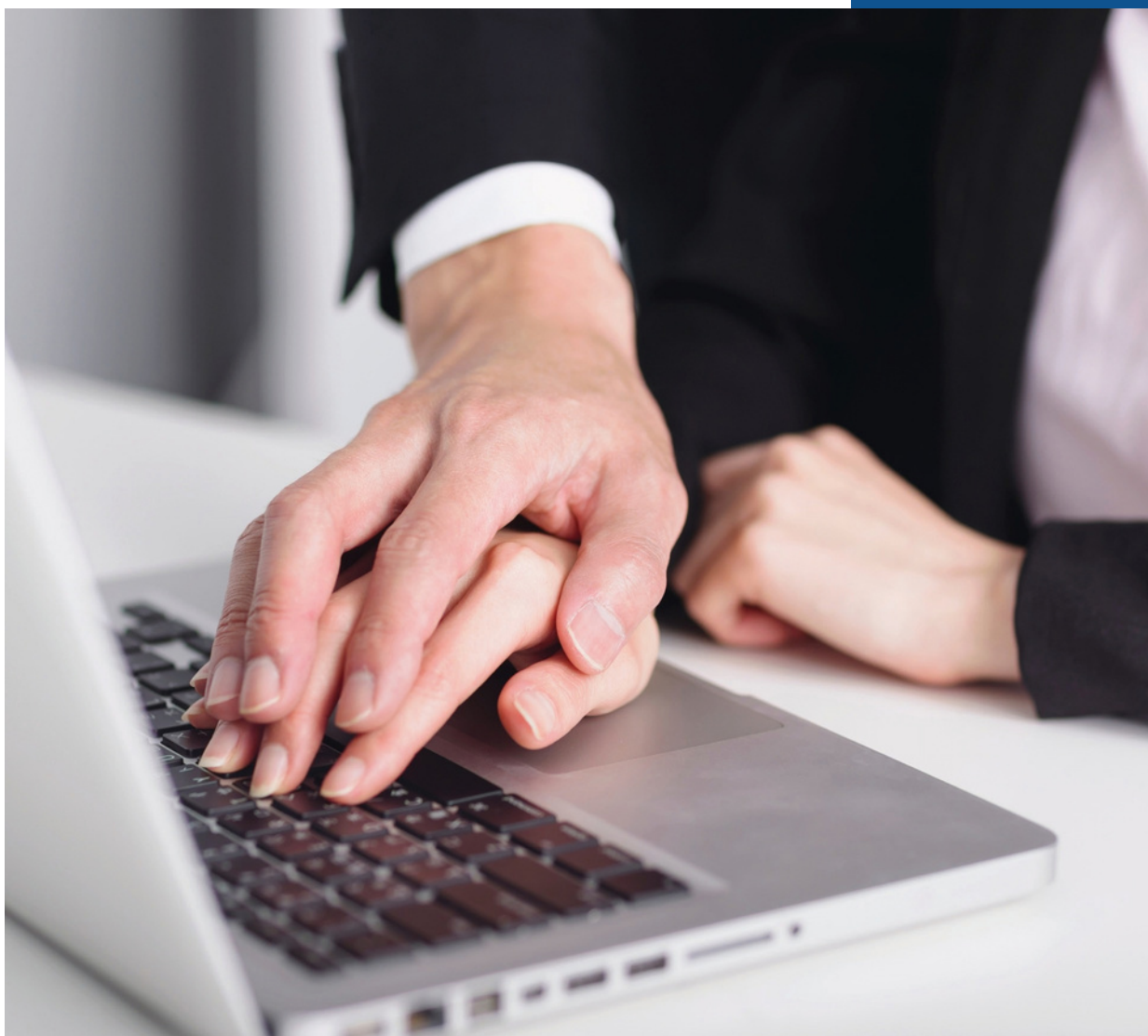




WorkInConfidence

Employment Law and Speak Up

A Practical Employer's Guide to Sexual Harassment,
Whistleblowing and Employee Voice



A Changing Legal Landscape

Employment law is placing increasing emphasis on prevention, early reporting and evidence of action. This guide brings together the Worker Protection Act 2023, the Employment Rights Act 2025, whistleblowing protection and practical steps employers can take to strengthen Speak Up.

Introduction

Creating a workplace where people feel safe to speak up is about more than building a positive culture. It helps organisations identify concerns early, respond consistently and reduce the risk of issues escalating into formal grievances, legal disputes or reputational damage.

The legal landscape surrounding employee voice has changed significantly. The Worker Protection (Amendment of Equality Act 2010) Act 2023 introduced a preventative duty on employers in October 2024. The Employment Rights Act 2025 has since strengthened whistleblowing protection in relation to sexual harassment, and further strengthens employers' preventative duties from 30 October 2026.

