

## Workers Protection Act 2023

On 26<sup>th</sup> October, the Worker Protection Act 2023 will come into force in the UK. An amendment of the [2010 Equality Act](#), the Worker Protection Act 2023 aims to better protect employees from sexual harassment by prioritising prevention.

Employers in the UK will now have a legal duty to work proactively — and not retrospectively — to address sexual harassment in the workplace. The [Act](#) ensures that employers “*must take reasonable steps to prevent sexual harassment of employees in the course of their employment.*” This extends to when employees are working outside of their office, and when they are attending social events that are considered an extension of work.

### Current legislation

Under the current law, an employer is indirectly liable for discrimination, harassment (including sexual harassment) or victimisation committed by an employee in the course of employment. This is unless an employer can show it took all reasonable steps to prevent its employee from committing a particular discriminatory act.

### Changes

From October 26<sup>th</sup> there will now be a direct duty on the employer to prevent sexual harassment which will be enforceable by an employment tribunal.

Under the new law tribunals will have the discretion to award a ‘compensation uplift’ by increasing any compensation it awards for sexual harassment by up to 25% if an employer has breached this duty.

The Equality and Human Rights Commission (EHRC) can also take enforcement action.

### Third party harassment

The original version of the Worker Protection Act would have allowed an employee to take a claim to the Employment Tribunal if they have been harassed by a third party. This proposal was dropped before the legislation was passed because of concerns surrounding free speech, the cost to businesses and increased state intervention. As things currently stand, individuals do not have an ability to bring a claim directly against their employer for harassment by a third party.

However, the preventative duty “*requires employers to take reasonable steps to prevent sexual harassment of workers by third parties.*” Accordingly, a failure to prevent sexual harassment by third parties will be in breach of the preventative duty. Third parties might include customers,

clients, service users, delegates at events and members of the public.

The Government has signalled its intention to reinstate protection from harassment by third parties as part of the Employment Rights Bill.

### What next?

The EHRC’s revised Sexual Harassment and Harassment at Work technical guidance is scheduled for release ahead of the preventative duty coming into force on 26 October, and will provide a roadmap for employers on how they can prevent workplace sexual harassment. Here are some examples in the meantime so your business can demonstrate it has taken reasonable steps to prevent sexual harassment in the workplace:

- Complete an education piece on what constitutes sexual harassment and educate your workforce. It will be important to train-up skilled managers and to create a culture where employees are confident they will be supported if they speak up.
- Set up a reporting register for complaints about all forms of harassment in the workplace. This should help identify any trends and give employers the opportunity to resolve the issues. Access should be secure and limited.
- Proactively identify the risk of harassment in each role and provide specific support for all employees.
- Updating and reissuing antiharassment and bullying training so employees are aware of the standard of behaviour expected of them in the workplace. Bystander training can assist those who witness harassment with the tools to safely intervene.
- It is advisable that training is kept up to date, rolling and meaningful. To comply employers must take an active duty in employee safety.
- Employers should conduct audits into the effectiveness of company training, policies and reporting structures. It could also introduce a staff liaison committee which assists in implementing these policies while demonstrating the business’s commitment to preventing harassment.
- Employers could install visible signage in areas where employees interact with third parties, so they know the business won’t tolerate abuse, harassment or threats to staff.

UKHospitality has previously teamed up with the Equality and Human Rights Commission to develop a checklist and action plan. More information can be found [here](#).