



Still Silent print.indd 1





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1. EXECUTIVE SUMMARY

In 2022 the STUC Women's Committee launched a survey into Sexual Harassment in the Workplace. Their report, *Silence is Compliance*, was launched setting out their findings and recommendations.

It was clear that workplaces across Scotland were ill-equipped, ill-prepared and ill-educated when it came to understanding, preventing and appropriately dealing with incidents of workplace sexual harassment. Women were faced with multiple reporting barriers and were on the receiving end of a system that failed to prioritise women's safety, dignity, rights, and respect.

To restate some of their opening words "Sexual harassment at work is unlawful. It has no place in our workplaces. It is unacceptable. It is preventable. It is inexcusable. Despite decades of campaigning, advancements in legislation and greater awareness its prevalence in more recent times – **sexual harassment at work is endemic for women**".

No workplace in Scotland is immune to sexual harassment. Just because it hasn't been reported it does not mean it doesn't exist. The burden of responsibility for combating sexual harassment at work should first and foremost rest with employers to actively educate their workforce, understand

the challenge and do everything in their power to stamp out sexual harassment.

Silence is Compliance was clear. Sexual harassment at work thrives off a culture of silence and complacency. The momentous **#metoo** movement opened up the issue, sparked public debate, and as women broke their own silence there was an acknowledgement that no workplace will be a safe workplace until sexual harassment is eliminated from the fabric of Scotland's workplaces.

The STUC Women's Committee and trade unions pledged to continue their fight for a safer, fairer and more equal world of work. One where sexual harassment is history.

**IN 2024 IT WAS TIME TO TEST
WHETHER THERE HAD BEEN
PROGRESS AND IF SCOTTISH
WORKING WOMEN WERE...
STILL SILENT?**



2. REPORT & SURVEY BACKGROUND

The STUC Women's Committee launched a *Still Silent?* Survey on 21 June 2024. The aim was to follow up on the *Silence is Compliance* report of March 2022, gathering women in Scotland's views of sexual harassment.

This time the Committee wanted to broaden the focus on women's experiences in public, at work, and online, with an emphasis on whether there had been any improvement in women's experiences over the last two years.

The *Still Silent?* Survey closed on 6 September 2024 with 512 replies received. Thanks to UNISON and Unite the Union, who between them recorded 68% of all responses.

The findings of this more concise 2024 survey, coupled with those from 2022, will continue to be used to support campaigns both within the trade union movement and beyond to advance policy, political, legal, and enforcement demands to finally eradicate sexual harassment from society.

The questions posed were grouped under the following headings:

Over the last two years, has sexual harassment become more of an issue in public?

Over the last two years, has sexual harassment become more of an issue in your workplace?

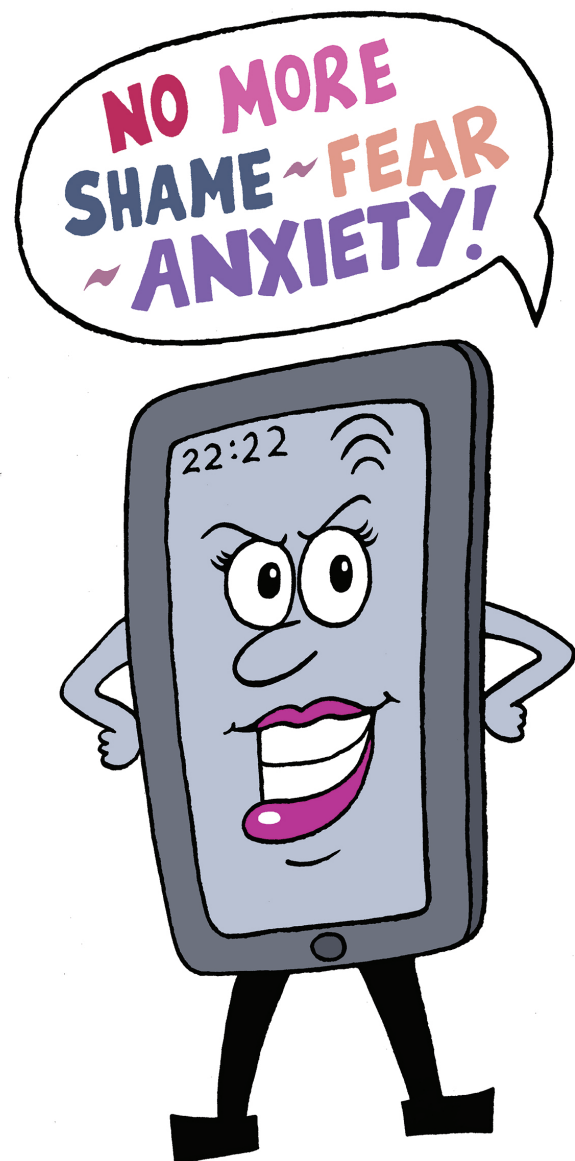
Over the last two years, has your personal experience of sexual harassment in your workplace got better, stayed the same or got worse?

