

Still just a bit of banter?

Sexual harassment in the workplace in 2016

In association with

everyday
sexism
project



Contents

3	Foreword
4	Executive summary
6	What we know about sexual harassment Defining sexual harassment What we know about the extent of sexual harassment What do we know about who is affected by sexual harassment? Just a bit of banter?
12	TUC research findings Incidence Characteristics of respondents and their workplaces Characteristics of perpetrators Where the harassment took place Reporting harassment Impact
28	Recommendations Recommendations for government Recommendations for employers Recommendations for trade unions
33	Further sources of support and information
34	References

Foreword

How many times have we heard sexual harassment in the workplace dismissed as “just a bit of banter”? It may seem like a joke or even a compliment to those who have never experienced it – but those who have will know just how undermining, humiliating and sometimes terrifying it can be.

While trade unionists have never been in any doubt about the scale of the problem - dealing with cases of sexual harassment in the workplace is the bread and butter work of many union reps – evidence can be hard to come by. This TUC report, based on polling and the experiences of trade union members, gives us both the numbers and the voices to tell the real story.

The trade union movement faces a big challenge. Of all the alarming statistics thrown up by the polling, the fact that jumps out for me is that only one per cent of those women who had experienced sexual harassment confided in their union rep. The report also tells us that sexual harassment is more prevalent for younger women, and those in precarious forms of work such as zero hours contracts and agency work – precisely those who are much less likely to belong to a trade union.

The lessons are clear. We must do more to get the message out to our members that sexual harassment will not be tolerated and that their union will support them. And we must reach out to the army of young women in casual work who have never worked in a unionised workplace. By organising and winning agreements, we can help stamp out sexual harassment once and for all. That’s the best way to ensure that everyone has the right to respect and wellbeing at work.

A handwritten signature in black ink that reads 'Frances O'Grady'.

Frances O’Grady
General Secretary, TUC

Executive summary

The TUC undertook this research in collaboration with the Everyday Sexism project in response to the paucity of up-to-date, quantitative data on sexual harassment in the workplace. Trade unions represent nearly six million workers in the UK, about half of whom are women, so the importance of unions in challenging harassment in the workplace is clear. By working with the Everyday Sexism project the TUC aims to reach out to younger women who, as this report shows, are more likely to experience sexual harassment yet, as trade union membership statistics show, are less likely to be a member of a trade union.

While unions and women's organisations are in no doubt that sexual harassment remains as widespread a problem as ever, there has been little in the way of empirical data to quantify the problem. There already exists a wealth of evidence about women's experiences of sexual harassment and how their experiences affect them both emotionally and professionally. Trade unions are well aware not just of the scale of the problem but of the significant impact that it can have on the lives of those affected.

By commissioning polling and also gathering testimonies from union members via an online survey about their experiences of sexual harassment, this report explores both the nature and the scope of the problem and shines a light on an issue which is too often overlooked and underestimated.

Key findings relating to the extent of sexual harassment in modern workplaces are:

- More than half (fifty two per cent) of all women polled have experienced some form of sexual harassment.
- Thirty-five per cent of women have heard comments of a sexual nature being made about other women in the workplace.
- Thirty-two per cent of women have been subject to unwelcome jokes of a sexual nature.
- Twenty-eight per cent of women have been subject to comments of a sexual nature about their body or clothes.
- Nearly one quarter of women have experienced unwanted touching (such as a hand on the knee or lower back).
- One fifth of women have experienced unwanted sexual advances.

- More than one in ten women reported experiencing unwanted sexual touching or attempts to kiss them.
- In the vast majority of cases, the perpetrator was a male colleague, with nearly one in five reporting that their direct manager or someone else with direct authority over them was the perpetrator.
- Four out of five women did not report the sexual harassment to their employer.

Just because sexual harassment in the workplace has proven to be a tough nut to crack, it does not mean it is an intractable problem. Action by employers, backed up by stronger legal protections for workers, better access to justice, and strong unions, are all part of the solution.

The final section of this report sets out clear recommendations to government, employers and unions.

Recommendations for government

- Abolition of employment tribunal fees
- Reinstatement of third party harassment legislation
- Reinstatement of employment tribunal powers to make wider recommendations
- Reinstatement of Statutory Equality Questionnaire
- Recognition and facility time for union equality reps
- Extend full range of statutory employment rights to all workers, regardless of employment status or type of contract.

Recommendations for employers

- Decent jobs
- Training
- Clear policies
- Implementation and enforcement of policies.

Recommendations for trade unions

- Training
- Workplace campaigns
- Negotiating workplace policies.

What we know about sexual harassment

Defining sexual harassment

This report focuses on sexual harassment, rather than other forms of discrimination and harassment such as sex-based harassment¹, or harassment on the grounds of sexual orientation but it is worth noting that there in some cases the delineation between different types of harassment may not be clear. For example, a lesbian woman may be subject to both sexual harassment and homophobic harassment at the same time and by the same perpetrator. Similarly, sexual harassment of BME women may be bound up with racist harassment.

The Equality Act 2010 defines sexual harassment as unwanted conduct of a sexual nature which has the purpose or effect of violating someone's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

It is important to note that a perpetrator's claim that a comment or action was meant in jest or as a compliment is not a defence in a sexual harassment case. Nor does the harassment have to be directed at the person complaining about it. For example, the display of pornography in a work environment or sexual comments directed at others may create a degrading, intimidating or hostile working environment for workers even if they are not intended as the object of the comments. It is also harassment to treat someone less favourably because they have rejected or submitted to unwanted sexual conduct.

Some examples of behaviour that could constitute sexual harassment are:

- indecent or suggestive remarks
- questions, jokes, or suggestions about a colleague's sex life
- the display of pornography in the workplace
- the circulation of pornography (by email, for example)
- unwelcome and inappropriate touching, hugging or kissing
- requests or demands for sexual favours

- any unwelcome behaviour of a sexual nature that creates an intimidating, hostile or humiliating working environment.

It is important to also note that sexual harassment can take place in a range of different locations and that social media and email are increasingly involved in workplace sexual harassment. Sexual harassment could take place at another workplace (for example, a client or patient's home or workplace), on a work trip, or at a work social event such as a Christmas party or a team away day.

As well as taking different forms and occurring in a wide range of settings, sexual harassment may be perpetrated by various different people including a manager, a potential employer, a colleague, a client, a patient, or a customer. For example, a care worker might be harassed by a client when on a home visit. Or a prospective employer might demand sexual favours of an actor at a casting. Sexual harassment perpetrated by a client or customer is referred to as third party harassment.

What we know about the extent of sexual harassment

Measuring the extent of sexual harassment is complicated by the fact that perceptions of sexual harassment vary from person to person, from country to country, and over time. Attempts to quantify incidents of sexual harassment are further complicated by victims' reluctance to share their experiences, even anonymously, or a reluctance to name what happened to them as sexual harassment. Examining official reports of sexual harassment, such as national crime statistics or tribunal data, would be fruitless as research has identified that few victims of sexual harassment take formal action. In 2013, the law firm Slater Gordon commissioned a survey which found that some 60 per cent of women had experienced "inappropriate behaviour" from a male colleague in the workplace and nearly half of those surveyed had been warned to expect inappropriate behaviour from particular colleagues when they had started their job. Only 27 per cent of those surveyed felt able to report the behaviour to someone senior.²

A wide scale European study carried out by the EU Agency for Fundamental Rights in 2014³ found that an estimated 83 million to 102 million women (45 per cent to 55 per cent of women) in the EU-28 have experienced sexual harassment since the age of 15. Of those women who reported having experienced sexual harassment at least once since the age of 15, one third reported that the perpetrator was known to them in a work context – such as a colleague, a boss or a customer.

