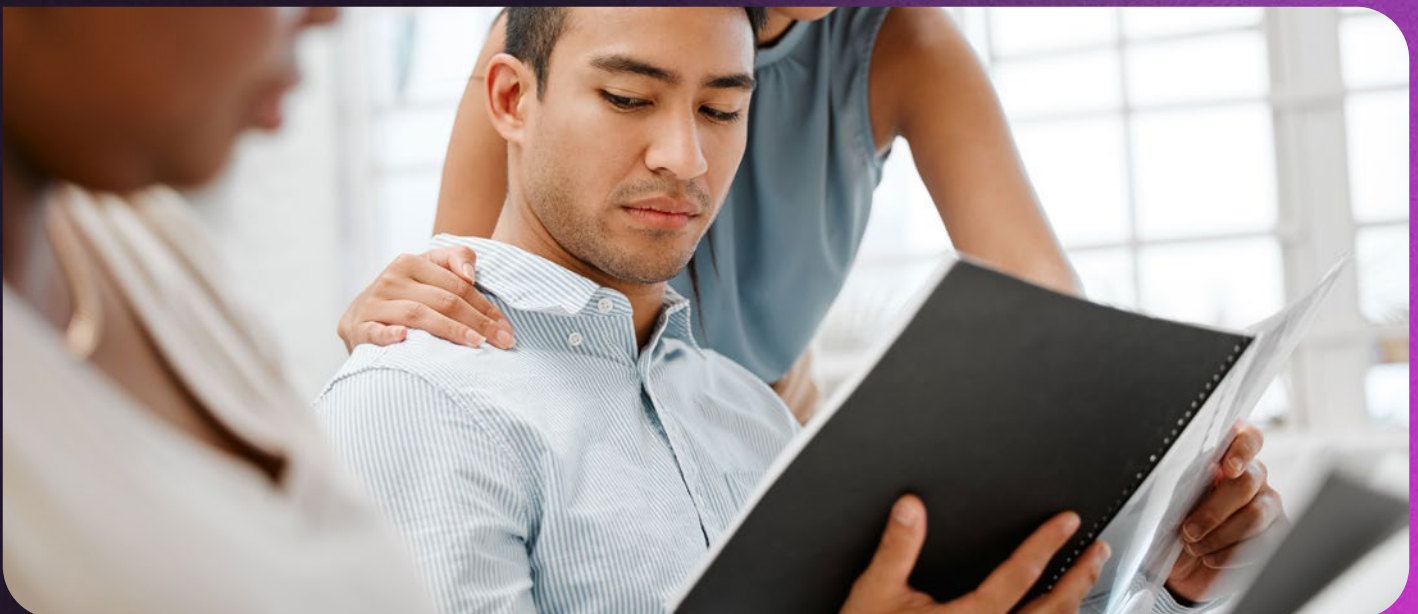
Plan internal comms about the new law – e.g., an intranet article “Harassment law is changing: what you need to know” to remind staff of the importance and encourage vigilance.

3. Revamp reporting channels

If you find any weaknesses like people not knowing about the hotline, improve visibility. Maybe introduce a new option like a web portal if you only had phone, etc.. Ensure the whistleblowing policy update with harassment as protected disclosure is rolled out by April 2026.

4. Audit NDAs and contracts

Go through your standard settlement templates or employment contracts for any confidentiality language. Revise them to comply with the forthcoming NDA restrictions include the carve-outs for speaking about harassment. Train your legal/HR team on these changes so they don't inadvertently use outdated templates.



Priority actions checklist

5. Fair Work Agency readiness

Although the FWA might not target you immediately, act as if they might. Organise your documentation, perhaps assemble a “compliance binder” with all evidence of steps taken. That way, if you’re asked, you can readily show your compliance.

6. Monitoring and metrics

Set up whatever new tracking mechanisms you need. If you weren’t tracking training or complaints trends, start now. Perhaps implement a quarterly harassment prevention meeting (even if brief) where HR, compliance, and maybe a senior sponsor review the latest stats and any issues.

