

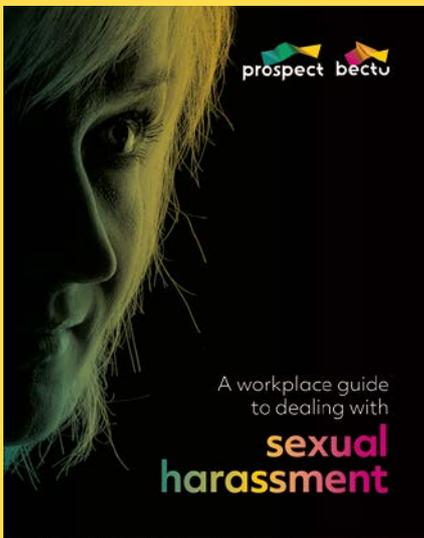


 
prospect bectu

A workplace guide
to dealing with

sexual harassment

#ZeroTolerance



#ZeroTolerance

Who are Prospect & Bectu?



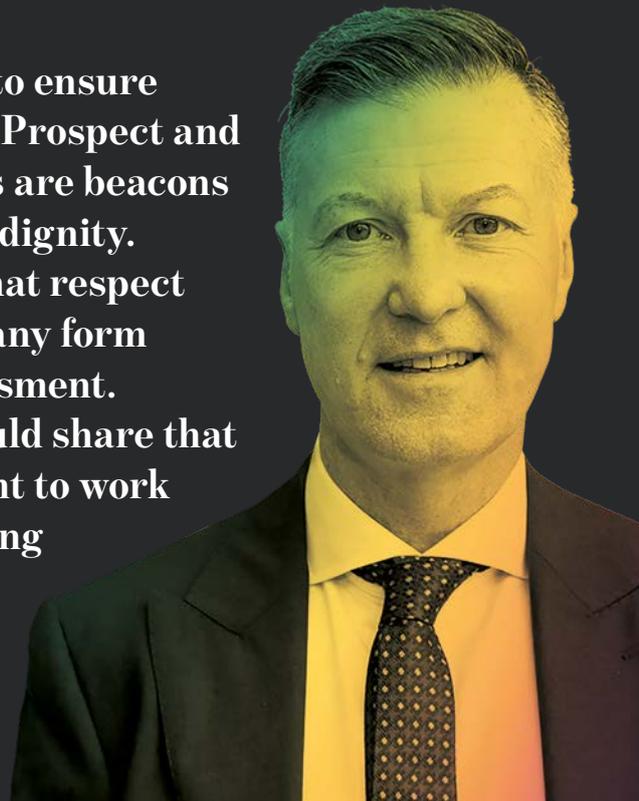
Prospect is a trade union representing around 150,000 people across the UK in roles as diverse as (but not limited to) air traffic controllers, scientists, engineers, civil servants and digital experts. Our organisation also incorporates Bectu – the sector of our union that supports people working in broadcasting, cinema, theatre and entertainment.

We are experts in employment law, workplace practice and industry policy. We have supported thousands of members who have faced bullying or harassment in the workplace, and have won many court cases on behalf of members. This guide is intended for members and representatives of both Prospect and Bectu.

If you are not a member of Prospect or Bectu, we recommend joining us at prospect.org.uk/join or bectu.org.uk/join. Please don't wait until you are faced with an issue such as harassment to join us, as we can only provide legal support to members who joined prior to any specific workplace problem.

“Our mission is to ensure workspaces for Prospect and Bectu members are beacons of fairness and dignity. A core aim in that respect is to eradicate any form of sexual harassment. Employers should share that aim and we want to work with those willing to achieve it.”

Mike Clancy,
Prospect general secretary



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Introduction

High-profile sexual harassment scandals and the #MeToo movement have changed how we talk about sexual harassment. The problem is not new – what’s different is that more people feel able to speak up about their experiences.

We welcome this new openness as an opportunity for employers, trade unions and staff to work together to stop sexual harassment and support victims.

Workplace sexual harassment is extremely common but largely unreported, so employers should not be complacent about a lack of reports. Anyone who employs or contracts workers should assume that sexual harassment may be happening, clearly state what constitutes unacceptable behaviour in the workplace and aim to build trust so that victims feel able, and supported, to challenge and report it.

Sexual harassment is a component of cultural sexism. Our union advocates a holistic approach to preventing sexual harassment by tackling all forms of workplace sexism.

 **There have been too many excuses, for far too long. That’s why we’re working with industry partners to establish a culture right across the creative industries that ensures that nobody feels they have to put up with bullying and harassment.”** Philippa Childs, Head of Bectu

Sexual harassment has indisputable consequences for its immediate targets but also damages workplace cultures and productivity. Employers have legal and moral duties of care to the individuals who work for them. They also need to consider the implications of sexual harassment for their business and reputation.

Respect and equality are at the heart of what we do as a union.

- We do not tolerate harassment of any kind
- We work collaboratively and proactively with employers to eradicate sexual harassment
- We will challenge employers who fail to protect our members’ safety, dignity and well-being.

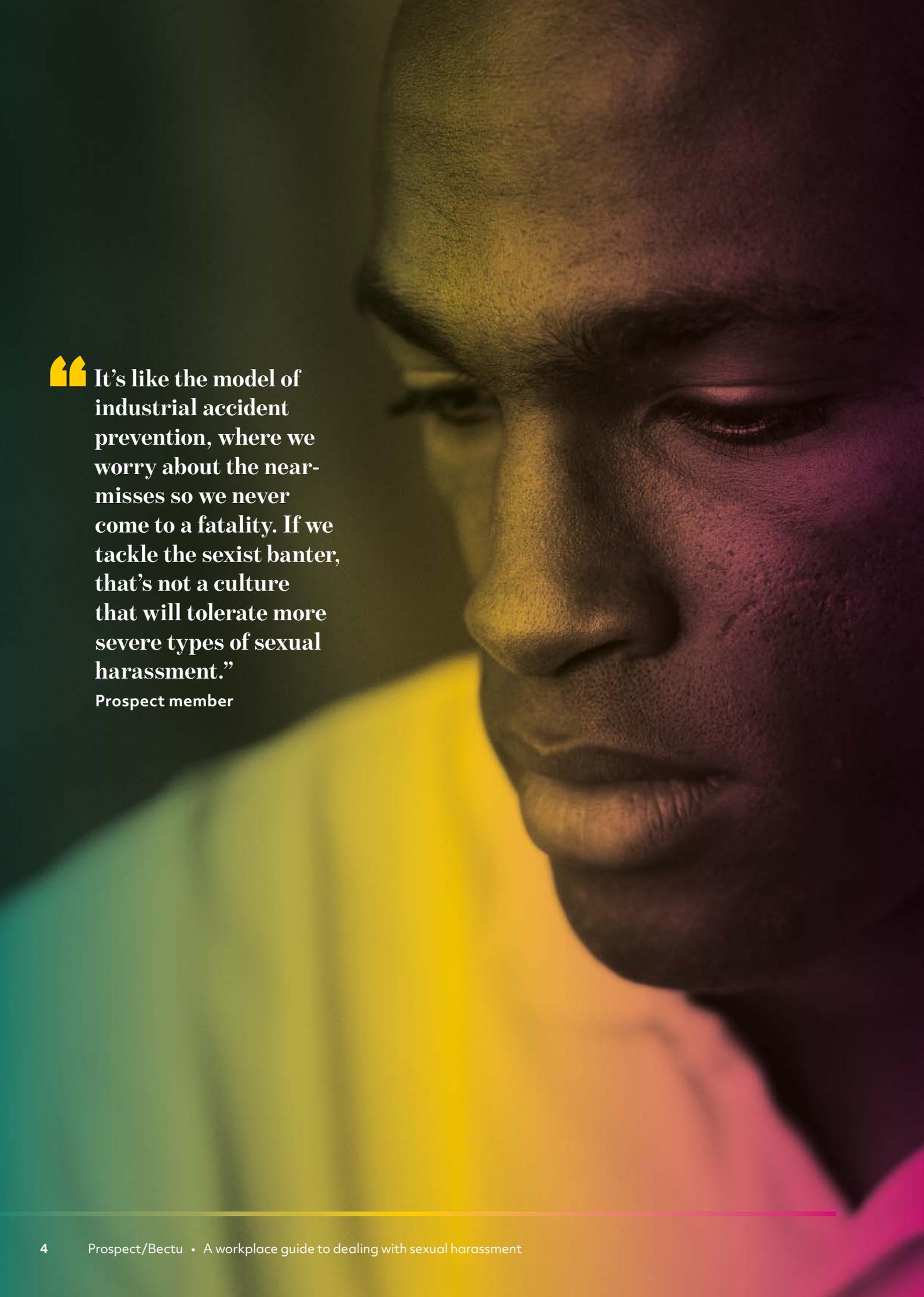
If you have been sexually harassed, it is not your fault. It’s not about anything you did, or what you might have done

differently. The responsibility lies with your harasser.

