



The Sexual Harassment at Work Handbook

DISMISSAL, RESIGNATION AND REDUNDANCY

A handbook for survivors of sexual harassment

Rights of Women's vision is to achieve equality, justice, and safety in the law for all women

Rights of Women's mission is to advise, educate and empower women by:

- Providing women with free, confidential legal advice by specialist women solicitors and barristers.
- Enabling women to understand and benefit from their legal rights through accessible and timely publications and training.
- Campaigning to ensure that women's voices are heard, and law and policy meets all women's needs.

Rights of Women's areas of expertise include all forms of violence against women, family, employment, criminal, immigration and asylum law and we run regular training courses on these issues.

For free confidential legal advice on Sexual Harassment law including identifying sexual harassment, how to bring reports against your employer, advice about grievances and investigations, the Employment Tribunal procedure and Settlement Agreements and Non-Disclosure Agreements contact our **Sexual Harassment at Work advice line on 020 7490 0152**, see our opening hours at **[Rights of Women: Get Advice](#)**.

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, without the prior permission of Rights of Women.

The information in this handbook is correct to September 2022. The law is complex and may have changed since this handbook was produced. This handbook is designed to provide general information only for the law in England and Wales and is not legal advice. If you are affected by any of the issues in this handbook you should seek up – to-date, independent legal advice.

Rights of Women does not accept responsibility for any reliance placed on the legal information contained in this guide.

© Rights of Women 2022

Table of Contents

1. Introduction.....	5
1.1 About Sexual Harassment at Work	5
1.2 Support.....	6
2. I have been sexually harassed at work and now I am losing/leaving my job – what are my legal rights?.....	8
3. Unfair Dismissal – I have been fired without a fair reason/fair procedure	9
3.1 What is Unfair Dismissal?	9
3.2 Eligibility for an Unfair Dismissal claim	9
3.3 Time Limit	9
3.4 Automatic Unfair Dismissal.....	10
4. Constructive Dismissal – I was given no option but to resign from my job because of my employer’s conduct.....	11
4.1 What is ‘Constructive Dismissal’?.....	11
4.2 Eligibility for a Constructive Dismissal claim	12
4.3 Time Limit	13
4.4 If you decide to resign	13
5. Wrongful Dismissal – I have been dismissed in breach of my contract.....	14
6. Redundancy	15
6.1 What is Redundancy?	15
6.2 The Redundancy Process	15
6.3 Individual meetings	16
6.4 Redundancy and Discrimination.....	17
6.5 Redundancy and Sexual Harassment.....	18
6.6 Your legal options	19

7. I want to resign from my job because of sexual harassment –

What do I need to know?..... 21

7.1 How do I resign? 21

7.2 How do I know what my notice period is? 21

7.3 Will I get paid during my notice period? 22

7.4 Do I need to work my notice period?..... 22

7.5 Leaving during your notice period 22

7.6 Payment in Lieu of Notice (PILON)..... 23

7.7 ‘Garden Leave’ 23

7.8 Holiday and sick pay..... 23

7.9 Can my employer refuse to accept my resignation? 23

7.10 Other considerations before resigning 24

Appendix 25

Template for raising a grievance 25

Grounds of complaint (for the ET1) for sex harassment or sexual harassment
(and constructive dismissal, if you have resigned)..... 28

Data Subject Access Request (DSAR) Template 32

1. Introduction

1.1 About Sexual Harassment at Work

The Rights of Women (ROW) Sexual Harassment at Work Handbook has been written in three parts to provide information and support to women survivors of sexual harassment in the workplace, as well as your families, friends, trade unions and other organisations that support you.

It has been designed to help you understand your legal rights so you can recognise sexual harassment in the workplace and make informed choices about reporting and challenging it alongside understanding what support is available. We know how difficult and distressing this process can be and the aim of this handbook is to help you through it. This handbook sets out the relevant law and explains the different stages of the legal process from grievances, investigations, settlement agreements and beginning an Employment Tribunal claim, as well as related employment rights if you are losing your job or thinking about resigning from your job because of sexual harassment in the workplace.

The handbook applies to nearly all jobs, industries, and professional sectors, as well as nearly all the different types of workers. In it we recognise the various types of harassment, abuse and oppression working women face in England and Wales and how these intersect with multiple types of harassment and discrimination.

Rights of Women's work on sexual harassment in the workplace started to take shape in early 2018 after the growth of the MeToo movement and the formation of TimesUP in the US. There was a determination globally to ensure that the growing movement was turned into long term action to tackle sexual harassment and this handbook is part of that long term work.

Rights of Women has been campaigning for greater legal rights for women since 1975. Alongside others in the women's movement, we have recognised for a long time that the disproportionate gender-based abuse and violence that women experience in the workplace has been treated as a norm in society rather than as a serious form of Violence Against Women and Girls which requires urgent address and a strong legal framework to prevent and provide redress for this behaviour.

Although very little data has been collected about the prevalence of sexual harassment in the workplace against women in the UK, the data available

in 2018 showed that as many as 1 in 2 of women have experienced sexual harassment at work ¹. Our vision as MeToo unfolded was to work with others to tackle the lack of legal redress, provision and visibility around the sexual harassment of women in the workplace in the UK and as a result we launched a dedicated legal advice service for women in 2019. All advice is provided by our team of fully qualified women lawyers who are comprised of staff and volunteers. We have supported over a thousand women since then and have utilised our learning from delivering this service including working with women survivors with lived experience to create this handbook.

1.2 Support

Sexual harassment in the workplace is extremely difficult to deal with, both in terms of the legal processes and the emotional impact.

