

# Final stage impact assessment

Title: Require employers to take “all reasonable steps” to prevent sexual harassment of their employees

Type of measure: Primary

Department or agency: Cabinet Office

Contact for enquiries: Richard Laux, Head of Equality Data and Analysis Division

Date: 21/10/2024

## 1. Summary of proposal

- 1.1. The Equality Act 2010 provides legal protections against sexual harassment in the workplace. Despite this, persistent reports and revelations that have emerged in recent years indicate that it remains a problem within the workplace. The Employment Rights Bill aims to strengthen protections against harassment by introducing three amendments to the Equality Act 2010’s harassment provisions.
- 1.2. This measure will amend the duty on employers to take “reasonable steps” to prevent sexual harassment of their employees which will come into force on 26 October 2024. It will strengthen the duty by requiring employers to take ‘all reasonable steps’ to prevent sexual harassment of their employees. The extension from reasonable steps to all reasonable steps will help ensure that employers take effective action to end sexual harassment.

## 2. Strategic case for proposed regulation

- 2.1. Sexual harassment has been shown to be a systemic issue in the workplace:

- for the year ending March 2023, Office for National Statistics (ONS) data showed that 26.5% of people aged 16 years and over who said they had experienced sexual harassment in-person in the last 12 months said that they had experienced it at their place of work;<sup>1</sup>
- according to the Government Equalities Office's (GEO) 2020 Sexual Harassment Survey, 29% of those in employment had experienced some form of sexual harassment in the workplace or work-related environment in the last 12 months (2019 to 2020). This was the case for 30% of women and 27% of men;<sup>2</sup>
- a 2023 Trades Union Congress (TUC) poll of 1,000 women found 58% of women have been sexually harassed at work.<sup>3</sup>

2.2. The economic costs of workplace sexual harassment are shared by individuals, their employers, Government, and society. The Deloitte Access Economics (2019) found that "Approximately two thirds of lost productivity (70%) is borne by employers, with Government (23%) losing tax revenue, and individuals (7%) losing income".<sup>4</sup>

2.3. The burden of holding perpetrators and employers to account and of driving change is too great to be shouldered by victims alone. Addressing cultural and behavioural issues in the workplace is key to preventing sexual harassment and protecting potential victims. Harassment in the workplace has widespread impacts on all sectors of society and positive changes could have benefits for marginalised groups across all protected characteristics.

2.4. On 26 October 2024, the Worker Protection (Amendment to the Equality Act 2010) Act 2023 comes into force. This will place a positive and proactive legal duty on employers to take reasonable steps to prevent sexual harassment of their workers. This measure will amend the duty to require employers to take 'all reasonable steps' to prevent sexual harassment of their employees as opposed to 'reasonable steps'. This will strengthen the duty to ensure that employers take effective action to end sexual harassment.

2.5. A breach of the duty will only be examined where an employment tribunal (ET) has first found that sexual harassment has been established and ordered the employer to pay

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<sup>1</sup> ONS, [Experiences of harassment in England and Wales](#): December 2023 (viewed August 2024)

<sup>2</sup> Equality Hub (formerly Government Equalities Office), [2020 Sexual Harassment Survey](#) (2020)

<sup>3</sup> [TUC poll](#), 2023

<sup>4</sup> Deloitte Access Economics. (2019). [The economic costs of sexual harassment in the workplace: Final report, March 2019](#)

compensation. Employers have a legal defence to avoid employer liability for sexual harassment if they can show that they took 'all reasonable steps' to prevent their employees from acting unlawfully. As the duty will require employers to take "reasonable steps" to prevent sexual harassment of their employees there are different thresholds which creates a discrepancy. This creates uncertainty and a lack of clarity for the employment tribunal, employers, and employees. It is important that the threshold for the duty is consistent with the existing statutory defence for employers in relation to a sexual harassment claim committed by an employee. Including 'all' emphasises the thorough approach employers must take to prevent sexual harassment. The concept of 'all reasonable steps' has the advantage of being a well-established concept with which employers and employment tribunals are already familiar with. This should decrease uncertainty for employers and employees.

- 2.6. In each sexual harassment case, where the tribunal has found in favour of the victim and concluded that there has been a breach of the employer duty, the employment tribunal judge may order an uplift of up to 25% on the compensation awarded for the sexual harassment. The aim is to send a clear signal to employers that they must take preventative steps against sexual harassment to avoid legal liability and additional financial penalty. This is expected to incentivise employers to make improvements to workplace practices and culture which will benefit all employees.
- 2.7. When employers take action, it may encourage more employees to come forward and bring tribunal cases; conversely the action employers take may create a decrease in harassment incidents, and result in less cases being brought. Claims under the duty will only be able to be made alongside an existing sexual harassment claim and therefore it will be unlikely that new cases will be generated.
- 2.8. The objective of this measure is a reduction in the proportion of employees in British companies who are sexually harassed in the workplace. Feeling safe at work improves employee well-being, resulting in reduced stress and anxiety, and therefore reduced illness, burnout, and staff turnover. Staff are likely to be more motivated and creative, resulting in increased innovation and productivity.<sup>5</sup>
- 2.9. Organisations that are seen to deal strongly with workplace harassment are likely to get a boost to their reputation, which will help to attract customers, clients, and talent. A wider benefit of these measures to the United Kingdom (UK) economy is the broader economic

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<sup>5</sup> Krekel and others, [Employee Wellbeing, Productivity, and Firm Performance](#), Saïd Business School (2019)

impact of increased female participation in the workplace. For example, McKinsey Global Institute, *The Economic Benefits of Gender Parity* (2016) stated that if women were to participate in the economy identically to men they could add as much as 26% to annual global GDP by 2025 (from 2016).<sup>6</sup>

- 2.10. This supports Goal 5 of the United Nations (UN) Sustainable Development Goal to “achieve gender equality and empower all women and girls”.<sup>7</sup> The UN states that gender equality is “...not only a fundamental human right but a necessary foundation for a peaceful, prosperous and sustainable world”. The goal goes on to discuss economic impacts (through unequal participation in the labour market), impacts on sexual violence, exploitation of women, and discrimination in areas like public office.

### 3. SMART objectives for intervention

- 3.1. The objective of this measure is a reduction in the proportion of employees in Great Britain (GB) companies who are victims of workplace sexual harassment.
- 3.2. This measure is part of the Government’s missions to kick start economic growth, break down the barriers to opportunity and to halve the violence experienced by women and girls in 10 years. As the manifesto states, “women’s equality will be at the heart of our missions. Our plan to Make Work Pay will transform the lives of working women, including by strengthening rights to equal pay and protections from maternity and menopause discrimination and sexual harassment”.<sup>8</sup>
- 3.3. The objective is being met through the Employment Rights Bill which was part of the King’s Speech: “My Government is committed to making work pay and will legislate to introduce a Plan to Make Work Pay for working people to ban exploitative practices and enhance employment rights [Employment Rights Bill]”.<sup>9</sup>
- 3.4. The impact of the measure will be assessed by a post implementation review. For further details on methods please see section 8 of this document.

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<sup>6</sup> McKinsey Global Institute, [The Economic Benefits of Gender Parity](#) (2016)

<sup>7</sup> UN, [Goal 5: Achieve gender equality and empower all women and girls](#) (viewed August 2024)

<sup>8</sup> [Change: Labour Party Manifesto](#) (viewed August 2024)

<sup>9</sup> [The King’s Speech 2024](#) (viewed August 2024)

## **4. Description of proposed intervention options and explanation of the logical change process whereby this achieves SMART objectives**

- 4.1. The proposed intervention is to require employers to take all reasonable steps to prevent workplace sexual harassment of their employees.
- 4.2. Specifically, the measure applies to all employees and therefore to companies that have at least 1 employee. Such companies are already liable for incidents of workplace sexual harassment and as such should already be taking action to protect their employees.
- 4.3. A preventative duty to take “reasonable steps” to prevent sexual harassment comes into force on 26th October 2024 as part of the Worker Protection (Amendment Of Equality Act 2010) Act 2023. To comply with this it is assumed that businesses will assess the risk of sexual harassment to their employees, identify reasonable steps to mitigate those risks and implement some of them. The delivery of the measure expands upon existing requirements<sup>10</sup> that are known to be understood and used by the same companies.
- 4.4. A full logic model was developed to support this measure to ensure that the activities, outputs, short term outcomes and long term outcomes are understood. It also provides a list of assumptions and the evidence to support the links from initial activities to long term outcomes.