You are not on your own. We can guide you through the options available to you and support you whether or not you decide to take action.

To find out what your options are and get personal advice, contact us to speak to someone in the strictest confidence. Members can contact:

- **Your Prospect or Bectu local workplace representative** (if you have one).
- **Prospect** – call our Member Contact Centre legally trained advisers on 0300 600 1878 (8am-7pm, Mon-Fri); email helpdesk@prospect.org.uk; or visit our website to use the web chat facility.
- **Bectu** – call 020 7346 0900 (9am-5pm, Mon-Fri); or speak directly to your full-time official.

A close-up, profile view of a person's face, likely a woman, looking downwards. The lighting is dramatic, with a strong yellow light from the left and a deep purple light from the right, creating a high-contrast, moody atmosphere. The person's features are partially obscured by shadows.

“ It’s like the model of industrial accident prevention, where we worry about the near-misses so we never come to a fatality. If we tackle the sexist banter, that’s not a culture that will tolerate more severe types of sexual harassment.”

Prospect member

Test your knowledge



What are the most common types of sexual harassment?

- Unwanted sexual advances (physical or verbal “come-ons”)
- Sexual coercion (bribes or threats contingent on sexual behaviour)
- Sexist hostility (eg: sexist “jokes” or exclusion from work activities)
- Crude behaviour (eg: foul language or display of pornography)

See page 6 →



What are the main antecedents of sexual harassment?

- Too few women in the workplace
- A few bad apples spoiling the barrel
- Misunderstandings between men and women
- Permissiveness towards sexism

See page 8 →



Who is subjected to sexual harassment?

- Women
- Young people
- Black and minority ethnic women
- Anyone

See page 10 →



What are the best ways to address sexual harassment?

- Sexual harassment training
- Punishments for perpetrators
- Respectful workplace training
- Screening workers for perpetrator behaviours

See page 13 →

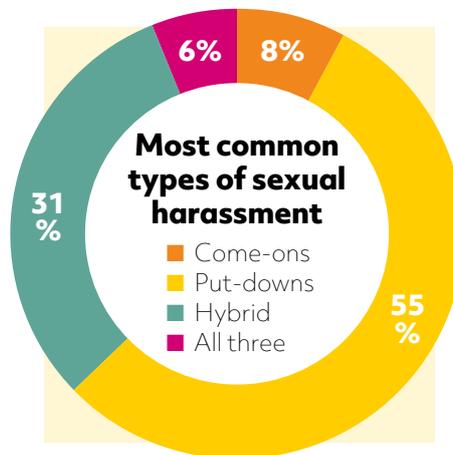
1: What is sexual harassment?

Sexual harassment is unwanted conduct related to sex, or of a sexual nature, that has the purpose or effect of violating the other's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment.

Sexual harassment can take many forms, including:

- verbal abuse, sexist 'jokes', innuendo, patronising or inappropriate remarks
- comments on a person's body or appearance
- unwanted physical contact, physical threats or assault
- leering, lewd gestures, pestering or spying
- circulation or display of pornography
- bullying, isolation, non-cooperation or exclusion from social activities.

Sexual harassment is not always intentional – it is generally understood by its effect on the victim and not the intent of the perpetrator. All workplace behaviour should take account of people's diverse values, cultures and experiences. Nobody should be intimidated, degraded or made to feel unwelcome at work because of someone else's idea of "banter".



Data source: Lim and Cortina, 2005

What are the most common types of sexual harassment?

Studies have categorised sexual harassment, in simple terms, as:

- **Come-ons** – unwanted sexual advances or sexual coercion
- **Put-downs** – straightforward sexist hostility
- **Hybrid** – where the language or behaviour of a sexual advance is used to degrade or humiliate.

Sexual harassment is often discussed in terms of 'come-ons'. However, the vast majority of sexual harassment is in the form of a sexist 'put-down', with or without sexual overtures. If we only look for the caricature of the sexual advance, we only see the tip of the iceberg.

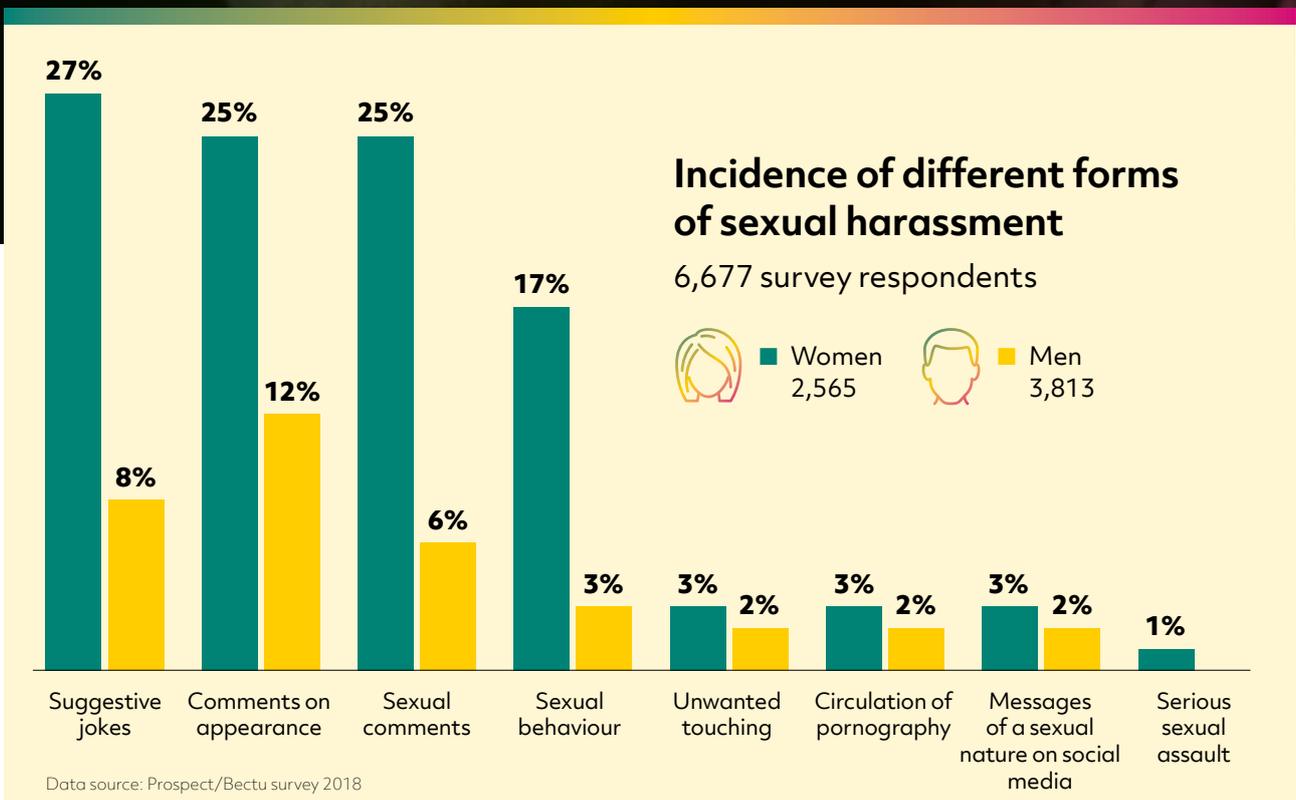
A survey of our members showed the rates of specific types of sexual harassment, from the most common, verbal types, such as comments and "jokes" of a sexual nature, to the rare but significant cases of serious sexual assault.