If you require emotional support, see [Rights of Women – Further Help](#).

Resources for Legal Advice

There are some ways of getting free legal advice if you cannot afford a lawyer. Below are some additional resources to consider.

Rights of Women

Rights of Women offer free, confidential, and anonymous legal advice to women who have been sexually harassed at work. In addition to our sexual harassment at work advice line, we also offer advice for women who need help with family law, criminal law and immigration and asylum law. For more information, see the [Rights of Women website](#).

Acas

The Advisory, Conciliation and Arbitration Service (Acas) is a public body of the Government of the UK designing for facilitating disputes in the workplace.

You can find work and employment law advice at [Acas: Advice](#).

The [Acas helpline](#) is a confidential, free advice line for anyone who needs employment law or workplace advice.

Telephone (open Monday to Friday, 8am – 6pm): 0300 123 1100.

1 TUC's 2016 survey '[Still just a bit of banter?](#)'

Law centres

Law centres work within their communities to defend the legal rights of local people. Law centres are independent and work on a not-for-profit basis. To find a local law centre, look on the [Law Centres Network website](#).

Advocate

Advocate is the pro bono charity of the Bar and is supported by the Bar Council. If your case is going to court or a tribunal and you are eligible for help, they can put you in contact with a volunteer barrister to represent you for free. Go to [Advocate: Find out if you can get free legal help](#) to see if you are eligible for their services.

LawWorks

Go to [LawWorks: Find a legal advice clinic near you](#) to search for free legal advice clinics. LawWorks also has information about other organisations which might be able to help you.



2. I have been sexually harassed at work and now I am losing/ leaving my job – what are my legal rights?

This section has been designed to help you understand your legal rights if you have lost or are at risk of losing your job after being sexually harassed at work or reporting the harassment to your employer.

We know that, unfortunately, sometimes women who are sexually harassed get threatened with dismissal or are dismissed. This can be a form of **victimisation** or **less favourable treatment** regardless of how long you have worked for your employer and there are legal claims that you can take to the Employment Tribunal.

Depending on the circumstances, you might have additional legal claims linked to the dismissal if this has happened to you. If one (or more) of these forms of dismissal below applies, then this is an additional claim, as well for sexual harassment, that you can bring in the Employment Tribunal or use to negotiate a settlement with your employer.

This section will deal with the following topics:

- Unfair Dismissal - I have been fired without a fair reason/fair procedure
- Constructive Dismissal - I was given no option but to resign from my job because of my employer's conduct
- Wrongful Dismissal – I have been dismissed in breach of my contract
- Redundancy – I have been made redundant
- Resignation – I want to resign

If you have been dismissed as a result of sexual harassment, it is unlikely in practice that your employer will be honest about their reason for dismissing you.

For free and confidential legal advice **contact our Sexual Harassment at Work advice line on 020 7490 0152, see our opening hours at [Rights of Women: Get Advice](#).**

3. Unfair Dismissal – I have been fired without a fair reason/fair procedure

3.1 What is Unfair Dismissal?

Unfair dismissal is when your employer fires you without a fair reason, or without following a fair procedure (or both). The legal term for being fired is 'dismissed', so if you are dismissed without a fair reason or fair process, it is known as unfair dismissal.

Unfortunately, employers can react badly to incidents or reports of sexual harassment. **Legally, your employer cannot dismiss you for reporting sexual harassment, or for you either submitting to or rejecting sexual harassment, but sometimes they do anyway.**

3.2 Eligibility for an Unfair Dismissal claim

You are only protected from unfair dismissal if you are an employee, and you have worked for your employer for two years or more. However, if you are dismissed for an 'automatically unfair' reason, then you do not need to have worked there for more than two years to be protected. Check if you are an employee section 6.1 of our guide [Your Rights and Options](#).

3.3 Time Limit

If you have been working for your employer for more than two years, and they dismiss you without a fair reason and/or without following a fair process, then this is unfair dismissal.

You do not need to have a minimum length of service for discrimination or sexual harassment claims. If you have worked for less than two years, you should claim under sexual harassment or discrimination instead.

If you were dismissed for an 'automatically unfair' reason, then you do not need to have worked for more than two years.

You have **three months less one day from the date of your dismissal** to start the Acas [Early Conciliation](#) process. For more information, see section 10.3 of our guide [Reporting, Grievances, Investigations and Settlement](#).

EXAMPLE

Joy works as a social carer and has worked for her employer for one and a half years. Her manager regularly makes sexual remarks towards her. Recently Joy decided to report him. Her workplace conducted a grievance and disciplinary process with her manager and decided to make him attend a training session on sexual harassment.

He was very annoyed by this and since then, her manager has put her on a capability review, even though no one has ever raised any issues with Joy's work before this. Joy's manager is now hinting that he will dismiss her. If he does dismiss her, Joy will not be able to claim for unfair dismissal, as she has not worked for her employer for two years or more. Instead, Joy would potentially be able to claim in the Employment Tribunal for sexual harassment and victimisation, as her dismissal would count as a detriment for reporting the sexual harassment.

3.4 Automatic Unfair Dismissal

If you can show that you have been dismissed for a reason which is automatically unfair, you do not need to have worked for your employer for any particular length of time to be able to make a claim.

A non-exhaustive list of automatically unfair reasons for dismissal includes, if you are:

- Pregnant or on maternity leave
- Forced to retire (known as 'compulsory retirement')
- Involved in whistleblowing
- Taking action, or proposing to take action, over a health and safety issue

Your employer can still dismiss you if any of the above apply to you, but it cannot be the reason why you were dismissed.

