



UNIONLINE NEWS

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Legal Services Newsletter
for GMB and CWU Members
and their Families



New alliance calls on government to make employers prevent sexual harassment

'This Is Not Working' is an alliance of more than 20 unions, charities and women's rights organisations. It has launched a petition calling for a new law to make employers prevent sexual harassment in their workplaces

TUC research found that more than half (52%) of women – and nearly seven out of ten LGBT people have experienced sexual harassment at work.

But under current law there is no legal duty on employers to take proactive action to prevent harassment happening in their workplaces. Instead, the onus is on the victim of the sexual harassment to report it to their employer after it has happened.

Four out of five (79%) women who have been sexually harassed at work do not feel able to report it to their employer meaning harassment continues unchecked in workplaces across the UK.

With the government set to launch its consultation on tackling sexual harassment soon, the "This Is Not Working" alliance backed by organisations including the Fawcett Society, Action Aid, Amnesty and Time's Up wants to see the law changed

so employers have a legal duty to take preventative measures to ensure their workplaces are harassment-free.

The new duty would be supported by a code of practice, explaining exactly what steps bosses need to take to prevent sexual harassment such as carrying out mandatory training for staff and managers, and having clear policies.

This simple step would make a huge difference practically, says the alliance. It would mean that the burden of dealing with sexual harassment would be shifted from individuals to employers.

This would change workplace cultures and help end the problem once and for all.

MPs' recommendation to review NDA guidance

A group of influential MPs are to review its guidance on non-disclosure agreements (NDA).

The House of Commons women and equalities committee made the recommendation in a hard-hitting Commons report on NDAs in discrimination cases.

In a letter to the committee's chair, Maria Miller MP, the Law Society president Christina Blacklaws confirmed that a review is underway, which will take into account the committee's recommendations 'and our crucial function of acting in the public interest'.

Blacklaws welcomed the report and said the Society was pleased that it reflected some of the points that Chancery Lane raised in its written submission. 'In particular the committee's



recommendations that legal aid thresholds be reviewed to assist those in need of independent legal advice in employment cases; improving the employment tribunal process for those seeking to resolve their dispute through this route, and increasing the time limits in discrimination cases. These are all areas in which we have been seeking reform,' Blacklaws said.

'The committee's recommendations and calls to government for greater clarity around whistleblowing law are also welcomed.'

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Backlog of employment tribunals grows



Employment tribunals are still being delayed by several months.

A survey by the Employment Lawyers Association (ELA) has also found that courts are taking longer to reply to written correspondence than they did a year ago.

Employment tribunal fees were declared unlawful by the Supreme Court in July 2017 and since then claims to employment tribunals have more than doubled.

While 4,291 single claims were received in January to March 2017, 9,500 were received in January to March 2019. The number of outstanding cases has also surged by almost 40% compared to the same quarter last year.

The ELA, which heard from 387 of its members, revealed that 75% of survey respondents said that replies to written correspondence and applications

take longer than they did a year ago.

Over 77% of respondents said that final hearings were being listed over a year after the issue of a claim and more than 66% of respondents experienced an increase in the time tribunals are taking to deal with the service of claims.

Tribunals in London, Watford, Reading and Cardiff are particularly badly hit, according to the ELA.

An HM Courts & Tribunals Service spokesperson said: 'The employment tribunal has seen a significant increase in claims since August 2017. We have recently recruited 58 more salaried tribunal judges in England and Wales to tackle the increase in cases and we have been working with the judiciary to increase capacity and performance in the tribunal.'

Lawyers catalogue problems with whiplash portal build

Claimant solicitors have criticised the Ministry of Justice for cutting corners in developing the new whiplash portal "in order to meet the politically driven deadline of April 2020" and suggested it still cannot be met.

The Motor Accident Solicitors Society (MASS) said it was discriminatory and unfair that claimants with and without legal representation would have different claims processes.

In a letter to Lord Chancellor David Gauke, MASS chair Paul Nicholls said the organisation had urgent concerns about the development of the new portal for whiplash claims.

He was "disappointed" by the decision to run parallel portals, one for whiplash claims below £5,000 and one for all other claims rather than one integrated system.

"This has long been considered the worst option available... Having dual operating portals with no transfer of data between the two systems will increase costs and result in duplication.

"It is generally not possible to value injury claims until receipt of the medical report and inevitably there will be many claims which will need to be transferred between the two portals.

"Having to re-submit claims will be time consuming, expensive and very confusing for

LiPs [litigants in person], insurers and claimant representatives alike. It creates the potential for extensive satellite litigation over who starts what, where and when, and possible data protection concerns."

Other concerns included the lack of detail about how minors and other protected parties would bring claims and have them approved by the court. Mr Nicholls said children and protected parties should be excluded from the new tariff and from any increase in the small claims limit, like

'vulnerable road users' already have been.

Ignoring the existence of rehabilitation, credit hire and repair costs as part of the system was a "serious mistake" too, as this would be "deeply confusing to claimants, create significant loopholes and lead to further satellite litigation".

The new LiP portal must be fully fit-for-purpose and properly tested ahead of any launch, and we cannot see that this will be possible with so many important decisions still to be taken and development work still to be undertaken.



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