

**Proposed RCN Response to the EHRC Consultation on amendment to technical
guidance on sexual harassment and harassment at work**

Consultation ends 6th August 2024

Link:

**[Consultation: technical guidance on sexual harassment and harassment at work | EHRC
\(equalityhumanrights.com\)](https://equalityhumanrights.com)**

The consultation questions

The consultation is because the EHRC want to ensure that the guidance still fully explains the law clearly following the Worker Protection (Amendment of Equality Act 2010) Act 2023 coming into force on 24th October. The amended sections refer to the effect of this legislative change and give practical examples that illustrate:

- how a failure to consider third party harassment might render a policy non-compliant
- how the size and resources of a small employer might limit the extent of its preventative action and
- how a policy that is publicised but not monitored and updated might lead to an increase in compensation being awarded for harassment.

Most of the general advice is contained in the 84-page EHCR technical guidance “Sexual Harassment and Harassment at work”, which is going to be updated with the new sections that the EHRC is consulting on.

However, the consultation is limited to the changes to be added to the technical guidance, not on the whole of the document itself.

The questions under the consultation are:

Q: - Does the guidance explain the preventative duty clearly?

A:-Yes

Q:- Does the guidance explain what employers should do to comply with the new duty?

A:- Yes

Q:- Are the examples in the new section helpful?

A:- Yes

Q:- If you have any additional feedback about the new section of the technical guidance, please provide this below:

A:-

- The guidance shows how the new Act will place more emphasis on preventing third party harassment even though it doesn't change the right of an individual to pursue a claim based purely on third party harassment.
- Many of our members work in settings where there are considerable risks of third-party harassment from the public who are service users and their families.
- In mental health settings sexual safety from patients is a real issue particularly in our acute mental health wards, where some sexually disinhibited patients' conduct is part of their presentation of their illness. We can anticipate a significant risk that staff will be sexually harassed by them and in many settings, this may not be possible to mitigate, e.g. where the majority of nursing and care staff are female. Many trusts have sexual safety charters but there is room for guidance to really help mental health employers in how they can apply these new duties, particularly in care homes/ independent sector with challenging mental health or Learning Disability service users where their capacity may be affecting their actions.
- We would like to see something on when harassment occurs from a third party which is increasingly an issue as more services move to virtual environments or over the telephone/texts or where nursing staff are tracked down and harassed by third parties on social media.