On International Women's Day (8 March) 2016, the End Violence Against Women (EVAW) coalition published a survey of British women's experience of sexual harassment in public places, which found that 85 per cent of women

What we know about sexual harassment

aged 18–24 had experienced unwanted sexual attention in public places and 45 per cent have experienced unwanted sexual touching.⁴

In 2015 Girlguiding UK⁵ found that seventy-five per cent of girls and young women said anxiety about potentially experiencing sexual harassment affects their lives in some way.

The Everyday Sexism project, launched by Laura Bates in 2012, has successfully highlighted the pervasiveness of sexism in society, including sexual harassment at work. By providing a forum for women to share their experiences and allowing for testimony to be given anonymously, the project has shone a light on women's experiences of harassment and assault and the fact that many women perceive these offences as commonplace and inevitable.

What do we know about who is affected by sexual harassment?

The short answer to this question is that everyone and anyone can experience sexual harassment. Women are more likely to experience sexual harassment than men. Eurofound data suggests that women in Europe are almost three times as likely to be subjected to sexual harassment as men.⁶ While this report focuses on the sexual harassment of women in the workplace, the experiences of men are also important. The fact that men are less likely to experience sexual harassment may exacerbate feelings of shame or embarrassment when it does happen.

One man told the TUC about the impact that a sexual assault at work had on him.

"It affected my self-confidence. The attack was a male-on-male assault. I'm gay but I wasn't 'out' at work and the experience made me feel I couldn't come out in the workplace after it."

Anonymous respondent to TUC survey, April 2016

Perpetrators of sexual harassment are overwhelmingly male.⁷

Young women

While age is certainly not a barrier to sexual harassment, research suggests that age does appear to be a factor in sexual harassment. The EOC literature review of sexual harassment in the workplace notes several studies and surveys which have found younger women to be more likely to experience sexual harassment in the workplace. Younger workers are in general more likely to experience all forms of violence and harassment in the workplace. Recent EHRC research found that younger mothers were significantly more likely to experience bullying and harassment at work during pregnancy compared to older mothers.⁸

The FRA research on sexual harassment found that young women were more likely to experience sexual harassment overall and were also more likely to experience particular types of sexual harassment. For example, the FRA survey found that women aged 18–29 years old were twice as likely to receive threatening and offensive advances on the internet as women aged 40–49 years old, and more than three times as likely compared to women aged between 50 and 59 years old.⁹

Young women are more likely to be on casual contracts, such as temporary, agency or zero-hours contracts and are likely to have had shorter tenure and be in more junior roles; all of which may be factors in sexual harassment.

Tenure and casualisation

Equal Opportunities Commission research in 2002¹⁰ found that in the majority of sexual harassment cases taken to tribunal, the complainant had been working for their employer for less than one year. This finding may be linked to the fact that younger women are more likely to experience sexual harassment and are also more likely to have shorter periods of tenure, both because they simply have not been in the labour market as long as their older colleagues and because young women are more likely to be in temporary or agency work.

There is also a correlation between casualisation and sexual harassment which is born out in the findings of this report. The EU Agency for Fundamental Rights notes that *“Women with irregular or precarious employment contracts, which are common for many jobs in the services sector, are also more susceptible to sexual harassment.”*¹¹

Once again, young women are more likely to be in casual or precarious forms of work.¹² Young women in casualised work and on short, fixed-term contracts are less likely to be unionised and are therefore less able to call on the support of a union rep in challenging sexual harassment in the workplace and less able to take a claim to employment tribunal without the financial support of a union.¹³

Power

As is the case in other types of violence against women, sexual harassment is inextricably linked with power. Whether the perpetrator is abusing a position of power by harassing someone they see as less powerful, or whether the perpetrator feels powerless and is using sexual harassment as a means to disempower the target of their harassment and thus increase their own power and status in the workplace. Several studies have found that perpetrators of sexual harassment tend to be in a position of power over the target of the harassment.¹⁴ The disempowering impact of sexual harassment was a recurrent theme in union members’ responses to a TUC survey on sexual harassment. Shame, humiliation, and a sense of being undermined professionally were all cited by respondents.

What we know about sexual harassment

Ethnicity

There is little empirical research on whether incidence of sexual harassment varies significantly by ethnicity. However, there is evidence that BME women's experience of sexual harassment is often bound up with racial harassment. Many black feminist academics and activists have pointed to the double oppression faced by BME women and the "othering" and eroticising of BME women's bodies and sexuality.

A short film by Imkaan, a black feminist organisation, provides examples of ways in which young BME women experience sexual harassment in a way that appears to be inextricably bound to their ethnicity.

"My experiences are different as a black woman than they are for my white friends. I should be up for it or I'm fair game or I shouldn't care if my body is touched in a specific way."

"After me ignoring them that's when it turns racial. Then it might be 'black this', 'black that', 'how dare you ignore me?'"

"The next thing I know he starts making monkey noises at me and I'm just like 'Ok, you go from objectifying me as this sexual thing and then when you get rejected you think it's then ok to shout racist taunts'."

Excerpts from interviews featured in the "I'd just like to be free" film¹⁵ by Imkaan

Male-dominated workplaces and occupational segregation

According to European Commission research¹⁶ on sexual harassment in the workplace, women working in male-dominated workplaces are more likely to experience sexual harassment. This is supported by anecdotal evidence from unions which suggests that workplaces which are either male dominated or are heavily segregated, with men in positions of power and women in more junior roles, tend to have more of a problem with sexual harassment. Many of the women who responded to the TUC online survey alluded to all male offices or male dominated sectors when describing their experience.

Just a bit of banter?

Women who have experienced sexual harassment often find their experiences are minimised by colleagues and others. Some women responding to the TUC online survey expressed the fear that they would be seen as humourless and unable to "take a joke" if they challenged or reported the behaviour. The quotes below from the Everyday Sexism project underline how hostile and undermining sexual harassment can be.

"On my last day at work, a colleague told me that his biggest regret was that he didn't get the chance to rape me in the store room before I left. For months I had been scared to go into that room on my own because he always said things like, 'I'm coming to get you' and 'don't go in there alone, I'll jump on you.'"

"I'm struggling to find a job as a web developer because all male offices think a girl would be offended by their sense of humour."

"At the job I recently left, a male manager said to me (in front of a female manager) that I would do well in the organization because I have big boobs."

"I used to work in a law firm. Whenever I won a case in court, I would be lambasted by a particular male colleague who would leer at me and make such inane comments as 'How much did you pay the judge to win the case?', 'You only won because you're wearing a skirt' and 'Did you sleep with the judge then?'"

"On a night out, stood in a crowd of male colleagues who were considerably older than me (I was 19) when one of them interrupted me by leaning through the circle and touching my boob while the rest laughed. Not one of them said anything or even seemed to think it was wrong."

"Went to HR about sexist and flirty CEO. Told to put up with it as I'm 'young and pretty and they're men, what do you expect?'"

Anonymous testimonies submitted to www.everydaysexism.com

The fact that the harassment may take place in front of other colleagues can exacerbate the feelings of humiliation and shame that women report experiencing.

TUC research findings

In January 2016, the TUC commissioned polling on experiences of workplace sexual harassment. A sample of 1,533 adult women in Great Britain who were happy to be asked about sexual harassment and had current or previous experience of being in paid work were polled.¹⁷

In March 2016 the TUC carried out a survey of union members with the aim of gathering more qualitative data to complement the findings of the polling. This report sets out the findings of the polling and illustrates some of the findings with quotes from union members.