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<sup>10</sup> Equality and Human Rights Commission, [Sexual harassment and harassment at work](#) (2020)

Table 1: Theory of change for the measure

Activities	Outputs	Short term Outcomes	Long term Outcomes
<ol style="list-style-type: none"> <li>1. Legislate to require companies to take all reasonable steps to prevent workplace sexual harassment</li> <li>2. Publish guidance on how to comply with the legislation and prevent workplace sexual harassment</li> </ol>	<ol style="list-style-type: none"> <li>1. Employers take steps to comply with the duty and proactively prevent workplace sexual harassment</li> </ol>	<p><b>Intended outcomes:</b></p> <ol style="list-style-type: none"> <li>1. Increased awareness and understanding of companies' responsibility to take all reasonable steps to prevent workplace sexual harassment amongst HR professionals</li> <li>2. Companies review the sexual harassment risk assessment created in response to the Worker Protection (Amendment Of Equality Act 2010) Act 2023</li> <li>3. Companies deliver and implement all of the actions within their sexual harassment risk assessment that are a) not already in</li> </ol>	<p><b>Intended outcomes:</b></p> <ol style="list-style-type: none"> <li>1. Increased awareness and understanding of company's responsibility to take all reasonable steps to prevent workplace sexual harassment amongst employees</li> <li>2. A reduction in the proportion of employees in GB companies (with at least one employee) who are sexually harassed in the workplace and therefore a reduction in the number of cases brought to employment tribunal</li> <li>3. Employees feel safer, particularly in customer facing roles and when</li> </ol>

		place and b) are considered reasonable  4. Companies ensure that staff are aware of all of the actions implemented by the company	dealing with contractors.  4. Increased trust in employers  5. Increased reputation for employers perceived to be tackling sexual harassment
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<b>Assumptions</b>	<ol style="list-style-type: none"> <li>1. Companies will take all reasonable steps to prevent their staff being sexually harassed</li> <li>2. These steps will be effective in preventing workplace sexual harassment</li> </ol>
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<b>Evidence of links</b>	Activities to Outputs	1. Similar guidance has previously been produced by the Office for Equality and Opportunity, for example for example Voluntary and community sector: quick start guide to harassment for service providers <sup>11</sup>
	Outputs to short-term outcomes	1. Similar activities are required for companies to limit their liability for harassment by other employees.
	Short-term outcomes to long-term	1. Similar activities are required for companies to prevent sexual harassment of their employees and additional requirement come into force on 26th October 2024 as part of the Worker Protection (Amendment Of Equality Act 2010) Act 2023.

<sup>11</sup> Equality Hub (formerly Government Equalities Office), [Voluntary and community sector: quick start guide to harassment for service providers](#) (2011)

	outcomes	<p>2. The GEO Sexual Harassment Survey in 2020<sup>12</sup> found that, of those with a place of work or study:</p> <ul style="list-style-type: none"> <li>a. 80% thought it had a clear, accessible policy on sexual harassment which details how to report an incident on sexual harassment</li> <li>b. 51% thought their place of work or study was tackling sexual harassment well or very well</li> </ul>
	Long-term outcomes to impacts	See row above

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<sup>12</sup> Office for Equality and Opportunity (formerly Government Equalities Office), [2020 Sexual Harassment Survey](#) (2020)



## 5. Summary of long-list and alternatives

- 5.1. The Department for Business and Trade's Better Regulation Framework guidance states that: "Where legislation is required urgently ... the relevant minister may seek to agree, as part of the collective agreement process (where relevant), that there is insufficient time for the measure to be assessed under the BRF".<sup>13</sup>
- 5.2. The Employment Rights Bill, which will contain the measure, was also included within The King's Speech 2024<sup>14</sup> and the manifesto committed to introducing this legislation within 100 days of the election.<sup>15</sup>
- 5.3. It was, therefore, agreed that urgent measures applied to this measure and that the options appraisals, outlined in the Better Regulation Framework, would not be undertaken as a result.
- 5.4. However, we have considered alternative options to achieve these aims including a non-legislative option.

### Do nothing

- 5.5. The preventative duty which comes into force on 26 October 2024 should encourage employers to check that they are taking reasonable steps to prevent sexual harassment in their workplaces. It may trigger an assessment of whether what they are doing is sufficient and cause them to introduce or review relevant policies and reporting processes. Once the duty has been established, employers will need to be in a position to defend themselves at an employment tribunal as having met the duty. Similarly, individuals bringing harassment cases to tribunal will be able to add a failure to fulfil this duty to their existing case. The discrepancy between the thresholds for a sexual harassment claim and the preventative duty would remain however. This will mean there is ongoing uncertainty and a lack of clarity for the employment tribunal, employers and employees. The lower threshold for the employer duty undermines the aim to strengthen protections against sexual harassment and works against efforts to ensure that employers take effective action to end sexual harassment. It is important that the threshold for the duty is consistent with the existing statutory defence for a sexual harassment claim. Including 'all' emphasises the thorough approach employers must

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<sup>13</sup> Department for Business and Trade, [Better Regulation Framework](#) (2023)

<sup>14</sup> [The King's Speech 2024](#) (viewed August 2024)

<sup>15</sup> [Change: Labour Party Manifesto](#) (viewed August 2024)

take to prevent sexual harassment. The concept of ‘all reasonable steps’ has the advantage of being a well-established concept with which employers and employment tribunals are already familiar with.<sup>16</sup> This should decrease uncertainty for employers and employees.

### **Primary legislative option**

- 5.6. As the Equality Act 2010 does not state which steps are reasonable for employers to take to prevent sexual harassment, an option would be to state what these steps are through primary legislation. The efficacy of employer interventions to address workplace harassment is not well understood however, and the nature of the relationship between employer intervention and levels of workplace sexual harassment will change over time. Further research is required to identify the causes of sexual harassment and effective interventions.

### **Non-legislative Option**

- 5.7. A non-legislative option would be for the Government to publish guidance or the Equality and Human Rights Commission to produce a Statutory Code of Practice for sexual harassment and harassment. While new guidance and codes can be published without making legislative changes, they would be more impactful if legislative changes are made to increase traction and interest. Following legislative changes it has the benefit of providing sufficient support to employers about upcoming changes.

## **6. Description of shortlisted policy options carried forward**

- 6.1. See section 5 for a description of the application of urgent measures, as outlined in the Department for Business and Trade’s Better Regulation Framework guidance<sup>17</sup> and its impact on options appraisals.
- 6.2. The Equality Act 2010 does not state which steps are reasonable to take to prevent sexual harassment. Therefore a measure will introduce delegated power enabling a Minister of the Crown to specify steps that are to be regarded as “reasonable” for the purposes of meeting the obligation set out in the Equality Act 2010 to take “all reasonable steps” to prevent sexual

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<sup>16</sup> Equality Act 2010, Section 109(4). Available at: <https://www.legislation.gov.uk/ukpga/2010/15/section/109> (Accessed: 19 September 2024)

<sup>17</sup> Department for Business and Trade, [Better Regulation Framework](#) (2023)

harassment. The regulations may also require an employer to have regard to specified matters when taking those steps. An employer that wants to show that it has taken all reasonable steps should take the steps set out in the regulations; as well as all other preventative steps that it is reasonable for them to take in the particular circumstances.

