



timeTo

code of conduct



introduction

timeTo launched in June 2018 with the express aim of ending sexual harassment in the advertising and marketing industry, and that is exactly what we intend to do.

We need change and we need it now. A broader societal shift in attitudes means there has never been a better time to tackle sexual harassment and stamp it out for good.

This initiative has been created through a unique collaboration between the Advertising Association, NABS and WACL, and is backed by ISBA and the IPA.

timeTo's first project was to undertake a major survey of over 3,500 people, to understand the level and nature of sexual harassment in the industry. We were shocked by what we unearthed, and the findings have greatly shaped our Code of Conduct.

We urge all companies to commit to this Code, to make working life better for everyone.

You can read more about the survey on the **timeTo** website: timeTo.org.uk



manifesto

#timeTo

Sexual harassment isn't something that used to happen, or that's happening somewhere else. It's happening right now, in our industry and it must be stopped.

No one should have to put up with sexual harassment.

Everyone working in our industry – regardless of age, gender, sexuality, background, or job – should be free to work within a safe environment without fear of abuse.

Sexual harassment simply should not happen. We must never accept this behaviour. We must not allow this behaviour to continue unchecked. We must never create an environment that fosters this behaviour. We must never allow those affected to go without help.

To truly end sexual harassment for good, we must start in our own backyard. The time to act is now.

timeTo *come together*

timeTo *change things for the better*

timeTo *put an end to sexual harassment*

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definitions

1. What is sexual harassment?

The relevant legislation defines sexual harassment as unwanted conduct of a sexual nature, which has the purpose or effect of violating the dignity of a worker, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

The crucial word in the definition is **'unwanted'**.

In the **timeTo** survey, there were many calls for greater clarity on what constitutes sexual harassment, both from those who have been sexually harassed and the wider community.

Examples include, but are not limited to:

- a) Sexual comments which could be about a person's appearance or body parts
- b) Sexual jokes or questions about a person's sex life
- c) Suggestions that the professional position a person holds or achieves is the result of sexual attractiveness or activity
- d) Sharing sexually inappropriate images or videos such as pornography or obscene images
- e) Sending emails, texts, apps or social media messages, notes or letters with material of a sexual nature
- f) Promises in return for sexual favours
- g) Threats (of any types e.g. career damage) if sexual favours are not granted
- h) Unwelcome physical contact, including inappropriate touching such as patting, rubbing, or purposefully brushing up against another person
- i) Sexual assault

We make further suggestions about what is unacceptable behaviour in relation to sexual harassment and abuse of power in **section 3. Taking Action a) for management and HR departments.**

To read the Equality Act 2010 legislation on sexual harassment (section 26) visit: www.legislation.gov.uk/ukpga/2010/15/section/26

2. A Code for Everyone

This is a Code for everyone. Whether you're a senior leader or HR; whether you're a newly promoted line manager or just starting out in the industry; a client or customer; freelancer or contractor – regardless of age, gender, role or discipline, this is for you. This is a Code for every member of the advertising and marketing industry.

There are no exemptions or special rules for people of a certain status. We must take responsibility for our own behaviour and for the power we have to oppose sexual harassment.

If you are a leader of a company, you should develop, publicise and genuinely adhere to your policies and processes so that you can deal fairly and promptly with instances of sexual harassment. You should also develop a company culture which does not tolerate it.

A safe, trusting and open environment within which those who have been sexually harassed, witnesses or those accused of sexual harassment, can approach you with confidence and faith that the company will investigate all allegations fairly and promptly. In addition to the human misery it creates, sexual harassment leads to poor morale and performance, lost productivity, greater levels of stress and risk of stress-related illness, lack of respect for management, reputational damage and the risk of legal claims and compensation awards.

If you are in a senior position, you have an extra obligation to set an example and not to use your power over people more vulnerable than you. Make it clear the standards of behaviour expected of everyone in the workplace.

We all have a duty to speak up.

The responsibility does not lie solely on those who have been sexually harassed. We offer guidance on the best ways to do this later on in the document, but failure to address it is not good for anyone in the long run. It might lead to other people being sexually harassed by the same harasser or it might encourage the perpetrator to ramp up their bad behaviour. Speak up and stop it becoming acceptable behaviour.