Over the last two years, has sexual harassment become more of an issue online?

Over the last two years, has your personal experience of sexual harassment online got better, stayed the same or got worse?

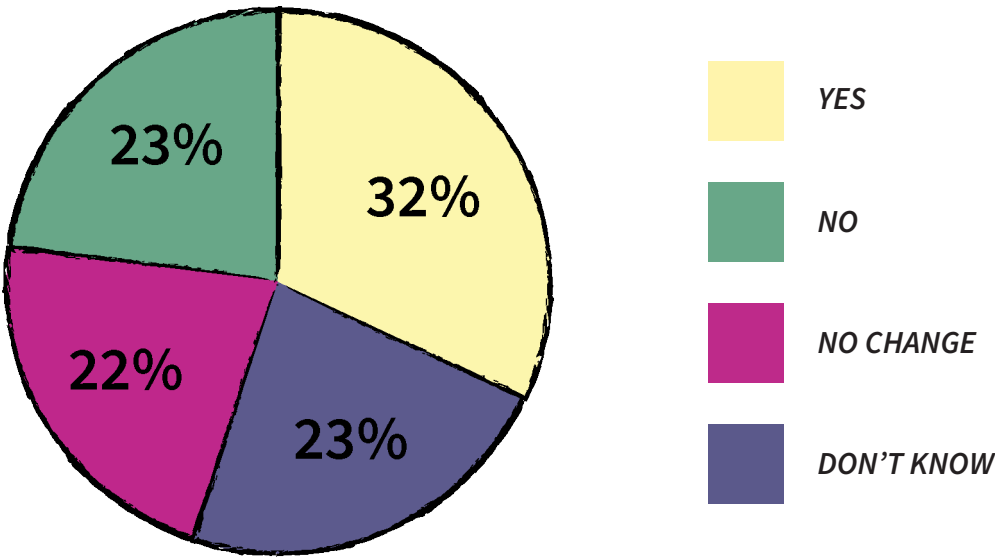
In September 2024 the TUC General Council made a very clear statement on tackling and preventing sexual harassment in the trade union movement.

They said "*like every workplace, we need to get our own house in order. No one should ever feel unsafe in a trade union space*" (TUC General Council Statement on Tackling and Preventing Sexual Harassment).