For HR professionals, the challenge is therefore not only to understand the law, but to create practical arrangements that help people raise concerns safely, enable managers to respond well, and allow the organisation to learn from what it is hearing.

This guide provides a practical overview of the legal context and an employer checklist for prevention, reporting, case handling and organisational learning. It is intended as general information, not legal advice.

The Principle at the Heart of This Guide

Employees rarely consider which piece of legislation applies before deciding whether to raise a concern. They simply need confidence that they will be listened to, treated fairly, and that appropriate action will be taken.



The Legal Context: What Has Changed?

26 October 2024

Worker Protection Act 2023 comes into force. Employers have a positive duty to take reasonable steps to prevent sexual harassment of employees.

6 April 2026

Sexual harassment is expressly added to the categories of wrongdoing that can form the subject matter of a protected whistleblowing disclosure, where the statutory tests are met.

30 October 2026

The preventative duty is strengthened from 'reasonable steps' to 'all reasonable steps'.

30 October 2026

Employers also become subject to an obligation not to permit harassment of employees by third parties, such as customers and clients.

The Employment Rights Act 2025 also gives ministers power to make regulations specifying steps that are to be regarded as reasonable for the purposes of the strengthened duty. At the date of this guide, this is a power to make future regulations rather than a final statutory checklist.

IMPORTANT

The October 2026 changes apply in England, Wales and Scotland. Equality and employment law arrangements differ in Northern Ireland.

Sexual Harassment and Whistleblowing

From 6 April 2026, the Employment Rights Act 2025 makes clear that sexual harassment can be the subject matter of a protected whistleblowing disclosure.

This does not mean that every complaint of sexual harassment is automatically whistleblowing. To qualify for protection, the disclosure must meet the statutory tests, including that the worker reasonably believes the disclosure is in the public interest.

Practical Implications

- Review whistleblowing and Speak Up policies so they reflect the April 2026 change.
- Brief managers and those receiving concerns on the updated protection.
- Make clear to employees where and how concerns can be raised.
- Provide trusted reporting routes, including confidential and anonymous options where appropriate.
- Keep secure, consistent records of concerns, decisions, actions and outcomes.
- Take care to protect people who raise qualifying concerns from detriment or retaliation.

Why This Matters For HR

A concern about sexual harassment may engage equality law, whistleblowing law and internal grievance or Speak Up processes at the same time. The route chosen by the employee should not become a barrier to the concern being heard and handled appropriately.

From "Reasonable Steps" to "All Reasonable Steps"

The Worker Protection Act 2023 introduced a positive duty requiring employers to take reasonable steps to prevent sexual harassment. From 30 October 2026, the Employment Rights Act 2025 strengthens that duty by requiring employers to take all reasonable steps.

The explanatory notes to the 2025 Act state that what is reasonable will depend on the circumstances of each case. An employer will have taken all reasonable steps where there are no further steps it could reasonably have been expected to take.

Think Evidence, Not Just Intention

- Can we show when our harassment risks were last assessed?
- Can employees explain how to report a concern?
- Can managers explain what they should do when a concern is raised? Can we evidence relevant training and refresher activity?
- Do we record formal and informal concerns securely and consistently?
- Do we review patterns, themes and higher-risk areas?
- Can we show what changed as a result of concerns, surveys or incidents?

What Changes in Practice?

The emphasis is increasingly on prevention and evidence. A policy on its own is unlikely to tell the whole story. Employers should be able to show that they have considered their risks, acted on them, communicated expectations, trained people, provided effective reporting routes and reviewed whether those measures are working.

The Potential Cost of Getting it Wrong

The strengthened duty has real consequences. If an employee succeeds in a sexual harassment claim and is awarded compensation, an Employment Tribunal must consider whether the employer has also complied with its preventative duty. Where the Tribunal finds that the duty has been breached, it can increase the compensation awarded by **up to 25%**, with the level of uplift reflecting the extent of the employer's failure. The Equality and Human Rights Commission (EHRC) can also take enforcement action where an employer breaches the preventative duty. This makes being able to **evidence the reasonable steps taken to prevent sexual harassment** an important part of managing both legal and organisational risk.



Third-Party Harassment

Third-party harassment can arise from customers, clients, patients, service users, suppliers, contractors and others who interact with employees in the course of work.

The existing preventative duty already requires employers to anticipate the risk of sexual harassment, including risks involving third parties. From 30 October 2026, the Employment Rights Act 2025 introduces an additional obligation on employers not to permit harassment of employees by third parties.

Where Might the Risk be Higher?

