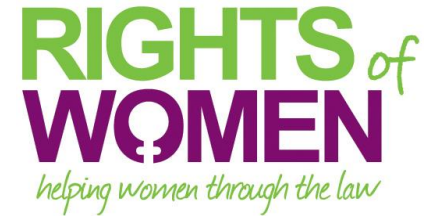


Role of equality law in addressing social and economic disadvantage and inequalities: sexual harassment in the workplace

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Who are Rights of Women (ROW)

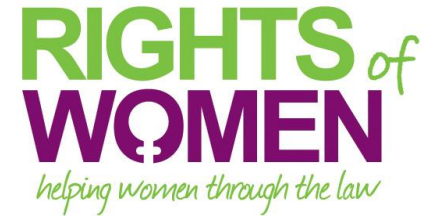


- ROW is a legal charity that was founded in 1975, led by women lawyers it provides free legal advice to women in family law, immigration and asylum law and criminal law
- ROW campaigns to improve the law for women and increase women's access to justice

Intersectionality and sexual harassment

- The conversation about sexual harassment (SH) talks about women, as if women are a single entity whose experiences are all the same need to start understanding sexual harassment from an intersectional lens.
- When people experience multiple forms of intersecting discrimination and harassment e.g. gender, race, disability or sexuality, this is ‘intersectional’ discrimination.
- Sexual harassment is not about sex - a tool wielded to assert power and dominance – institutional problems are ignored with the complaint exited
- Research from 2019 Harvard Business Review: “race and gender intersect to complicate our standard narrative of motive, and our standard image of a senior male perpetrator and junior female victim”

Our advice line

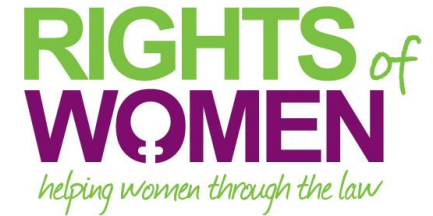


- Sexual harassment is widespread in the workplace, but EHRC does not have the powers, or resources to effectively tackle it and ensure employers are complying with their legal duties.
- It is left up to individuals to protect themselves and enforce their own rights through complaints processes or through Employment Tribunals
- Those with no guaranteed hours or protection against unfair dismissal, feared losing their current job or future work opportunities if they report sexual harassment i.e. if they had dependents or 'no recourse to public funds' which made them more reliant on their jobs

Themes from our advice line

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- The definition of sexual harassment is not well understood.
 - Women report lack of belief and support from their employers.
 - Employers fail to follow proper grievance procedures.
 - Reports against the same perpetrator are not treated as cumulative.
 - Employers often protect perpetrators rather than women.
 - Victim-blaming is rife in internal investigations.
 - Employers using the wrong standard of proof.
 - Women have a well-founded fear of retaliation.
 - Women in smaller/family run organisations feel unable to report sexual harassment.

Our One Year Data



- 45% of callers were sexually assaulted.
- 3% of callers reported being raped.
- 4% of callers reported being stalked.
- 45% of callers experienced multiple forms of discrimination of that 37% were race related.
- 67% of callers experienced multiple incidents of sexual harassment.
- 59% of callers experienced victimisation and/or less favourable treatment.
- 22% of callers were dismissed or resigned.
- 31% of callers were signed off sick (average length of time 9 weeks).

What does the data tell us?

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- Sexual harassment remains one of the most pervasive form of violence against women, often encompassing other forms of violence too
 - Sexual harassment is a public health crisis with implication on women's health more generally
 - Sexual harassment is evidence of systematic and institutional discrimination in which racism and socio-economic factors contribute too
 - Sexual harassment and sex discrimination is a symptom of gender inequity and leads to the exclusion of women from the workplace

What was the impact of Covid-19?

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- Women feel pressure to stay in unsafe workplaces due to Covid-19.
 - Increase in cyber/social media harassment.
 - More women working from home and being harassed in their homes.
 - Perpetrators using redundancy processes to dismiss women who have reported.
 - Perpetrators taking advantage of fewer witnesses in the workplace.

