INTERNATIONAL LAWYERS NETWORK

SEXUAL HARASSMENT IN THE WORKPLACE

ILN LABOR & EMPLOYMENT GROUP

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SEXUAL HARASSMENT IN THE WORKPLACE: WHAT SCOTTISH COMPANIES NEED TO KNOW

We include the 2018 chapter in its entirety for reference following the 2019 update.

Background

As part of last year's Labour & Employment group paper, "Sexual Harassment in the Workplace: What Your Company Needs to Know", we briefly considered how the #MeToo Movement has impacted upon UK law.

At present, the movement continues to inform public and political discussion and promote awareness with regard to sexual harassment. In the UK, topics at the forefront of discussion include ethical considerations and the enforcement of non-disclosure agreements in the context of sexual harassment.

Against this backdrop, the Women and Equalities Committee (the Committee) published a report on Sexual Harassment in the Workplace, on 25th July 2018. The report invites the UK Government to implement a range of specific measures designed to alter workplace culture in respect of safety and dignity of employees.

Unfortunately, the UK Government response must be viewed, broadly, as a disappointment. In the US, pressure from the #MeToo Movement has helped bring about legislative and pragmatic change including the introduction of new local and state laws on mandated harassment policies, training and non-disclosure agreements. Conversely, the UK Government response to the Committee's report demonstrates a reluctance to take proactive steps and implement the legislative changes required to properly address sexual harassment in the workplace.

For example, the Government has just recently issued a consultation paper seeking views on the possible introduction of new measures to prevent the misuse of non-disclosure agreements in situations of workplace harassment or discrimination. However, rather than following the Committee's recommendation to introduce stricter limitations on the use of confidentiality clauses, the consultation approach focuses on clarifying existing limitations. The closing date for responses is 29th April 2019.

Below, we consider the Committee's findings and recommendations as well as the UK Government response.

Committee Recommendation #1: Introduce a New Mandatory Duty and Code of Practice

Introduce a mandatory duty for employers to protect workers from harassment and victimisation in the workplace. Breach of the duty should be unlawful and the EHRC should be able to enforce substantial financial penalties, in the event of a breach. The new duty should be accompanied by a statutory code of practice. The code should be reviewed by

tribunals in evidence, in determining whether an employer had breached its duty to protect employees. Tribunals should then have discretion to apply a 25% uplift in harassment claims where there has been a breach of a mandatory element of the code.

Government Response #1: Introduce a New Mandatory Duty and Code of Practice

The Government highlighted employers' existing duty to protect employees from victimisation and harassment in the workplace – pointing out that the Equality Act 2010 ('the Act') outlaws workplace harassment with respect to a protected characteristic and that, under s109, employers are liable for acts of harassment carried out by employees in the course of their employment unless the employer can show that they have taken 'all reasonable steps' to prevent the unlawful behaviour. It noted that the Committee's evidence suggested that employers do not know what 'reasonable steps' should be taken.

To address this issue, the Government confirmed its intention to publish a statutory code of practice (discussed later) but did not support the introduction of a mandatory duty or the option of applying a compensation uplift. It reasoned that the code of practice would have the same impact – placing greater onus on employers rather than individuals. It vowed to gather evidence and consult further on the potential benefits of introducing a mandatory duty.

Committee Recommendation #2: Public Sector Risk Assessments

Introduce a specific duty under the existing Public Sector Equality Duty (PSED) requiring relevant public sector employers to conduct risk assessments with regard to sexual harassment and to put in place measures to mitigate any perceived risks. Action plans should detail how harassment investigations would be conducted and set out penalties for perpetrators.

Government Response #2: Public Sector Risk Assessments

The Government highlighted the Civil Service's ongoing review of workplace conducted and its intention to publish specific policy and guidance with regard to sexual harassment, which would be made available to all Civil Service Organisations before the end of 2018.

However, the Government rejected the proposal to introduce a new specific duty under the existing PSED – highlighting that the PSED already requires employers to have 'due regard' to the requirement to eliminate harassment in their role as an employer.

Committee Recommendation #3: Positive Duty to Prevent Third Party Harassment

Introduce legislation placing a positive duty on employers expressly to protect workers from harassment by third parties and to ensure that employers can be held liable if they fail to take reasonable steps to protect staff from third party harassment.