Not all sexual harassment is equally severe, but even 'low-level' behaviours create a hostile working environment. Moreover, they create an environment that is conducive to other, more aggressive forms of sexual harassment.

Promoting gender equality and adopting a zero-tolerance approach to all forms of sexist hostility in the workplace is the foundation stone in the mission to stop sexual harassment.

“It doesn't have to be high-level harassment for women to feel under siege... If you're constantly being harassed, even in a small way, that builds up.”

Jo Brand, comedian



2: Origins and consequences of sexual harassment

 **Be careful how you talk about risks: it can sound like you're blaming the victim, or making excuses for the perpetrator. The real risk factor for sexual harassment is working alongside a sexual harasser."**

Sexual harassment policy expert

There are two primary antecedents of sexual harassment in the workplace:

- **Too few women in the workplace** – Women of all ranks in male-dominated workforces are more likely to experience sexual harassment and less likely to report it for fear of damaging their status. Male-dominated workplaces include those that are mainly led by men and those that are historically male. The gender segregation effect cuts both ways: men are more likely to be sexually harassed in female-dominated organisations or traditionally female roles.
- **Permissiveness towards sexual harassment** – Permissiveness towards

sexism, or even just a perception of permissiveness, undermines victims' confidence to report. Sexual harassers are more likely to escalate their inappropriate behaviour if the workplace appears to tolerate or ignore "lesser" forms of sexism.

The following are excuses, and not legitimate reasons:

- A few bad apples spoiling the barrel – Sexual harassment can only flourish in a culture and environment that enables it. Even a "bad apple" will moderate their behaviour if they expect sexual harassment to cause them trouble.
- Misunderstandings between men and women – "It was just

a misunderstanding" ranks alongside "it was just a bit of banter" as a common but indefensible attempt to minimise sexual harassment.

Good workplace policies are clear about what is appropriate and inappropriate behaviour.

Work situations

Some work situations require particular management. Employers should assess and set guidelines for:

- one-to-one interactions, such as on late shifts, remote site visits, single point of contact management
- close-quarters working, such as for certain technical roles. Where some physical contact is accepted as part of the job, sexual harassers may feel less inhibited to progress to inappropriate physical contact
- where blurred boundaries exist between work and leisure, such as at conferences, during fieldwork or at office socials. It must be clear that workplace policies apply to all work activities.

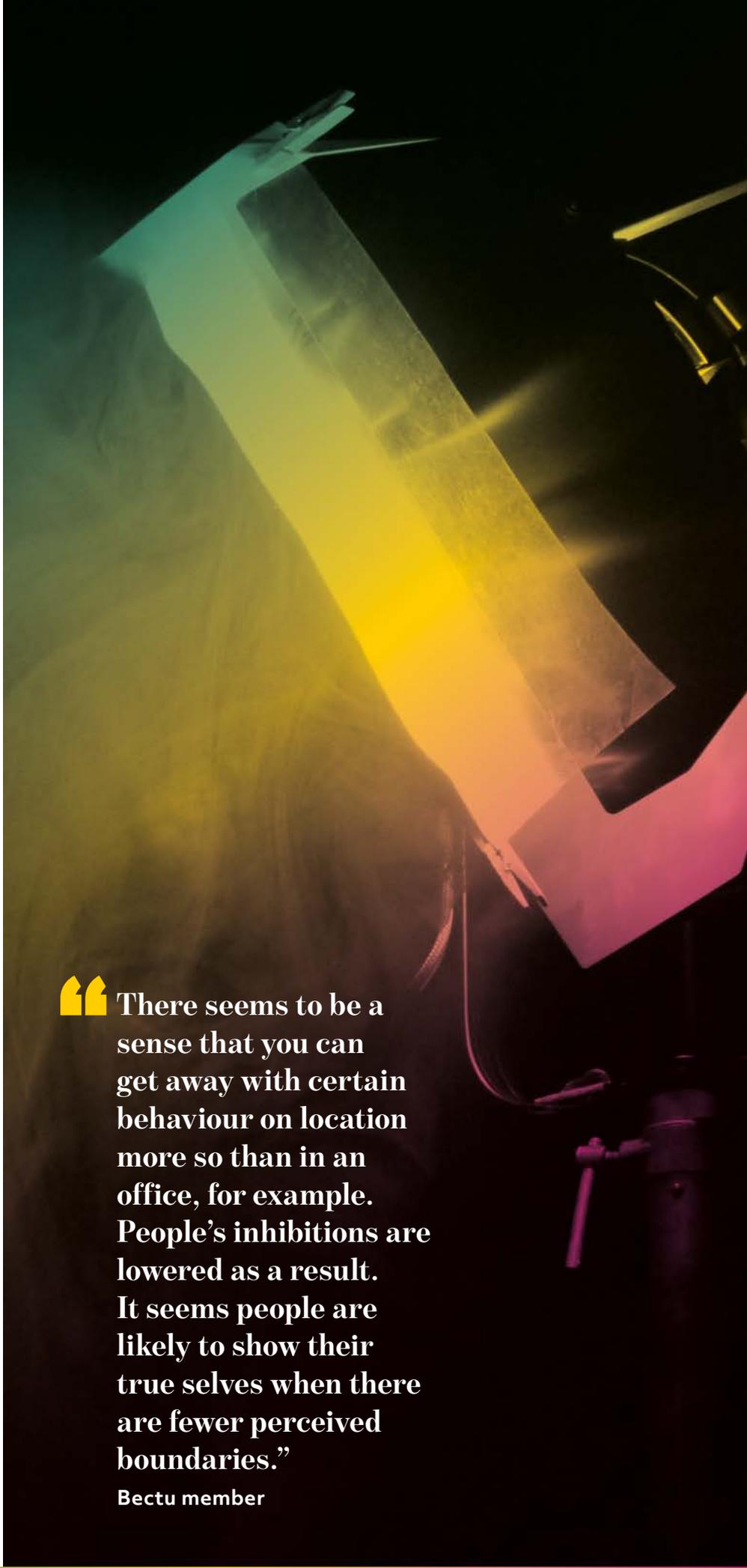
Consequences of sexual harassment

Victims of sexual harassment, including witnesses, may suffer damage to their mental and physical health. Sexual harassment also has an impact on their work satisfaction and ability to engage with professional activities.

A study of sexual harassment in sciences showed that 18% of black, Asian and minority ethnic (BAME) women and 12% of white women had avoided professional activities because they did not feel safe.

Employers may see adverse effects on productivity, as well as increased absence and staff turnover. The more senior the perpetrator, or the greater the perception of institutional tolerance, the greater the impacts.

Employers should also be concerned about the potential for legal action and the damage to their reputation.



“There seems to be a sense that you can get away with certain behaviour on location more so than in an office, for example. People’s inhibitions are lowered as a result. It seems people are likely to show their true selves when there are fewer perceived boundaries.”

Bectu member

3: Who is subjected to sexual harassment?

Many factors influence the incidence and experience of sexual harassment. It is inextricably linked to workplace power dynamics.