- Customer-facing or public-facing roles.
- Health, care or support environments involving patients or service users.
- Hospitality, events and settings where alcohol is present.
- Lone working, night work or isolated locations.
- External events, conferences, travel and client entertainment.
- Roles involving significant power imbalances or dependence on a particular client or customer.

Questions For Employers

- Have third-party risks been included in your risk assessment?
- Do employees know what behaviour is unacceptable and how to report it?
- Do managers know what action they can take with a customer, client, supplier or service user?
- Are incidents recorded so recurring risks can be identified?

Why People May Still Not Speak Up

Policies and procedures matter, but they only work if people feel able to use them. Previous WorkInConfidence guidance highlighted common reasons people may choose not to report harassment, including fear that they will not be believed or taken seriously, concern about workplace relationships, and worry about career consequences.

This is why prevention cannot be separated from employee voice. Employers need ways to hear about behaviour early, including from people who may not feel ready to make a formal complaint.

Build Confidence in the Process

- Offer more than one route for raising concerns.
 - Explain what happens after a concern is raised.
 - Provide confidential and anonymous routes where appropriate.
- Respond promptly and consistently.
- Keep the person who raised the concern appropriately informed.
 - Demonstrate, without compromising confidentiality, that concerns lead to action and learning.

A Useful Test

Do your people merely know that a reporting channel exists, or do they genuinely believe they can use it without fear, and that something appropriate will happen?



The 8-Step Employer Checklist

The following checklist brings together the practical approach in WorkInConfidence's existing Worker Protection Act resources with the EHRC's employer guidance. It is designed as a prompt for review, not as an exhaustive statement of the law.

1. Anti-harassment Policy

- ☐ State clearly that sexual harassment is unlawful and will not be tolerated.
- ☐ Explain who is protected and cover relevant work situations, including work-related social events and online environments.
- ☐ Address third-party harassment and the organisation's approach to customers, clients, patients, suppliers and others.
- ☐ Set out clear reporting routes, how concerns will be handled and potential consequences of policy breaches.
- ☐ Set a review date and named ownership for keeping the policy effective.

2. Employee Engagement

- ☐ Use surveys, 1:1s, exit interviews and other listening routes to understand whether people feel safe and respected.
- ☐ Check that employees know the policy, how to report concerns and what will happen if they do.
- ☐ Look for differences between teams, locations, roles and groups rather than relying only on an organisation-wide average.

3. Assess and Reduce Risk

- ☐ Carry out and document a sexual harassment risk assessment.
- ☐ Consider power imbalances, lone working, customer-facing work, alcohol, external events, job insecurity and other relevant workplace factors.
- ☐ Identify practical preventative measures, owners and review dates.
- ☐ Revisit the assessment when working arrangements, locations or risks

The 8-Step Employer Checklist — *(continued)*

4. Reporting

- ☐ Provide clear, safe reporting channels, including anonymous or confidential options where appropriate.
- ☐ Make reporting routes easy to find and use.
- ☐ Keep centralised, confidential records of formal and informal concerns.
- ☐ Respond, follow up and communicate appropriately with people who raise concerns.
- ☐ Use case data to identify patterns and emerging risks.

5. Training

- ☐ Train employees on what sexual harassment looks like and what to do if they experience or witness it.
- ☐ Give managers practical training on receiving and handling concerns.
- ☐ Include third-party scenarios where relevant to the organisation.
- ☐ Provide refresher training and review whether training is changing understanding and behaviour.

6. Complaint and Case Handling

- ☐ Act promptly when a concern is raised and consider how the employee would like it handled.
- ☐ Respect appropriate confidentiality and protect those involved from ongoing harassment or victimisation.
- ☐ Use a fair and consistent investigation and decision-making process.
- ☐ Record conversations, actions, decisions and outcomes securely.
- ☐ Review resolved cases for lessons that may help prevent recurrence.

The 8-Step Employer Checklist — *(continued)*

7. Third-Party Harassment

- ☐ Include third-party risks in policies, training and risk assessments.
- ☐ Give employees a clear route to report incidents involving customers, clients, patients, suppliers or others.
- ☐ Make sure managers understand what preventative and responsive action is available.
- ☐ Track incidents so repeated behaviour, locations or situations can be identified.

8. Review and Evaluation

- ☐ Regularly test whether preventative measures are actually working.
- ☐ Analyse case data, survey feedback and other employee listening information for trends.
- ☐ Update policies, training, risk controls and communications when learning indicates a need.
- ☐ Provide appropriate oversight to senior leadership or the board.
- ☐ Keep evidence of reviews, decisions and actions taken.