Insecure workers

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- More women have been pushed into insecure work since the pandemic
 - According to a [2017 report by the BBC](#), people in insecure work, such as [gig economy workers](#), zero-hour workers and freelancers, experience workplace sexual harassment at a higher rate than those employed by a business.
 - Around 46% of gig economy and zero-hour workers said they had experienced workplace sexual harassment, compared 29% of securely employed workers.
 - These leads to additional layers of uncertainty and vulnerability e.g. no HR, difficult or confusing reporting mechanisms, pressure to handle cases informally

Migrants, low paid and precarious workers

Table 1. Types of sexual harassment experienced by cleaning and hospitality survey respondents

| | |
|---|-----|
| Sexualised comments about physical appearance | 47% |
| Unwelcome sexual advances | 38% |
| Pressure for dates | 38% |
| Spreading of rumours about sexual life | 32% |
| Groping and unwanted touching | 28% |
| Unwanted discussion of sexual relations, fantasies, or stories | 26% |
| Stalking | 20% |
| Kissing sounds | 14% |
| Attempted sexual assault | 8% |
| Sharing of unwanted sexually explicit photos, emails, or texts | 8% |
| Exposure of genitals or performance of sexual acts (e.g., masturbation) | 7% |

n = 76 i.e., the number of respondents who answered 'yes' to having experienced sexual harassment at work (33 in cleaning; 43 in hospitality). Note, results do not add up to 100% as respondents often experienced more than one type of harassment. This typology of harassment is based on work by LAWRS (de la Silva *et al.*, 2019).

Migrants, low paid and precarious workers

- People of colour less likely to seek legal support
- Hyper sexualisation of migrant women
- Migrants fear of immigration status being threatened
- ‘Workers’ have no right to minimum notice periods if their employment will be ending, no protection against unfair dismissal, and no entitlement to Statutory Redundancy Pay
- Workers in cleaning and hospitality, approximately 20% of survey respondents said they had been afraid of losing work or having their hours cut if they reported or complained about harassment or abuse at work
- In the app-based delivery sector 16% of respondents said they had been afraid of having their account with a platform terminated.

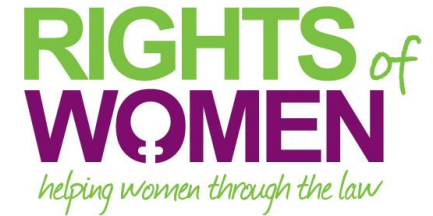
Migrants, low paid and precarious workers

- Research by FLEX in the app-based delivery sector (2021d) shows that this can lead to people accepting conditions and treatment at work they might otherwise denounce.
- Couriers described putting up with low-level harassment for fear of jeopardising their relationship with restaurants and subsequently with the platform company if they complained or objected.
- People classed as self-employed or independent contractors can also be easily dismissed, especially in the platform economy where people's accounts and therefore employment can be terminated without explanation.

Migrants, low paid and precarious workers

- People with low earnings less likely to have money left over for savings after covering necessities such as food and rent, making them financially more vulnerable and dependent on their job. As a result, people may feel unable to complain about or report sexual harassment in the knowledge that doing so could
- Fear of losing work is also exacerbated for those workers who do not have access to social protections like Universal Credit, either to top-up low pay or provide a financial safety net in case of unemployment.
- An estimated 1.376 million migrants in the UK have a no recourse to public funds (NRPF).

Reform to Labour Market Enforcement



- EHRC should take a more active role at the workplace level by investigating and taking enforcement action against suspected breaches of the duty.
- Not set up for high volumes of enforcement action. It does not have a workplace inspectorate or a preventative inspection system and, since 2007/8, its budget has been reduced by 76%
- Any increase in the EHRC's remit must be met with a sufficient increase in resources and funding to enable it to effectively carry out its role.

Recent legal developments

- Government Handout Bill – to imposing a duty on employers to prevent sexual harassment in the workplace
2nd Reading 9th September 2022
- Including the reintroduction of liability for employers for third party harassment.
- Extending Employment Tribunal claim time limits from three to six months.

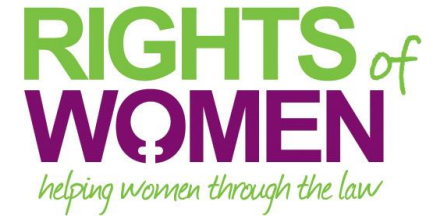
Ideas for change

- Addressing the boarder inequalities in society which perpetuate violence against women and girls
- Tackle the other manifestations of gender inequality such as the gender pay gap and the underrepresentation of women in leadership roles as recommended by the Women and Equalities Committee in 2019
- Extending the new duty to prevent SH to all the protected characteristics
- Adding class as a protected characteristics
- Extend employment rights from day one
- Legal reform around ‘institutional discrimination and prejudice’ and the public sector equality duty

Useful resources

- FLEX publication March 2022: ['Tackling sexual harassment in low-paid and insecure work'](#)
- Fawcett Society Employer Toolkit
<https://www.fawcettsociety.org.uk/tackling-sexual-harassment-in-the-workplace>

Rights of Women Sexual Harassment at Work Advice Line



Free, anonymous and confidential legal advice for
women in England and Wales

020 7490 0152

Mondays: 3pm – 5pm

Tuesdays: 3pm – 5pm and 6pm – 8pm

Wednesdays: 3pm – 5pm and 6pm – 8pm