Government Response #3: Positive Duty to Prevent Third Party Harassment

The Government noted that recent case law (particularly Unite the Union v Nailard) has the potential to alter the common law position on employers' liability for third party harassment. Therefore, the Government proposed to consult on how best to strengthen and clarify the existing laws, rather than introduce a positive duty at this stage.

Committee Recommendation #4: Protection for Interns and Volunteers

The Committee recommended extending the Act's existing protections relating to harassment in the workplace to interns and volunteers.

Government Response #4: Protection for Interns and Volunteers

The Government highlighted existing safeguarding provisions in the charity sector and its ongoing work with the Charity Commission - focused at strengthening those protections.

The Government acknowledged that in many cases involving sexual harassment, volunteers and interns would not satisfy the tests for employability status and would therefore not enjoy the same protections as employees under the work-related provisions of the Act. However, it noted some broader protections available under other existing legislation. It vowed to ensure that these existing protections were better understood and to gather evidence on whether additional protections were required, but ultimately rejected the recommendation to introduce additional protection at this stage.

Committee Recommendation #5: Awareness-raising Campaign

The Committee recommended that the Government collaborate with ACAS, the EHRC and employers on an conducting a sexual harassment awareness campaign.

Government Response #5: Awareness-raising Campaign

The Government agreed to work with ACAS, the EHRC and employers to raise awareness regarding appropriate workplace behaviours and individual rights and to consider increasing public information and campaign activity in this respect.

It highlighted the LGBT action plan, under which ACAS and the Government Equalities Office will ensure that LGBT harassment is included in any sexual harassment policies and guidance that they issue.

Committee Recommendation #6: Duty for Regulators

Introduce a requirement for all regulators to put an action plan in place, setting out steps they will take to ensure that the employers they regulate take action to protect workers from sexual harassment in the workplace.

Government Response #6: Duty for Regulators

The Government rejected imposing a blanket duty on all regulators. It highlighted that different regulators have different remits and that some have a purely technical focus. It vowed to liaise with each regulator directly to ensure they take appropriate action to address sexual harassment in their sector.

In support of this position, it highlighted the current efforts of the EHRC – a key regulator in this area – in developing a robust programme aimed at tackling sexual harassment.

Committee Recommendation #7: Improved Remedies for Employment Tribunals (ETs)

Improve the remedies that ETs may award and amend the costs regime, as it deters individuals from bringing cases forward - the default position should be that, where an employer loses a discrimination case in which sexual harassment is alleged, the employer should be required to pay the employee's costs. Furthermore, enable ETs to award punitive damages.

Government Response #7: Improved Remedies for Employment Tribunals (ETs)

The Government asserted that the existing remedy structure represents a significant deterrent to employers and offers compensation to victims. It stated that the tribunal forum was not intended to be punitive and that awards should be proportionate – the tribunal's function is to compensate for any detriment suffered and to restore victims to the state they would have been in, had the relevant incident(s) not occurred. The Government also noted that the tribunal can deviate from this default position in certain circumstances.

It acknowledged the concern that victims may be dissuaded from pursuing claims due to costs but considered this a double-edged sword; it argued that victims may be similarly dissuaded by the prospect of paying an employer's costs, in the event their claim in unsuccessful. It also highlighted existing resources which can help alleviate the cost burden of pursuing ET claims, such as Legal Aid and publicly funded advice.

However, it did agree to bring forward legislation to raise the maximum cap on aggravated breach awards from £5,000 to £20,000. It is also considering placing an obligation on employment judges to consider the use of these sanctions, where an employer is found to have repeatedly breached employment law.

Committee Recommendation #8: Extend Time Limit for Bringing Claims

Extend the time limit for lodging tribunal claims relating to sexual harassment from 3 months to 6 months. This time period should not commence until the relevant employer's internal complaint and grievance procedures have concluded. More broadly, there should be a review of the time limits in all discrimination cases.

Government Response #8: Extend Time Limit for Bringing Claims

The Government noted that an ET has the power to grant a time extension if it considers it 'just and equitable' to do so and highlighted data suggesting that tribunals frequently grant these extensions.

The Government rejected the Committee's suggestion, to halt the countdown until any internal complaint or grievance procedure has reached conclusion, highlighting a number of perceived practical difficulties.