Discrimination, including sexual harassment, is not an automatically unfair reason for dismissal. This can cause some confusion, but the reason is that you can bring standalone claims for sexual harassment or discrimination in the Employment Tribunal. That means that if you were dismissed for those reasons, that may constitute claims for victimisation (suffered detriment usually for reporting sexual harassment) or less favourable treatment for submitting to or rejecting sexual harassment.

4. Constructive Dismissal – I was given no option but to resign from my job because of my employer’s conduct

4.1 What is ‘Constructive Dismissal’?

Constructive dismissal means you were in a position where you felt you had no option but to resign from your job, with or without working your notice period.

Sexual harassment, and/or the way your employer addresses the harassment, can sometimes leave you with no option but to resign from your job. If you are in this situation, you might be able to make a claim to an Employment Tribunal for constructive dismissal.

This happens when your employer’s behaviour was so bad that it constituted a serious breach of your employment contract. You can claim for constructive dismissal if your employer acts so unreasonably that they have committed a ‘fundamental breach’ of the contract. This allows you to resign in response without working your notice period (whether a statutory or contractual notice period).

Examples of conduct by your employer that can amount to constructive dismissal include:

- Refusing to investigate your grievance (this does not have to be a grievance about sexual harassment)
- Bullying or discriminating against you
- Regularly not paying you your correct salary without good reason
- Making unreasonable changes to your working patterns without your agreement

The fundamental breach can be of either an express term set out in your contract of employment or an ‘implied term’. The most common breach in constructive dismissal cases is a breach of the implied term of ‘mutual trust and confidence’. This is a term which is implied in every employment contract. It does not need to have been expressly written into your contract to have been breached.

If your employer fails to protect you from sexual harassment, or refuses to investigate your report of sexual harassment, this could amount to your employer committing a fundamental breach of the implied term of mutual trust and confidence in your employment contract. This can also be the case if the harassment has been a series of events over a period of time, that has become so unbearable for you that you have no other choice but to resign (the 'last straw'), it does not need to be one single act to amount to constructive dismissal.

If you are in this position, you should get legal advice, as this is a complicated area of law. Constructive dismissal claims can be difficult to win in an Employment Tribunal. You should be aware though, that if you take too long to react to the fundamental breach by your employer then this could mean that you have been deemed to accept the behaviour and you will no longer be able to claim constructive dismissal.

EXAMPLE

Lauren's employer failed to investigate her grievance. She doesn't want to cause herself any problems at work though so she does not make any objections and carries on working as normal for six months.

After 6 months she has had time to reflect and realises that their treatment of her was unacceptable and she doesn't want to work there anymore. She decides to leave for a new job. While this is a valid response, and it is understandable that Lauren might need time to process what has happened, as a long time has passed since her employer failed to investigate and she took no action, it would be unlikely that she would be able to claim for constructive dismissal given the time that had passed.

4.2 Eligibility for a Constructive Dismissal claim

You can only claim for constructive dismissal if you were an employee and had at least two years' continuous service with your employer.

There are three elements needed for you to bring a constructive dismissal claim:

- A fundamental breach of your employment contract;
- You resign in response to that breach; and
- You did not delay in resigning.

4.3 Time Limit

You have **three months, minus one day, from the date of your dismissal** to start the compulsory Acas Conciliation. For more information, see section 10.3 of our guide [Reporting, Grievances, Investigations and Settlement](#).

4.4 If you decide to resign

If you do decide to resign, you should:

1. Do this in writing and clearly set out your reasons for leaving.
2. Explain that you consider that the sexual harassment or their response to your report amounts to a fundamental breach of your employment contract and that you will be resigning immediately.
3. State whether you will be working out your notice period or not.

You should be aware that if you do this on grounds that do not amount to constructive dismissal then you yourself might be in breach of the employment contract – that is another reason why it is important to get legal advice in this situation.

Not all actions your employer does or does not take will amount to a fundamental breach of your employment contract. All the facts of your case would be considered by an Employment Tribunal, as well as the reasons why the employer has acted in that way to assess whether they have behaved so unreasonably as to have breached your employment contract.

5. Wrongful Dismissal – I have been dismissed in breach of my contract

Wrongful dismissal is when you have been dismissed in breach of your contract. The only consideration for an Employment Tribunal is the contractual obligations of your employer and whether they breached those obligations. Unlike unfair or constructive dismissal, you do not need to have worked for your employer for a minimum amount of time before you can claim for wrongful dismissal.

You can claim for wrongful dismissal if your employer dismisses you without giving you the correct contractual notice period, or if you resign without notice in response to a fundamental breach of your employment contract.

For example, if you have less than two years' service with your employer and they dismiss you without notice because you report sexual harassment, you can claim for wrongful dismissal in addition to victimisation. Usually, the compensation (damages) you would be awarded for a wrongful dismissal claim amounts to the value of your pay and benefits during the notice period that you would have been entitled to, had the contract been terminated lawfully.

6. Redundancy

6.1 What is Redundancy?

Redundancy is a way your employer can dismiss you from your job.

If you have worked for your employer for more than two years, then your employer needs to have a *fair* reason to dismiss you and they need to follow a *fair* process.

Redundancy is one of the potentially fair reasons for dismissing you, but your employer needs to have a good reason to make you redundant, and there is a procedure that they need to follow for it to be fair.

You can legally be made redundant in the following situations:

- If your employer has closed or intends to close the business; or
- Your specific job is no longer needed, or the section of the business in which you work has closed, or your employer is intending to close it.