The polling questions focussed on the types of incidents experienced rather than simply asking respondents if they had been sexually harassed. It is well documented that there is often a reluctance on the part of those who have experienced sexual harassment to label it as such. An EHRC literature review on workplace sexual harassment cited studies which had found that:

"Women seemed reluctant to extend the meaning of sexual harassment to their own experience, this was not because they failed to understand what constituted sexual harassment. Rather, it was because women had defined certain acts in terms of seriousness and therefore, did not define their own experience as serious enough, despite the fact that they clearly felt their experiences were important."¹⁸

Incidence

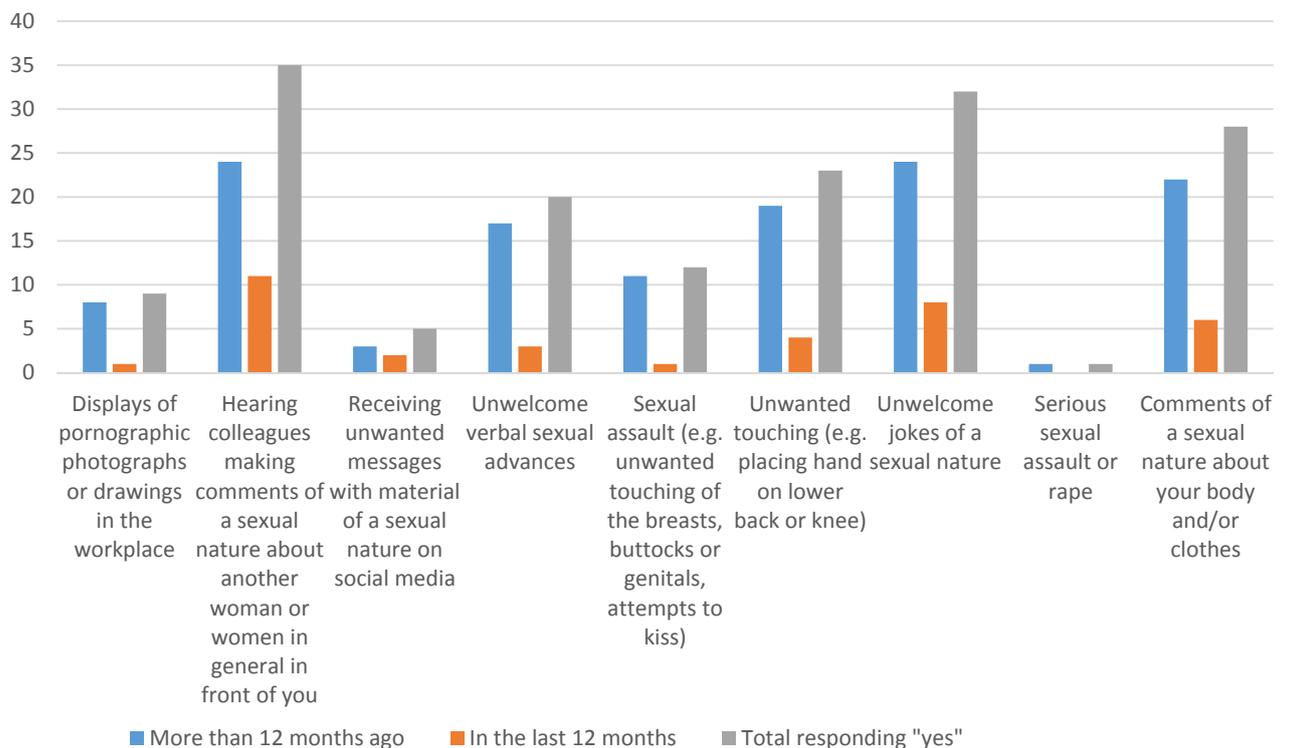
The table below shows positive responses to the question "Have you ever experienced any of the following types of unwanted sexual behaviour from a work colleague or work client or in your workplace?"

Respondents were asked about each different type of behaviour and were invited to select one of the following answers in relation to each behaviour listed:

- yes, in the last 12 months
- yes, more than 12 months ago
- no, I haven't
- don't know/can't recall
- prefer not to say.

Recognising that respondents may have experienced harassment both within the last 12 months and more than 12 months ago, subsequent questions about the incidents invited respondents to think about the most recent incident.

Have you ever experienced any of the following types of unwanted sexual behaviour from a work colleague or work client in your workplace? Percentage of those responding "yes"



Hearing comments of a sexual nature about other women was the behaviour that the most respondents reported (35 per cent). Unwelcome jokes of a sexual nature and comments of a sexual nature about body or clothes were also reported by a large proportion of respondents (32 per cent and 28 per cent respectively).

Several women responding to the TUC online survey expressed weary resignation at how widespread sexual harassment is in both the workplace and in life outside of work.

“Depressingly, I think this kind of thing is really common. I am lucky to have a large group of close female friends, and every single one of us has gone through this kind of thing at work, even though we're all in different professions. I've had this all

TUC research findings

my working life and in fact it is getting worse the more senior I get.”

“I have been sexually harassed since I was about 10 years old and it continues in work and outside of work. This is a fact of life. With age you learn to avoid certain situations or not display any behaviour that would encourage men to behave inappropriately.”

Anonymous testimonies submitted to the TUC, April 2016

Nearly one quarter of respondents had experience unwanted touching (such as a hand on the knee or lower back) and one fifth had experienced unwanted sexual advances.

More than one in ten women reported having experienced unwanted attempts to kiss them or unwanted touching of their breasts, buttocks or genitals in the workplace; incidents which could be defined as sexual assault under UK law.

One per cent of respondents overall reported that they had experienced a serious sexual assault or rape at work.

Just under one in ten women reported seeing displays of pornographic material in the workplace. One respondent to the TUC survey reported that in her experience the workplace culture was changing in such a way that pornography was seen as less acceptable than in the past.

“When I started work, porn in the workplace was considered normal. But things have changed and I haven't seen porn in the workplace for 20 years or more.”

Anonymous testimony submitted to the TUC, April 2016

However, many others responding to the TUC online survey reported that they had seen pornography in the workplace in the past 12 months and that it had a negative impact on them.

For many women, sexual harassment was not a one-off incident, but something that had happened to them many times during their working lives.

More than one third of women who had experienced sexual harassment reported that they had received unwanted sexual advances more than six times in their lives. For women aged over sixty, the figure increased to nearly forty percent.

Half of those who had experienced sexual harassment said that they had been subjected to unwelcome sexual jokes more than six times in their lives.

Of those who reported that they had experienced sexual harassment, one in ten had experienced serious sexual assault or rape more than six times in their life.

Characteristics of respondents and their workplaces

The TUC polling provided data disaggregated by age, social grade, region, ethnicity, salary, industry, sector and contract type. Women of all ages, social grades, and ethnicities experienced sexual harassment in all sectors, industries and regions. However, in many cases, the sample size was not large enough to draw conclusions and specific groups of women or specific sectors.

Age stands out as one of the characteristics with greater differentiation between groups of women with young women more likely to experience sexual harassment and more likely to experience sexual harassment by phone or email or *en route* to and from work. In response to each of the questions about different types of sexual harassment, women aged 18–24 were more likely to respond positively that they had experienced the harassment described in the past 12 months. Sixty-three per cent of women aged 18–24 had experienced some form of sexual harassment compared to an average of 52 per cent amongst women of all ages.

Women who were not on permanent contracts, particularly those doing agency work or on zero-hours contracts also stand out as a group which seems more likely to experience certain types of harassment and are less likely to report it. However, the sample size of women on specific types of contract was too small to draw any conclusions from these findings.

The proportion of BME women reporting that they had experienced any form of sexual harassment was not any different to the average (52 per cent).

While the sample size was small in individual industries, it may be worth noting that there were some significant differences between industries. Sixty-nine per cent of women in manufacturing and 67 per cent of women in hospitality and leisure reported experiencing some form of sexual harassment compared to an average of 52 per cent.

