Factsheet: Power to make provision about “reasonable steps”

Office for Equality and Opportunity | Department for Business & Trade

What changes has the Act made to the law?

While the preventative duty (under section 40A of the Equality Act 2010) places broad requirements on employers to take reasonable steps to prevent sexual harassment of employees, it is important to ensure that specific steps are taken where the evidence demonstrates they are needed in order to prevent sexual harassment. The Employment Rights Act introduces a power enabling a Minister of the Crown to make regulations. This allows the Government to specify steps, at a later date, 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 harassment. Employers will be asked to take specific steps where these are proportionate and there is an evidence base supporting their efficacy in preventing workplace sexual 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 must 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.

Any requirements specified will be reasonable for the employers to which they apply. The steps that may be specified in regulations include, among others:

- carrying out assessments of a specified description
- publishing plans or policies of a specified description
- steps relating to the reporting of sexual harassment
- steps relating to the handling of complaints

The secondary legislation will be laid under the affirmative procedure. This is appropriate due to the level of detail that may be set out in the regulations and the requirements they may place on employers. The affirmative procedure will ensure that Parliament has the opportunity to debate and scrutinise the matters as they are set out.

How is this different from the previous legislation?

Previously, the Equality Act 2010 did not include a power to allow a Minister of the Crown to make regulations to specify steps which an employer must take and matters to which they must have regard for the purposes of meeting the obligations set out in the Equality Act 2010 to take reasonable or all reasonable steps to prevent sexual harassment.

The Employment Rights Act amends the Equality Act to permit regulations that will set out a non-exhaustive list of obligations that are to be regarded as “reasonable” for the purpose of determining whether, for the purposes of the Equality Act 2010, an employer has taken, or failed to take, all reasonable steps to prevent sexual harassment of an employee. Any steps set out in the regulations may require an employer to have regard to specified matters when taking those steps.

When will these changes come into force?

Measure	**Expected Commencement**
Regulation defining “reasonable steps”	2027/28 (after consultation)

What further detail will be consulted on and when?

We will consult on any proposed requirements before regulations are made.

A call for evidence has been conducted and responses are being analysed. The Government will also be conducting further research to inform the regulations.

The Government continues to engage with the Equality and Human Rights Commission on how they can best support employers.

The Equality and Human Rights Commission has updated their technical guidance on sexual harassment and harassment in the workplace to support employers with the preventative duty. It has also published updated guidance and resources to support employers with the changes, including guidance on steps employers can take to prevent sexual harassment at work.

Key Stats

The most reliable estimate available on the prevalence of sexual harassment in the workplace comes from the Office for National Statistics' (ONS) Crime Survey for England and Wales.

These show that:[1]

- In the year ending March 2025, 22.5% of people aged 16 years and over who said they had experienced sexual harassment in person in the last 12 months, experience this at their place of work.
- In the year ending March 2025, 7.1% of people aged 16 years and over who said they had experienced sexual harassment in the last 12 months were harassed by a workmate or colleague. This sits at 7.8% for women and 5.3% for men.

Common Questions

Will employers only need to take the specific steps specified?

Compliance with any specific steps set out in regulations will not remove the requirement that employers comply with the broader preventative duty, which requires that "all reasonable steps" are taken to prevent sexual harassment.

An employer that wants to show that it has taken all reasonable steps must take the relevant 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

What sort of specific steps do you intend to introduce?

Any requirements specified will be reasonable for the employers to which they apply.

The steps that may be specified in regulations include, among others:

- carrying out assessments of a specified description
- publishing plans or policies of a specified description
- steps relating to the reporting of sexual harassment

[1] The following information comes from: ONS (2025) The nature of violent crime: appendix table.

- steps relating to the handling of complaints

We will consult on any proposed requirements before regulations are made.

How will you enforce the requirement on employers to produce action plans outlining steps they are taking to reduce the risk and prevalence of sexual harassment?

There are currently no provisions requiring employers to produce action plans outlining steps they are taking to reduce the risk and prevalence of sexual harassment.

Any such provisions would be the result of a formal consultation.

The power will allow the Government to make regulations at a later date setting out specific steps regarded as “reasonable” and that employers should take. The Government will only set out steps in regulations where these are proportionate and there is an evidence base supporting their efficacy in preventing workplace sexual harassment.

Concerns about the breadth of the power to make provision about ‘reasonable steps’ to prevent sexual harassment.

The power relates to the purpose of “all reasonable steps” to prevent sexual harassment of an employee under sections 40, 40A and 109.

This is a complicated area in which best practice is evolving over time, and flexibility is needed to ensure requirements remain up to date with changing labour market conditions. This will allow changes where necessary in the future without the need for further primary legislation.

Due to the level of detail that may be set out in the regulations and the requirements they may place on employers, the secondary legislation will be laid under the affirmative procedure to ensure that Parliament has the opportunity to debate and scrutinise the matters as they are set out.

Factsheet: Employers to take all reasonable steps to prevent sexual harassment

Department for Business & Trade

What changes has the Act made to the law?