Even if one of these reasons is true, your employer still needs to follow the right procedure to make you redundant. In all circumstances, **your employer should take all reasonable steps to avoid making you redundant, and redundancy should only be used as a last resort.**

If your redundancy is linked to the sexual harassment you have experienced, then you have some legal options. It may be a form of victimisation or less favourable treatment.

6.2 The Redundancy Process

If you have worked there for more than two years

If you have worked for your employer for more than two years, then your employer will need to have at least one individual 'consultation' meeting with you during the redundancy process.

However, apart from that, there is no set process – that does not mean that your employer should not follow one. They should follow a process following [Acas guidelines](#) but there are no rules as to how the process needs to be carried out. Your employer might have a written process – check your employment contract

and/or your employer's policies/staff guide. If there is nothing in writing, then they should explain to you:

- Why people are being placed at risk of redundancy (this is called 'the business case')
- How did they plan to choose people for redundancy
- How long the decision will take
- What meetings you will need to attend and when
- How you can appeal if you are selected for redundancy

If you have worked there less than two years

If you have worked for your employer for less than two years, then your employer does not need to follow a redundancy process.

It is, however, possible that your employer might have a redundancy process that contractually entitles you to a redundancy process and pay, so you should always check your employment contract and any relevant policies.

Even if you have worked for your employer for less than two years, you can challenge a decision to make you redundant if it was for a discriminatory reason, if it was in retaliation to you submitting to or rejecting sexual harassment (less favourable treatment) or if it was in retaliation to you reporting sexual harassment (victimisation).

6.3 Individual meetings

Depending on how your employer conducts the redundancy process, you might have more than one meeting to discuss the redundancy.

At your individual meeting(s) you should get to discuss:

- Why your employer is making redundancies
- Why they are considering you for redundancy
- What other jobs are available for you instead within the organisation
- Any questions you have about the process or what happens next

One of the things that should be discussed is whether there are possible alternatives to making you redundant. Your employer must try to avoid making redundancies if possible, and you can and should suggest possible alternatives.

You do not need to come up with an alternative, your employer should actively investigate. Nevertheless, it could help you if you can think of alternatives that might work in your circumstances. Some possible alternatives to redundancy might include:

- Part-time or flexible work
- Periods of unpaid leave
- Sabbatical
- Freeze bonus payments
- Limiting overtime
- Reduced pay

You should tell your employer if you think they are failing to follow a fair process or explain why if you think they are choosing you unfairly for redundancy. There are several reasons why your employer might have chosen you unfairly, and one of those might be if you have reported sexual harassment, or your employer is otherwise aware of the harassment and using the redundancy process to dismiss you.

If you think you have been unfairly selected, it is much better to bring this up as early as possible and during your meeting(s). It will be easier to address while you are still employed rather than waiting until your employer has decided, which might be to dismiss you. By speaking to your employer, you might be able to clear up any misunderstanding which might stop the process.

6.4 Redundancy and Discrimination

Legally, a redundancy is unfair if your employer chooses you for redundancy based on one of your protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation). This includes decisions about returning to work. If your employer treats you less favourably than someone else just because of one or more of your protected characteristics, for example making you redundant, this is direct discrimination. For more information on discrimination see section 4 of our guide [Your Rights and Options](#).

This includes dismissal because of whistleblowing or relating to trade union membership or activities.

The Equality and Human Rights Commission has published [guidance](#) in light of the COVID-19 pandemic encouraging employers not to use the following criteria to make redundancies, as this could disproportionately impact women.

- Unpaid leave days taken
- Productivity or output during the pandemic
- Sick leave taken during the pandemic
- Who has previously been furloughed
- Working part-time.

However, this guidance is *not* legally binding on employers, although you can use it to explain to your employer why you believe you have been unfairly chosen for redundancy.

6.5 Redundancy and Sexual Harassment

If you have been sexually harassed at work and then selected for possible redundancy, it is possible that this could be linked to the harassment. This can be the case if you have reported sexual harassment, or if the perpetrator is part of the redundancy selection process.

Making you redundant because you have reported sexual harassment is a form of victimisation. For information on victimisation, see section 3 of our guide [Your Rights and Options](#). You can claim for victimisation in the Employment Tribunal. Further, making you redundant can be a form of less favourable treatment if it is a result of you either submitting to or rejecting sexual harassment.

EXAMPLE

Fumi is an account manager at a small graphic design company. A few weeks ago, a director of the company asked her out on a date. She said no, but over the next week, he asked her on many more occasions. Fumi eventually took him aside and said that she was not interested and asked him to stop asking her.

The following week, Fumi was told that she was at risk of redundancy. This was the first time Fumi had heard about redundancies being proposed, and as far as she is aware no one else with her job position has been told they are at risk of redundancy. Fumi discovers that the director who sexually harassed her is the one who suggested she should be considered for redundancy. If the director selected Fumi because she

rejected his sexual harassment, this is an act of less favourable treatment and is unlawful.

If you have been sexually harassed at work and the perpetrator is part of the decision-making process for your potential redundancy, then this can undermine the fairness of the process and your selection for redundancy. You should report this to your employer and request that they restart the process without your perpetrator's involvement.

If you have worked for your employer for more than two years, then they need to show that they have a reasonable reason for selecting you for possible redundancy.

If you have worked for your employer for less than two years then your employer does not have to show that they have a reasonable reason for choosing you for redundancy, but that does not mean that they can discriminate against you.

You do not need to have worked for your employer for two years to be protected from discrimination or victimisation.