- 6.3. Harassment by third parties (whether related to sex or any other protected characteristic) is not currently prohibited under the Equality Act 2010. A measure will introduce an obligation on employers to not permit the harassment of their employees by third-parties. This will require employers to create and maintain workplaces and working conditions free from harassment, including by third-parties.

## 7. Regulatory scorecard for preferred option

### Part A: Overall and stakeholder impacts

Table 2: Regulatory scorecard for impacts on welfare

(1) Overall impacts on total welfare		Directional rating Note: Below are examples only
<b>Description of overall expected impact</b>	<p>The objective of this measure is a sustained reduction in the number of employees experiencing sexual harassment in the workplace.</p> <p>The wider welfare benefits of reduced workplace sexual harassment are difficult to quantify, and therefore, monetise. However, feeling safe at work will improve employee wellbeing, resulting in reduced stress and anxiety, and therefore reduced illness, burnout and staff turnover. Conversely, staff are likely to be more motivated and creative, resulting in increased innovation and productivity.<sup>18</sup></p>	<b>Positive</b> <b>Based on all impacts (incl. non-monetised)</b>

<sup>18</sup> Krekel and others, [Employee Wellbeing, Productivity, and Firm Performance](#), Saïd Business School (2019)

	<p>This measure supports employee welfare and gender equality and in doing so will support the outcome above. However, its effect on these wider welfare issues are complex and difficult to measure or monetise. Overall, the impact is assumed to be positive.</p>	
<b>Monetised impacts</b>	See above	<b>Neutral</b> <b>Based on likely</b> <b>£NPSV</b>
<b>Non-monetised impacts</b>	See above	<b>Positive</b> <b>Based on likely</b> <b>net present social</b> <b>value (NPSV)</b>
<b>Any significant or adverse distributional impacts?</b>	<p>No</p> <p>This measure supports employee safety and protection from workplace sexual harassment, which has a positive impact on welfare. It is not expected that any adverse distributional impacts would result.</p>	<b>Neutral</b> <b>Based on all</b> <b>impacts (incl. non-</b> <b>monetised)</b>

Table 3: Regulatory scorecard for expected impacts on businesses

<b>(2) Expected impacts on businesses</b>		
<b>Description of overall business impact</b>	<p>The one-off cost associated with familiarisation, for the in-scope companies in GB, is £11,345,443.36. However, the annual, repeatable costs included in this year 1 amount are significantly smaller at £164,452.34.</p> <p>The total, discounted, 10 year costs of this measure, for all private companies with at least 1 employee in GB, is £12,760,983.</p> <p>The non-monetised impacts of the wider welfare benefits of reduced workplace sexual harassment from the measure are complex and difficult to calculate. However, the effect of these is assumed to be positive. feeling safe at work will improve employee wellbeing,</p>	<b>Neutral</b> <b>Based on all</b> <b>impacts (incl. non-</b> <b>monetised)</b>

	<p>resulting in reduced stress and anxiety, and therefore reduced illness, burnout and staff turnover. Conversely, staff are likely to be more motivated and creative, resulting in increased innovation and productivity.<sup>19</sup></p> <p>See the 'Evidence Base' for details.</p>	
<b>Monetised impacts</b>	<p><b>Business net present value (NPV):</b> £12,760,983 for 10 years of the measure being in operation</p> <p><b>Approx net financial cost to private business, equivalent annual net direct cost to business (EANDCB):</b> £164,452.34 (discounted after year 1) all of which are assumed to be legal advice and representation costs</p> <p><b>Please indicate if pass through to households has been deducted from these figures:</b> Not applicable</p> <p><b>Please indicate any pass through costs from households to business (if available):</b> Not applicable</p>	<p><b>Negative</b> <b>Based on likely business £NPV</b></p>
<b>Non-monetised impacts</b>	<p>The wider benefits of the measure to the UK economy are complex and difficult to calculate. Most calculations on the economic impact of equality for businesses are significantly broader in range than this measure. The McKinsey Global Institute stated that if women were to participate in the economy identically to men they could add as much as 26% to annual global GDP by 2025 (from 2016).<sup>20</sup></p> <p>The wider welfare benefits of gender equality, which this measure supports, are complex and difficult to quantify. For example:</p>	<p><b>Positive</b> <b>Based on all impacts (incl. non-monetised)</b></p>

<sup>19</sup> Krekel and others, [Employee Wellbeing, Productivity, and Firm Performance](#), Saïd Business School (2019)

<sup>20</sup> McKinsey Global Institute, [The Economic Benefits of Gender Parity](#) (2016)

	<p>Goal 5 of the United Nations Sustainable Development Goals is to “achieve gender equality and empower all women and girls”.<sup>21</sup> The UN states that gender equality is “...not only a fundamental human right but a necessary foundation for a peaceful, prosperous and sustainable world”. The goal goes on to discuss economic impacts (through unequal participation in the labour market), impacts on sexual violence, exploitation of women and discrimination in areas like public office.</p> <p>This measure supports gender equality and in doing so will support the outcome above. However, its effect on these wider welfare issues are complex.</p> <p>Furthermore, companies who are seen to deal strongly with sexual harassment are likely to get a boost to their reputation, which will help to attract customers, clients and talent.</p>	
<p><b>Any significant or adverse distributional impacts?</b></p>	<p>No</p> <p>This measure requires businesses to take all reasonable steps to replace workplace sexual harassment. The annual, repeatable costs to private businesses are £164,452.34 in year 1 and, as such, considered to have a negligible effect on businesses.</p> <p>As such, while business concentrations do vary geographically and by sector, it is assumed that there will be no adverse distributional impacts.</p>	<p><b>Neutral</b> <b>Based on likely business £NPV</b></p>

Table 4: Regulatory scorecard for impacts on welfare

**(3) Expected impacts on households**

<sup>21</sup> UN, [Goal 5: Achieve gender equality and empower all women and girls](#) (viewed August 2024)

<b>Description of overall household impact</b>	The objective of this measure is a sustained reduction in the number of employees experiencing sexual harassment in the workplace. The impact on households is, therefore, expected to be positive due to improved welfare and emotional well being. However, its effect on these wider welfare issues are complex and difficult to measure or monetise.	<b>Positive</b> <b>Based on likely household £NPV</b>
<b>Monetised impacts</b>	The measure outlined in this impact assessment is specific to companies with at least 1 employee. There are no costs for households as a result.	<b>Neutral</b> <b>Based on likely household £NPV</b>
<b>Non-monetised impacts</b>	See description of overall household impact above	<b>Positive</b> <b>Based on likely household £NPV</b>
<b>Any significant or adverse distributional impacts?</b>	See description of overall household impact above	<b>Neutral</b> <b>Based on likely household £NPV</b>

## Part B: Impacts on wider Government priorities

Table 5: Regulatory scorecard for impacts on wider Government priorities

<b>Category</b>	<b>Description of impact</b>	<b>Directional rating</b>
<b>Business environment: Does the measure impact on the ease of doing business in the UK?</b>	The objective of this measure is a sustained reduction in the number of employees experiencing sexual harassment in the workplace. The annual, repeatable costs of this to private businesses are £164,452.34 in year 1 and, as such, considered to have a negligible effect on business environments. Conversely, a reduction in sexual harassment will have a positive impact on the business environment which will offset the relatively small cost to businesses.	<b>Positive</b>

<p><b>International Considerations:</b>  <b>Does the measure support international trade and investment?</b></p>	<p>This measure requires businesses to take all reasonable steps to replace workplace sexual harassment. The annual, repeatable costs, of this to private businesses are £164,452.34 in year 1 and, as such, considered to have a negligible effect on any international trade conducted by these companies.</p>	<p><b>Neutral</b></p>
<p><b>Natural capital and Decarbonisation:</b>  <b>Does the measure support commitments to improve the environment and decarbonise?</b></p>	<p>This measure requires businesses to take all reasonable steps to replace workplace sexual harassment. The measure is considered to have no effect on natural capital and decarbonisation.</p>	<p><b>Neutral</b></p>