Characteristics of perpetrators

Sex

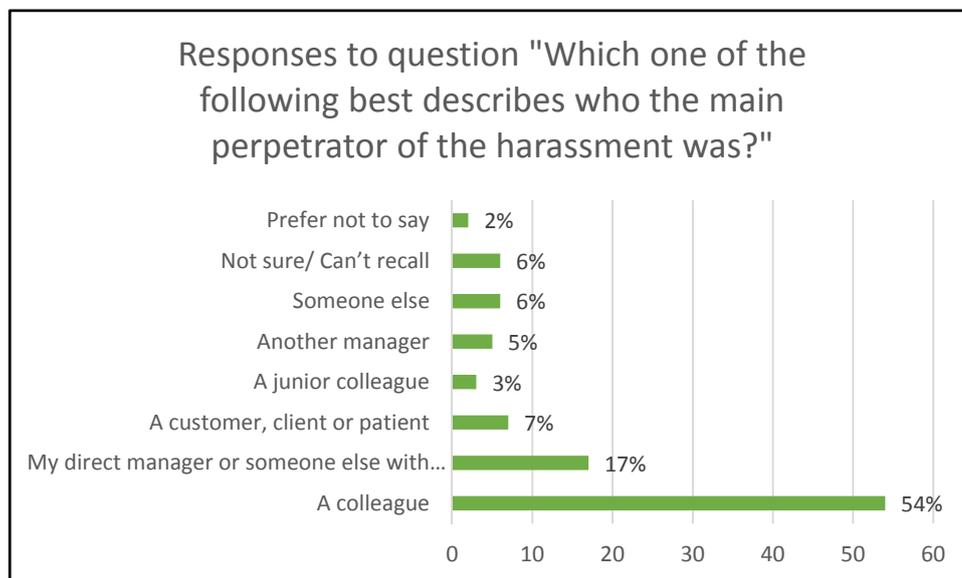
In line with existing research on sexual harassment, the TUC polling found that in 9 out of 10 cases, the perpetrator of the harassment was a man.

Power

For the vast majority of those polled who had experienced sexual harassment in the workplace, the harasser had been a colleague. Nearly one in five

TUC research findings

reported that their direct manager or someone else with direct authority over them was the perpetrator.



One woman responding to the TUC online survey had been sexually harassed by more than one senior manager.

"The most senior person in the organisation made a series of 'jokes' over the course of six months about how I might want to give my boss a 'rub down' or a 'massage'. Another Director gestured to grab my breasts at a social gathering."

Anonymous testimony submitted to the TUC, April 2016

Third party harassment

The polling found that seven per cent of women who had experienced harassment reported that the perpetrator was a third party (e.g. a customer, patient or client) but there was some variation across sectors. Eleven per cent of women in retail and nine per cent of women in medical and health services reported that the perpetrator was a client or customer. There was also some variation by age with younger women being more likely (13 per cent) to be harassed by a third party.

Section 40 of the Equality Act 2010 placed a duty on employers to protect employees from third party harassment. Under Section 40 of the Equality Act 2010, the employer could be held liable if:

- there had been two previous incidents of harassment (not necessarily perpetrated by the same person)

- the employer was aware of the incidents
- and the employer failed to take reasonable steps to prevent it from happening again.

This provision of the Equality Act 2010 would make it easier for women and unions to hold employers to account in instances where employees are faced with harassment by clients and customers. However, Section 40 was repealed in 2013 in spite of the fact that over 70 per cent of respondents to the government consultation on the proposal opposed it.

Where the harassment is perpetrated by a client or customer, the person experiencing the harassment may feel it is even harder to take action and that they have less protection from their employer. One woman responding to the TUC online survey felt unable to challenge the perpetrator because he was a client and instead tried to modify her own appearance in order to avoid the harassment.

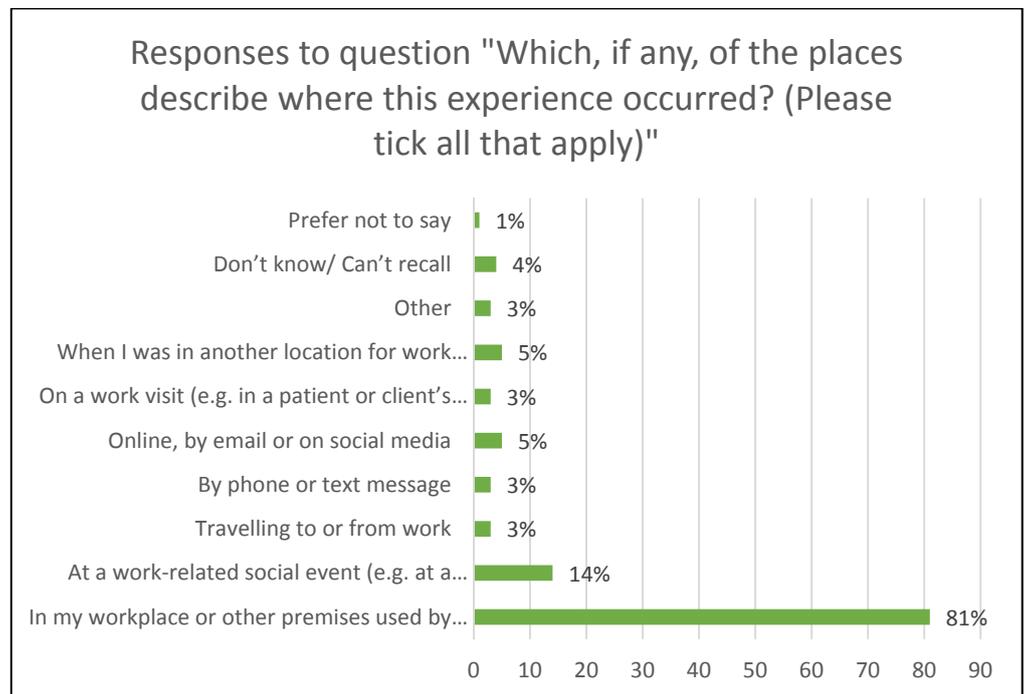
“This was my first graduate role and, as it was a customer, I didn't have the confidence to say anything to him. I felt there were limited actions that could be taken against him. It made me feel undermined as a professional. For a few months I would make sure I dressed very conservatively when I knew I may see this client – baggy tops, loose trousers, flat shoes, no makeup.”

Anonymous testimony submitted to the TUC, April 2016

Where the harassment took place

The vast majority of those polled reported that their experience of sexual harassment had taken place on work premises (over eighty per cent). However, a significant minority (fourteen per cent) also reported that harassment had taken place at a work related social event such as a Christmas party.

One in twenty women reported that the harassment had taken place when in another location for work, such as at a conference. One in twenty women also reported that the harassment had taken place by email or online.



Younger women (aged 18–24) were significantly more likely to report experiencing sexual harassment on their way to and from work than other women (11 per cent compared to 3 per cent of all women responding). Younger women were also twice as likely to report that the sexual harassment was carried out via phone or text message.

Reporting harassment

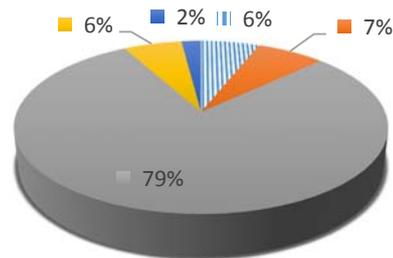
Perceptions of what is normal and acceptable may influence decisions about reporting harassment. One respondent to the TUC survey expressed the view that sexual harassment is so widespread and commonplace that it feels hopeless trying to challenge it.