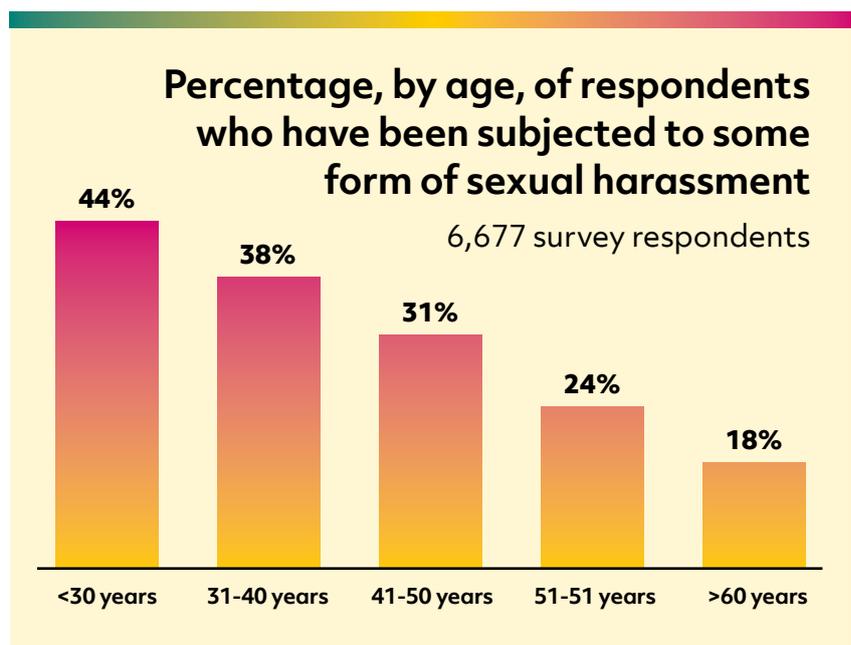
Cultural and demographic factors

Women experience more of every kind of sexual harassment than men, and it should feature in every gender equality policy. However, the targets are not always women and the harassers are not always men.

Some men, for example, black and minority ethnic (BAME) men, gay men, or men in female dominated workplaces are more likely to suffer sexual harassment. It is important to acknowledge that male victims may face different social challenges in reporting sexual harassment.

BAME women experience additional kinds of workplace sexual harassment, and more of it, including 'sexualised racism' and a combination of sexism and racist hostility.

Any demographic or personal characteristics that marginalise workers, or reduce their perceived status in the



Data source: Prospect/Bectu survey 2018

workplace may increase the likelihood of their experience of sexual harassment.

Organisational factors

Most organisations feature some kind of hierarchy, in decision-making or in pay structures, which contributes to workplace power imbalances. Those power structures should be proportionate to operational need. Extra care should be taken where a single person has authority over career development and progression opportunities.

Male-dominated workplaces are one of the main predictors of sexual harassment – this should be a particular concern for organisations working in gender-segregated occupations and industries.

Staff on precarious working arrangements, such as freelance work, zero-hour contracts or fixed-term appointments, may be seen as easy targets for harassers, especially if they are isolated from the rest of the workforce.



**“ In my first job in HR,
I was groped by two
women in a lift...
My female boss told
me to take it as a
compliment.”**

Bectu BAME member

Younger workers

Our survey of members showed a striking relationship between the incidence of sexual harassment and age, with young workers much more likely to suffer.

Almost half (44%) of respondents under the age of 30 had been subjected to some form of sexual harassment.

Age intersects with many of the power dynamics in the workplace:

- Young people are more likely to be in precarious employment, and in lower ranks of the hierarchy
- In a diversifying workforce, they are more likely to be women, BAME or openly LGBT
- They are less likely to have good social connections in the workplace and, critically, they are less likely to have the support of a trade union.

Sexual harassment is often talked about as a ‘women’s issue’. It is also a young person’s issue, and a core organising issue for unions that want to represent the interests of the younger workforce.



**“ Being a
woman in the
workplace has its
challenges. Then
being a black
woman doubles
those challenges”**

Equality activist



**“ I was a young naïve
volunteer, and it
was my first work
experience, which
I was grateful for.
He seemed friendly,
so I was friendly
back... at the time I
wondered whether I’d
given him the wrong
idea. Now I know it
was all him.”**

Prospect member



“There’s an expectation that, as a young, gay man, you must be sexually available. I was sexually harassed by my manager. We were the only two openly gay men in the organisation... I didn’t feel like I could report it, because it would reinforce stereotypes that would then reflect badly on me.”

Prospect member

4: What you can do if you are sexually harassed

It's very common for someone who has suffered sexual harassment to wonder if they did something to cause the situation or if they could have done something to prevent it.

The cause of sexual harassment always lies with the perpetrator, and never with the subject. Nor is it the responsibility of the subject of sexual harassment to prevent it from happening.

What you can do

Tell them to stop

If you feel safe and confident to do so, challenge the perpetrator yourself. You could ask a friend or union rep to be there when you do.

Keep records

Make a note of incidents, dates, witnesses and any action you have taken. This will be useful if you decide to take formal action and can help you see the problem clearly.

Get expert advice

Talk to your local union rep (if there is one in your workplace) – many branches have a specialist equality rep who you can talk to.

 **Sexism, racism and other forms of ‘banter’ are so rife amongst men inside the film industry I fear it would lead to work being withheld from me if I was to speak up or report it.”** Bectu member

Alternatively, you can contact our Prospect Member Contact Centre or your Bectu full-time official. They are experts who can help you understand your options and support you in deciding whether to take action. We also have specialist officers in our research and legal teams who have years of experience in handling sexual harassment cases.

Talk to your manager

If your manager is part of the problem, you can speak to a more senior manager, or to your HR department.

Make a formal complaint

If you can't resolve the problem yourself, you can raise it formally. It's a good idea to find out about any existing workplace grievance and disciplinary procedures. Your union can support you through this process.

“Call it out.”

We often hear from the targets of sexual harassment that they just wanted it to stop. Where possible, we support members to tackle it early and informally, by ‘calling-out’ inappropriate behaviour.

This doesn't have to be dramatic, or public, or confrontational – a quiet word, or a private email may be enough. In fact, often a low-key intervention is the best way to defuse the situation.

A well-placed challenge shows that a line has been crossed, and gives the perpetrator an opportunity to reflect, and correct their behaviour.

A healthy workplace culture supports workers to challenge behaviours that make them feel uncomfortable before they can build into a pattern of bullying or harassment.

5: The workplace approach to tackling sexual harassment

The respectful workplace

Cultivating a respectful workplace is the single most valuable protection against sexual harassment and other unwanted behaviours.

A respectful workplace:

- is driven by sound values
- has a hierarchy that's justified
- supports workers to challenge inappropriate behaviour before it escalates
- has resolution procedures that focus on the victim
- ensures that justice is swift.

Workplace practices and cultures vary according to the needs of the business.

However, those that enable sexual harassment should be reviewed and, if they are not proportionate to the business

need, revised. "That's how we've always done it" is no excuse.

Prospect has worked with employers in a number of industries to educate their workplace leaders and staff on the development of a respectful workplace culture. This training can be a turning point for improving organisational culture and ethos.

It is an opportunity for managers and supervisors to:

- renew their commitment to protecting individuals in the workplace
- define red lines on language and behaviour
- set out and update policies, procedures and consequences.

It also allows individuals to:

- examine and share their workplace experiences

- build consensus and buy-in to appropriate behaviour in the culture and context of their working environment

The training is just part of the solution. Cultural change must be systemic, and supported at every level of the organisation. Managers, supervisors, decision makers and HR departments must build trust by implementing and enforcing the new "social contract" from day one.

Other measures include:

- A robust, up-to-date policy on sexual harassment. Policies that have not been updated in the light of the #MeToo movement should be reviewed.
- Decisive action against perpetrators, demonstrating the employer's attitude to sexual harassment. Employers should aim to prevent sexual harassment, but they must be prepared to take action where it does come to light.
- Meaningful engagement with trade unions throughout the process. We are encouraging all reps to add this to their negotiating agenda, seeking to ensure

 **After the workshops, we were all joking with each other: 'You're not allowed to say that in our respectful workplace!' A few weeks on, it's happening less and less – we've just stopped the sexist 'banter'."**

Prospect member



“The primary aim is to create respectful cultures that do not allow sexual harassment to thrive in the first place. But organisations and employers must also have a plan of action to address problems when they do occur.”

Sue Ferns, Prospect senior deputy general secretary

that policies are both fit for purpose, and reliably implemented.

Training designed simply to raise awareness of the problem has not (on its own) been shown to reduce sexual harassment.