## 8. Monitoring and evaluation of preferred option

- 8.1. The Small Business, Enterprise and Employment Act 2015<sup>22</sup> requires the inclusion of a statutory review provision in secondary legislation that regulates business or voluntary and community bodies. The inclusion of a review provision requires policy officials to undertake a 'Post-Implementation Review' in line with the legislative requirement in the Act.
- 8.2. The Department for Business and Trade's Statutory Guidance under s.31 of the Small Business, Enterprise and Employment Act<sup>23</sup> states that the timescale of the Post-Implementation Review should be up to five years from when the amendment is implemented. Where possible, this review would be undertaken within a similar timeframe as other post implementation reviews regarding other parts of the Employment Rights Bill.
- 8.3. The post implementation review will consider the theory of change (see section 4 for details) and will undertake:
  - Process evaluation methods to ensure that the required activities have been completed and they are working as expected.
  - Impact evaluation, using a theory based approach, to understand the outcomes of the measure.
  - Value for money evaluation to understand whether the costs of the measure are in line with those expected.
- 8.4. The evaluation is expected to include a range of data sources including:
  - A literature / rapid evidence review to understand what academic reviews of the measure and its outcomes have been undertaken.
  - Engagement with companies, with at least 1 employee, to understand the costs and impact from the measure on businesses.

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<sup>22</sup> [Small Business, Enterprise and Employment Act 2015](#) (viewed August 2024)

<sup>23</sup> Department for Business and Trade, [Statutory Guidance under s.31 of the Small Business, Enterprise and Employment Act](#) (2023)

- An analysis of the reported data from companies, with at least 250 employees, to understand if there is progress towards the stated long term objectives of the measure.

8.5. Any future, significant, changes to patterns of employment between the implementation of this measure and the post implementation review in five years' time would impact on the success of any future post implementation review.

## 9. Minimising administrative and compliance costs for preferred option

- 9.1. The costs of the measure are administrative. Employers will be made liable for workplace harassment of their staff by third parties and employees will therefore be able to bring cases to employment tribunal. The Equality and Human Rights Commission will also be able to take enforcement action under the Equality Act 2010, but will not be obliged to.
- 9.2. The Government will seek to minimise familiarisation costs on companies with at least 1 employee, by providing clear guidance for companies that is based on existing, understood, guidance on harassment at work.<sup>24</sup> Additionally, 1) employers are already liable for incidents of harassment in their work place and 2) in October 2024 legislation comes into effect requiring employers to take reasonable steps to prevent workplace sexual harassment. As such employers should already be taking action to protect their employees and should have assessed their risk of workplace sexual harassment and taken some steps to prevent it.
- 9.3. The ongoing cost of this measure is successfully defending employment tribunals. In line with the 2021 Impact Assessment on Workplace Harassment,<sup>25</sup> we assume that the provisions could result in an increase of -5% to +50% in the annual number of discrimination cases accepted at Employment Tribunal, or -5 to 53 cases. We use a best estimate of a 22.5% increase or 24 cases This results in a low annual cost for the implementation of this measure, and possibly even a saving. The best estimate of this cost is £164,452.34 across all 1,425,759 GB businesses with at least 1 employee in the first year, discounted over the 10 years that the measure is assumed to operate.

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<sup>24</sup> Equality and Human Rights Commission, [Sexual harassment and harassment at work](#) (2020)

<sup>25</sup> Government Equalities Office, [Workplace harassment: legal protections under the Equality Act 2010](#) (2021)

# Declaration

Department:

Cabinet Office

Contact details for enquiries:

OEO-analysis@cabinetoffice.gov.uk

Minister responsible:

Anneliese Dodds

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed:



Date:

18/10/2024

# Summary: Analysis and evidence

Price base year: FY24/25

PV base year: FY24/25

Table 6: Summary of analysis and evidence

	<b>1. Business as usual</b>	<b>2. Do-minimum Option</b>	<b>3. Preferred way forward</b>	<b>4. More ambitious preferred way forward</b>	<b>5. Less ambitious preferred way forward</b>
<b>Net present social value</b>	Not costed, see section 5 for details	Not costed, see section 5 for details	The net present social value is based on £12,760,983 for 10 years of the measure being in operation. Costs include familiarisation and annual, repeatable, costs.	Not costed, see section 5 for details	Not costed, see section 5 for details
<b>Public sector financial costs</b>			The public sector financial costs, all of which are development, non-repeatable costs, are £5,021.		

			Costs included are to develop and sign off guidance.	
<b>Significant un-quantified benefits and costs</b>			Benefits include improved welfare for employees in GB and non-monetised impact on GDP associated with productivity, creativity and staff retention.	
<b>Key risks</b>			Risks associated with ensuring implementation within businesses and the effect of the measure on tribunal cases. See the Evidence base below for details.	
<b>Results of sensitivity analysis</b>			Sensitivity analysis indicates that the upper estimate for total costs to	

businesses in Year-1 is £34,401,780 and a lower estimate is £3,745,269.

The upper estimate for recurring annual costs to businesses after Year-1 is £365,449.64 and a lower estimate is - £36,544.96.

The upper estimate for total 10 year costs to businesses is £37,181,974 and a lower estimate is £3,467,250.

See the Evidence base below for details.

# 10. Evidence base

## **Problem under consideration, with business as usual, and rationale for intervention**

10.1. For details see 'Summary of the problem' (section 1).

## **Policy objective**

10.2. For details see 'Strategic case for proposed regulation' (section 2) and specific, measurable, achievable, relevant, and time-bound (SMART) objectives for intervention (section 3).

## **Description of options considered**

10.3. For details see 'Summary of long-list and alternatives' (section 5) and 'Description of shortlisted policy options carried forward' (section 6).

## **Summary and preferred option with description of implementation plan**

10.4. The option includes the following actions:

- Companies, with at least one employee, will need to familiarise themselves with the requirements of the new measure. This is focussed on key staff reading and understanding Government guidance on the measure.
- Companies, with at least one employee, to review their existing risk assessment for sexual harassment and implement any reasonable steps to prevent workplace sexual harassment.
- To support companies, with at least one employee, to complete stages 1 to 2 above, the Government will provide guidance on the measure.tribunal
- Employees will be able to take employers to employment tribunal if they have not taken all reasonable steps to prevent workplace sexual harassment.

## Summarise the expected costs and benefits of the proposed approach

- 10.5. Costs presented in this section have been rounded to 2 decimal places for the purposes of reporting. However, figures were not rounded during calculations and as such, costs of staff time as they are presented here may not sum exactly to the total familiarisation cost for companies in the UK.

### Numbers of private businesses with at least 1 employee in GB

- 10.6. In GB in 2023 there were 1,405,780 private businesses with at least 1 employee. 1,362,075 were small and micro businesses (1 to 49 employees), and 43,705 medium and large businesses (50+ employees).<sup>26</sup> Note these figures are focused on the private sector.
- 10.7. The compound annual growth rate (CAGR) in small and micro businesses in GB between 2012 and 2023 was 1.4%. Assuming that this rate of growth continued, there would have been 1,381,197 small and micro businesses in GB in 2024.
- 10.8. The CAGR in medium and large businesses in GB between 2012 and 2023 was 2.0%. Assuming that this rate of growth continued, there would have been 44,570 medium and large businesses in GB in 2024.