6.6 Your legal options

If possible, you should speak to your employer if you do not think they have followed a fair redundancy process, or you believe that you have been unfairly selected.

You can do this by emailing your employer explaining why you think your redundancy is unfair and asking them to reconsider their decision. If you are a member of a trade union, then you can ask them for help with this. We have put together a template letter to your employer, visit [Rights of Women – Get Information: Sexual Harassment at Work](#). You can also see a copy of this template in the Appendix of this guide.

If you think you have been fairly selected as 'at risk of being made redundant', but the perpetrator is part of the decision-making process, then you could ask your employer to start the process again without them being involved. Although this will not guarantee that you will not be made redundant, it could make the process fairer.

If you have worked for your employer for more than two years, then you can challenge a decision to make you redundant as unfair dismissal, if the reason for

making you redundant is linked to sexual harassment. You can also potentially bring a claim for victimisation against your employer and/or the decision-makers.

If you have worked for your employer for less than two years you will not be able to bring a claim for unfair dismissal. You can still challenge the decision if you believe it was victimisation if you have reported the sexual harassment to your employer, or less favourable treatment if you believe it is because of you either submitting to or rejecting sexual harassment.



7. I want to resign from my job because of sexual harassment – What do I need to know?

If you are being sexually harassed at work, you might be considering resigning from your job. This is a completely understandable response to a difficult situation. Whatever your reason for wanting to resign, you can (usually) do so at any time.

7.1 How do I resign?

The first place to look is in your employment contract to see if there is anything about how you should resign. It is quite common for employment contracts to specify that you should resign in writing, and they will sometimes tell you who you should send your resignation to.

If your contract does not say anything about resignation, then you can write a letter or email to your line manager. It is a good idea to do this in writing so that you have a record of your resignation. You should state how much notice you are giving and when you expect your last day at work to be.

While it is not a legal requirement, it is also common to state the reason for your resignation. **If you are resigning in response to sexual harassment or your treatment after sexual harassment has occurred, it is a good idea to say this in your resignation.**

Some fixed-term contracts are for a set period. If you are employed on a fixed term contract with a specified end date and no option to resign, then you should consider whether your employer's conduct amounts to a breach of contract, which would allow you to terminate the contract early.

7.2 How do I know what my notice period is?

If you want to resign, you will usually need to give your employer some warning. This is called your 'notice period'. Often, your contract will set out the length of your notice period. If it does not, then the statutory notice period will apply if you are an employee.

Unless stated otherwise in your contract, if you have worked for your employer for less than one month then you do not need to give notice.

If you have been in your job for more than one month then, unless stated otherwise in your contract, you will need to give one week's notice. Your notice period starts from the day after you resign.

You can give more notice than your notice period and your employer cannot make you leave earlier. If you have a fixed-term contract, then you do not need to resign if you want to leave on the last day of your fixed term.

If you are resigning in response to being sexually harassed at work, you may not have to give any notice to your employer. Please seek legal advice from the [Acas helpline](#) or contact our **Sexual Harassment at Work advice line** on 020 7490 0152, see our opening hours at [Rights of Women: Get Advice](#).

7.3 Will I get paid during my notice period?

Yes, you should be paid your full normal pay (including any benefits you get) during your notice period that you work. If you resign without giving notice, you would not be paid by your employer, but you may be able to claim the money you lose in any Employment Tribunal claim. If you are on leave and remain employed during your notice period, then you will usually only get what you would normally have been paid in those circumstances.

7.4 Do I need to work my notice period?

When resigning in response to being sexually harassed, you have the option of resigning without notice and claiming that there has been a breach of your employment contract. This is called 'constructive dismissal'. For more information, see [section 4](#).

Otherwise, you can ask your employer if they will agree to reduce your notice period. They do not have to agree to this, but they may be open to agreeing to this with you.

7.5 Leaving during your notice period

This is an agreement between you and your employer that you will end your employment earlier than your notice period. If you agree this, then you will not be paid for the remainder of your notice period, but you will be able to leave earlier. Your employer is more likely to agree to this if you can show them that shortening your notice period will not have a negative impact on their business. If you agree this, you should get your employer to confirm it in writing.

7.6 Payment in Lieu of Notice (PILON)

You may have a clause in your contract which allows your employer to make a payment to you instead of you working your notice period. This is called 'payment in lieu of notice', or PILON. If your employer wants to give you a PILON then this would mean that you would stop working there straight away. If there is not a PILON clause in your contract then your employer cannot force you to accept a PILON, but you can agree this with your employer even if it is not set out in your contract. If you do agree to this, your employer should confirm it in writing. You should get your full pay and contractual benefits for your notice period.

7.7 'Garden Leave'

Sometimes your employer might tell you not to come into work for the duration of your notice period but still pay you your normal wages. This is called 'garden leave'. Usually, your employer will only put you on garden leave if there is a specific provision in your contract. If you are happy to be put on garden leave but there is no provision in your contract, then this is something you can agree with your employer separately.

7.8 Holiday and sick pay

If you resign, your employer must pay you everything you are owed in your last pay packet, and that could include holiday pay or sick pay during the notice period.

On termination of your employment, your employer will need to pay you for any holiday that you are legally entitled to which you have accrued but not taken. Some employers will ask that you take holiday during your notice period. If you have taken more holiday than you have accrued at the point when you leave your job, an amount will usually be deducted from your final pay.

7.9 Can my employer refuse to accept my resignation?

No, not in practice as your employer cannot make you work if you do not want to be employed. You should make sure that your resignation is given clearly and that you have followed any steps set out in your contract of employment. It is helpful for you to do this in writing, even if it is not required, so that you have a record of your resignation.