Screening workers for perpetrator behaviours has not been shown to prevent sexual harassment either.

A good policy on sexual harassment:

- has buy-in from every level of the organisation/workplace
- is developed in collaboration with trade unions and, where appropriate, equalities networks
- is regularly updated, with a view to continuous improvement
- focuses on developing and maintaining a respectful workplace
- enforces the view of the organisation/workplace that harassment of any kind is not acceptable

- clearly defines the consequences for sexual harassers
- addresses the full spectrum of sexist hostility and unwanted sexual advances
- emphasises the importance of victim-led resolution
- is supported by clear policies and procedures on equality, diversity, bullying, harassment, grievance and disciplinary action
- complies with the conciliation service’s codes of practice and Equality and Human Rights Commission advice.

Good implementation ensures that:

- all employees and workers, especially managers/supervisors and decision makers, are familiar with, and understand, the policy
- individuals engage with respectful workplace training

- employees in every level and role (including freelance and casual workers) are confident in recognising sexism and challenging it when it occurs
- people who experience sexual harassment know where they can get advice and support
- every report of sexual harassment is treated seriously, sensitively and sympathetically
- a range of options are considered for resolution, including mediation, training and disciplinary measures
- supervisors and decision makers are confident and supported in pursuing investigations of sexual harassment to their conclusion, for the good of the whole organisation/workplace.

Review point



How does your workplace measure up in terms of its harassment policy and implementation?

Based on the checklists on the previous page, review your organisation or workplace, and make a list (*right*) of the things that are being done well, and what could be improved.

Supporting managers, supervisors and decision makers

Many of our members are in senior positions, such as managers, supervisors or decision makers, and we understand the particular challenges that sensitive issues like sexual harassment present.

We want to see our senior members properly trained and supported in their roles – for their own well-being and for that of the people that they manage or oversee.

Please contact us if you are in a senior role and your employer isn't giving you the support you need to manage sexual harassment.

Things that are currently being done well include...

Things that could be improved include...



“Our whole profession has really pulled together on this issue, and the union guidance has been shared far and wide. We’re really pleased to be able to present the issue, and our expectations of workplaces in a clear, focussed way.”

Prospect rep

6: What you should do if you are accused of sexual harassment

An accusation of sexual harassment at work is likely to lead to disciplinary procedures and may result in dismissal. It could also lead to legal action through the civil or even criminal courts.

If a colleague challenges your language or behaviour:

- listen to their account, and try to see it from their perspective
- respect their different values and world view
- do not trivialise, or belittle their experience
- unless there is a compelling reason to continue your behaviour, then stop it.

If you are formally accused of sexual harassment:

- seek support – talk to your local rep, full-time official or the union’s Member Contact Centre
- reflect on your behaviour and consider the effect it may have on others
- do not approach the accuser in an effort to sort it out

yourself – you may make the situation worse

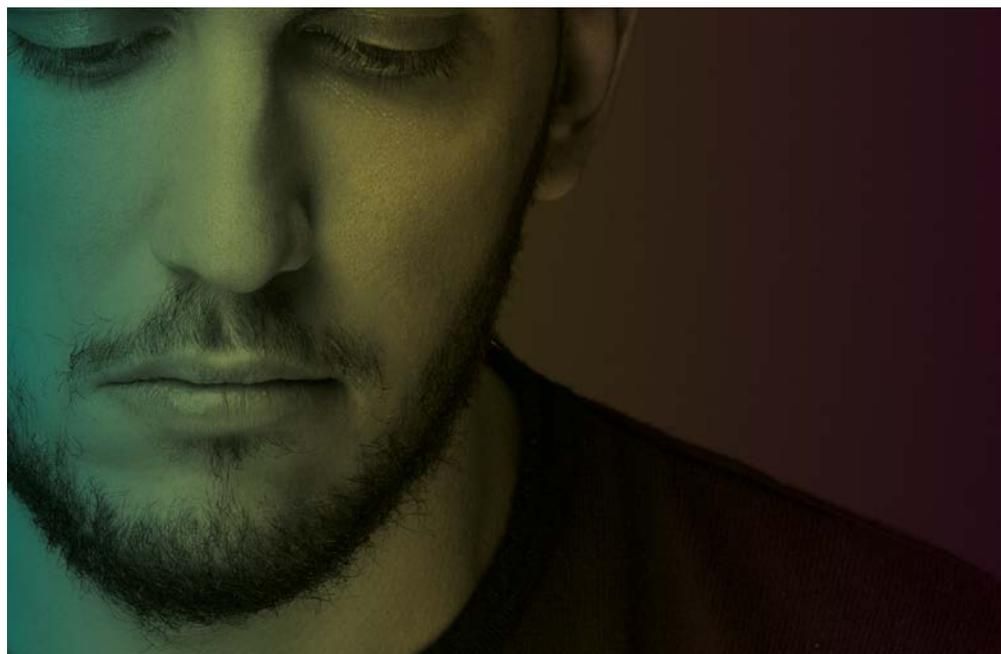
- ask your HR department for help with workplace policies and procedures.

Did I cross the line?

The law is clear that sexual harassment may be defined by its purpose or by its effect. Language or behaviour does not have to be intentionally harmful to count as harassment. It is possible that some sexual harassment may be due to a genuine mistake on the part of the harasser.

Different people have different boundaries. Where there is no clear invitation to greater familiarity, the default should always be to a more reserved style of interaction. In other words, if you’re not sure whether it’s appropriate to hug your colleague, it isn’t.

Workplaces are social environments with a wide spectrum of interpersonal behaviours, including compliments, jokes, flirting and physical contact. When judging the tone and degree of these interactions, consider:



Power

Power imbalances – due to workplace hierarchy, length of employment or other social factors – call for extra care in social interactions.

Reciprocity

Jokes and flirting are shared, mutual interactions. If a joke or a compliment is not reciprocated, it should stop there.

Situation

Some workplace situations are particularly sensitive, such as those demanding close proximity or unconventional working patterns.

Audience

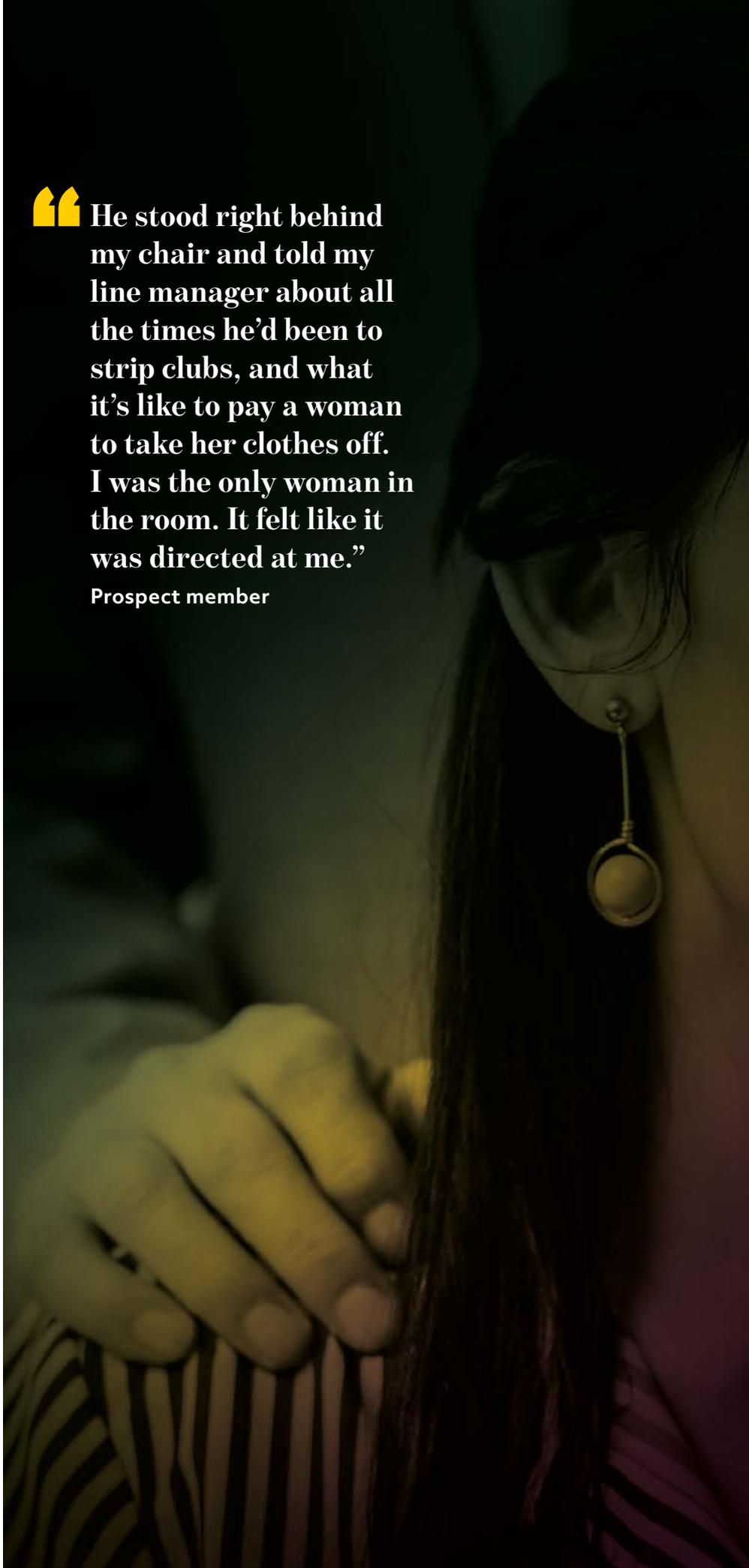
Personal comments or jokes that are perceived to be supported by a wider group gain additional power to intimidate.