### One-off familiarisation costs: Businesses

- 10.9. **Context:** 'Familiarisation' means reaching the point where an HR professional is aware of the legislative change and understands how it will impact their organisation. This will include understanding that employers are now required to take all reasonable steps to prevent workplace sexual harassment of their employees. For most this will mean consulting official advice and non-statutory guidance for employers that will be published prior to the commencement. This includes time to consider how this impacts their current HR policies.
- 10.10. It is assumed 100% of businesses will have familiarisation costs. It is also assumed that businesses will familiarise themselves with the legislative changes when the legislation and guidance is produced. It is assumed that employers will further familiarise themselves if employment tribunal cases happen; these costs are assumed to be absorbed by the ongoing

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<sup>26</sup> Department for Business and Trade, [Business population estimates for the UK and regions](#) (2023)



training costs to employers. It is assumed to be a one-off cost. These assumptions are in line with the 2021 Impact Assessment on Workplace Harassment.<sup>27</sup>

- 10.11. It is assumed that owners (i.e. managers, directors and senior officials) of small and micro firms will need to familiarise themselves with the changes to the law as they are unlikely to have HR managers and directors to do this for the firm. This is consistent with the approach taken in previous impact assessments.
- 10.12. The time required for owners (i.e., managers, directors and senior officials) of small and micro firms to familiarise themselves with the additional requirement is assumed to be 0.25 hours (see note 1a for details).
- 10.13. The time required for Human Resource Manager and Directors of medium and large firms to familiarise themselves with the additional requirement is assumed to be 0.25 hours (see note 1a for details).
- 10.14. In the UK in 2023, the median salary for a Manager, Director and Senior Official was £23.85 per hour excluding overtime.<sup>28</sup>
- 10.15. The compound annual growth rate (CAGR) in median hourly pay, between 2014 and 2023 for a Manager, Director and Senior Official, excluding overtime, was 2.4%. Assuming that this rate of growth continued, their median pay in 2024 would have been £24.41. This is uplifted by 30% to cover non-labour costs to £31.74 an hour.<sup>29</sup>
- 10.16. In the UK in 2023, the median salary for a Human Resource Manager and Director was £26.31 per hour excluding overtime.<sup>30</sup>
- 10.17. The CAGR in median hourly pay, between 2014 and 2023 for a Human Resource Manager and Director, excluding overtime, was 1.2%. Assuming that this rate of growth continued, their median pay in 2024 would have been £26.62. This is uplifted by 30% to cover non-labour costs to £34.61 an hour.<sup>31</sup>

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<sup>27</sup> Office for Equality and Opportunity (formerly Government Equalities Office), [Workplace harassment: legal protections under the Equality Act 2010](#) (2021)

<sup>28</sup> ONS, [Earnings and hours worked, occupation by four-digit SOC: ASHE](#) (Table 14) (viewed August 2024)

<sup>29</sup> SCM Network [International Standard Cost Model Manual](#) (page 19) (viewed August 2024)

<sup>30</sup> ONS, [Earnings and hours worked, occupation by four-digit SOC: ASHE](#) (Table 14) (viewed August 2024)

<sup>31</sup> SCM Network [International Standard Cost Model Manual](#) (page 19) (viewed August 2024)

- 10.18. The one-off familiarisation costs for owners (i.e., managers, directors and senior officials) of small and micro firms are assumed to be £10,959,797.12.
- 10.19. The one-off familiarisation costs for HR managers and directors of medium and large businesses are assumed to be £385,646.25.
- 10.20. Total familiarisation costs for all businesses across GB with at least 1 employee are £11,345,443.36.
- 10.21. **Note 1a:** The impact assessment on workplace harassment<sup>32</sup> assumed that familiarisation of the three proposed legislative changes would take 0.75 hours for micro and small businesses and 1 hour for medium and large businesses. As only one of these measures is proposed here, and a similar requirement will come into force on 26th October 2024 as part of the Worker Protection (Amendment Of Equality Act 2010) Act 2023,<sup>33</sup> it is assumed that the familiarisation time will be only 0.25 hours for businesses of any size. These are best estimates of the time required but sensitivity analysis has been carried out using low and high estimates.
- 10.22. A preventative duty to take “reasonable steps” to prevent sexual harassment comes into force on 26th October 2024 as part of the Worker Protection (Amendment Of Equality Act 2010) Act 2023.
- 10.23. It is assumed that, to comply with this legislation, businesses will already have carried out a risk assessment for workplace sexual harassment of their employees, identified a list of reasonable steps they could take to mitigate those risks, and implemented some of those reasonable steps. The costs of going from implementing some reasonable steps to all reasonable steps is assumed to be minimal and is not costed. This is consistent with the approach in the impact assessment on workplace harassment.<sup>34</sup>

### **Cost of defending a tribunal case: Businesses**

- 10.24. **Context:** The main identified annual costs to businesses arise from the legal costs of defending additional Employment Tribunal cases that are brought as a result of the legislative changes.

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<sup>32</sup> Equality Hub (formerly Government Equalities Office), [Workplace harassment: legal protections under the Equality Act 2010](#) (2021)

<sup>33</sup> [Worker Protection \(Amendment Of Equality Act 2010\) Act 2023](#) (viewed August 2024)

<sup>34</sup> Equality Hub (formerly Government Equalities Office), [Workplace harassment: legal protections under the Equality Act 2010](#) (2021)

- 10.25. The average cost to employers of defending a tribunal case is calculated as the time spent on the case by staff and the cost of legal advice and representation. It is assumed that these costs will be incurred by employers for all cases brought to a tribunal based on data from Survey of Employment Tribunal Applications (SETA) 2018 on past employer experiences.
- 10.26. The median time spent defending an Employment Tribunal case is taken from the SETA 2018<sup>35</sup> as 6.25 days for directors/senior officials and 0.5 days for other staff (assumed to be primarily HR managers). This is the most recent available evidence; figures are in line with the 2002 and 2007 surveys and are not expected to have changed significantly.
- 10.27. In the UK in 2023, the median salary for Managers, directors and senior officials was £23.85 per hour excluding overtime.<sup>36</sup>
- 10.28. The compound average growth rate (CAGR) in median hourly pay, between 2014 and 2023 for Managers, directors and senior officials, excluding overtime, was 2.4%. Assuming that this rate of growth continued, their median pay in 2024 would have been £24.41. This is uplifted by 30% to cover non-labour costs to £31.74 an hour.<sup>37</sup>
- 10.29. In the UK in 2023, the median salary for a Human Resource Manager and Director was £26.31 per hour excluding overtime.<sup>38</sup>
- 10.30. The compound annual growth rate (CAGR) in median hourly pay, between 2014 and 2023 for a Human Resource Manager and Director, excluding overtime, was 1.2%. Assuming that this rate of growth continued, their median pay in 2024 would have been £26.62. This is uplifted by 30% to cover non-labour costs to £34.61 an hour.<sup>39</sup>
- 10.31. The average cost of legal advice and representation for an Employment Tribunal case is taken from SETA 2018 as £4,100 (82% of private sector employers paid for legal advice and representation, and the average cost was £5,000, we therefore calculate a weighted cost to estimate the average cost to be applied to additional cases with legal representation; 82% ×

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<sup>35</sup> Department for Business and Trade and Department for Business, Energy & Industrial Strategy, [Survey of employment tribunal applications 2018](#) (2020)

<sup>36</sup> ONS, [Earnings and hours worked, occupation by four-digit SOC: ASHE](#) (Table 14) (viewed August 2024)

<sup>37</sup> SCM Network [International Standard Cost Model Manual](#) (page 19) (viewed August 2024)

<sup>38</sup> ONS, [Earnings and hours worked, occupation by four-digit SOC: ASHE](#) (Table 14) (viewed August 2024)

<sup>39</sup> SCM Network [International Standard Cost Model Manual](#) (page 19) (viewed August 2024)

£5,000 = £4,100). We then brought this forward to 2024 prices using the Bank of England's Inflation Calculator<sup>40</sup> to get a cost of £5,180.26.