7.10 Other considerations before resigning

Payment

You should check your final payslip to make sure you have been paid properly. This will include your full pay for hours worked, any holiday or sick pay you are owed and reimbursement for any expenses claimed. It is important to check this as soon as possible because if your employer has not paid you what you are entitled to, you might have an unlawful deduction from wages Employment Tribunal claim. For information on this, see [Citizens Advice: Problems getting paid](#).

Contractual considerations

Unless you are resigning with immediate effect based on a breach of contract (see [section 4](#)) there may be other relevant provisions in your contract regarding you leaving your job. If you have a written employment contract, you should read it carefully to see if there are provisions about the termination of your employment. These might include post-termination restrictions or the return of the organisation's property.

Post-termination restrictions

These can include restrictions on taking other employees with you to join a new role, taking customers, clients, or suppliers with you, or sometimes even restrictions on how long you need to wait before you can start working for a competitor. The restriction on working for a competitor is called a 'non-compete clause' and is usually unenforceable unless your employer can show that it is necessary to protect a legitimate business interest. That can usually only be shown for senior employees.

Return of property

Your contract might state that you need to return employer property, which might include things like an organisation's phone or laptop, or potentially documents you have containing confidential information.

Appendix

Template for raising a grievance

[Insert Date]

Dear [insert the name of your employer/HR manager/line manager],

I am writing to raise a formal grievance about unreasonable and unlawful treatment that I have been subjected to.

My grievance is about [sex harassment/sexual harassment/sex discrimination] that I have been subjected to. I would like you to investigate these allegations as a grievance under the [your organisation] grievance policy (if possible attach or link to the policy).

I would also like you, as my employer, to take appropriate and prompt action to stop the behaviour being reported and to remedy it. The name[s] of the perpetrator[s] *is/are* [insert their full names and job titles/departments they work in], a defined by the [Acas sexual harassment guidance](#) and [the Equality and Human Rights Commission Sexual harassment and harassment at work guidance](#).

My grievance is set out below, where I describe the behaviour that constitute [sexual harassment/sex harassment/sex discrimination].

1. I am employed as [insert your job title]. My work and role involves [set out the details of your role and the work that you do].
1. On [insert date(s)], [describe the events that took place].

[Below are some tips to help you set out your grievance:

- Describe the events in chronological order and include times/dates/timelines.
- Include the full names of any individuals involved in the events, including the full name of the harasser/discriminator and any witnesses to the events.
- If possible, quote specific words or phrases that were used during any meetings or discussions.

- Provide as much information as possible about the background including the nature of the conversations/interactions, any acts that took place or comments that were made. Include details such as the way in which the person said it, any innuendos or gestures and any subtle details.
 - *Describe how the events made you feel, for example, if the incidents create an intimidating, hostile, degrading, humiliating or offensive environment for you to work in.*
 - *Describe the impact these incidents have had on you (and is continuing to have on you), in terms of your health, your emotional wellbeing, your ability to perform your job, your confidence at work, any impact upon your personal relationships etc.*
 - *If you have already resigned due to the course of conduct described in the paragraphs above, make sure you describe the collective events that led to the final event and describe the last straw that led you to resign. This description is necessary for a constructive dismissal claim, where you need to evidence that you resigned in response to a series of breaches of contract or a “course of conduct” by your employer, which when looking at the events collectively, amounts to a breach of the implied term of trust and confidence. The “last straw” is the final incident in the chain of events that led to you resigning.]*
2. The conduct described above was unwanted and [of a sexual nature or related to my sex [or the sex of another person, [insert the person's name]]. The conduct [had the purpose or effect of violating my dignity or created an intimidating, hostile, degrading, humiliating or offensive environment for me].
3. I have evidence in the form of [give details if appropriate, for example, refer to any emails, text messages, WhatsApp messages, voicemail messages you may have].
4. I would like the following action to be taken:
- A grievance meeting to be held as soon as possible – please send me a meeting invitation and a copy of the [your organisation] grievance policy
 - An investigation to take place into the events that occurred and a finding to be made in relation to my complaint
 - [Describe other immediate or longer term action that will protect you from the perpetrator, for example, requesting for the perpetrator for the perpetrator to be transferred to another area or department, for you to not have further one-to-one contact with the perpetrator, or any other remedial action you can think of that is reasonable].

Please let me know when I will receive an invitation to a meeting to discuss my grievance and confirm the next steps in the process.

I would like to be accompanied at the meeting and will let you know who my chosen companion is when I receive the invitation to the meeting.

Yours sincerely,

[insert your full name and role]

Grounds of complaint (for the ET1) for sex harassment or sexual harassment (and constructive dismissal, if you have resigned)

[The words in square brackets, bold and italics allow you to insert and delete the words that are right for your own case]

1. I *[am/was]* employed by *[insert the name of your employer]* from/since *[insert the date that you commenced employment]* to *[insert the date that your employment ended, if it has ended]*. My employer, the Respondent, is *[briefly describe your employer's business]*.
2. I *[am/was]* employed as *[insert your job title]*. My work and role involved *[set out the details of your role and the work that you did for your employer. If it is relevant, include details relating to the work environment (i.e details of an intimidating, hostile, degrading, humiliating or offensive environment), your relationships with colleagues/your manager/other parties (set out the workplace relationship between you and the harasser), and any other relevant details here that will help the Employment Tribunal to understand your workplace and the individuals involved in the events that took place]*.
3. I was subjected to the following conduct which amounted to *[sex harassment/sexual harassment]*:

[Below are some tips to help you set out your grievance:

- Describe the events that were sex *or sexual harassment in chronological order and include times/dates/timelines*
- *Provide as much information as possible including the dates the events occurred, the full names of the harasser and any other individuals who were present and witnessed the events*
- *Describe the nature of the conversations and if possible, quote specific words or phrases that were used during any meetings or discussions*
- *Describe any acts that took place or particular comments that were made. Include details such as the way in which the person said it, any innuendos or gestures and any subtle details.*
- *Describe how the events made you feel, for example, how the incident(s) created an intimidating, hostile, degrading, humiliating or offensive environment for you to work in.*
- *Describe the impact these incidents have had on you (and is continuing to have on you), in terms of your health, your emotional*

wellbeing, your ability to perform your job, your confidence at work, any your personal relationships etc.

- *If this paragraph is long, feel free to split it into several paragraphs or sub-paragraphs. It is best to give each separate incident its own paragraph or sub-paragraph]*
- 4. *[If you resigned due to the behaviour described in the paragraph(s) above, make sure you describe the collective events that led to the final event and describe the ‘last straw’ that led you to resign. This description is necessary for a constructive dismissal claim, where you need to show that you resigned in response to a series of breaches of contract or a ‘course of conduct’ by your employer, which when looking at the events together, amounts to a breach of your employment contract (a breach of the implied term of trust and confidence). The ‘last straw’ is the final incident in the chain of events that led to you resigning].*
- 5. *The conduct described above was unwanted and [of a sexual nature or related to my sex [or the sex of another person, [insert the person’s name]]. The conduct [had the purpose or effect of violating my dignity or created an intimidating, hostile, degrading, humiliating or offensive environment for me].*
- 6. *On [insert the date], I raised a grievance about this conduct which I sent to [insert the name of the person the grievance was sent to and their job title]. The grievance contained the following details [outline the details of your grievance or refer to the incidents described in paragraph(s) XX above].*
- 7. *I was invited to attend a grievance meeting on [insert the date of the grievance meeting] which was conducted by [insert the name of the individual who heard your grievance and their job title]. [include any other details relating to the grievance process that you want the tribunal to be aware of. For example, was there a long delay before you received a response to your grievance? Was the person hearing the grievance biased in any way? Were you asked inappropriate questions? Were there any flaws in the grievance process that lead you to believe that the grievance was not handled fairly or independently? Were you invited to a grievance meeting at all? Were you given the opportunity to be accompanied at the meeting by a colleague or trade union representative?]*
- 8. *I received a written response by email/letter dated [insert the date] which [did not uphold my grievance/did not deal] with my grievance in a satisfactory way. The grievance outcome was as follows. [Describe the details of the grievance outcome and why it was not dealt with satisfactorily.]*

9. On *[insert the date]*, I appealed against the outcome of the grievance. My appeal was on the following grounds: *[include details about your appeal]*. *[If you did not appeal the outcome, state that you did not appeal the outcome of the grievance and the reasons why.]*
10. *[If you resigned from your employment, include the following details – On [insert the date], I resigned [with/without notice], in response to the [sex/sexual harassment] [and the failure to deal properly with my grievance]. [Insert any other details that are linked to your claim for sex/sexual harassment that you would like the Employment Tribunal to know.]*
11. I believe that the *[sex harassment/the sexual harassment]* *[and my employer's failure to deal with my grievance]* constituted a fundamental breach of trust and confidence, entitling me to resign with immediate effect.
12. *[If you sent written questions to your employer about any the incidents, include the following paragraph – On [insert date] I sent to my employer a list of questions in accordance with the procedure set out in the Acas guide to [asking and responding to questions on discrimination in the workplace](#). My employer [did not reply/has failed to adequately reply] [OR my employer's answers support my claim for [sex harassment/sexual harassment/sex discrimination because] [set out the details on how your employer's response supports your claim].]*
13. If the Employment Tribunal finds that any act or omission complained of occurred more than three months before its receipt of this claim, or is outside of the extended limitation period following participation in Acas early conciliation, and that such act or omission is not part of a continuing act under section 123(3)(a) of the Equality Act 2010, I state that it would be just and equitable in the circumstances for the tribunal to extend time for submission of my claim under section 123(1)(b) because *[include details of why the claim was submitted late, for example, were you too ill or suffering from depression/waiting for the outcome of the grievance process in the hope of an amicable resolution, if your employer played a part in the delay, etc].*
14. I have been affected in the following ways: *[include details here of the emotional impact that your employer's behaviour has had on you]*. I *[have/have not]* found alternative employment since the date of my dismissal.
15. I seek the following remedies:
 - a. Compensation for financial loss and injury to feelings.
 - b. An award of aggravated damages *[include this request for aggravated damages award where your employer has acted in a high-handed, malicious, insulting or oppressive manner, for example, where there was malice or bad intention on the part of your employer]*.