The Government noted that the Law Commission had initiated a consultation on Employment Law Hearing Structures and encouraged interested parties to engage with this on the wider point of extending time limits in respect of discrimination cases.

Committee Recommendation #9: Greater Protection for Complainants

Protections available to complainants of sexual harassment and/or sexual violence in an employment context should be brought in line with those available to complainants bringing similar claims in a criminal justice context. It cited several examples: lifelong anonymity; access to special measures, for example, not to be cross-examined by an alleged perpetrator; and regular and specialist training on sexual harassment for tribunal judges.

Government Response #9: Greater Protection for Complainants

The Government noted that ETs already have discretion to put in place special measures similar to those available in criminal proceedings and that tribunals also have both the technology and knowledge to do so.

Committee Recommendation #10: Statutory Questionnaire

Introduce a statutory questionnaire, with a view to developing standardised questions to be used in respect of sexual harassment allegations.

Government Response #10: Statutory Questionnaire

The Government rejected this proposal, highlighting the earlier use of Statutory Questionnaires introduced with the Sex Discrimination Act 1975. The Government highlighted the Committees' own finding that use of these questionnaires in pre-hearing disclosures was inefficient and problematic.

The Government highlighted the existing non-statutory process and associated guidance available through Acas. It also noted that information gathered through this process could be used as evidence.

Committee Recommendation #11: Reintroduce Wider Powers for ETs

Reintroduce the ET's power to make wider recommendations to employers in discrimination cases.

Government Response #11: Reintroduce Wider Powers for ETs

The Government rejected this proposal, highlighting the introduction of the new statutory code of practice and noting that the powers were not, at the time, considered to be particularly effective.

Committee Recommendation #12: Unethical Use of NDAs

The Committee made several recommendations in respect of NDAs:

- New legislation requiring the use of standard, approved confidentiality clauses;
- Make it an offence for an employer or of their professional advisor to propose a confidentiality clause designed or intended to prevent or limit protected disclosures or disclosure of a criminal offence; and
- Make it a clear professional disciplinary offence for lawyers advising on confidentiality agreements to include provisions that could reasonably be regarded as unenforceable.

Government Response #12: Unethical Use of NDAs

The Government agreed that NDAs require better regulation and clearer explanation of rights which cannot be abrogated by signing an NDA. However, the Government rejected the proposal to make it a criminal offence to propose an NDA that is unenforceable, stating that this would be too difficult to enforce. Instead, it vowed to consider and consult on other enforcement approaches.

The Government highlighted that the legal profession in England, Wales and Scotland is independent of the Government. It noted the work done by UK legal regulators to ensure ethical use of NDAs. For example, the SRA (an English body which regulates solicitors) published a Risk Outlook in July 2018. Amongst other things, this contained a warning that the SRA will take action against any firm that uses NDAs to conceal criminal activity or serious professional misconduct.

In March 2019, the UK Government issued a follow-up consultation paper seeking views on the introduction new measures to prevent the misuse of non-disclosure agreements in situations of workplace harassment or discrimination. However, as already noted, the UK Government's proposals are largely weak in substance and seek to shift the focus of debate away from the Committee's recommendations.

Committee Recommendation #13: Amend Whistleblowing Legislation

Amend the definition of protected disclosures and prescribed persons to include disclosures of sexual harassment to the police and all regulators and to any court or tribunal.

Government Response #13: Amend Whistleblowing Legislation

Prescribed Persons: The Government stated that it regularly considers adding more bodies to the list of 'prescribed persons' in the context of whistleblowing. The Government was not persuaded that it would be beneficial to prescribe every court or tribunal. However, it vowed to consider the wider implications of adding police to the prescribed persons list but agreed that there were potential advantages. It also agreed to add EHRC to the list in due course.

Protected Disclosures: The Governments position is that protected disclosures can already cover disclosure of workplace sexual harassment. E.g. Section 43B Employment Rights Act 1996 – covers disclosures showing that a person has failed to comply with any legal obligation; including employers' legal responsibilities under the Equality Act 2010.

> **Committee Recommendation #14: Data Gathering and Periodic Survey**
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> Tribunals must collect robust and comparable data on the number of tribunal claims submitted containing allegations of sexual harassment and the outcome of those claims. In addition, the Government should conduct large-scale surveys, at least every three years, to gather information on the nature and extent of sexual harassment in the workplace.

