



Research to inform policy from the
University of York, Department of Education

SAFE TO SPEAK UP?

Tackling sexual harassment in the UK film and television

Dr Anna Bull, October 2023

Summary

- Sexual harassment and violence are still occurring in the UK film and television industry, and there is evidence that employers are still not fulfilling their legal obligations to prevent and respond to sexual harassment in the workplace.
- Six years on from #MeToo, the current approach is still failing workers, especially women, and new regulatory mechanisms are needed.
- To address sexual harassment in the screen industries, general workplace protections around sexual harassment need to be strengthened alongside steps industry-specific policy in this area.

Recommendations for policy

Urgently required steps to increase general workplace protections against sexual harassment:

1. Passing the Worker Protection (Amendment of Equality Act 2010) Bill
2. Increasing the time limit for reporting sexual harassment to an Employment Tribunal to three years
3. Ensuring that people reporting sexual harassment have legal representation and prompt access to employment tribunals
4. Banning the use of NDAs in sexual harassment cases
5. Treating sexual harassment and violence at work as a health and safety issue, with enforcement from the HSE

After #MeToo: New Research

This policy briefing offers recommendations for addressing sexual harassment and violence in the UK film and television industry. It draws on new research with 18 people – 17 women and one man – who have experienced and/or spoken up about sexual harassment and violence at work since December 2017. Interviewees worked across different genres including high-end television and film, drama, documentary, factual, unscripted, and journalism, in a variety of roles including pre- and post-production, crew, producers, runners, researchers, and an actor.

The 18 interviewees described in detail 22 instances of sexual harassment, assault or violence experienced at work since December 2017. Most of these incidents were recent, occurring since 2020, and six interviewees described experiences that had happened since 2022. Interviewees were subjected to: sexualised comments, such as sharing unwanted information about someone's sex life, or making comments about someone that involved sexualised scenarios; having unwanted sexualised images shared with them; unwanted sexual or romantic approaches. For a few interviewees, these behaviours occurred alongside bullying, where the bullying tended to have gendered dimensions.

These incidents occurred in a variety of workplace settings. Particularly risky spaces were work social events; filming on location; and international industry events.

The research reveals why people are choosing to report their experiences within their workplace, and what happens if they do. The full report (link below) outlines examples of good practice as well as revealing where improvements are needed.

Policy Context - current regulatory provision

Current regulation for addressing sexual harassment in the workplace is not adequate to protect workers, not just in the screen industries but across all sectors. This means that it is difficult for people subjected to sexual harassment at work to get effective action taken to address this issue, and those who are victimised for speaking up about harassment face long delays in accessing employment tribunals and no legal aid. Furthermore, current legal protections don't cover sexual harassment from third parties (such as contributors or audience members). In addition, there is evidence that nondisclosure agreements (NDAs) are still being used in the screen industries to stop people speaking out about their experiences of sexual harassment and bullying. Despite these problems, sexual violence and harassment tend to be left out of health and safety provisions at work. The Scottish Trades



Union Congress (STUC) as well as higher education campaign organisation The 1752 Group have recently called for sexual harassment to be treated as a health and safety at work issue.

Working conditions in the **screen industries** mean that specific protections (beyond general provision) are needed to address sexual harassment and other discrimination. Ofcom is the regulatory body for the screen industries. It has statutory powers to promote equality of opportunity, including addressing sexual harassment as an equalities issue. But Ofcom's powers relate only to broadcasters and their direct employees, not to the production companies that broadcasters commission. So, broadcasters are regulated by Ofcom but production companies are not. **Six years on from #MeToo, it is clear that voluntary measures are inadequate, and new regulation is needed.**

Principles for Policy

We suggest four overarching principles:

- 1. Shift the burden of risk away from individuals** so that action on sexual harassment doesn't just rely on individual reporting.
- 2. Work towards transparency and openness** in how employers handle this issue.
- 3. Ensure there are multiple options for prevention and response.**
- 4. Tackle the inequalities that enable sexual harassment and violence to occur** – related to gender, but also race, disability, sexuality and other identities.

Next steps for regulatory provision

The government proposed in 2021 that the Worker Protection (Amendment of Equality Act 2010) Bill would be passed as soon as possible. This bill requires employers to take all reasonable steps to

prevent the sexual harassment of their employees. But as of 2023 it has not yet been passed.

The bill needs to be passed, with these amendments added:

- **more time to report sexual harassment at work, to allow for the impacts of trauma.** An increase from three months (the current time limit for accessing employment tribunals) to at least three years
- **a ban on NDAs for bullying and harassment in all workplaces.** The Higher Education (Freedom of Speech) Act 2023 prohibits the use of NDAs in all higher education institutions in cases of sexual misconduct, harassment, discrimination, bullying or other forms of misconduct, and these protections need to be extended across all sectors

The legal aid cuts implemented in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 need to be reversed, and people also need to be able to access employment tribunals promptly.

Sexual violence and harassment at work need to be addressed as part of employers' responsibilities for health and safety as well as for equalities. The Health and Safety Executive (HSE) should act on sexual harassment at work by:

- requiring reporting, and recording and monitoring of data
- including risks of sexual harassment, and gender-based violence in general, in its investigations and inspections
- taking enforcement action where appropriate (i.e. where employers are failing in their statutory duty to do all that is reasonably practicable to protect the health, safety and welfare of their employees)

The HSE and the Equality and Human Rights Commission (EHRC) need to be suitably funded to carry out this work.