- 10.32. The average cost of an employment tribunal case to an employer is therefore £6,905.70 per company, consisting of managers, directors and senior officials time (6.25 x 8 x £31.74 = £1,587.00), HR manager time (0.5 x 8 x £34.61 = £138.44) and legal advice and representation (£5,180.26).
- 10.33. In 2022/23 there were 105 sexual harassment employment tribunal cases in the private sector (see note 1b for details).
- 10.34. In line with the 2012 Impact Assessment on removing third party harassment provisions,<sup>41</sup> we assume that the provisions could result in an upper estimate of a 50% increase, and a lower estimate of a 5% decrease, in the annual number of sexual harassment cases accepted at Employment Tribunal. A best estimate of 22.5% is used.
- 10.35. Therefore we calculate 24 additional employment tribunal cases per year, resulting in a total cost across all GB private businesses with at least 1 employee of £164,452.34 per year.
- 10.36. **Note 1b:** Sexual harassment has been calculated by taking the average of the number of cases including the phrase "sexual harassment" (on the Employment Tribunal Decisions database) since February 2017 to the most recent case with a decision (18th of July 2024) [search criteria: "sexual harassment", decision date after 2017, decision date before 2025 [data taken on 09/08/2024]

### **Settlements and compensation costs: Businesses**

- 10.37. Compensation and settlement costs are included as indirect costs to businesses. These will only occur if employers have failed to comply with the proposed legislation and therefore are not included as a direct cost to businesses. The EANDCB should only include costs that are incurred as a result of complying with the new measures; which if employers have done, they would be able to successfully defend any claims and would not be required to pay to settle cases or provide compensation.

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<sup>40</sup> Bank of England, [Inflation Calculator](#) (viewed August 2024)

<sup>41</sup> Office for Equality and Opportunity (formerly Government Equalities Office), [Review of third party harassment provisions: impact assessment](#) (2012)

- 10.38. The average compensation awarded in a sexual discrimination tribunal case in 2022/23 was £11,177.<sup>42</sup>
- 10.39. The median settlement value in a discrimination tribunal case is estimated using SETA 2018 as £5,000.<sup>43</sup> It is assumed that settlement costs will be incurred by employers for cases which are privately settled.

### **Costs to public sector:**

- 10.40. **Context:** The main public sector costs include the development of guidance on the measure for companies with at least 1 employee.

### **One-off guidance development costs: public sector**

- 10.41. Guidance necessary to support companies, with at least 1 employee, familiarise themselves with the requirements of the measure will be developed and published. This will extend the existing guidance<sup>44</sup> on harassment at work.
- 10.42. The yearly pay of a grade 6 analyst, in 2023/24, at the middle of the pay band is £66,950 for a member of staff outside of London. This is uplifted by 30% to cover non-labour costs to £87,035 a year.<sup>45</sup>
- 10.43. The development of guidance for companies, with at least 1 employee, is assumed to take 3 weeks. This is based on the development of guidance on the extraction and calculation of gender pay gap figures.<sup>46</sup>
- 10.44. The cost of a grade 6 analyst for three weeks, including the uplift for non-labour costs, is £5,021.

### **Costs to HM Courts and Tribunal Service**

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<sup>42</sup> Ministry of Justice, [Employment Tribunal and Employment Appeal Tribunal Tables 2022 to 2023](#) (2023)

<sup>43</sup> Department for Business and Trade and Department for Business, Energy & Industrial Strategy, [Survey of employment tribunal applications 2018](#) (2020)

<sup>44</sup> Equality and Human Rights Commission, [Sexual harassment and harassment at work](#) (2020)

<sup>45</sup> SCM Network [International Standard Cost Model Manual](#) (page 19) (viewed August 2024)

<sup>46</sup> Office for Equality and Opportunity (formerly Government Equalities Office), [Gender pay gap reporting: guidance for employers](#) (viewed August 2024)

- 10.45. This measure may increase or decrease costs to HM Courts and Tribunal Service. We assume the impact would be minor as, according to SETA 2018,<sup>47</sup> the total number of discrimination cases was 16,005 and we are predicting a maximum of 53 new cases as a result of this measure, and potentially a decrease of 5 cases. We believe that it is sensible to keep these under review, given that the costs may be substantially different by the time these proposals are closer to being introduced, and will work with OGDs to update this assessment with any additional evidence.

## **Costs and benefits to business calculations**

### **Total first year costs: Businesses**

- 10.46. The total first year cost of this measure for GB private businesses with at least 1 employee is £11,509,896. See section 1 of this evidence base for details.

### **Total annual costs: Businesses**

- 10.47. The total annual cost of this measure is £164,452.34. This cost would be shared across all GB private companies with at least 1 employee. See section 1 of this evidence base for details.
- 10.48. These costs are the annual, repeatable, costs that form part of the total costs for year 1. They have been discounted in line with the Standard Discount Rates and Associated Discount Factors outlined in HM Treasury's Green Book,<sup>48</sup> for years 2 to 10.

### **Total 10 year costs: Businesses**

- 10.49. The total cost to private business, discounted in line with the Standard Discount Rates and Associated Discount Factors outlined in HM Treasury's Green Book,<sup>49</sup> for the first 10 years of the measure is £12,760,983.
- 10.50. Total 10 year costs assume that annual delivery costs (outlined above) remain stable.

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<sup>47</sup> Department for Business and Trade and Department for Business, Energy & Industrial Strategy, [Survey of employment tribunal applications 2018](#) (2020)

<sup>48</sup> HM Treasury, [Green Book](#) (2022) (table 7)

<sup>49</sup> HM Treasury, [Green Book](#) (2022) (table 7)

## Impact on small and micro businesses

- 10.51. Of around 27 million employees in the private sector in the GB in 2023, around 31.4% are employed by SMEs.
- 10.52. All employees, regardless of what size of organisation they work for, should be protected from sexual harassment and therefore we do not feel it is appropriate to exempt SMEs from these new measures.
- 10.53. Employers are required to take reasonable steps to prevent workplace sexual harassment and as such should already be taking action to protect their employees.
- 10.54. Guidance to enable a clearer understanding of the laws and the preventative steps employers should be taking, will help businesses of all sizes.
- 10.55. The impact of the legislation is expected to be larger for medium and large businesses; it is not expected to have a disproportionate impact on SMEs. This is mainly due to the fact that: larger firms have more employees and there is therefore scope for a larger number of harassment cases; and larger firms are more likely to pay for Employment Tribunal advice and representation than smaller firms.<sup>50</sup>
- 10.56. Small and micro businesses make up around 97% of businesses with employees in GB. Therefore, one-off familiarisation costs are expected to fall mostly on small and micro businesses. However, our best estimates suggest that it will cost £8.65 per medium/large business to familiarise themselves with the new legislation, while it will cost £7.94 for small and micro businesses.
- 10.57. The costs of the legislation are largely based on the cost of defending a tribunal case to an employer. In Section 1, it is assumed that costs are experienced equally by all businesses. However, SETA 2018<sup>51</sup> suggests that smaller firms are less likely to pay for advice and representation than larger firms:
- 87% of businesses with 250+ employees pay for representation
  - 80% of firms with 50 to 249 employees pay for representation

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<sup>50</sup> Department for Business and Trade and Department for Business, Energy & Industrial Strategy, [Survey of employment tribunal applications 2018](#) (2020)

<sup>51</sup> Department for Business and Trade and Department for Business, Energy & Industrial Strategy, [Survey of employment tribunal applications 2018](#) (2020)

- 77% of firms with 25 to 49 employees pay for representation
- 76% of firms with less than 25 employees pay for representation

10.58. As a result, the cost implications of additional Employment Tribunals for small and micro businesses is likely to be less than estimated in Section 1.