Stereotypes

Stereotypes that demean or diminish a person's status have no place at work. That includes sexist jokes and the display of pornographic material.

“ He stood right behind my chair and told my line manager about all the times he'd been to strip clubs, and what it's like to pay a woman to take her clothes off. I was the only woman in the room. It felt like it was directed at me.”

Prospect member



7: The law on sexual harassment at work

The most relevant legislation in respect of sexual harassment at work is the Equality Act 2010, which prohibits discrimination in the workplace. The Equality Act does not apply in Northern Ireland, but the Sex Discrimination (Northern Ireland) Order 1976 provides almost identical provisions.

The Act covers employees and many atypical workers. For example, freelancers, interns, contractors, consultants, sessional and agency workers are all likely to be covered.

The harassment provisions in the Act apply to the following protected characteristics: sex, race, disability, sexual orientation, gender reassignment, religion or belief and age.

Sexual harassment

The Equality Act defines sexual harassment as being unwanted conduct related to sex, or of a sexual nature, which has the purpose or effect of:

- violating the other's dignity, or
- creating an intimidating, hostile, degrading,

humiliating or offensive environment.

The key issues are that the conduct is unwanted and must be related to the sex of the person being subjected to harassment. The conduct must have "the purpose or effect" of harassment. So there does not need to be a deliberate attempt to harass – an act can be unlawful if it has the effect of creating a hostile environment.

The definition of harassment also expressly includes less favourable treatment because of rejection (or submission) of unwanted conduct of a sexual nature or related to gender reassignment or sex.

When considering a complaint of sexual harassment, employment tribunals must take account of three factors:

- the perception of the complainant
- the other circumstances of the case, and
- "whether it is reasonable for the conduct to have that effect".

Importantly, the tribunal must take account of what the claimant feels and how they perceive the treatment. But the tribunal is also required to take account of all the circumstances of the case and look at the incident in context. The tribunal then must consider whether they believe it was reasonable for the claimant to feel harassed.

Unlawful harassment can range from inappropriate comments about a woman's clothing or appearance through to sexual advances or assault. It is often by direct verbal approach, but can also be through email, text, social media etc. It can be by co-workers or managers. Harassment can take the form of undermining a woman at work.

Third party harassment

The legal protection for women workers subjected to harassment by customers or clients at work can be complicated. But an employer may well be liable for the actions of third parties if they fail to take appropriate action to safeguard the workers and

“Following a change of role at work, my new manager made sexist comments and harassed me. With the support of my union rep I brought a grievance which was upheld. But then I was moved to a less desirable job as management said I could no longer work with the perpetrator. Prospect presented a claim of victimisation to the employment tribunal. The legal case was eventually settled just before the final hearing. I was regraded and received compensation and an apology. But most importantly I was able to get my career back on track.”

Prospect member

particularly if it was reasonably foreseeable that harassment was likely to occur.

When the Equality Act came into force in 2010, there were provisions expressly outlawing third party harassment. But these provisions were repealed in 2013. However, employers who fail to sufficiently protect women workers from harassment may have a case to answer, so always seek advice from Prospect or Bectu if you are harassed while doing your work.

Employer liability

The employer is legally liable for actions by their employees that are carried out in the course of employment. This applies whether or not the harassment

is done with the employer's knowledge or approval.

This concept of vicarious liability means a worker can bring a claim of harassment against an employer for actions carried out by other employees. The claim can also be brought against the individual perpetrator of the harassment.

However, an employer has a statutory defence to a claim if they can show they took all reasonable steps to prevent the harassment occurring. Employers often try to rely on the fact that they have a written policy against harassment but, as is made clear in the new Equality and Human Rights Commission (EHRC) technical guidance, they need to go much further than this.

Employers should ensure that all workers understand that they will show zero tolerance towards harassment. Remember that harassment can occur in work-related events, such as parties, conferences or social events. Where an event is organised by the employer or is closely related to work, the employer may be liable for any harassment that occurs.

Victimisation

Women are often concerned about raising allegations of harassment. Your union representative, legal adviser or full-time official can help you decide how to raise issues and will support you in the process.

The victimisation provisions in the Equality Act provide protection for women raising concerns about harassment.

Victimisation is when a person is treated unfavourably because of doing a “protected act”.

A protected act is:

- bringing proceedings under the Equality Act
- giving evidence or information

- doing anything else under the Act
- alleging that someone has contravened the Act.