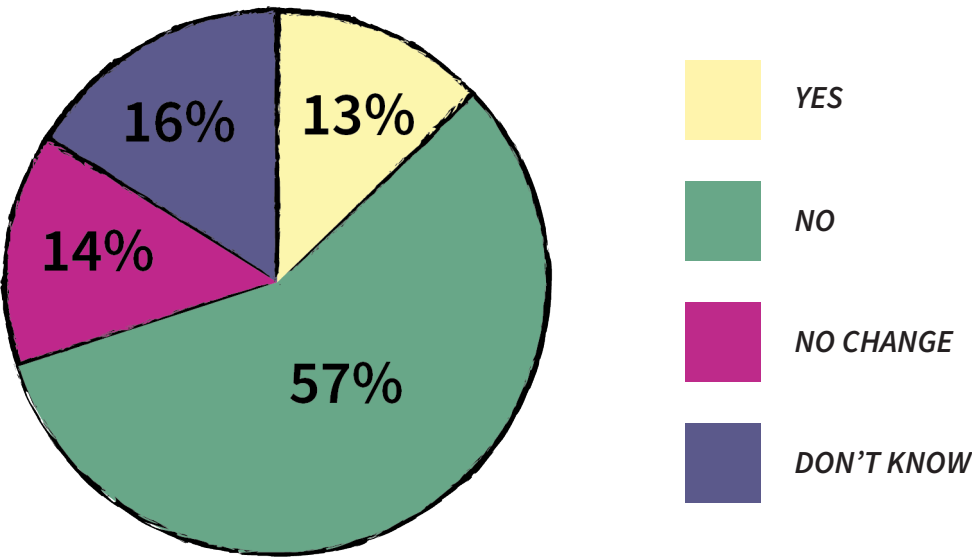


3. SURVEY KEY FINDINGS

There was a fairly even split in responses to whether over the last two years sexual harassment **in public** has become more of an issue:

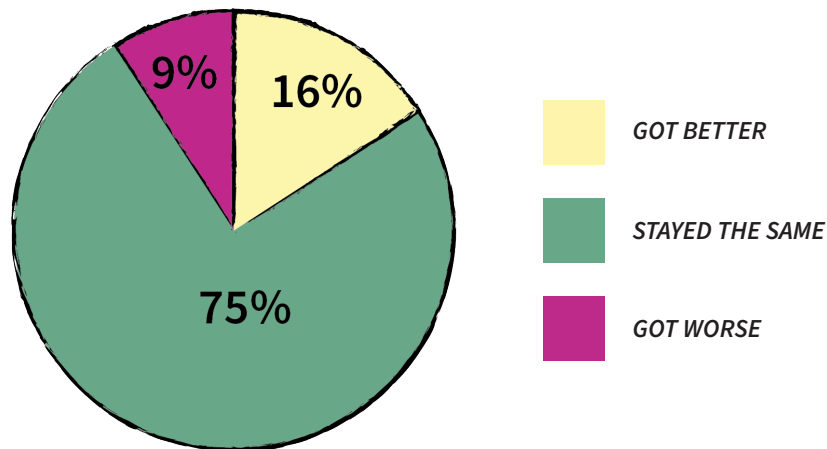


When asked if over the last two years sexual harassment **at work** has become more of an issue, most respondents (57%) replied no:

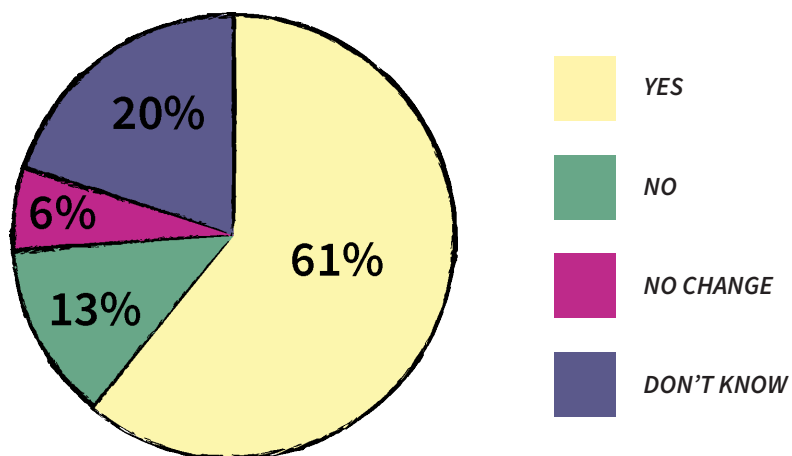




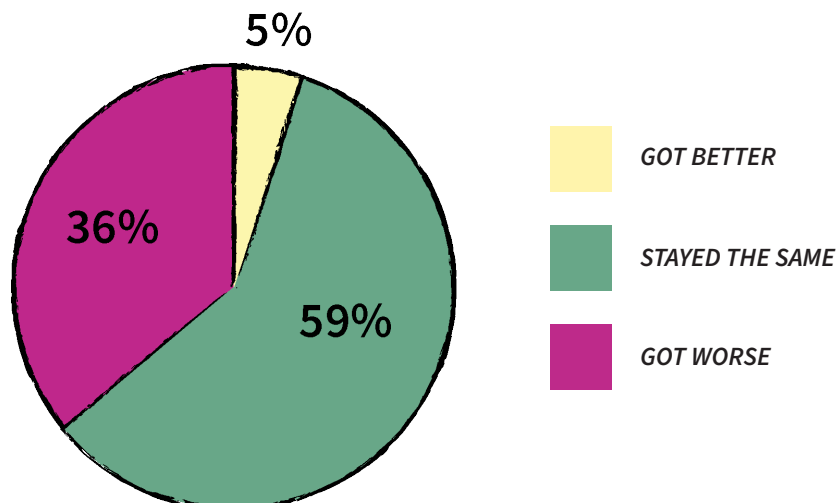
When asked about **personal experiences at work** of sexual harassment (75%) of respondents said it had stayed the same over the last two years:



61% of responses said yes, sexual harassment has become more of an issue **online**:



Respondents were also asked about their **personal experience of online** sexual harassment. Only 5% said it had got better with 59% saying it had stayed the same:





The overall theme of the survey responses is one of little overall change or improvement in experiences. There was considerable emphasis within the comments of the online / social media experience and how that appears to be the main hot spot that's emerged since the last report.

IN PUBLIC:

"It has always, but I think people are recognising it as harassment now, rather than harmless banter."

"It has become more recognised as an issue rather than something we as women need to learn to deal as a societal norm and as 'our problem'."

"I feel the amount of sexual harassment hasn't changed, but I feel the number of women calling it out has increased which is good as we are now highlighting the problem that was always there."

"I think women are standing up to this treatment more and more and therefore you are hearing about it far more - which is a good thing."

"Increase in media coverage on cases actually being pursued by police and legal system."

AT WORK:

"Actually, my own workplace has been okay with this. Largely because of colleagues respecting each other, not something the employer has done (actually they've done nothing at all to highlight the issue)."

"In my previous line of work I was subject to [verbal] advances by a male colleague. Albeit not explicitly sexual in nature I did class this as harassments based on my gender. HR did not provide support during this time. When I spoke to the internal domestic abuse practitioner for advice they indicated there were immediate concerns of the male worker's behaviour and potential risk to women."

ONLINE:

"I think there is more trolling and picking on women just because online you can be anonymous."

"Some of the online backlash from women fighting for equality, things like podcasts where males are saying what they expect in return, sexualises and suggests women's 'value' is their looks and 'purity'

or virtue...it seems to have become accepted as 'what women bring to the table' and I find it very transactional. I worry that the younger generation of women will accept this as 'just the way it is.'"

"It's easy to hide behind a keyboard."

"It is more covert."

"I think influencers like Andrew Tate have encouraged misogynists to feel more comfortable making disgusting comments online as they have a community that will back them up, and label those who call them out on it as snowflakes."

"I think it's far easier to hide behind a persona online and say and do things you wouldn't do in public. What this says to me is that internal views have not changed. More needs to be done to educate and actually change people's views so that the public and private views align."

"I don't participate in social media much, as I see how women are treated. I would rather just stay away."

IN SCHOOLS:

"Girls at school are reporting it more and more."

"I work in a secondary school and there is an increase of female teachers being harassed by male students."

"Purely as a result of male pupils and their derogatory remarks towards women. They have very little respect for women."

The findings of this survey show that women continue to experience sexual harassment and the situation has changed very little over the last two years. Indeed, the experiences of online harassment and misogyny has not diminished, quite the reverse, with comments about this type of harassment far outweighing any others.

The onus of responsibility still rests heavily on the shoulders of women to call it out and report it. That often poses even more difficulties given the covert nature of online harassers' identities. Sexual harassment remains deep rooted with the advent and reliance of social media producing disproportionately negative experiences for women and girls.