Government Response #14: Data Gathering and Periodic Survey

The Government vowed to commence planning on a periodic survey, which will run at least every three years. It aims to launch a set of survey questions in 2019.

The Government also noted that a design team are currently building and testing a replacement IT system for ETs and will take into account the Committee's recommendations and consider how the new system can better capture data. However, it noted that the process for capturing data on sexual harassment allegations is complicated. For example, manual collation would require ET staff, who are not legally qualified, to make an assessment as to whether a case involves sexual harassment, when inputting it on the system. The Government will consider potential solutions to this problem.

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2018 Edition: Sexual Harassment in the Workplace: What Scottish Companies Need to Know

What constitutes sexual harassment?

In the UK, sexual harassment occurs when a person engages in unwanted conduct of a sexual nature. The conduct has the purpose or effect of violating the dignity of another person, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. As the Equality and Human Rights Commission (EHRC) Employment: Statutory Code of Practice points out, the conduct in this context can be any unwanted verbal, non-verbal or physical conduct of a sexual nature.

An employee does not have to have previously objected to a person's conduct for it to be considered unwanted (*Reed v Stedman [1999] IRLR 299 EAT*) and the fact that an employee may have tolerated

being harassed over a significant period of time or initiated sexual 'banter' as a coping strategy (*Munchkins Restaurant Ltd and another v Karmazyn & others UKEAT/0359/09*) does not mean that the conduct cannot be unwanted. Furthermore, unwanted conduct does not need to be directed at the person making the complaint, it can be witnessed or overheard, and unwanted conduct can still be considered harassment even if the alleged harasser did not mean for it to be.

What body of law governs sexual harassment in your jurisdiction?

Sexual harassment is unlawful and is a form of discrimination under Section 26 of the Equality Act 2010. The Equality Act 2010 prohibits an employer and individuals from harassing an extensive category of people including:

- Employees, as defined in the Employment Rights Act 1996;
- Job Applicants;
- Agency Workers;
- Workers who are personally carrying out services for their employer;
- Former Employees, if the harassment arises out of or is closely connected to the employment relationship and if the harassment had occurred during the employment relationship it would have been unlawful;

What actions constitute sexual harassment?

Unwanted behaviour/conduct of a sexual nature includes:

- unwelcome sexual advances, propositions and demands for sexual favours;
- unwanted or derogatory comments about clothing or appearance;
- leering, staring and suggestive gestures or looks;
- sexual remarks or jokes;
- sexual gestures;
- displaying sexually explicit material, such as pornographic pictures, including those in electronic forms such as computer screen savers or by circulating such material in emails or via social media;
- intrusive questions about a person's private or sex life, and discussing own sex life;
- unwelcome touching, hugging, massaging or kissing;
- sending sexually explicit emails or text messages;
- spreading sexual rumours about a person;

- criminal behavior including sexual assault, stalking, indecent exposure and offensive communications.

Can sexual harassment occur between two members of the same sex?

Yes.

Are employers required to provide sexual harassment training for their employees?

On 4th December 2017, the EHRC published guidance for employers on dealing with sexual harassment in the workplace. Employers have a duty of care to protect workers and will be legally liable for sexual harassment in the workplace if they have failed to take reasonable steps to prevent it from happening. There are no minimum requirements employers can depend on to demonstrate that they have taken reasonable steps to protect workers, but all employers are expected to have an anti-harassment policy in place which is monitored and reviewed and an effective procedure for reporting harassment. Effective implementation of an anti-harassment policy includes anti-harassment training for all staff. Furthermore, the EHRC guidance recommends that individuals dealing with complaints of sexual harassment should receive specialist training.

What are the liabilities and damages for sexual harassment and where do they fall?

A successful claim for sexual harassment in the workplace can expose an employer, and an alleged harasser who has been joined into any proceedings, to an award of unlimited compensation. This would include:

- Compensation for any financial loss, including loss of earnings, suffered as a result of the harassment. The aim is to award a sum of money that will put the claimant into the position he or she would have been in had the wrong not taken place; and
- An award for injury to feelings in line with the guidelines established by the Court of Appeal in *Vento v Chief Constable of West Yorkshire Police (No 2) (2002) EWCA Civ 1871* which sets out three bands of potential awards:
    - The lower band: appropriate for less serious cases, such as where the act of discrimination is an isolated or one-off occurrence
    - The middle band: serious cases, which do not merit an award in the highest band
    - The top band: the most serious cases, such as where there has been a lengthy campaign of discriminatory harassment on the ground of sex or race. Only in the most exceptional case should an award for injury to feelings exceed the top of this band.