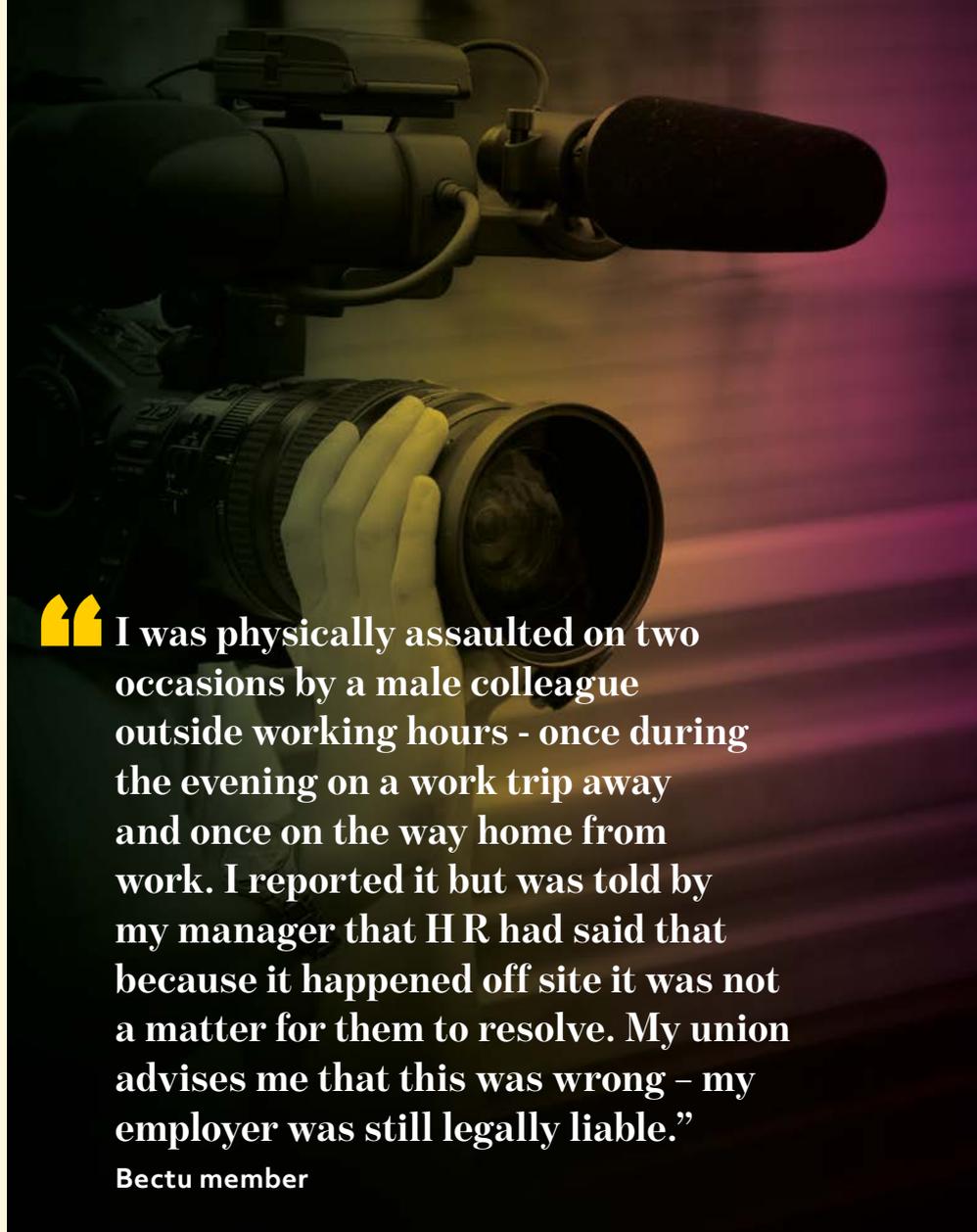
If a woman makes an allegation of harassment in good faith and is then subjected to any detriment (such as being shunned, moved or given worse duties) she may be able to bring a claim of victimisation.

Employment tribunals

Claims of sexual harassment or victimisation at work are brought to an employment tribunal.

You should raise a grievance about the harassment before presenting a claim to the tribunal. Failure to raise an internal grievance can lead to compensation being reduced by up to 25%. But it is really important not to delay taking formal legal action because the time limits are not extended by the grievance process. You may therefore need to present the legal claim before the internal process is completed.

Legal proceedings must be started within three months



“ I was physically assaulted on two occasions by a male colleague outside working hours - once during the evening on a work trip away and once on the way home from work. I reported it but was told by my manager that HR had said that because it happened off site it was not a matter for them to resolve. My union advises me that this was wrong – my employer was still legally liable.”

Bectu member

of the act of harassment occurring. The first stage is to present an application to ACAS, the conciliation service, for early conciliation. In Northern Ireland the early conciliation application goes to the Labour Relations Agency. The time in conciliation effectively “stops the clock” for presenting the actual tribunal claim.

A tribunal can only allow a late claim if it thinks it is just and equitable to do so. But this discretion is used very sparingly, so it is extremely important that you raise your issue with

Prospect or Bectu as early as possible.

Tribunals have three potential remedies in successful cases:

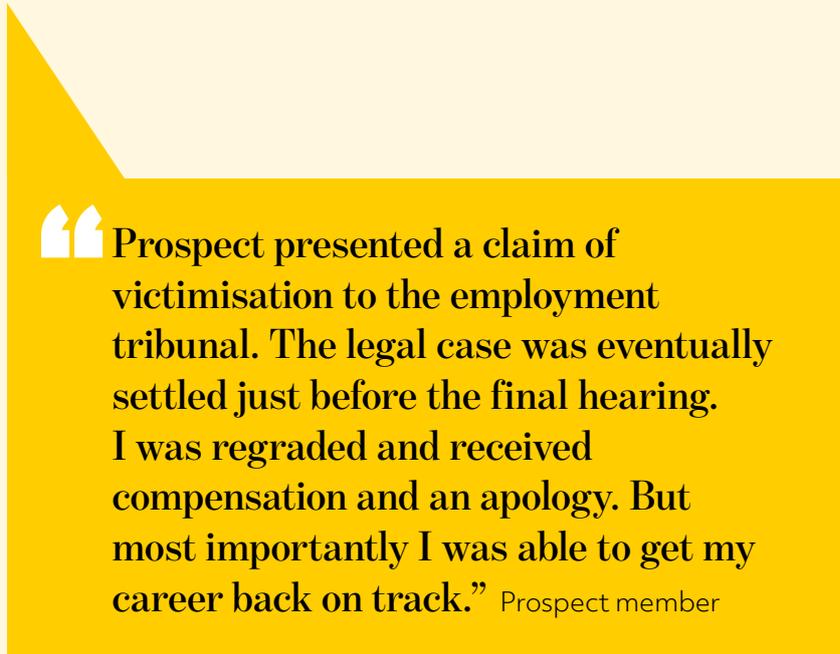
1. a declaration
2. recommendations to limit harassment occurring in the future (such as training or reviewing policies and procedures)
3. compensation, which can include any financial loss suffered, injury to feelings and interest.

In 2015, the government severely reduced tribunals' power to make recommendations when it repealed the provisions allowing tribunals to make recommendations in respect of the wider workforce. Recommendations can only be related to remedying the situation for the specific claimant. But where the claimant is still employed, the recommendations can cover employer-wide initiatives, as long as we can show that they benefit the individual.

Other legal remedies

The Protection from Harassment Act 1997 (PHA) was primarily designed to deal with stalkers. However, in some circumstances it can be relevant to workplace cases of harassment. The time limit for a case under this act is one year and it can be pursued through either criminal or civil proceedings.

The test of harassment under this act is much higher. The courts have held that the harassment must be intentional, targeted at the



Prospect presented a claim of victimisation to the employment tribunal. The legal case was eventually settled just before the final hearing. I was regraded and received compensation and an apology. But most importantly I was able to get my career back on track.” Prospect member

individual and calculated to cause alarm or distress.

Where an individual has suffered a significant injury, such as depression, personal injury claims may also be a potential legal redress in harassment cases. Claimants need to show that the employer was negligent and that it was reasonably foreseeable that the injury would occur.

The time limit for personal injury cases is three years from the date of knowledge of the injury. Our external solicitors can offer expert advice and representation for these claims.

Sexual assaults can be reported to the police for criminal proceedings.

The union's legal advice and assistance

Legal advice and assistance is offered at the union's discretion and is decided on the facts and merits of each case. See our legal assistance guides for details of our services and the terms and conditions for advice. You can find these on our websites at the URLs below, or speak to your local rep or full-time official to find out more.

- **Guide to Prospect's legal services** – <http://bit.ly/prospect-legal-guide>
- **Guide to Bectu's legal services** – <https://www.bectu.org.uk/benefits-services>

8: Action points for employers, union representatives and union members

Don't wait for sexual harassment to occur before tackling the problem. A proactive approach will help break down the cultures that allow sexual harassment to thrive and build confidence that any issues will be handled effectively.

Our union is helping our members and their employers to develop action plans tailored to their workplaces, to ensure that they are taking "all reasonable steps" to prevent sexual harassment. The following essential actions should be adopted by all organisations:

Refresh your sexual harassment policy

If you haven't got a specific sexual harassment policy in your workplace, or you haven't reviewed it in the light of the #MeToo movement, it's time you did.

- Employers: consulting Prospect or Bectu is a great way to win grassroots support for new policies and ensure they are relevant to real workplace experience.

“I asked them to take down the calendar with pictures of naked women, and they did. They probably moaned about it behind my back but that’s better than the message it was giving out.”

Prospect union rep

- Union reps: put a sexual harassment policy on your negotiating agenda.

Establish a respectful workplace

Respectful workplace training is the most effective way of preventing sexual harassment.