"I don't report these behaviours because they are (apart from rape and serious assault) normal. This kind of stuff happens all the time, in every part of life. There is actually less of it at work than most other places. I long ago gave up using formal processes to challenge it. Often I don't the person concerned because it is exhausting to keep trying to educate people."

Anonymous testimony submitted to the TUC, April 2016

The TUC/YouGov polling indicates that sexual harassment is massively underreported. Four in five women did not report the sexual harassment to their employer.

Reporting of sexual harassment

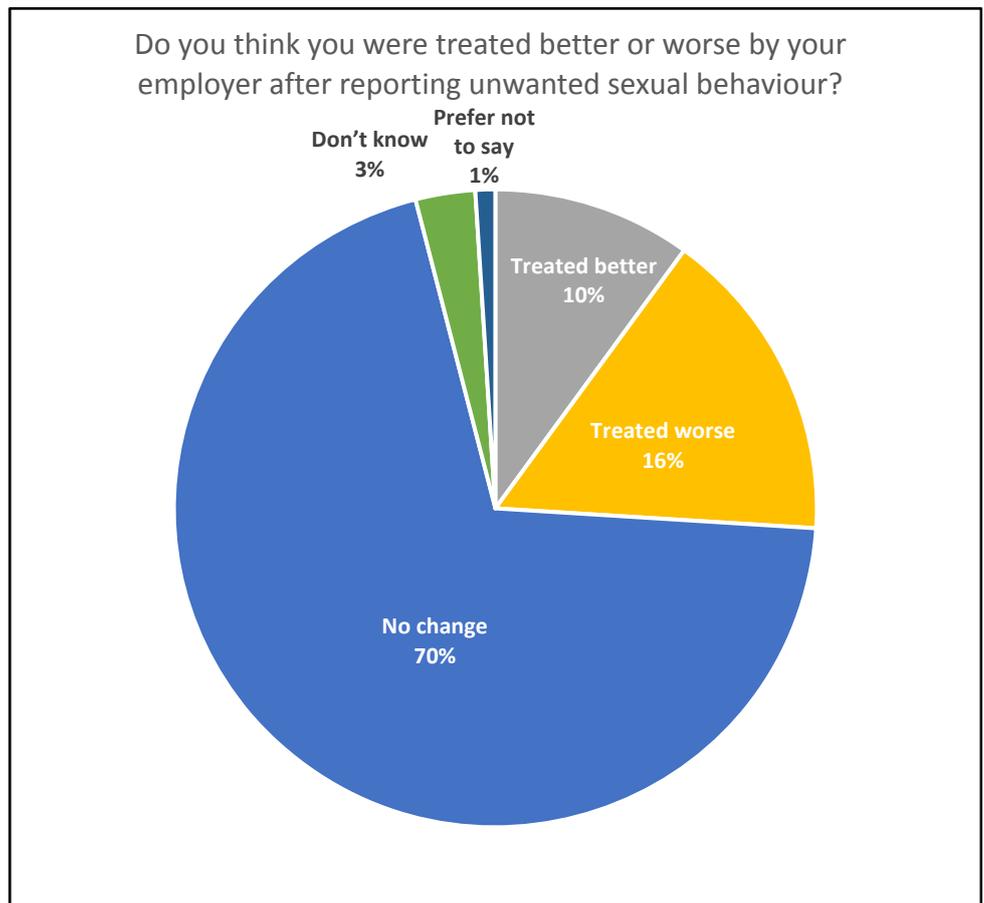


-  I reported the unwanted sexual behaviour to my employer, and it was taken seriously and dealt with satisfactorily
-  I reported the unwanted sexual behaviour to my employer, but it was not dealt with satisfactorily
-  I did not report the unwanted sexual behaviour to my employer
-  Don't know / Can't recall
-  Prefer not to say

Of the minority who did report the unwanted sexual behaviour to their employer, very few saw a positive outcome.

Nearly three quarters reported that there was no change and sixteen per cent reported that they were treated worse as a result.

TUC research findings



Several women providing anonymous testimony to the TUC reported feeling let down by their employer's failure to take action when they reported sexual harassment.

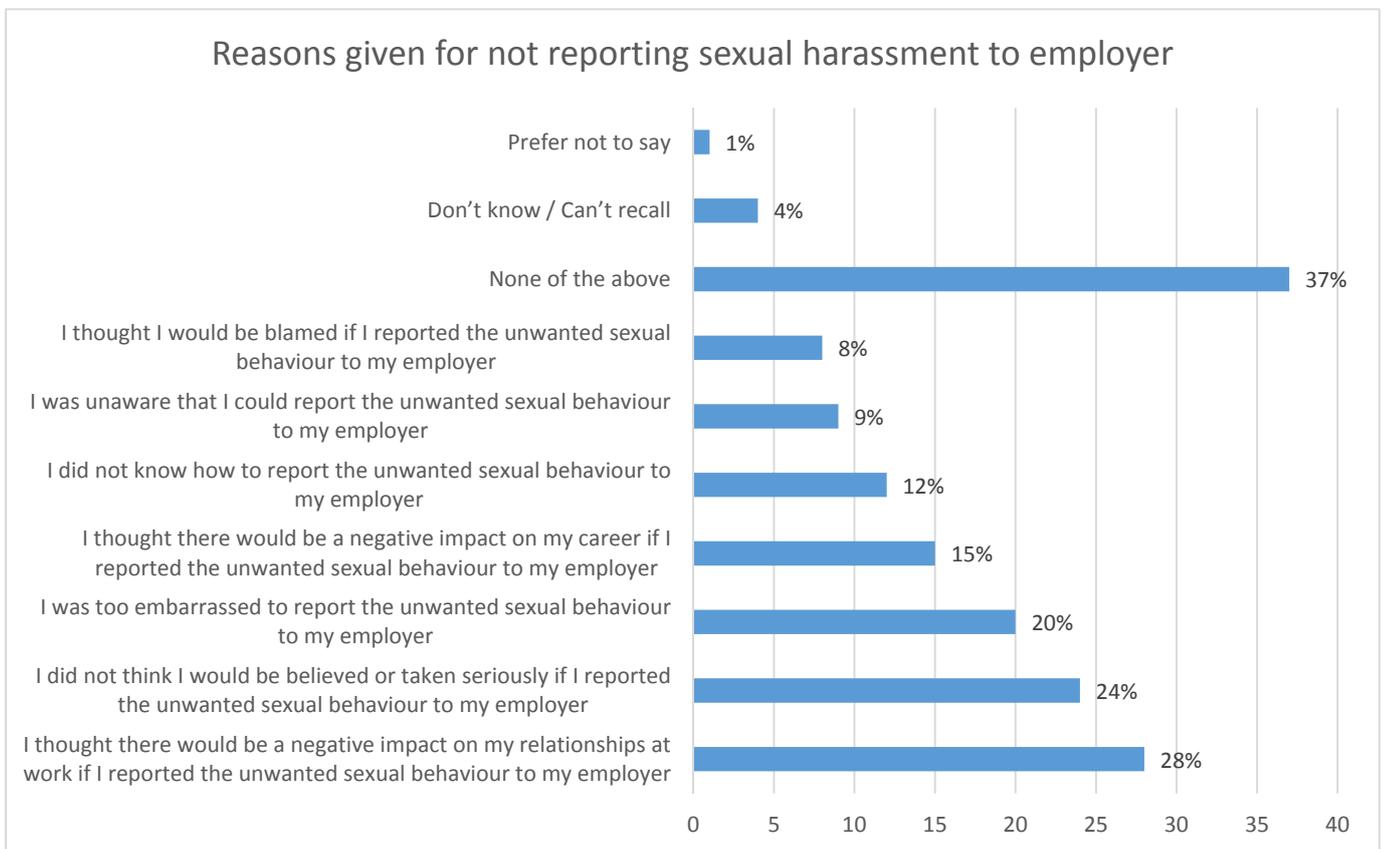
"I don't trust my manager to support me in this or similar situations and I'm actively looking to leave my current position because of this. I felt that my concerns had been dismissed and that my wellbeing as an employee was not taken seriously. This has contributed significantly to work related stress and anxiety."