4. THE LAW & THE WORKERS PROTECTION ACT

Trade unions have extensive information and advice on sexual harassment in the workplace and many workplace representatives are trained to provide support to their members. ACAS also has a range of resources from which the following has been reproduced:

SEXUAL HARASSMENT – WHAT IS IT?

Sexual harassment is unwanted behaviour of a sexual nature. The law (Equality Act 2010) protects the following people against sexual harassment at work:

- employees and workers
- contractors and self-employed people hired to personally do the work
- job applicants

To be sexual harassment, the unwanted behaviour must have either:

- violated someone's dignity
- created an intimidating, hostile, degrading, humiliating or offensive environment for someone

It can be sexual harassment if the behaviour:

- has one of these effects even if it was not intended
- intended to have one of these effects even if it did not have that effect

WHO IS RESPONSIBLE?

Employers must take steps to prevent sexual harassment happening in the first place.

Anyone who sexually harasses someone at work is responsible for their own actions.

Employers can be responsible too – this is called vicarious liability. By law, they must do everything they reasonably can to protect staff from sexual harassment.

Employers also have a responsibility – a 'duty of care' – to look after the wellbeing of their employees. If an employer does not do this, in some cases it could lead to a serious breach of an

employee's employment contract. If an employee feels they have no choice but to resign because of it, the employer could face a claim of sexual harassment and constructive dismissal.

All complaints of sexual harassment should be taken seriously.

Employers should handle any investigation in a way that's fair and sensitive to:

- the person who made the complaint
- someone who witnessed it
- someone who's been accused of sexual harassment

EXAMPLES OF SEXUAL HARASSMENT

Sexual harassment can be a one-off incident or an ongoing pattern of behaviour.

It can happen in person or in other ways, for example online through things like email, social media or messaging tools.

Examples include:

- making sexual remarks about someone's body, clothing or appearance
- asking questions about someone's sex life
- telling sexually offensive jokes
- making sexual comments or jokes about someone's sexual orientation or gender reassignment
- displaying or sharing pornographic or sexual images, or other sexual content
- touching someone against their will, for example hugging them
- sexual assault or rape

What some people might consider as joking, 'banter' or part of their workplace culture can still be sexual harassment.

Sexual harassment is usually directed at an individual, but it's not always the case.

Sometimes there can be a culture of behaviour that's not specifically aimed at one person – such



as sharing sexual images. Someone could still make a complaint of sexual harassment in this situation.

PREVENTING SEXUAL HARASSMENT

Employers must take steps to prevent sexual harassment.

To do this, they should:

- remove or reduce risks of sexual harassment to make sure your workplace is safe.
- offer support to anyone involved in a sexual harassment complaint.
- make it clear to everyone who works there, or uses their services, that they will not tolerate sexual harassment.
- train everyone who works for them on recognising sexual harassment and encourage them to report it.
- consider having a policy on sexual harassment.

NEW SEXUAL HARASSMENT LAW – WORKER PROTECTION ACT

From 26 October 2024, employers must take reasonable steps to prevent sexual harassment of their workers, including by third parties.

This updated law follows changes made by the Worker Protection (Amendment of Equality Act 2010) Act. This introduces a new duty on employers to take reasonable steps to prevent sexual harassment of their workers. It is a preventative duty. Previously there was no proactive legal obligation on employers to take steps to prevent sexual harassment at work.

Jillian Merchant, Partner & Solicitor Advocate, Thompsons Solicitors Scotland said:

“The Act only includes the ability for an individual to claim compensation in circumstances where they are already making a claim of sexual harassment in the workplace. Therefore, only if an Employment Tribunal finds that a worker has been sexually harassed, must it go on to consider whether the preventative duty has been met.

It is therefore limited in scope and its success as a provision – in preventing sexual harassment at work – remains to be seen.

However, sexual harassment should always be on

the bargaining table. Members should be, and feel, safe at work.

So, ask your employer what they are doing to comply with the new sexual harassment duty. It’s a new law and therefore a new opportunity to raise the issue.

Raising the issue will focus the minds of the employer. They require to be proactive now. Proactivity should mean the union are aware of what employers are doing (or not doing) about the issue.”