The tribunal may also make recommendations aimed at reducing the adverse effect of the harassment on the claimant. The tribunal can also make a declaration as to the rights of the claimant and the employer in relation to the matters to which the proceedings relate.

Regarding compensation, employees remain under a duty to mitigate their losses, usually by looking for a new job if the harassment has resulted in their being out of work, and by limiting their out-of-pocket expenses to those which are reasonably incurred. However, the burden remains on the employer to prove that the employees have failed to mitigate their losses. Where proceedings are brought against an employer and an alleged harasser in respect of the same allegation of harassment and the claimant is successful, the liability for any compensation awarded will be joint and several and accordingly the successful claimant can recover the full amount of any compensation against either of the respondents without the requirement for apportionment.

What does an employee who believes they've been sexually harassed have to prove for a successful claim?

As already stated, sexual harassment occurs when A engages in unwanted conduct of a sexual nature. It has the purpose or effect of violating the dignity of B, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

Sexual harassment also occurs when A engages in unwanted conduct of a sexual nature. The conduct has the purpose or effect of violating the dignity of B, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them and because of B's rejection of or submission to the conduct, A treats B less favourably than A would treat B if B had not rejected or submitted to the conduct.

If the unwanted conduct has the **purpose** of either violating B's dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for B, nothing more is required, and this will amount to harassment. It does not matter whether the conduct had the effect referred to above.

In deciding whether unwanted conduct has the **effect** referred to above (albeit this was not the alleged harasser's purpose), each of the following must be taken into account:

- B's perception.
- The other circumstances of the case.
- Whether it is reasonable for the conduct to have that effect.

In order to bring a successful sexual harassment claim on the basis of unwanted conduct of a sexual nature, the victim must reasonably feel or perceive that their dignity has been violated or an intimidating, hostile, degrading, humiliating or offensive environment has been created. A tribunal will assess whether that individual genuinely held that feeling or belief. Considering reasonableness avoids liability arising where the individual is 'hypersensitive'. If the claimant is prone to taking offence, then even if they did genuinely feel their dignity had been violated there would be no harassment. The concept of the 'hypersensitive' claimant was considered by the Employment Appeal Tribunal in *Richmond Pharmacology v Dhaliwal [2009] IRLR 336.* The EAT emphasised that it was important not to encourage the imposition of legal liability in every unfortunate phrase and that violating is a strong word which should not be used lightly.

Is it different if a supervisor or a co-worker is the perpetrator of the sexual harassment?

An Employer is vicariously liable for any acts of harassment committed by its employees against other employees which occur in the course of employment as per S190(1) of the Equality Act 2010. Additionally, employees have a personal liability in respect of any harassment that they commit. An employer may avoid liability if it can successfully show that it had taken all reasonable steps to prevent the harassment from occurring, as per S109(4) of the Equality Act 2010. It is common practice for claims for sexual harassment to be brought against the employer and the alleged harasser. By doing this the claimant can potentially obtain an additional award but it is also a tactic to put pressure on the employer to settle the claim.

What are the potential defenses employers have against sexual harassment claims?

To avoid liability for an act of harassment, an employer must show that it had in place all reasonable steps to prevent the harassment before the harassment occurred as per s109(4) of the Equality Act 2010. Acting quickly and reasonably to any allegations of discrimination will not be enough to successfully utilise this defence. In practice, the reasonable steps defence is difficult to establish successfully as the threshold is high.

Who qualifies as a supervisor?

Supervisor is not a defined term under the Equality Act 2010.

How can employers protect themselves from sexual harassment claims?

Employers can protect themselves by:

- Having in place appropriate policies which are reviewed regularly to ensure that they are compliant with changes in the law;
- Training employees on the policies, the implications of any breach and ensuring that employees properly understand the information provided to them;
- Training line management on equality and diversity and on how to effectively deal with any complaints that they receive;
- Having effective procedures in place to deal with complaints of harassment;
- A detailed record of who attended training and what the content consisted of;
- Training should be provided to staff regularly.