## Costs and benefits to households' calculations

- 10.59. The objective of this measure is a sustained reduction in the number of employees experiencing sexual harassment in the workplace. The impact on households is, therefore, expected to be positive due to improved welfare and emotional well being. However, its effect on these wider welfare issues are complex and difficult to measure or monetise.
- 10.60. The measure outlined in this impact assessment is specific to companies with at least 1 employee. There are no costs for households as a result.

## Business environment

- 10.61. The measure applies only to businesses with at least 1 employee. As such there are no barriers to entry into UK markets as companies would already need to exist for the measure to apply.
- 10.62. The measure has a small on-going annual cost per company. This cost is assumed to be low enough not to encourage innovation, prevent investment, or growth in a business.
- 10.63. The objective of this measure is a sustained reduction in the number of employees experiencing sexual harassment in the workplace. A reduction in sexual harassment will have a positive impact on the business environment due to higher employee satisfaction, loyalty and productivity, which will offset the relatively small cost to businesses.<sup>52</sup>

## Trade implications

- 10.64. As set out in the Better Regulation Framework guidance, all Impact Assessments must consider whether the policy measures are likely to impact on international trade and investment.

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<sup>52</sup> Krekel and others, [Employee Wellbeing, Productivity, and Firm Performance](#), Saïd Business School (2019)



- 10.65. The measure applies to businesses with at least 1 employee and has a small on-going annual cost. This cost is assumed to be low enough not to encourage innovation, prevent investment, or growth in a business.
- 10.66. From a legal standpoint, the policy does not impact international trade as it is compliant with international obligations and does not have any implications for trade partners or foreign businesses operating in the UK.
- 10.67. The preferred option will not introduce requirements on foreign-owned companies that go above and beyond those which are UK-owned.

## **Environment: Natural capital impact and decarbonisation**

- 10.68. The measure applies to businesses with at least 1 employee and we expect that there is no or negligible impact on the environment, natural capital, and decarbonisation as a result of this measure. The regulation does not directly relate to environmental or decarbonisation goals.

## **Other wider impacts**

- 10.69. The measure is linked to commitments made in the Government's manifesto and the King's speech (see section 3 for details) that are associated with greater equality of opportunity for people in the UK.
- 10.70. The measure applies to businesses with at least 1 employee and does not have an effect on the impact of those businesses on other areas not outlined elsewhere in this impact assessment. This includes areas such as public health, defence, national security, animal welfare, systemic risk, market resilience.

## **Overall benefits**

- 10.71. The overall benefits of this measure include wider welfare benefits from a reduction in sexual harassment in the workplace. It is likely this measure would produce a range of benefits from a reduction in the proportion and number of employees who are sexually harassed in the

workplace, a reduction in the number of cases brought to the Employment Tribunal, and improved equality in the workplace. Companies who are seen to deal strongly with sexual harassment are likely to get a boost to their reputation, increasing trust in employers, which may help to attract customers, clients and talent. These are complex and difficult to quantify or monetise; however, their impact on households and businesses is expected to be positive.

- 10.72. Most calculations on the economic impact of equality for businesses are significantly broader in range than this measure. For example, the McKinsey Global Institute stated that if women were to participate in the economy identically to men they could add as much as 26% to annual global GDP by 2025 (from 2016).<sup>53</sup> It is expected, however, robust workplace protections provides for a happier workforce and concomitantly a more productive workforce: Krekel and others (2019) find a positive correlation between employees' satisfaction with their company and employee productivity, and a strong negative correlation with staff turnover.<sup>54</sup> Additionally they find higher wellbeing at work to be positively correlated with more business-unit level profitability. These benefits are dependent on individual organisations and their circumstances.
- 10.73. Furthermore, Goal 5 of the United Nations Sustainable Development Goals is to “achieve gender equality and empower all women and girls”.<sup>55</sup> The UN states that gender equality is “...not only a fundamental human right but a necessary foundation for a peaceful, prosperous and sustainable world”. The goal goes on to discuss economic impacts (through unequal participation in the labour market), impacts on sexual violence, exploitation of women and discrimination in areas like public office.
- 10.74. There will also be non-monetised benefits from companies supporting the wellbeing of employees. Employees may feel safer, particularly in customer facing roles and when working with contractors.

### **Public sector equality assessment**

- 10.75. It is expected that introducing a new duty, and further guidance for employers on how to prevent harassment in the workplace, may have a positive impact across the protected characteristics of sex, age, race, disability and sexual orientation.

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<sup>53</sup> McKinsey Global Institute, [The Economic Benefits of Gender Parity](#) (2016)

<sup>54</sup> Krekel and others, [Employee Wellbeing, Productivity, and Firm Performance](#), Saïd Business School (2019)

<sup>55</sup> UN, [Goal 5: Achieve gender equality and empower all women and girls](#) (viewed August 2024)

- 10.76. The Office for National Statistics reports on experiences of harassment prevalence and nature in England and Wales. For the year ending March 2023, 26.5% of people aged 16 years and over who said they had experienced sexual harassment in-person in the last 12 months said that they had experienced it at their place of work.<sup>56</sup>
- 10.77. The Government Equalities Office's 2020 Sexual Harassment Survey<sup>57</sup> was conducted in order to provide more detail on sexual harassment in the workplace. It was the first such survey in the UK to sample a nationally representative cross-section by age, gender, region, ethnicity, and sexual orientation.<sup>58</sup>
- 10.78. With regard to sex,<sup>59</sup> the Government survey found that men were almost as likely to experience workplace sexual harassment as women in 2019-20 (the incidence of experiencing harassment was 30%<sup>60</sup> among women and 27% among men) although there were differences in the types of sexual harassment experienced. In comparison, a 2020 CIPD report<sup>61</sup> found that women are significantly more likely than men to report they have experienced bullying and sexual harassment in the workplace (17% versus 13% and 7% versus 2%, respectively). It is therefore difficult to say whether women are significantly more likely to experience workplace sexual harassment. However, what is clear is that individuals of both sexes can experience harassment and it is reasonable to infer that a new duty would have a positive equality impact across all three limbs of the PSED in relation to the characteristic of sex.
- 10.79. Prompting employers to take further steps to reduce workplace harassment should likewise be beneficial for the working age population. Younger employees are more likely to experience workplace sexual harassment, therefore we believe it will be particularly beneficial for this age group. The Government survey on sexual harassment found that, in 2019-2020: 42% of 16-24 year olds, 44% of 25-34 year olds, 30% of 35-49 years olds, and 13% of over 50 year olds had experienced harassment. We therefore consider that this

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<sup>56</sup> ONS, [Experiences of harassment in England and Wales: December 2023](#) (2023)

<sup>57</sup> Equality Hub (formerly Government Equalities Office), [2020 Sexual Harassment Survey](#) (2020)

<sup>58</sup> There was a total sample size of 12,131 respondents. Data was collected using an experimental methodology using survey quotas to ensure that the data was nationally representative and that the findings were statistically robust. Findings from the survey have also been weighted to represent the total population of the UK over the age of 16 years at the time of completion. Caution should be taken when using these figures

<sup>59</sup> The survey explicitly asked respondents for their gender and not sex. Transgender participants were analysed based on their selected gender but not analysed separately; this was due to a recognition that their experience will differ significantly from LGB and will require separate analysis

<sup>60</sup> This is a statistically significant higher proportion than the 29% of the UK working population who had experienced sexual harassment in the workplace in the last 12 months

<sup>61</sup> Chartered Institute of Personnel & Development, [Managing conflict in the modern workplace](#), (2020), p.20. Information is based on a survey of employees conducted by YouGov Plc in September 2019

proposal will have a net positive impact as regards age, with no negative impact upon those who are not of working age.