7. Leadership and culture activities

Encourage leaders to do a walk-around or team discussions specifically about respect at work. Possibly run an internal campaign or refresh your company values to highlight respect and safety. Some companies do things like “Respect Week” with seminars or messages – something visible that underscores the cultural importance.

8. Ongoing review and continuous improvement

Compliance in this area is not a project with an end date; it’s an ongoing process. The best organisations adopt a mindset of continuous improvement.

Practical checklist: are you compliant?

Use this checklist to gauge your organisation's readiness and highlight areas for action.

Policy: We have a clear, up-to-date sexual harassment policy that includes definitions, examples, reporting procedures, third-party harassment, and anti-retaliation assurances. It has been communicated to all staff (not just filed away).

Training: All employees have received recent training on sexual harassment (what it is, how to prevent, how to report). Managers have received additional training on handling complaints and modelling proper behaviour. We have a schedule for regular refreshers.

Risk assessment: We have conducted a risk assessment for sexual harassment, identifying high-risk roles and situations. We have documented this and implemented measures to address each risk (e.g., buddy system for late shifts, guidance for off-site work, etc.).

Reporting channels: We provide multiple reporting avenues (e.g., manager, HR, anonymous hotline) and have publicised them. Employees can report issues (including third-party harassment) easily and without fear.

Response process: We have a defined process to investigate harassment claims promptly and fairly. Responsible staff are trained in this process. We also have support resources for complainants and protections against retaliation in place.

Third-party controls: We have measures for third-party harassment, signage or clauses for clients, protocols to ban abusive customers, training for employees on handling outsiders. Our policy and training explicitly cover this scenario.

Records and monitoring: We maintain records of training completion, complaints/incidents (with outcomes), and periodic culture surveys. We review these at the management level to spot trends and ensure follow-up.

Senior leadership engagement: Leadership regularly communicates support for a harassment-free workplace. Harassment prevention is on the agenda in leadership meetings or reports. Leaders and the board are aware of their accountability under the new laws.

Whistleblowing & NDAs: Our whistleblowing policy includes sexual harassment as a protected issue. We have reviewed our NDA/confidentiality clauses – they do not prevent someone from reporting or discussing workplace harassment or discrimination (and we include carve-outs in settlements).

Fair Work Agency ready: We are prepared for potential regulator inquiries. We can readily produce evidence of all of our reasonable steps – e.g., policy documents, risk assessment report, training logs, communication campaigns, and any improvements made.

Bullying & harassment eLearning

VinciWorks' bullying and harassment training tackles this sensitive topic through a series of first-person accounts, powerful dramas, and insights from experts in the field. Individuals and teams can learn how to recognise bullying and harassment in the workplace and identify all steps needed to stamp out harassment.

Nobody should have to face unwanted sexual conduct at work. Sexual harassment is never acceptable and must be dealt with effectively when it does happen. But what is sexual harassment? Would you know what to do if it happened in your workplace? This short course explores sexual harassment, recognising the different forms sexual harassment can take, defining the impact of sexual harassment, and identifying ways to support victims.



Try VinciWorks Bullying and Sexual Harassment courses

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We believe compliance enables business. Compliance is an opportunity to be one step ahead, so your organisation can focus on advancing the business.

For over 20 years, VinciWorks has been at the leading edge of re-envisioning compliance tools and training. Our creative and driven team works hard everyday, challenging the traditional compliance industry to become forward-thinking, interactive and engaging. From our vast library of 800+ courses, to the award-winning Omnitrack training and compliance management software, to a curated catalogue of world class resources, VinciWorks is here to support your organisation every step of the way.

We constantly have our finger on the pulse, being the first to adapt our products to new regulations and market changes that impact our customers' businesses. Our flexible solutions ensure that every one of our products is tailored to our customers' unique business needs, placing them at the heart of everything we do.

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