Listening as Part of Prevention

A low number of reported cases does not necessarily mean that harassment is absent. It may also mean that people do not recognise the behaviour, do not know how to report it, or do not yet trust the reporting process.

Anonymous employee surveys can help employers test the gap between policy and lived experience. Used alongside Speak Up and case data, they can provide an earlier indication of risk.

Questions Worth Asking Your People - Would They Say?

- I understand what my organisation considers to be sexual harassment.
- I know how to raise a concern if I experience or witness inappropriate behaviour.
- I would feel safe raising a concern about sexual harassment.
- I believe a concern I raised would be taken seriously.
- I believe managers know how to respond appropriately to a concern
- I feel confident that I would be protected from retaliation or victimisation.
- I believe concerns are used to improve the way the organisation works.

Look Beyond the Headline Score

Where appropriate and lawful, analyse differences by location, team, role or other relevant groups. A strong overall result can hide a localised problem or a group whose experience is very different.

Speak Up, Case Management and Organisational Learning

An effective Speak Up programme supports more than reporting. It helps an organisation move from hearing individual concerns to understanding patterns and preventing recurrence.

Trusted Reporting

Give employees clear routes to raise concerns openly, confidentially or anonymously where appropriate.

Consistent Response

Help managers and HR teams follow concerns through, record actions and avoid cases falling through gaps.

Secure Records

Maintain an accurate history of concerns, actions, decisions and outcomes with appropriate access controls.

Insight and Trends

Bring case information together so recurring themes, locations, behaviours or risk factors can be identified.

Learning

Use concerns, outcomes and employee feedback to improve policies, training, risk controls and communication.

The Aim

A Speak Up system does not replace good management, HR processes or legal advice. It gives people another trusted route to be heard and gives the organisation better information with which to act.

Employer Action Plan

Use this page as a practical review

- Check that sexual harassment risk assessments are current, documented and owned.
- Include third-party harassment risks and practical controls.
- Review reporting routes and make sure employees know how to use them.
- Check whether confidential and anonymous reporting options are appropriate and accessible.
- Brief managers on sexual harassment, whistleblowing protection and how to receive concerns.
- Review training content, attendance, refreshers and effectiveness.
- Check that formal and informal concerns can be recorded securely and consistently.
- Review case data and employee feedback for recurring themes or higher-risk areas.
- Document decisions and preventative actions so the organisation can evidence what it has done.
- Agree how learning and risk information will be reported to senior leadership or the board.
- Set dates for the next policy, risk, training and effectiveness reviews.

This guide provides general information and is not intended to constitute legal advice. Organisations should seek independent legal advice where appropriate.

Final question

If an employee raised a concern tomorrow, would they know where to go, would the person receiving it know what to do, and could the organisation demonstrate what happened next?

Sources and Editorial Notes

Official Sources Checked

Department for Business and Trade / GOV.UK: Whistleblowing guidance for employers, published 6 April 2026.

Department for Business and Trade: Employment Rights Act 2025 - strengthening protections for Whistleblowers factsheet.

GOV.UK: Plan to Make Work Pay and Employment Rights Act timeline update, July 2026.

Employment Rights Act 2025 explanatory notes, including sections 20 and 21.

Equality and Human Rights Commission: Employer 8-step guide - Preventing sexual harassment at work. EHRC notes that this guidance is being updated for the April and October 2026 changes.

About Us

At WorkInConfidence, our mission is to empower organisations to build healthier, safer, more engaged and productive workplaces. Our platform gives every employee a voice within an environment of psychological safety.

 Employee Voice	 Psychological Safety	 Leadership Insights
Creating trusted channels for authentic communication	Building environments where everyone feels safe to speak up	Providing actionable data for informed decision making leading to improved culture and organisational performance.

WorkInConfidence is used across over 100 organisations (c. 200k staff) in the private, public and not for profit sectors. We have a decade of experience delivering a highly secure, easy to use system. WorkInConfidence is registered with the ICO for data protection purposes and is IASME and Cyber Essentials Plus certified.

One Comprehensive Solution Via One Unified Online Platform

 Anonymous Two-Way Speak Up	 Open Case Logging	 Case Management
Removing fear and worry for the nervous or reticent to Speak Up about bullying and harassment, DEI, wellness or ideation.	People who are comfortable with being identified can log cases openly.	All cases (whether received via the platform or directly) can be easily stored, shared, and tracked.
 Clear Central Reporting & Actionable Insights	 Employee Forums	 Surveys
Spot patterns, emerging risks, and identify opportunities for improvement. Provide clear reporting to the Senior Leadership Team, regulators, or the Board.	Enable open discussions to learn and improve.	Gather feedback through pulse, mini or long surveys. Discover and learn from employee viewpoints.

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