Next Steps for the Screen Industries

As well as the general workplace protections outlined above, specific protections are also needed in the screen industries.

Work is underway to set up the Creative Industries Independent Standards Agency (CIISA). The CIISA is an independent body spearheaded by TIME'S UP UK, an organisation that has been campaigning to improve standards of behaviour across film and TV over the last five years. It aims to:

uphold and improve standards of behaviour across the creative industries and to prevent and tackle all forms of bullying and harassment, including bullying and harassment of a discriminatory

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[SARAH, RESEARCH PARTICIPANT]

nature ... [through] proactive interventions and advice, providing a single place of accountability where behaviours of concern can be reported and investigated, and building capability to prevent and tackle bullying and harassment.

(ciisa.org.uk/)

To function, CIISA requires funding and support from industry organisations. If supported, it will provide an essential service to the creative industries. Therefore the following policy recommendations are made for the screen industries:

- 1. Broadcasters have recently announced their funding commitment to CIISA.** Streamers, production companies and studios must now also commit to funding and supporting it. This recommendation follows a call by Philippa Childs (head of Bectu) to broadcasters and the Producers Alliance for Cinema and Television (PACT) in September 2023.
- 2. New regulatory mechanisms need to be explored and then implemented** to require broadcasters and commissioning channels to set standards in the companies they commission for addressing sexual harassment (and other forms of discrimination).
- 3. Broadcasters/commissioning channels should take more responsibility for ensuring mechanisms are in place to address sexual harassment on productions they have commissioned:**

- Broadcasters and commissioning channels should require minimum standards in production companies they commission. This could involve requiring production companies to evidence a minimum level of compliance before bidding for work. Minimum standards could include:
 - a. training for line managers on how to handle reports
 - b. a commitment not to use NDAs for cases relating to bullying and harassment
 - c. published data on reports and outcomes (see full report for further details)
- All broadcasters/commissioning channels should have clear and accessible reporting mechanisms for staff working on productions they have commissioned. Broadcasters/commissioning companies should investigate directly when:
 - a. a complaint is made about how a production company has handled a report of sexual harassment

- b. harassment is reported that involves a senior leader or owner of a company
 - c. anonymous reporting data reveal a problem with workplace culture
- Where minimum standards are not in place or where company owners/senior managers have had reports of harassment against them upheld, production companies should be banned from receiving commissions for a period of time.
- Larger employers should publish data on sexual harassment reports and outcomes as well as other measures of workplace climate. This can build trust and help identify workplace areas where interventions are needed.

Non-legislative approaches: policy and guidance steps needed

1. Training for managers on how to handle reports of harassment should be made available to all industry workers. This includes freelancers whose role includes responsibility for the well-being of others. Senior leaders should also aim to recruit, retain and reward line managers who create positive work cultures and display good people-management skills.

- British Independent Film Awards C.I.C. (BIFA) has developed training in prevention of and intervention in bullying and harassment. This course gives people in positions of responsibility the confidence and skills to handle incidents, allegations or reports of inappropriate behaviour.
- ScreenSkills offers online training in dealing with bullying and harassment for anyone contracted or freelancing in a managerial position in high-end TV (HETC) and unscripted TV.

2. To support cultural change across the UK screen industries, all employees and employers should implement the Film and TV Charity's Listen, Acknowledge, Act resources on addressing bullying and harassment at work.

3. Employers should sign the pledge from Can't Buy My Silence to state they will not use NDAs for bullying and harassment.

There are also further areas where industry bodies such as the Advisory, Conciliation and Arbitration Service (Acas) and the EHRC could work with screen industries bodies such as the CIISA to produce good practice guidance:

1. Guidance on information sharing between workplaces:

- Currently, information sharing about risk often relies on an informal 'whisper network'. This is inadequate and allows serial sexual predators to

continue in the industry.

- Existing guidance on information sharing about ongoing investigations is summarised by global law firm Eversheds Sutherland in its guidance for the higher education sector: it states that employers can answer specific questions about ongoing or completed disciplinary investigations into sexual harassment when giving employment references.
- But most employers don't currently ask such questions. Employers should start asking specific questions during hiring processes, following the guidance above. This may also help to encourage more formal reporting.
- More detailed guidance should be devised on sharing information between employers on disciplinary investigations and findings specifically in the screen industries. This could be carried out by commissioning organisations and production companies, working with Acas and/or the EHRC, and evaluated by CIISA.

2. Collective grievance model policy:

- Collective grievances are grievances raised on behalf of two or more employees by a workplace representative (such as a trade union representative or another colleague).
- Ensuring each workplace has a collective grievance policy is an essential step in addressing sexual harassment (and other discrimination issues) in the workplace. This would allow victim-survivors to delegate the administrative burden of the reporting process to a representative. It also recognises that sexual harassment is likely to be targeted at multiple people within the same workplace.
- Commissioning organisations and production companies should work with Acas, the EHRC and CIISA to devise a template collective grievance policy that employers can adopt.

Further information

The research underpinning this briefing was funded by the Screen Industries Growth Network

This policy briefing is accompanied by:

- The full report – Anna Bull (2023), Safe to Speak Up? Sexual harassment in the UK film and television industry since #MeToo
- a summary version
- an industry briefing, aimed at those working in the screen industries

All are available here: xrstories.co.uk/publication/