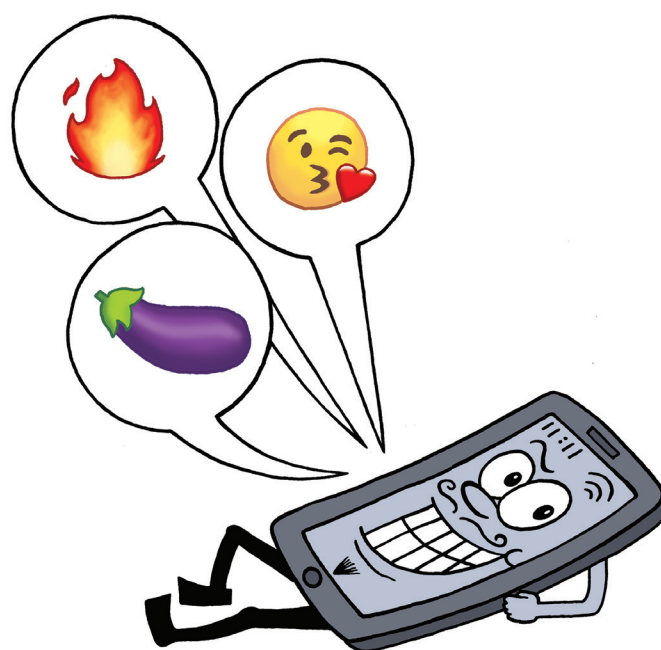
For further information, the Equality and Human Rights Commission (EHRC) have recently issued guidance which can be viewed here:

<https://www.equalityhumanrights.com/media-centre/news/ehrc-publishes-updated-workplace-sexual-harassment-guidance-ahead-change-law>

The EHRC will enforce the duty. There are two enforcement mechanisms:

- An uplift in employment tribunal compensation of up to 25% if an employer is found to have failed to take reasonable steps to prevent sexual harassment
- Strategic enforcement powers for the EHRC to investigate suspected breaches of the duty.

The Act also requires employers to take reasonable steps to prevent sexual harassment of workers by third parties, such as clients and customers. Although the preventative duty includes third party harassment, a worker cannot bring a stand-alone



claim in the employment tribunal for third party harassment.

The EHRC has published technical guidance and within it provides examples of what employers should do:

- consider the risks of sexual harassment occurring in the course of employment
- consider what steps it could take to reduce those risks and prevent sexual harassment of their workers
- consider which of those steps it would be reasonable for it to take
- implement those reasonable steps

The new guidance references in detail the need to take a risk-based approach and the sorts of things that should be included in a workplace policy.

Some risk factors employers should consider are:

- power imbalances
- insecure contracts
- lone or isolated working

- working with third parties
- online working
- working away from the main work location, e.g. socials, conferences, overnight stays

The EHRC guidance is available in full here:

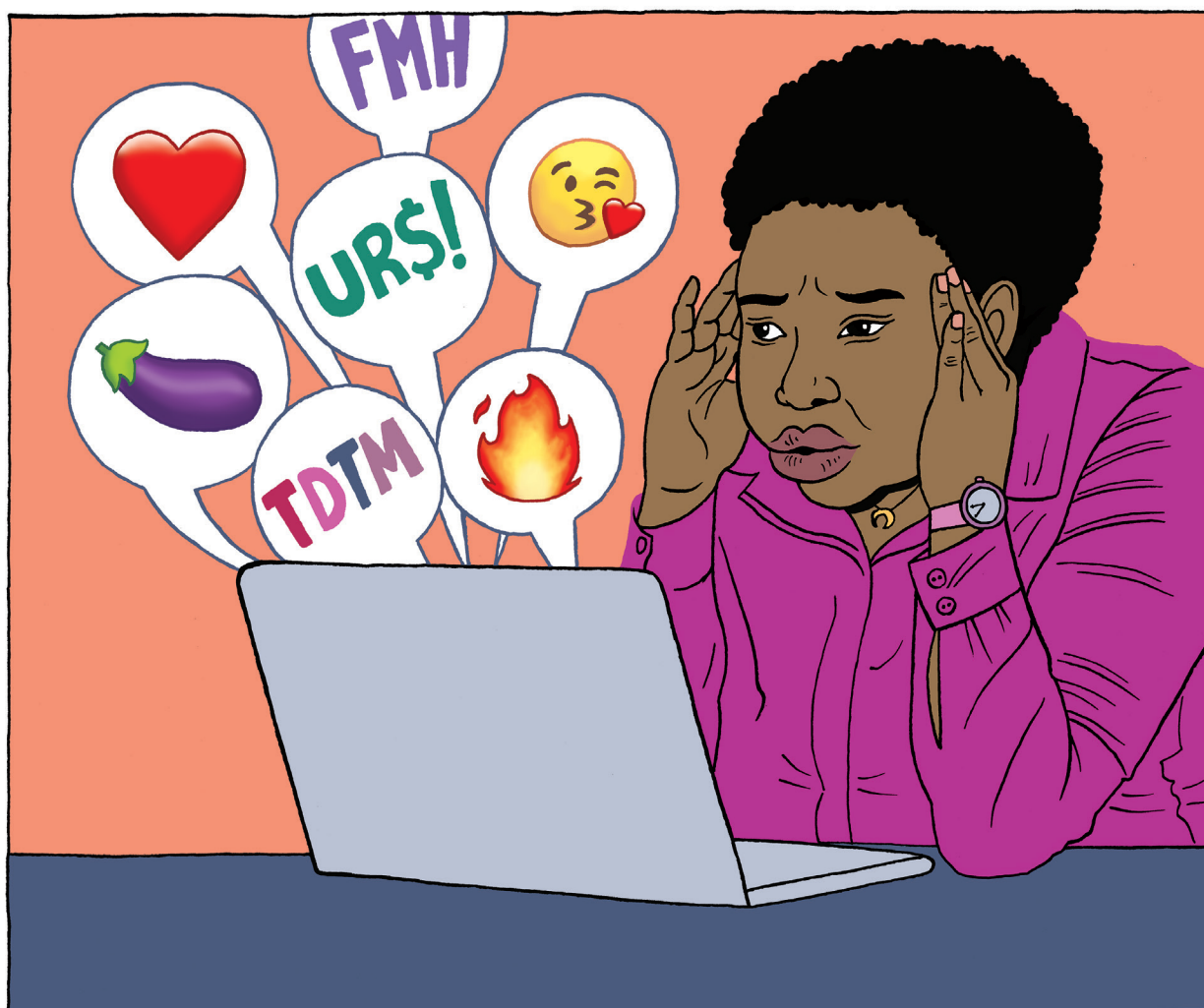
<https://www.equalityhumanrights.com/guidance/sexual-harassment-and-harassment-work-technical-guidance>

The TUC has developed a toolkit for reps to use in their workplace, to start thinking about and building preventative cultures.

It includes:

- an anonymous climate survey template
- an example risk assessment template
- an example model workplace policy

They also have more resources and information on their dedicated tackling sexual harassment webpage: <https://www.tuc.org.uk/resource/preventing-sexual-harassment>



5. RECOMMENDATIONS

Given so little has changed in the last two years, our ask of employers is for urgent action to prioritise the safety of women workers and prevent sexual harassment at work.

With the new law in place there can be no more excuses for not doing so.

We call upon **EMPLOYERS** to:

- implement a zero-tolerance policy on sexual harassment focussed on prevention.
- provide mandatory training and education for all workers.
- develop a distinct and robust sexual harassment at work policy.
- institute a recording and reporting system for all incidents of sexual harassment.
- fully investigate all complaints .
- implement Safe Home policies including providing transportation, particularly for those working in the night-time economy, unsociable hours and dependent on public transport.

We call upon the **HEALTH AND SAFETY EXECUTIVE** to:

- promote the use of risk assessments to identify, prevent and eliminate risks of sexual harassment.
- use its powers to fine employers in breach of the Health & Safety at Work Act.