Anonymous testimony submitted to the TUC, April 2016

In order to gain a better understanding of the barriers to reporting sexual harassments, those polled were also asked to choose from various reasons why they did not report the behaviour. Respondents were able to select more

than one option in recognition of the fact that there may be multiple factors behind the decision not to report harassment.

As the table below shows, nearly thirty per cent of women reported that they feared that reporting the incident would have a negative impact on their working relationships. Nearly a quarter said that they did not think they would be believed or taken seriously. One in five said they were too embarrassed to report it. Fifteen per cent feared a negative impact on their career if they reported it. Twelve per cent of women said they did not know how to report the unwanted behaviour and just under one in ten women said they were unaware that they could report it.



Many of those providing anonymous testimony to the TUC cited the fear of losing their job or being victimised as a reason for not pursuing a complaint. One woman did complain but her manager's response was inadequate. Fear of repercussions held her back from escalating the complaint.

TUC research findings

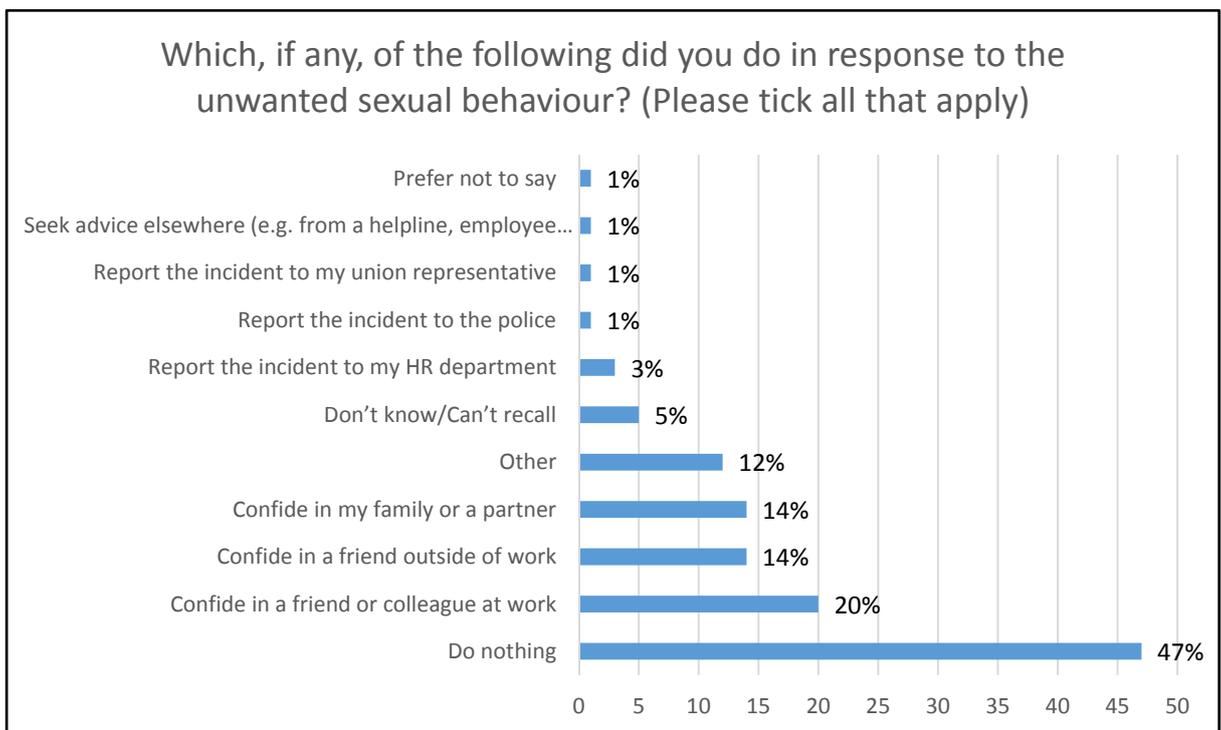
"In a previous job I worked in an almost exclusively male salesroom. Sexual comments about me or others, either to me or overheard in my presence, were a fact of daily working life. Some of those comments were violent in nature, with the speaker expressing a desire to rape the woman he was talking about. One Christmas, I was given a sex manual in the Secret Santa, with a note that I might like to think about the gift giver as I tried the position on a particular page of the book. This was the last straw. I complained to my employer, whose sole response was to relocate my desk to an all-female office. I still had to deal with all the men in question on a daily basis. At the time, I didn't know that I could do more about it, and I was afraid of either losing my job, or being treated so badly that I would have to leave."

Anonymous testimony submitted to the TUC, April 2016

Another respondent commented on how the harassment had been played down by managers when it was reported. They were told "*Oh well, eyes do wander*" and "*boys will be boys*" when she complained to management.

While very few of the women polled had reported the behaviour to their employer, many had confided in other people. One in five confided in a friend or colleague in the workplace. Just under fifteen per cent confided in friends, family or a partner outside of work. Only three per cent reported the incident to HR.

Very few women (only one percent) reported the incident to a union rep – a fact which will be of particular concern to trade unions who campaign on sexual harassment and train reps on dealing with these situations. It is however worth considering that the groups within the polling sample which were more likely to report certain types of harassment – younger women, women in more precarious work – are also the groups of women least likely to be trade union members. It is possible that many of the women who responded that they did not report the harassment to a union rep were not union members or were working in a workplace where no union was present.



Impact

Both the polling and the testimonies provided to the TUC point to the serious professional, financial, and psychological impact of sexual harassment.

Those polled were asked to choose from several options describing the effect that the harassment had on them. Two fifths of those polled reported that they felt embarrassed by the harassment.

A high proportion of women providing testimony to the TUC survey and responding to the polling reported feelings of shame as a result of the harassment. One woman who provided testimony described how she blamed her own weight loss for the unwanted attention:

"I lost a lot of weight and had always felt fat and frumpy, so losing 10st made me feel happy and alive again. But then I started getting comments and the odd pat on the bum or arm, or brushing my breasts. It made me feel like I was to blame for losing weight and if I had stayed fat I wouldn't have had the same experience."