- Employers: consider strategies, including training, to cultivate a respectful workplace. Prospect or Bectu can help advise you on appropriate training.
- Union reps: open a conversation with members about what respectful language and behaviour looks like in the culture and context of your work.

Build trust in the process

Every employee should feel secure to challenge or report sexual harassment, and be confident that it will be dealt

with sympathetically and professionally.

- Employers: commit to dealing with sexual harassment swiftly and effectively, with an emphasis on supporting the victim.
- Union members: talk to us if you are not satisfied with the process in your workplace.

Promote diversity

Sexual harassment thrives on gender segregation. Diversity brings dividends for staff and employers, not least in reducing sexual harassment

- Employers: sign up to initiatives that promote workplace diversity in your sector.
- Union reps: add diversity to your branch agenda and get involved with our UK-wide diversity campaigns.



Call out sexism

Build a culture where everyone has the right and the confidence to challenge sexist hostility.

- Employers: give clear guidance on what constitutes sexist language and behaviour and encourage staff, where they feel able, to challenge it at source.
- Prospect and Bectu members: challenge or report sexism wherever you witness it. Sometimes the target of harassment is the person least able to challenge it.

My action plan

Whether you're a union member, representative or a senior person in your workplace, you can work with Prospect or Bectu to improve the way sexual harassment is handled in your workplace. Review the action points in the chapter, and identify (*right*) any actions you would like to take.

You may also wish to refer back to your earlier review of how well sexual harassment is currently being handled in your workplace (see page 16 →).

“I think having more women and minority groups in higher positions might help, dropping the attitude that it’s a ‘tough’ industry and an industry exempt from the law.”

Bectu member

9: Union support, advice and information

Prospect union members

Speak to a trained adviser in Prospect's Member Contact Centre by emailing helpdesk@prospect.org.uk or phoning **0300 300 1878** between 8am and 7pm, Monday to Friday.

Workplace reps: If you don't know who your workplace reps are, you can ask the Member Contact Centre. Many branches have equality or personal case specialist reps you can speak to.

Specialist staff: We have specialist staff who can advise you on legal or equalities issues. Our Member Contact Centre will be able to direct you to them if required.

Bectu members

(Bectu is a sector of Prospect)

Contact Bectu head office on **020 7346 0900** between 9am and 5pm, Monday to Friday, to speak to your full-time official.

Workplace reps: If you don't know who your workplace reps are, contact Bectu head office. Many branches have equality or personal case specialist reps you can speak to.

Specialist staff: We have specialist staff who can advise you on legal or equalities issues. Your full-time official will be able to direct you to them if required.

Join today!

Our experts are here to help you if you were to have a problem at work. So, if you are not already a Prospect or Bectu member, join today:

- prospect.org.uk/join
- bectu.org.uk/join

 **Our workplace reps have a great track record of successfully supporting members in the workplace to resolve cases of harassment, but where this fails, we will use the law robustly to challenge harassment and inequality.”**

Marion Scovell, Prospect's head of legal

10: Further reading



- **Prospect members' guide to bullying and harassment**

bit.ly/MG-bully

- **Prospect members' guide to equality at work**

bit.ly/MG-equality

- **Guide to Prospect's legal services**

bit.ly/prospect-legal-guide

- **Guide to Bectu's legal services**

bectu.org.uk/member-benefits

- **EHRC report on ending sexual harassment at work**

bit.ly/ehrc-end-harassment

- **EHRC technical guidance on sexual harassment at work**

bit.ly/EHR-SH-guide

- **BFI Principles to tackle and prevent bullying and harassment in the screen industries**

bit.ly/bfi-principles
bit.ly/tuc-protection-harassment

- **TUC report – Still just a bit of banter?**

bit.ly/tuc-banter

- **TUC report – Sexual harassment of LGBT people in the workplace**

bit.ly/tuc-lgbt-sh

Other sources of information

- **Advisory, Conciliation and Arbitration Service (ACAS)**

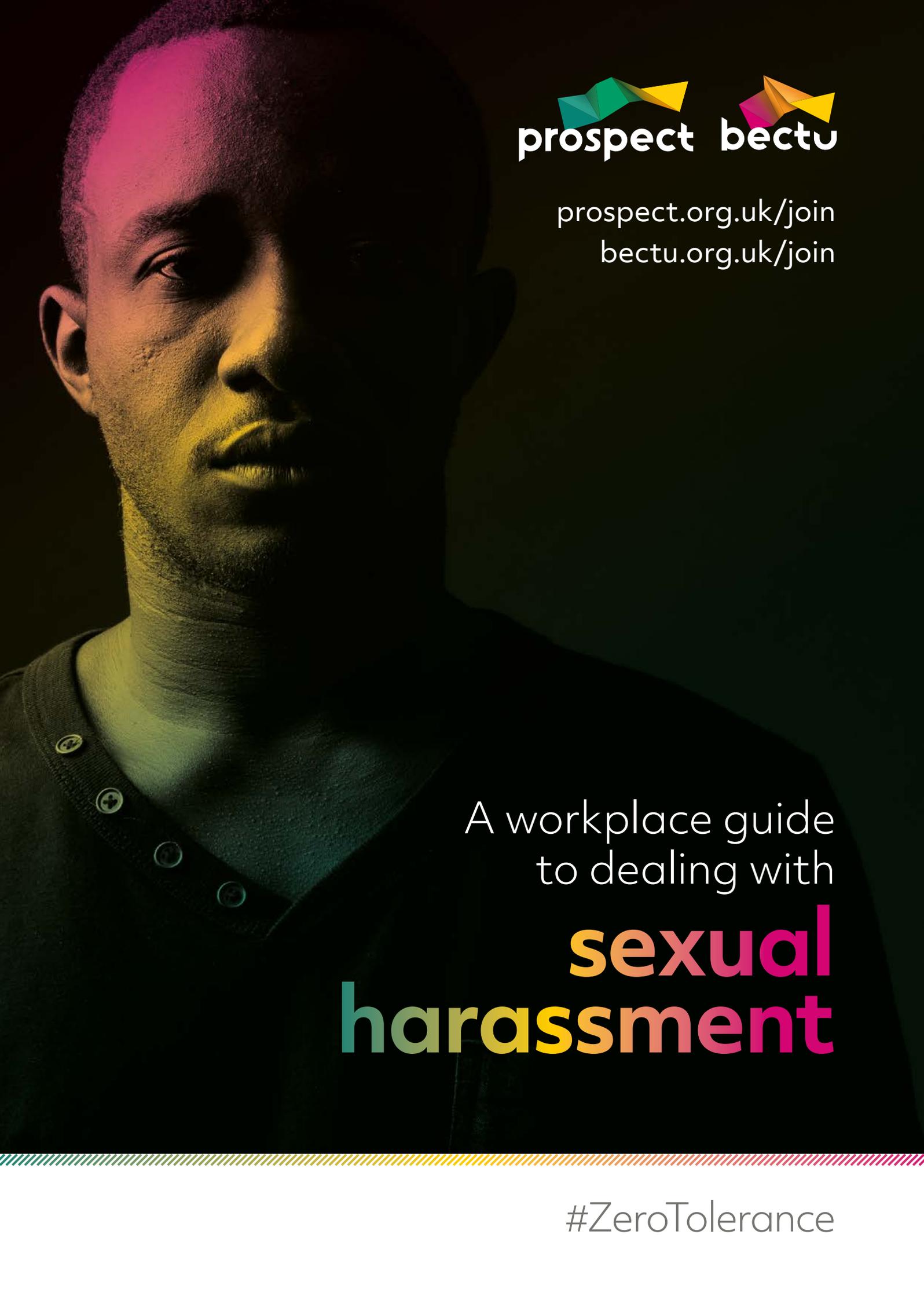
acas.org.uk
T: 0300 123 1100

- **Citizens Advice**

citizensadvice.org.uk
T: 08451 264 264

- **Equality Advisory and Support Service**

equalityadvisoryservice.com
T: 0808 800 0082



 
prospect bectu

prospect.org.uk/join
bectu.org.uk/join

A workplace guide
to dealing with
**sexual
harassment**

#ZeroTolerance