Does sexual harassment cover harassment because of pregnancy?

No. Under the general definition of harassment within Section 26 of the Equality Act 2010, A harasses B if A engages in unwanted conduct related to a relevant protected characteristic (rather than of a sexual nature) which has the purpose or effective of violating B's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

The relevant protected characteristics are age, gender, race, sex, sexual orientation, gender reassignment, religion or belief and disability. For the purposes of harassment, pregnancy and maternity and marriage and civil partnership are not relevant protected characteristics. However, unwanted conduct related to pregnancy and maternity or marriage and civil partnership could amount to sex or sexual orientation harassment. Alternatively, such conduct could amount to pregnancy and maternity discrimination under Section 18 of the Equality Act 2010.

Does sexual harassment protect gay, lesbian, bi-sexual, and transgender persons?

Yes, The Equality Act 2010 protects individuals from being harassed due to their sexual orientation and gender reassignment.

What is prohibited retaliation?

Prohibited retaliation is not a defined term in the Equality Act 2010. However, Employers should not take any action against an employee who raises a sexual harassment complaint. Their allegations should be taken seriously and dealt with quickly.

Can a consensual relationship between a supervisor and subordinate be considered sexual harassment?

An employee may succeed in a claim for sexual harassment when a consensual relationship ends, and the other party's conduct becomes unwanted. For example, in *A v Chief Constable of West Midlands Police UKEAT/0313/14* the EAT upheld a tribunal's decision that an employee had been sexually harassed for two days after an 18-month relationship with her work colleague ended.

Can an employer be liable for the actions of a third party (e.g. the public, clients, vendors)?

The legal position in the UK in relation to harassment by third parties (such as customers or contractors) is complex, as the original provisions relating to third-party harassment as set out in S40 of the Equality Act 2010 were repealed on 1st October 2013. Where an employer fails to act on any complaint of third-party harassment, an employee could argue that this amounts to an unlawful act under s13(1) of the 2010 Act, as the employer's inaction is unwanted conduct which has created an intimidating environment for them. If this argument is unsuccessful in establishing an employer's liability for third party harassment, an employee could claim constructive dismissal on the basis that the failure by their employer to deal with legitimate concerns regarding third party harassment amounts to a fundamental breach of the implied term of trust and confidence between employer and employee found within the employment contract.

What is the #MeToo movement?

On 5th October 2017, the New York Times published an article in which substantial allegations of sexual harassment were made against Hollywood producer, Harvey Weinstein. In response to this revelation, actress, Alyssa Milano, suggested that all women who had been sexually assaulted or harassed post #MeToo as a social media status as it would give the world 'a sense of the magnitude of the problem'.

The hashtag spread virally and was used 850,000 in the first 48 hours and by November 2017 had been tweeted 2.3 million times in 85 different countries. The aim of the campaign was to raise aware of sexual harassment both within and outwith the workplace and to address power imbalances.

How is the #MeToo movement impacting the law in your jurisdiction?

On 27th March 2018 the EHRC published a report entitled 'Turning the Tables: Ending Sexual Harassment at Work.' The report makes recommendations to the UK government for legislation to be improved as the current statutory framework does not provide enough protection for victims of harassment.

These recommendations include, but are not limited to, the following:

- A mandatory duty on employers to take reasonable steps to protect workers from harassment in the workplace. A breach of this mandatory duty would constitute an unlawful act for the purposes of the Equality Act, enabling the EHRC to take enforcement action against employers which breach the duty.
- A new statutory code of practice on sexual harassment in the workplace which specifies the steps employers should take to prevent and respond to allegations of sexual harassment.
- Employment tribunals should be given power to apply an uplift of up to 25% to compensation in a successful claim for harassment where there has been a breach of mandatory elements of the code.
- ACAS should develop specific sexual harassment training for managers, workers and sexual harassment 'champions'.
- The Government should develop an online tool which facilitates the reporting of sexual harassment.
- The limitation period for bringing a claim to the tribunal for harassment should be increased from 3 months to 6 months.
- Employers should be required to publish their anti-harassment policy on their external website.

It is not yet clear which of these recommendations the UK government will take forward.

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