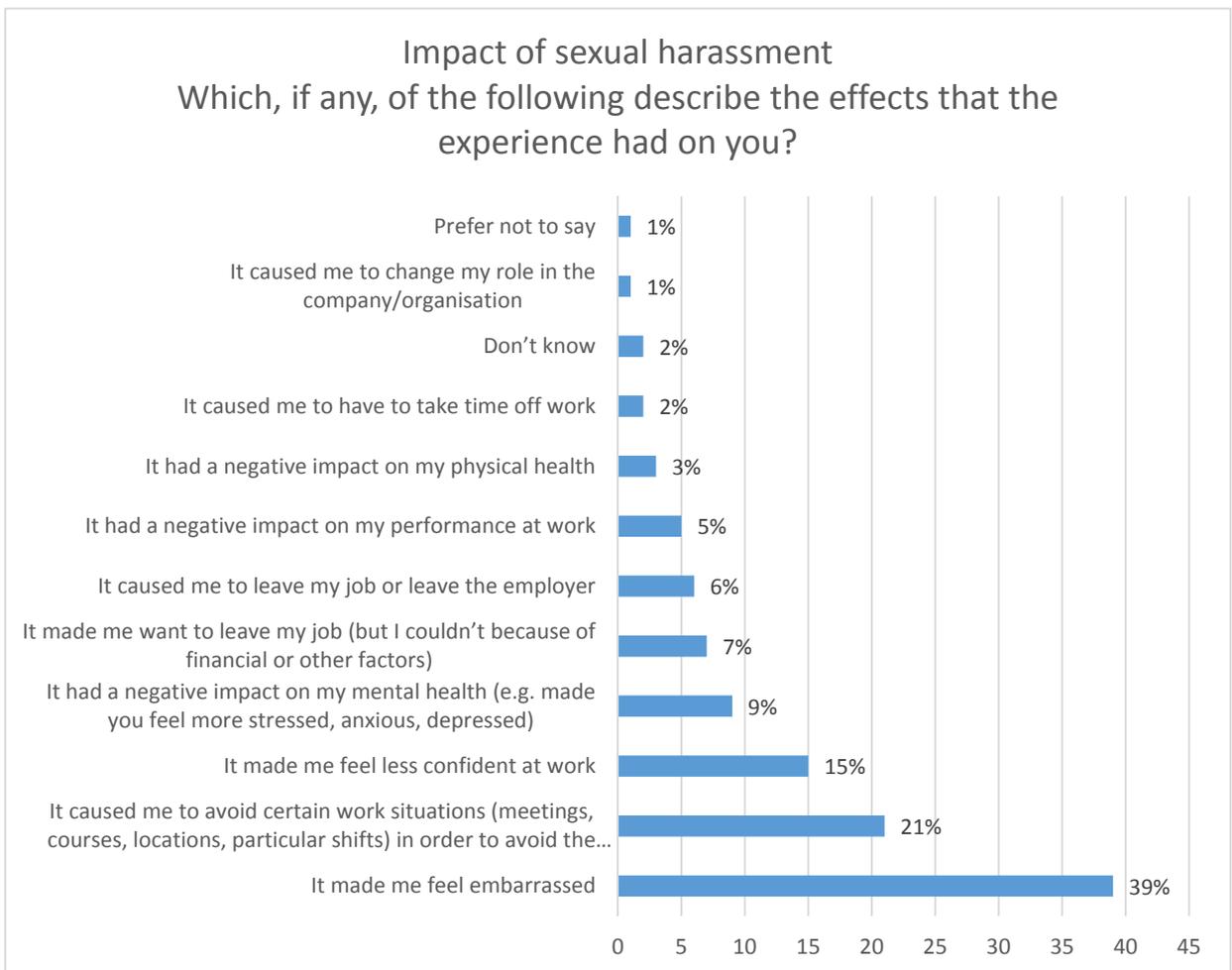
Anonymous testimony submitted to the TUC, April 2016

TUC research findings

One fifth of those polled reported that they avoided certain work situations as a result. Fifteen per cent reported that they felt less confident at work.

One in ten reported that the harassment had a negative impact on their mental health.

Three per cent reported that there was a negative impact on their physical health.



The case of one young woman who provided anonymous testimony to the TUC illustrates the profound and lasting impact of the harassment and assault that she suffered.

Case study

"One colleague would constantly try and humiliate me in front of 10–16 people at a time. Because he was older and a dad the younger guys looked up to him. Of course it escalated from just verbal harassment, such as asking about my sex life, to physical harassment.

"At a Christmas party he asked to dance. I thought 'Well, I still think he's horrible but it is Christmas the time of new beginnings and generosity', so I went to dance with him. He moved me so I was in front of him. I wasn't happy, but I was even less happy when in front of all his friends he groped my breasts and twisted my nipples.

"Later the same evening another female friend and I were surrounded by a ring of male colleagues who all exposed their genitals. The same night another colleague grabbed my hand and put it on his crotch. All of this at the Christmas do in front of my colleagues.

"Harassment had become so normalised at my place of work that I was dragged into a bedroom in front of witnesses, thrown onto a bed, pinned down, and smothered with a pillow until I almost suffocated. Because he was heavily built and double my height and weight, I had to make a conscious decision to fight back, and force him to kill me first before I let him rape me. I fought him off with of luck more than anything. I later discovered that another colleague had just sat there and watched him assault me and did nothing. He was more worried that I had broken his door trying to escape than about me.

"I hope that anyone reading this can finally understand why I hate it when people ask: 'Did you report it?' rather than first asking if I'm okay.

"At each point the harassment was visible and was witnessed by numerous people, colleagues, staff members, and nothing was ever done. I felt isolated as if I was somehow in the wrong. Having people say that your attacker just 'likes' you after he's attempted to rape and or murder you messes you up mentally.

"Six years on these experiences still sting me to the core but I am rebuilding myself as a person, better and stronger."

TUC research findings

According to the polling commissioned by the TUC, of those who had experienced sexual harassment, seven per cent had wanted to leave their job as a result but had been unable to due to financial or other factors and a further six per cent did leave their job as result of their experience.

While the sample size of women on zero-hours contracts, fixed term contracts and agency workers was too small to draw definite conclusions in relation to the question of wanting to leave the job but being constrained by financial or other factors, it is worth noting that TUC research into the impact of casualization on women has highlighted the sense of vulnerability associated with the erosion of job security and a fear of taking action against a colleague or an employer because of possible ramifications in terms of pay and shifts.¹⁹

Recommendations

Just because a problem is difficult or has been around for a long time does not mean it is intractable. Sexual harassment is not just a fact of life that women workers have to put up with – a view expressed by many of the women who wrote to the TUC. Trade unions, employers and the government all have a role to play in stamping out sexual harassment. Recognising the extent of the problem is a first step. The next step is to take action to remedy the problem. The following recommendations are the next steps that we are calling on government, employers and unions to take.

Recommendations for government

Abolition of employment tribunal fees

The introduction of employment tribunal fees in 2013 has created an often insurmountable hurdle for women wishing to pursue a claim of sexual harassment. Women trade union members may be able to rely on their union to meet the £1,200 fee required to pursue a sex discrimination claim but many women who are not members of trade unions find themselves priced out of justice. While it is not possible to determine the number of tribunal claims for sexual harassment from the government data, it is possible to determine the number of claims for sex discrimination (sexual harassment is under the jurisdiction of sex discrimination) and the number of claims fell by 76 per cent from 2012/13 (before fees were introduced) to 2014/15.²⁰

The impetus for employers to tackle discrimination in the workplace is diminished if they know that there is little likelihood of victims of discrimination pursuing a claim at tribunal.

Third-party harassment

As outlined above, perpetrators of sexual harassment are often third parties. Women working in retail, hospitality, healthcare, care, transport and many other sectors deal with clients, patients, and customers on a daily basis and currently have little protection from their employer when facing harassment. Reintroducing a duty on employers to act where an employee is being harassed by a third party would be an important step in tackling workplace sexual harassment.

Recommendations

Reinstating employment tribunals' power to make wider recommendations

The Equality Act 2010 gave employment tribunals the power to make wider recommendations for the benefit of the wider workforce, not just the individual claimant, in relation to discrimination claims. This power was removed by the Deregulation Act 2015.

In workplaces where a culture of bullying and harassment has been allowed to flourish or where there are systemic failures of the organisation to respond adequately to complaints of harassment, the power to make wider recommendations would be of great benefit.

Reinstating the statutory equality questionnaire

The statutory equality questionnaire allowed claimants to ask questions about their potential claim to the alleged discriminator before going to tribunal. It enabled claimants to gather information at an early stage, often before proceedings started, and to determine whether they had a case or not. The questionnaire procedure was removed in 2014 in spite of over 80 per cent of respondents to the government consultation opposing the proposal.

Reintroducing the questionnaire would allow anyone who wished to pursue a claim of sexual harassment to gather information to support their case.

