

Equality and Human Rights Commission:
“Technical Guidance on Sexual Harassment”

September, 2019

Premise:

The Commission has issued draft guidance titled ‘Technical guidance on sexual harassment and harassment at work’ to help employers, workers and their representatives understand the law in this area and to set out best practice principles for handling these issues in the workplace. It will set out the steps that employers must take to prevent harassment.

The Scottish Women’s Convention:

The Scottish Women's Convention (SWC) is funded to engage with women throughout Scotland in order that their views might influence public policy. The SWC uses the views of women to respond to a variety of Parliamentary, Governmental and organisational consultation papers at both a Scottish and UK level.

The Scottish Women’s Convention engages with women using numerous communication channels including Roadshow events, Thematic Conferences and regional contact groups. This submission provides the views of women and reflects their opinions and experiences in a number of key areas relevant to the issues set out within this proposal relevant to women including workplace rights under the Equality Act, 2010. As an organisation that gathers women’s real contributions, the SWC stresses the need to underpin legislation with catalysts for societal and cultural change that taken together will ensure an approach to equality that eradicates discrimination against women in its many forms.

Are you likely to use this document at work?

YES. The document is set out in an informative way which states clearly that guidance is for all employers and employees. The production of this guidance will be of the most use in smaller organisations which may not have the same resources to provide training as larger companies. Women also need to know their rights around harassment both sexual and otherwise.

Particularly:

- Presents the definitions of “employee” versus “worker” and who is covered by the Equality Act, 2010, as well as expressing the duty in forms of other work relationships precisely and clearly. Many women undertake precarious work contracts with little trade union recognition. Setting out their rights clearly is crucial.
- Provides clear notice for volunteers and interns who may be excluded from discrimination law.
- Establishes robust guidelines backed up by clear examples for both employers and employees to use in formulating best practice tool kits. This includes definition of direct and indirect harassment as well as liabilities under both. Given the scale of harassment within many workplaces for women, including by outside contractors and customers, creating coherent yet enforceable guidelines is key to ensuring prevention of this form of discrimination against women.
- Shows clear pathways and guidance on victimisation. This is particularly crucial in terms of female workers. Harassment, whether sexual or otherwise, and the imbalance of power leaves many women unable to come forward for fear of speaking out. Laying out clear legal guidelines around victimisation, for both victims and witnesses, is one way of creating a strong legal foundation to protect women.

How clear do you find the guidance?

Very Clear.

Has the guidance increased or changed your understanding of the law ?

For women workers, this guidance will be particularly informative in a number of areas, including knowing their rights under the Equality Act, 2010.

The outlining of clear policies to ensure that they interact with others such as social media policies is crucial given the continuous move to digital platforms which may give rise to discrimination in a workplace outwith the physical setting. The guidance clearly states procedures and technical safeguards that should be in place for those making a complaint. This is a positive move forward for equality within the workplace.

Does the guidance conflict with your understanding of the law or best practice in this area?

No.

Is there anything else that would help you to apply the best practice set out in the guidance, or in ensuring that an employer applies the best practice guidance and, if so, what?

Ensuring a robust promotional campaign and that guidance such as this is encouraged to be made available to all employees is key. In terms of physically applying the guidance to workplaces, effectively establishing robust measures and controls that replicate the work eschewed within the report is crucial for any organisation, regardless of size. This would ensure equality is routinely embedded within all key objectives and outcomes of a company, particularly for the promotion of those with protected characteristics to senior levels where they may be underrepresented at present.

Conclusion:

Establishing robust legislative protocols which encapsulates the many forms that harassment may take within the workplace is fundamental to progressing women's equality. Failure to act and put in place robust and effective frameworks that not only seek to prevent this occurring but also ensure successful processes for the victim are in place severely impedes women's equality at all levels.

For further information, please contact

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The Scottish Women's Convention engages with women using numerous communication channels including Roadshow events, Thematic Conferences and regional contact groups. This submission paper provides the views of women and reflects their opinions and experiences in a number of key areas relevant to employment and the National Living Wage.

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