

MM10 - Preventing sexual harassment in the workplace



With the festive season fast approaching and no shortage of parties and meals, Sarah J. Baker, Solicitor Apprentice at Napthens, offers some advice to ensure all staff behave appropriately.

Whether highlighted in an episode of *The Office* or seeing memes whilst scrolling through social media, there is no shortage of satirical anecdotes about inappropriate behaviour at festive work parties. Coinciding with the fifth anniversary of the #MeToo movement, the UK Government have a new bill making its way through Parliament.

Labelled 'The Worker Protection (Amendment of Equality Act 2010) Bill', it is focused on prevention and will, if passed as law, place a duty on employers to 'take all reasonable steps' to prevent sexual harassment in the workplace. Whilst it is yet to become law, we have summarised some steps you could be taking to prevent sexual harassment in the workplace.

What is sexual harassment?

Sexual harassment is 'any unwanted conduct of a sexual nature which has the purpose or effect of creating an intimidating and hostile environment or violating a person's dignity.'

Sexual harassment can affect any gender and the 'unwanted conduct' can range from sexual assault to jokes and comments of a sexual nature, whether it was the intended purpose or not. For example, asking questions about someone's sex life, touching someone without their will e.g. hugging them.

Risks and statistics

From an employer's perspective the risk of sexual harassment can be great. This could span from employees feeling unsafe at work i.e. lowering morale, reputational risk and potential liability for claims of sexual harassment. If employers do not take steps to prevent sexual harassment in the workplace they can be "vicariously liable," meaning that they could be held equally responsible for sexual harassment committed by one employee to another.

It would be important to note that liability for sexual harassment extends beyond the four walls of the office, the legal phrase is that an employer can be held "vicariously liable" for sexual harassment which is committed 'in the course of employment,' this would extend to work events such as an after-hours work social event and homeworking.

Recent statistics show that 13% of workplace sexual harassment occurs when socialising with colleagues outside of the workplace and only 15% of sexual harassment in the workplace is formally reported.

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Practical steps - What employers can do to prevent sexual harassment at Christmas parties

- | Have a thorough and detailed sexual harassment policy in place which explains what harassment is, the employer's zero-tolerance approach, internal process to allegations of sexual harassment and potential repercussions
- | Undertake comprehensive internal training on sexual harassment ideally run annually and with new starters as part of the induction process. Adequate training and robust policies which have been communicated to staff are imperative for an employer's defence against being held vicariously liable
- | Email staff giving clear guidance regarding acceptable standards of behaviour at work social events
- | Consider limiting the amount of free alcohol to employees at a work social event e.g. Christmas party
- | Take any allegation of sexual harassment seriously, follow the formal procedures under the relevant policies and keep the content well documented
- | Rolling out wellbeing support for all employees involved in any allegation of sexual harassment

If you have any questions in relation to sexual harassment issues or employment law generally, then please do not hesitate to contact a member of the Napthens' Employment Team or use the enquiries form on your QCS dashboard to book a free 30 minute call back.

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*All information is correct at the time of publishing.

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