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. The Employment Rights Act strengthens protections against harassment by amending the duty at Section 40A of the Equality Act so that employers must take 'all reasonable steps' to prevent sexual harassment of their employees rather than simply 'reasonable steps'.

The amended duty mirrors the concept of the "all reasonable steps" defence in section 109(4) of the Equality Act 2010. This means that the threshold in the preventative duty is consistent with the existing statutory defence against an employer's vicarious liability for the actions of their employees, which can be used in sexual harassment claims. Removing the discrepancy helps ensure that there is no confusion or a perception that the threshold is lower for the sexual harassment duty and therefore, employers do not need to take a thorough approach to prevention. What constitutes "all reasonable steps" will depend on the specific circumstances of the employer, such as their size, sector, and other relevant facts. Employers simply need to do all that is reasonable.

How is this different from the previous legislation?

The Worker Protection (Amendment to the Equality Act 2010) Act 2023 came into force on 26 October 2024. This introduced a legal duty on employers at Section 40A of the Equality Act 2010 to take "reasonable steps" to prevent sexual harassment of their employees. The Employment Rights Act amends the duty to require employers to take "all reasonable steps" to prevent sexual harassment of their employees.

An individual still cannot make a standalone claim for breach of the duty. Instead, they must first bring a claim against their employer for sexual harassment to an Employment Tribunal. If the claimant is successful and compensation is awarded, a breach of the preventative duty will automatically be examined. Where the Tribunal has found a breach of the 2010 Act which involved, to any extent, sexual harassment, this may lead to an uplift in compensation payable to the employee by up to 25%. A standalone breach may be enforced by the Equality and Human Rights Commission (EHRC) under their existing enforcement powers under the Equality Act 2006.

When will these changes come into force?

Measure	**Expected Commencement**
Employer duty to take all reasonable steps to prevent sexual harassment	October 2026

What further detail will be consulted on and when?

The Government continues to engage with the Equality and Human Rights Commission on how they can best support employers.

The Equality and Human Rights Commission updated their technical guidance on sexual harassment and harassment in the workplace to support employers with the preventative duty. It also produced an 8-step guide and Checklist and Action Plan to stop harassment before it occurs. These resources focus on areas such as:

- robust risk assessment
- clear policies and procedures
- staff engagement and communication
- multiple reporting mechanisms
- effective training and awareness
- monitoring and evaluation
- tackling third-party harassment

Key Stats

The most reliable estimate available on the prevalence of sexual harassment in the workplace comes from the Office for National Statistics' (ONS) Crime Survey for England and Wales.

These show that:[2]

- In the year ending March 2025, 22.5% of people aged 16 years and over who said they had experienced sexual harassment in person in the last 12 months, experience this at their place of work.
- In the year ending March 2025, 7.1% of people aged 16 years and over who said they had experienced sexual harassment in the last 12 months were harassed by a workmate or colleague. This sits at 7.8% for women and 5.3% for men.

Common Questions

Can you provide examples of "reasonable steps" for the preventative duty?

- The Equality and Human Rights Commission has published guidance and resources to support employers with the preventive duty, including guidance on steps employers can take to prevent sexual harassment at work.
- These can include developing effective anti-harassment policies, undertaking risk assessments, engaging and training staff, ensuring effective reporting and complaints systems are in place, and evaluating steps taken on an ongoing basis.
- What is reasonable will vary from employer to employer and will depend on factors such as (but not limited to) the employer's size, the sector within which it operates, the working environment and its resources.
- Different employers may prevent sexual harassment in different ways, but no employer is exempt from the sexual harassment preventative duty.

Will there be guidance to support employers with changes?

- Businesses will have clear guidance in order to ensure that they are fully supported in complying with the legislation.
- We will continue to engage with the Equality and Human Rights Commission on how they can best support employers.
- The EHRC most recently updated their technical guidance on sexual harassment and harassment in the workplace to support employers with the preventative duty.

[2] The following information comes from: ONS (2025) The nature of violent crime: appendix table.

What is the difference between “reasonable steps” and “all reasonable steps”, what is the point of the change?

- Employers have a legal defence to employer liability claims, including sexual harassment, under section 109 of the Equality Act 2010 if they can show that they took “all reasonable steps” to prevent their employees from acting unlawfully. However, the duty in section 40A previously only required employers to take “reasonable steps” to prevent sexual harassment.
- It is important that the threshold in the preventative duty is consistent with the existing statutory defence against an employer's vicarious liability for the actions of their employees, which can be used in sexual harassment claims.
- This is to ensure that there is no confusion or a perception that the threshold is lower for sexual harassment.
- Removing the discrepancy reduces uncertainty for employers and instead emphasises the thorough approach employers must take to prevent sexual harassment to avoid legal liability and additional financial penalty.

Factsheet: Harassment by third parties

Department for Business & Trade

What changes has the Act made to the law?

To ensure workplaces and working conditions are free from harassment, employees must be protected from third-party harassment. Previously, the law was clear that employers can be held vicariously liable for harassment carried out by their employees, however, it was less clear-cut when it came to harassment of staff by third parties.

The Employment Rights Act amends the Equality Act 2010 by introducing explicit protections from third-party harassment. This ensures that victims can be confident that they have recourse to legal redress if their employer has not taken all reasonable steps to protect them.