We call upon relevant **GOVERNMENTS AND PUBLIC BODIES** to:

- use local licensing laws to mandate all licensed hospitality and late-night venues to implement safe home policies.
- to explicitly protect all freelancers and self employed workers from sexual harassment as defined under the Equality Act.
- bring forward legislation that would make public sexual harassment a crime in Scotland.
- to ensure there are greater regulations and action against online abuse, including challenging tech companies to act.
- take urgent action on the widespread but often hidden issue of sexual harassment in schools both towards staff and pupils by delivering compulsory high quality sex and relationships education.

Finally, we call upon **TRADE UNIONS** to:

- develop and produce materials to be used to publicise sexual harassment and gender based bullying and the role of trade unions in combatting it and supporting members.
- embed sexual harassment as a mandatory part of all workplace representative's training
- make use of the TUC's checklist Preventing Sexual Harassment in Workplaces – a safer workplaces checklist for union reps.

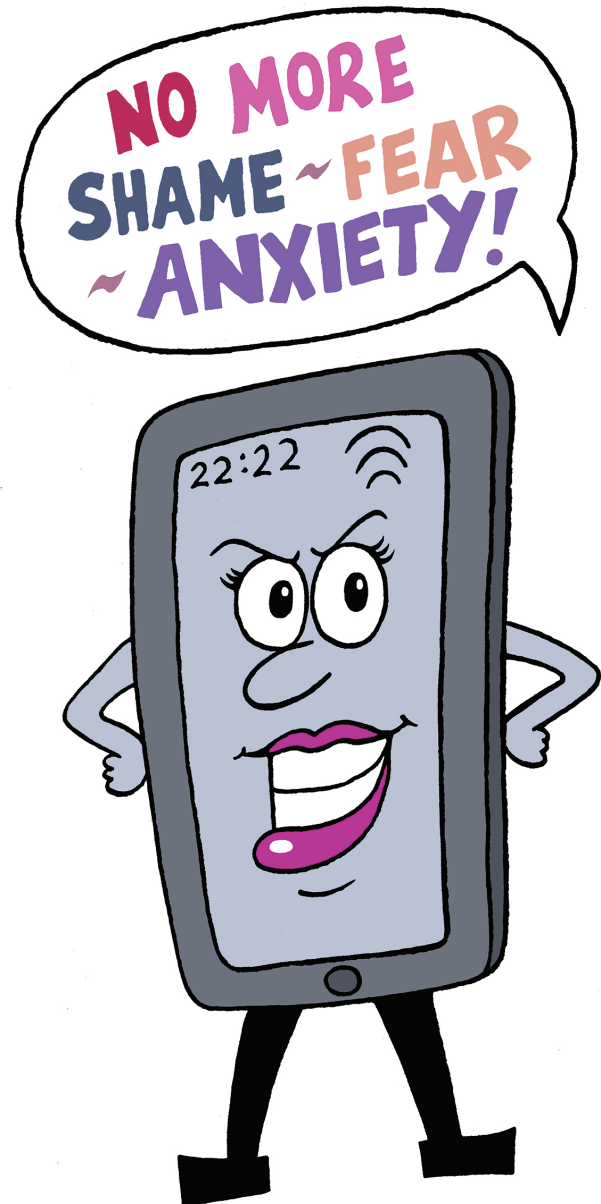
6. CONCLUSIONS

Sexual harassment in 2024 is every bit as endemic as it has been for decades before. Online sexual harassment is pernicious, is now the predominant home of harassers and abusers making it even more difficult to drive it out.

We must all do more: trade unions; employers; schools; governments at local, Scottish and at UK level if we are to make any progress in eradicating this from our society.

The Workers Protection Act places a new duty on employers to prioritise the prevention of sexual harassment at work. Although this is welcome, together with the EHRC's enforcement role, legislation and policy alone will not eliminate sexual harassment from our workplaces, our streets, our screens, and our society.

The trade unions must hold employers to account. Our collective strength is our power.



**SILENCE WAS NOT COMPLIANCE AND
IN 2024 WE WILL NO LONGER BE,
STILL SILENT**





stuc

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