

# Steps to prevent sexual harassment in the workplace

Everyone would agree that preventing sexual harassment in the workplace is an important component to create a safe and happy workplace.

To support this, the law recently changed on 26 October 2024 to include a positive duty to prevent sexual harassment in the workplace.

There are now specific consequences for employers who do not comply with these obligations.

## What is the new positive duty?

The new duty is a duty on all employers to assess and minimise the risk of sexual harassment for their employees by other employees, workers or self-employed contractors and third parties (such as customers or clients).

This goes above and beyond the previous duty to defend claims for sexual harassment in the workplace. It also goes beyond the “reasonable steps defence” which simply meant that if an employer had taken reasonable steps (i.e. policies, training etc) and an employee went off on a “frolic of their own” then the employer could avoid liability at Tribunal. This new law is an enduring positive duty. Employers must take action to protect employees.



## Cost of getting it wrong

The main cost to businesses of not complying with this duty are higher levels of compensation in employment tribunal claims and adverse publicity for the business.

If an employee brings a tribunal claim and argues successfully as part of that claim that there has been a failure by their employer to follow the duty to prevent sexual harassment in the workplace, their compensation may be uplifted by up to 25%.

The Tribunal is also likely to spend additional time in a claim looking at the steps the employer has taken to meet the duty and prevent sexual harassment which is likely to extend the time spent in the tribunal which will be more expensive for employers.

The Equality and Human Rights Commission (“EHRC”) also have the ability to enforce and fine employers if they are not taking the prevent duty seriously. However, the EHRC have very limited resources and therefore in practice this may only apply to the most serious cases reported to them. You might like to read our related blog on [what employers should do if faced with a claim](#).

## What do employers need to do?

### 1. Risk assess the workplace

Employers must now risk assess their workplace and the potential risks around sexual harassment in their own specific context. I.e. businesses need to specifically consider the situations in which there are risks of sexual harassment arising for their business. For example: the risks which arise when employees are at work in any part of the business, the risks of office banter and specific risks which may arise from vineyard tours, having a Cellar door or hosting a shop, restaurant or accommodation on site.

Employers must consider the risks of sexual harassment arising in those situations and make sure they consider how to protect employees from inappropriate behaviour in these settings. The business must then look to minimise the risks they identify by taking practical steps to stop them happening.

The use of social media, both as a tool in the workplace and also as a way of contacting clients and customers is also a high risk area for instances of sexual harassment. Employers who regularly utilise social media inside or outside their business will need to carefully consider how any risks of this use can be mitigated to meet the new duty.

## 2. Commit to the duty at all levels

It is also important that there is a commitment to this duty at all levels of the business, including by those in the most senior roles and those who sit on the Board of Directors or as Partners in a partnership structure. An organisation is likely to be criticised if senior leaders have not understood their duties and acted upon them. This includes a zero-tolerance approach at all stages of employment such as recruitment and onboarding, whilst working for the business and also at the end of employment including when dealing with references and attending leaving parties.

It is therefore crucial that senior leaders, managers and HR professionals understand the rules around sexual harassment in the workplace and this new positive duty to prevent it occurring. It is also important for employees to understand the new rules around sexual harassment and understand it is not acceptable for it to be taking place.

## 3. Review and create the necessary documents

It will be important for businesses to update their own existing documents and create documents that can measure and manage the risks relating to sexual harassment going forward.

## We can help


We recommend you take steps now to understand the new duty to prevent sexual harassment in the workplace and to consider the actions your business needs to take to meet these requirements.

As a member of Wine GB, we are able to offer you a free 15 minute conversation with a solicitor at Paris Smith LLP to discuss this further. If you would like to arrange a call please contact Charlotte Farrell and Tabytha Cunningham, Partners in the Employment and Immigration Team, on [er@parissmith.co.uk](mailto:er@parissmith.co.uk) quoting Wine GB and they would be happy to help.



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