- 10.80. The Government survey also found that 32% of respondents from an ethnic minority background experienced sexual harassment in the workplace in 2019-2020. This compares with 28% of White respondents and sits above the prevalence amongst the UK working population (29%). It is clear that those from ethnic minority backgrounds are more likely to experience workplace sexual harassment, and therefore could benefit from any positive steps employers may take as a result of a new duty and accompanying guidance. Therefore, we consider that this proposal could have a positive impact across all limbs of the PSED in relation to the characteristic of race.
- 10.81. With regard to disability, the Government survey found that those with a highly limiting disability (44%) were more likely to have experienced workplace sexual harassment in the last 12 months (2019-202) than those with no disability (25%). Therefore, for those people who have a highly limiting disability and are in work, any efforts employers make to tackle workplace harassment could have a positive effect across all elements of the PSED.
- 10.82. With regard to sexual orientation, evidence shows that LGB workers are more likely to experience sexual harassment than heterosexual workers. A targeted 2019 TUC survey of LGBT workers found that 68% of respondents had experienced at least one form of sexual harassment at work (recognising that this survey also included transgender respondents).<sup>62</sup> These results are supported by those within the Government survey, which found that 43% of LGB<sup>63</sup> people had experienced sexual harassment in the last 12 months (2019-2020), compared to 28% of heterosexuals. Therefore, again it is reasonable to infer that a new duty and employer guidance would have a positive equality impact across all three limbs of the PSED in relation to this characteristic.
- 10.83. There is little evidence specifically in relation to the protected characteristic of gender reassignment. While the TUC research is the most comprehensive it still looks at gender reassignment inseparably from the experiences of LGB people. It is therefore difficult to understand the impact the new employer duty and guidance will have on this group; but

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<sup>62</sup> TUC, [Sexual harassment of LGBT people in the workplace](#), (2019) p.8. Survey is based on a sample of 1,001 adult LGBT workers (not weighted) in Great Britain who have worked within the last five years. No specific definition of sexual harassment was used, meaning a range of experiences is captured by the data

<sup>63</sup> Data from transgender respondents was analysed based on their selected gender but not analysed separately; this was due to a recognition that their experiences will differ significantly from LGB and will require separate analysis

given the prevalence of harassment shown within the TUC figures for LGBT as a whole, there is likely to be some positive effect.

- 10.84. It is expected that this measure may have positive impacts across all protected characteristics. This is, however, difficult to quantify, and could vary, given that the effectiveness of a new duty will in part be reliant on improved education of employers (as stressed consultees).
- 10.85. To date, there is no evidence to suggest that this policy will have specific impacts on people with other protected characteristics, including pregnancy and maternity, religion or belief, or marriage and civil partnership. However, responses to our consultation lead us to believe that a new duty could prompt employers to prioritise action to tackle harassment. We therefore expect the duty could result in a positive impact under limb 1 of the PSED for these characteristics, as employers respond by taking steps to improve workplace processes handling all forms of harassment.

## **Risks and assumptions**

### **Assumptions**

- 10.86. The cost of advice and representation is incurred by employers for all successful cases brought to a tribunal.
- 10.87. It is assumed that compensation costs will be incurred by employers for cases which are successful at tribunal only, and are therefore indirect costs.
- 10.88. It is assumed that settlement costs will be incurred by employers for cases which are privately settled, and again are indirect costs to businesses.
- 10.89. We have assumed 100% of businesses will have familiarisation costs.
- 10.90. It is assumed familiarisation includes the time spent reading guidance on the new measures, likely from the Equality and Human Rights Commission, Office for Equality and Opportunity or HR or sector bodies; in order to understand the legal implications and next steps. Familiarisation may also include them refreshing their understanding of existing policies in the organisation, in order to assess whether they need to be adjusted in light of the changes to liability.

- 10.91. It is assumed that employers will consider the impact of all changes together, reducing the total amount of time required for all the changes.
- 10.92. It will take 0.25 hours for HR managers of medium and large firms and owners of small and micro businesses.
- 10.93. In line with the 2021 Workplace Harassment Impact Assessment,<sup>64</sup> we assume that the provisions would result in an increase in the annual number of sexual harassment cases at Employment Tribunal by -5% to +50%.
- 10.94. Due to the introduction of legislation in October 2024 which will require employers to take 'reasonable steps' to prevent sexual harassment of their employees, we assume employers will already have assessed their risk of workplace sexual harassment and considered what reasonable steps they can take to prevent it.

## **Risks**

- 10.95. The number of businesses, assumed staff costs and time taken to familiarise with the legislation are key sensitivities covering a sizable proportion of costs.
- 10.96. There is uncertainty around expected changes to the number of harassment cases as a result of the measure. When employers take action, it may encourage more employees to come forward and bring tribunal cases, conversely the action employers take may create a decrease in harassment incidents, and thus less cases being brought.
- 10.97. Some assumptions are based on the approaches taken in the previous 2021 impact assessment on this measure.<sup>65</sup> These assumptions underpin the approach of the estimated impact. All assumptions have been reviewed internally to redetermine suitability, and updated where needed.

## **Sensitivity analysis**

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<sup>64</sup> Equality Hub (formerly Government Equalities Office), [Workplace harassment: legal protections under the Equality Act 2010](#) (2021)

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- 10.98. Sensitivity analysis was considered in generating the costs used in this impact assessment. Specifically, it considered the impact of changes in the staff time required for familiarisation and the number of new tribunal cases on estimated costs.

### **Staff time required for familiarisation**

- 10.99. One-off familiarisation costs for business were estimated to be £7.94 per micro and small company, and £8.65 per medium and large company. This was calculated assuming a requirement of 0.25 hours of each key staff member's time.
- 10.100. An upper estimate was calculated where the time required was 0.75 hours per staff member. One-off familiarisation costs for business in this scenario were estimated to be £23.81 per micro and small company, and £25.96 per medium and large company.
- 10.101. A lower estimate was calculated where the time required was 0.08 hours (5 minutes) per staff member. One-off familiarisation costs for business in this scenario were estimated to be £2.65 per micro and small company, and £2.88 per medium and large company.

### **Recurring annual costs for businesses**

- 10.102. The annual cost of this measure for businesses is the cost of successfully defending additional employment tribunal cases. The average cost of legal advice and representation for an Employment Tribunal case was £6,905.70 (see 'Cost of defending a tribunal case: Businesses' for details).
- 10.103. The number of new cases resulting from this measure was 22.5%, or 24 cases per year. Recurring annual costs for businesses in this scenario were £164,452.34 per year.
- 10.104. An upper estimate for the number of new cases resulting from this measure was 50%, or 53 cases per year. Recurring annual costs for businesses in this scenario were £365,449.64 per year.
- 10.105. A lower estimate for the number of new cases resulting from this measure was a decrease of 5%, or 5 cases per year. Recurring annual savings for businesses in this scenario were £36,544.96 per year.

### **Total year 1 costs for businesses**

- 10.106. The total first year cost of this measure for GB businesses with at least 1 employee was estimated to be £11,509,896. See section 1 of this evidence base for details.
- 10.107. An upper estimate of the total first year cost of this measure for GB businesses with at least 1 employee is £34,401,780. This was calculated using the upper estimate of both time taken for familiarisation and the number of new tribunal cases.
- 10.108. A lower estimate of the total first year cost of this measure for GB businesses with at least 1 employee is £3,745,269. This was calculated using the lower estimate of both time taken for familiarisation and the number of new tribunal cases.

### **Total 10 year costs for businesses**

- 10.109. The total 10 year cost of this measure for GB businesses with at least 1 employee was estimated to be £12,760,983. See section 1 of this evidence base for details.
- 10.110. An upper estimate of the total 10 year cost of this measure for GB businesses with at least 1 employee is £37,181,974. This was calculated using the upper estimate of both time taken for familiarisation and the number of new tribunal cases.
- 10.111. A lower estimate of the total first year cost of this measure for GB businesses with at least 1 employee is £3,467,250. This was calculated using the lower estimate of both time taken for familiarisation and the number of new tribunal cases.