All three forms of harassment in section 26 of the Equality Act 2010 are covered. This includes sexual harassment and treating someone less favourably because he or she has either submitted to or rejected sexual harassment or harassment related to sex or gender reassignment. It also includes protected characteristics in scope of the existing harassment provision. These are: age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation.

An employer permits a third party to harass an employee only in circumstances where an employee is harassed in the course of their employment, and it is shown that the employer failed to take all reasonable steps to prevent the third party from harassing them. A “third party” is a person other than the employer or a fellow employee. The measure will be enforced in the same way as the existing harassment measures within the Act.

Conduct that is trivial or causes minor offence will not be sufficiently serious to meet the definition of harassment. The conduct has to have “the purpose or effect” of creating an intimidating, hostile, degrading, humiliating or offensive environment for the complainant or of violating the complainant’s dignity. In order to meet this test where this was the effect of the conduct (but wasn’t its purpose), it is not enough for the claimant to perceive subjectively that someone’s conduct is offensive; the tribunal must also consider whether it was reasonable for the conduct to have that effect.

This is an objective test in which the reasonableness, and the facts, of the individual situation must always be considered. Even where such a test is met, courts and tribunals will also be required to balance competing rights on the facts of a particular case, including the right of freedom of expression under the European Convention on Human Rights. This will require that any interference with the right to freedom of expression be necessary and proportionate. As a result, this measure will not mean that employers are required to take steps to prevent employees ever being subjected to conduct they regard as offensive; they are only required to take steps that are reasonable, given the circumstances, in order to prevent the harassment of their employees.

The steps that an employer can reasonably take in respect of the actions of third parties in their workplace are clearly more limited than the steps they can take in respect of their employees, and this will be taken account of by the Employment Tribunal when considering the facts of the case. Employers simply need to do what is reasonable; for example, they should consider the nature of any contact with third parties, including the type of third party, frequency, and environment.

How is this different from the previous legislation?

Harassment by third parties (such as by clients or customers), whether related to sex or any other protected characteristic, was not previously prohibited under the Equality Act 2010. This Act amends the Equality Act 2010 to introduce an obligation on employers not to permit harassment of their employees by third parties.

Individuals will now be able to take a claim of third party harassment against their employer to an Employment Tribunal, and the Equality and Human Rights Commission may also use its enforcement powers to take action.

Third-party harassment provision protections existed between 2008 and 2013 but included the 'three strikes rule', whereby employers needed to be aware of two previous incidents of third-party harassment before they could be considered liable. This was repealed as part of the red-tape challenge; it was criticised for being confusing, and we are aware of only two cases brought under the rule. Between 2013 and 2018, it was considered by the Government that the 2010 Act's broader protections against harassment already covered situations of third-party harassment. However, the 2018 ruling by the Court of Appeal in Unite the Union v Nailard clarified that the 2013 repeal meant that the 2010 Act no longer provided any protection in such cases.

When will these changes come into force?

Measure	**Expected Commencement**
Duty not to permit third-party harassment	October 2026

What further detail will be consulted on and when?

The Government continues to engage with the Equality and Human Rights Commission on how they can best support employers.

The EHRC have updated their technical guidance on sexual harassment and harassment in the workplace to reflect the upcoming changes to support employers with the new preventative duty.

The Equality and Human Rights Commission has published updated guidance and resources to support employers with the changes, including guidance on steps employers can take to prevent sexual harassment at work.

Key Stats

Statistics relating to third party harassment:[3]

- In the year ending March 2025, 5.2% of people aged 16 years and over who said they had experienced **sexual harassment** in the last 12 months were harassed by a client or member of the public contacted through work.
- In the year ending March 2025, 6.2% of people aged 16 years and over who said they had experienced **non-sexual harassment** in the last 12 months, had been harassed by a client or member of the public contacted through work.

[3] The following information comes from: ONS (2025) The nature of violent crime: appendix table.

Common Questions

Third-party harassment provisions will increase burdens on business.

- Third-party harassment provisions existed for 5 years between 2008 and 2013 without there being any adverse effect on businesses.
- Employers simply need to do what is reasonable. What constitutes 'all reasonable steps' will depend on the specific circumstances of the employer.
- In certain sectors or in certain roles, there may be more regular worker interaction with third-party contractors, suppliers, customers or other members of the public than others.
- Employers will not be penalised for failing to take unworkable or impractical steps. For example, this clause would not require employers to foresee the wholly unforeseeable or police all customers' private conversations.

Third-party harassment provisions could have a chilling effect on free speech.

- Free speech is a cornerstone of British values, but harassment is not free speech. This provision concerns employer liability for workplace harassment, which is a serious issue and not to be underplayed.
- This measure does not change how Article 10 of the European Convention of Human Rights applies - any interference with the right to freedom of expression should be necessary and proportionate.
- The Explanatory Notes to the Equality Act specifically state that, in determining the effect of the unwanted conduct, courts and tribunals must balance competing rights on the facts of a particular case – which could include the rights of freedom of expression, religion and protected belief (as set out in Articles 9 and 10) and academic freedom.