- c. *[if you have suffered personal injury, then include the words 'compensation for personal injury'.]*
- d. *[if you resigned in response to your employer's actions, include the words 'compensation for constructive unfair dismissal'.]*
- e. *[if your employer did not respond to your grievance, or failed to deal with your grievance adequately, or did not offer you the right of appeal, or did not comply with any part of the [Acas Code of Practice on Disciplinary and Grievance Procedures](#), then include the following words – An uplift of up to 25% to the compensation awarded by the Employment Tribunal because of the Respondent's unreasonable failure to comply with the Code of Practice.]*
- f. Interest at the appropriate rate.
- g. *[That the Employment Tribunal make the following declaration[s]: [insert the declaration that you would like the tribunal to make, for example, that there was sexual harassment/sex harassment/sex discrimination].]*
- h. *[If you would like the Employment Tribunal to make recommendations, for example, that your employer provide an agreed reference to you, or that your employer apologise to you for the acts complained of etc, include the following wording – That the employment tribunal make the following recommendation[s]: [include details of the recommendations you are asking for.]*
- i. *[Insert Date]*

Data Subject Access Request (DSAR) Template

Your email address

[Today's date]

[Insert your employer's address]

Dear *[Insert name – a contact in your HR department, if possible]*,

DATA SUBJECT ACCESS REQUEST UNDER DATA PROTECTION LAW

I am writing to make a data subject access request under data protection law.

I *[am/was]* employed by *[insert the name of your employer]* as *[insert your role and the department you work(ed) in]*. My dates of employment are from *[insert date]* until *[the current date/if you are no longer with the employer, insert the date when you left your employment]*.

I understand that you hold and process data about me.

SCOPE OF MY REQUEST

I understand that *[insert the name of your employer]* processes a wide range of personal data about me. However, this request is confined to data concerning:

- Allegations about *[sexual harassment/sex discrimination/other allegations/ incidents that took place etc]*
- *[If you think your employer holds data about other matters that you would like to obtain a copy of, for example, notes of meetings that you had with certain individuals, emails about incidents that happened etc, insert the details in these bullet points]*
- *[If relevant – CCTV footage situated at [location] taken on [dates]]*
- My personnel file.

LOCATING THE PERSONAL DATA

I envisage that several individuals at *[insert the name of your employer]* may process personal data in connection with the matters described above. Some of the data processed will be in the form of emails (including sent, received, deleted and archived emails) and word-processed documents. These documents and emails can easily be identified with online search tools.

In relation to emails, you may limit the search to emails between *[insert the names of individuals that you know will have sent and received emails about the allegations]* during the period *[insert dates, ensuring that the search dates are wide enough to capture the emails sent during the timeline of events]*. However, in relation to the *[sexual harassment/sex harassment/sex discrimination/other allegations/description of other incidents]* set out above, please ask *[insert the same names of the individuals who are listed above in this paragraph]* whether any of them is aware of other individuals who are likely to have exchanged emails containing personal data relating to me. If so, please let me know who those other individuals are and search the emails of any individuals identified as well as those individuals I have mentioned above.

REQUEST FOR FURTHER INFORMATION

[If an event happened or decisions were made by your employer but you do not know who took the decisions or who was involved in the incident, you could include the following wording:] I have mentioned above those individuals who I believe may have processed data about me. However, I am also concerned about *[a decision that was taken that [insert details of the decision/an event that happened when [describe the event]]]*. Please could you inform me of which individuals were involved *[in the decision-making in relation to that process in the event described above]* so that I can decide whether to make a more specific subject access request in relation to that situation].

VARIATIONS OF MY NAME

My full name is spelled *[insert your name]*. However, sometimes my name is also spelled as *[insert the variations on your name,]*. I am also referred to as *[insert any other names or nicknames]*. I would like you to search for each of these variations, particularly when searching email records and other word-processed documents. I would also like you to search against my initials of *[insert your initials, although note that a reasonable search against your initials may be difficult for your employer to do depending upon what your initials are e.g. an email search against "XR" will retrieve fewer emails than a search against the initials "HR". However, it is worth including your initials here and waiting for your employer to explain if they cannot perform the search based on your initials, and the reasons why]*.

INFORMATION TO SUPPLY

Once you have identified personal data within the scope of this request, please provide a copy of the information constituting personal data to me *[include details of whether you would like printed out copies or if you would like the copies in an electronic format e.g. on a USB stick]*. You will also need to:

- Provide a description of the data and the categories of personal data concerned.
- Explain the purposes for which the data is processed.
- Identify the source or sources of the data.
- Set out to whom the data has been disclosed or may be disclosed, including recipients in third countries or international organisations.
- Set out, where possible, the envisaged period for which the data will be stored, or, if not possible, the criteria used to determine that period.
- State whether there has been any automated decision-making using the data, including profiling, and if so, any meaningful information about how any decision was based, as well as the significance and the envisaged consequences for me of such processing.

CONFIRMATION OF MY IDENTITY

I assume you are aware of who I am. However, to avoid any doubt or delay, I enclose a copy of my [*driving licence*] [*passport*] to confirm my identity.

If you do not normally deal with data subject access requests, please pass this letter on to your data protection officer or relevant staff member as soon as possible.

I look forward to hearing from you in relation to the above request within one month of receipt of this request [*give the specific date which is one month away*], as required under data protection law.

Yours sincerely

[*insert your full name and role*]

Acknowledgements

We are grateful to the women survivors of sexual harassment who have contributed to this work. We would also like to thank ROSA Justice and Equality Fund and TimesUP UK who have supported this work since 2018. We are particularly grateful to our volunteer team of legal advisers and Legal Advisory Group of 11 expert women who have supported the service to develop since its inception. It has truly been a collaborative effort driven by our shared desire to challenge the culture of sexual harassment experienced by women, support women who experience it and work towards a society where women enjoy equal treatment, safety in the workplace and are fully empowered to utilise their legal rights.

This handbook has been written by women for women as an accessible guide to the law. We hope you can use it on your journey to unpack and explain the law, your rights and options in a unique and resource aimed directly at women survivors of sexual harassment in the workplace.

September 2022