Recognition and facility time for union reps

In order for union reps to provide adequate support for members in the workplace, they need time off for training and time to deal with these issues promptly before they escalate. Trained reps – in particular, equality reps – are well placed to deal with issues such as sexual harassment but statutory rights and facility time for equality reps is needed to enable them to carry out their role effectively.

Extend full range of statutory employment rights to all workers, regardless of employment status or type of contract

The TUC polling has highlighted the vulnerability of women in precarious work who are less likely to report harassment and feel less able to leave their job to escape harassment. The government should ensure that all workers are entitled to the full range of statutory employment rights, regardless of their employment status or their type of contract. In particular, the law on employment status and rules on continuity of employment should be reformed to ensure agency workers and those employed on zero-hours or casual contracts do not lose out on basic rights at work, including protection from unfair dismissal.

Recommendations for employers

Many of those responding to the TUC online survey identified workplace cultures that allowed sexual harassment to go unchecked and management failures to respond to complaints effectively or sympathetically. In order to tackle workplace sexual harassment, employers must ensure they adopt a top-down approach, working with all employees and managers and, where there is a recognised union, working in partnership with unions.

Decent jobs

Given the particular vulnerability of women on casualised contracts highlighted by this research, employers should aim to employ staff on permanent, secure contracts which offer decent hours and decent pay. Temporary contracts, zero-hours contracts, casual contracts and agency workers, should only be used by employers to respond to genuine peaks and troughs in demand or to match short-term skill needs.

Training

HR and all levels of management should receive training on sexual harassment, what constitutes sexual harassment, stalking and online harassment, relevant law and workplace policies, and how to respond to complaints of sexual harassment. In some workplaces, training for all staff may be appropriate.

Clear policies

Employers should have a clear zero tolerance approach to sexual harassment and policies which reflect that. Use of social media and workplace equipment (e.g. work phones or laptops) should be taken into consideration when formulating policies on sexual harassment. All employees should be made aware of these policies, reporting procedures and their rights and responsibilities regarding workplace sexual harassment.

Where there is a recognised union, seeking input from union reps into the development of a sexual harassment policy is recommended.

Employers should ensure that everyone working within their organisations can use grievance procedures to raise concerns about discrimination and harassment at work, including those on zero hours or casual contracts, agency workers and contractors who may be employed by another organisation.

Implementation and enforcement of policies

Given the findings of this report in relation to employer's failing to act when sexual harassment is reported – or indeed, the harassment worsening after reporting to the employer – employers should pay particular attention to grievance procedures and how complaints of sexual harassment are dealt with when they arise.

Recommendations

Policies should make specific provision to ensure that employees are protected from experiencing adverse outcomes after reporting workplace sexual harassment. The TUC online survey and the Everyday Sexism site provide many examples of inadequate management responses, from moving the complainant to a different department, to disbelieving or even victimising the complainant.

Recommendations for trade unions

Sexual harassment has long been on the trade union campaigning agenda and cases involving sexual harassment may feature prominently in the casework of many individual union reps.

Workplace campaigns and awareness raising

While many unions run campaigns calling for a zero-tolerance approach to sexual harassment, the fact that only one per cent of those polled had told a union rep about the sexual harassment that they had experienced suggests that unions need to continue to target recruitment and organising activities at younger women and to publicise the support that a union can offer in cases of sexual harassment.

Awareness raising campaigns might have different audiences. For example, a poster campaign might be aimed at deterring perpetrators by highlighting the consequences of disciplinary action, it might be aimed at members experiencing sexual harassment, encouraging them to speak to their rep about it, or it could be aimed at the wider membership.

Negotiating workplace policies

Where unions have negotiated workplace policies or agreements that cover sexual harassment, these should be widely publicised to members. Workplace policies should clearly define sexual harassment, including new forms such as online harassment, and make clear that such behaviour will be considered a disciplinary matter. In workplaces which involve dealing with the public or external clients, the policy should also recognise the employer's duty to prevent and/or deal with any harassment from third parties. It may be that a separate clause relating to sexual harassment could be incorporated into existing policies on equality rather than negotiating an entirely new policy.

Training

Dealing with sexual harassment is a core part of many union rep courses and some unions offer specific training courses on sexual harassment which are open to all union reps. One example of a union training course²¹ for reps covers the following topics:

- legislation covering harassment
- sexual harassment survey

- harassing and sexually harassing behaviour, impact, and barriers
- policies and procedures for dealing with harassment
- handling harassment cases
- challenging harassment in the workplace
- involving members
- organising around equality

By recognising the extent and impact of sexual harassment in the workplace and by taking steps to tackle it we all have a role to play in making our workplaces safe, healthy and inclusive places for all workers.

Further sources of support and information

Trade unions

To find out more about trade unions and which is the best for you visit the TUC website

tuc.org.uk/joinaunion

A guidance leaflet entitled *Protection from Sexual Harassment* is available from the TUC as a pdf²²

EVAW

EVAW is a leading coalition of specialist women's support services, researchers, activists, survivors and NGOs working to end violence against women in all its forms.

endviolenceagainstwomen.org.uk

Rape Crisis

Rape Crisis England & Wales is a national charity and the umbrella body for our network of independent member Rape Crisis organisations.

Free helpline: 0808 802 9999

rapecrisis.org.uk

National Stalking Helpline

stalkinghelpline.org

Tel. 0808 802 0300

The Everyday Sexism Project

everydaysexism.com

Twitter: @everydaysexism

Southall Black Sisters

Helpline Tel: 020 8571 0800

Mon, Wed, Fri 9.30am – 4.30pm

Closed from 12.30pm to 1.30pm for lunch

SBS provides a range of services to black (Asian and Afro Caribbean) women and children who have experienced violence and abuse.

Rights of Women

National organisation offering free legal advice to women.

020 7251 6577

Tues, Wed, Thurs 2–4 & 7–9pm, Fri 12–2pm

email: info@row.org.uk

Acas

acas.org.uk

0300 123 1100

Citizens Advice Bureaux

citizensadvice.org.uk

Equality Advisory and Support Service

equalityadvisoryservice.com

Freephone 0808 800 0082

References

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- ¹³ Fees of £1,200 to take a discrimination claim to employment tribunal were introduced in 2013.
- ¹⁴ Wilson, F. and Thompson, P. "Sexual Harassment as an Exercise Of Power" *Gender Work and Organization* 8 (1): 61-83, and Gruber, J. and Smith, M. *In the Company of Men: Male Dominance and Sexual Harassment* Northeastern University Press, Boston (2005)
- ¹⁵ Imkaan (2016) *I'd Just Like to be Free*, <http://imkaan.org.uk/post/140655834154/befree>
- ¹⁶ European Commission (1999) *Sexual Harassment at the Workplace in the European Union*
- ¹⁷ All figures, unless otherwise stated, are from YouGov Plc. From an overall sample of 3524 GB adults, 1533 GB Adult Women were happy to be asked about workplace harassment. Of this, 801 GB women who are or have ever been in paid work said they have ever experienced some form of workplace harassment. Fieldwork was undertaken between 4 and 6 January 2016. The survey was carried out online. The figures are not weighted or representative of all those who have experienced workplace harassment but obtained from those who consented to be asked questions of this topic.
- ¹⁸ EOC (2007) *Sexual Harassment in the Workplace: a literature review*, Working Paper Series No. 59
- ¹⁹ TUC (2015) *Women and Casualisation: women's experiences of job insecurity*
- ²⁰ Ministry of Justice *Employment Tribunal receipts by jurisdiction 2007/08 to Q1 2015/16*
- ²¹ UCU "Dealing with Sexual Harassment in the Workplace", course outline for one-day reps course in June 2016
- ²² www.tuc.org.uk/publications/protection-sexual-harassment



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