We all need to be open to hearing feedback on our behaviour, even if our intentions were good, in order for change to occur.

Despite the fears of some, adhering to this Code of Conduct does not oblige us to create humourless, formal, suspicious workplaces. On the contrary, properly adopted, we believe it will create happier companies where no-one's fun comes at the expense of anyone else.

This document is for guidance only and should not be used as a substitute for specific legal advice.

3. Taking Action

a) for management and HR departments

We recommend that the issues and principles we highlight below are addressed within your company policies and processes but we acknowledge that you will wish to write these in your own style and indeed you may wish to go further. There are clear legal risks associated with harassment in the workplace including a claim to an employment tribunal if an employer has not taken reasonable steps to prevent the conduct. Plus, of course, there is a moral duty regarding the wellbeing of staff and the company's reputation may also be at stake. A company that values its people will want to eradicate this type of behaviour and make sure it never happens again.

- Many companies choose to address sexual harassment within a broader bullying and harassment policy. This is fine and indeed standard practice but our findings suggest that there is merit in addressing sexual harassment specifically and explicitly. This could be done by highlighting a specific section on sexual harassment within the company's bullying and harassment policy.
- Applicable company policies such as bullying and harassment and grievance procedures, should specifically address the issue of 'victimisation'. Such policies should clearly highlight what protection and support is available for those involved in any bullying and/or harassment complaints. Staff who make complaints or who participate in good faith in any investigation, must not suffer any form of retaliation or victimisation as a result. Similarly, it should be explicit that anyone found to have retaliated against or victimised someone in this way, will be subject to disciplinary action. Our findings suggest that there should be greater emphasis on reassuring staff that they will be protected and supported when they speak out about sexual harassment.
- Make sure that these policies and processes are well known to all staff, including whenever they are updated. They should know what to do if they encounter sexual harassment and what the likely course of events will be following a reported incident. This equally applies to someone accused of sexual harassment.
- Your company is obliged to address and deal with the harassment; it is prohibited under legislation including the Equality Act 2010 and Protection from Harassment Act 1997 and you have a duty of care to keep your staff safe.
- In extreme cases, where an employer believes that the conduct may amount to criminal behaviour such as sexual assault, stalking, indecent exposure or offensive communications it may be necessary to report the matter to the police and co-operate with a criminal investigation or prosecution.
- Senior management sets the culture. They should ensure that HR departments are empowered to enforce the company policy, whatever the consequences or whoever the alleged perpetrator.

- If you don't have an HR department, then you should instead have designated people that can and will deal with the issues as they arise.
- Handle the difficult conversations appropriately. Depending on the circumstances, an informal approach may be more appropriate to encourage an employee to speak up about harassment and it can also allow the accused to speak from their perspective. You can ease the stress in the situation by being empathetic and talking on a human level. A formal process can be a daunting prospect and may not be the preferred initial route by the person speaking up, so you may need to be open to informal approach if appropriate and depending on the severity of the issues raised.
- Offer support. Managing relationships should be an employer's priority and throughout an investigation, employers should offer support to all individuals involved. The type of support offered may vary depending on the severity of the accusations. For example, whilst mediation can be a great way of healing relationships, it may not be appropriate in some instances and you should take guidance from all involved before recommending this. For those finding the situation difficult, you could offer confidential counselling perhaps via your company Employee Assistance Programmes or by calling the **NABS Advice Line**.
- People should never be made to feel that their career, at their current company or a future one, will be disadvantaged because they have come forward to report an incident.
- Management should never encourage staff to flirt with a customer or client. In a creative, global, 24/7 business, it's important to recognise the boundaries between work and social spaces.
- The law on non-disclosure agreements and confidentiality clauses in settlement agreements is complex but note that, as a result of section 43 of the Employment Rights Act 1996, an NDA or confidentiality clause which seeks to prevent an individual making an allegation of sexual harassment will be void if the allegation amounts to a 'protected disclosure', or if it seeks to prevent the disclosure of criminal activity. The Equality and Human Rights Commission has highlighted that using confidentiality clauses in settlement agreements after an allegation of harassment has been made, may also prevent people from speaking out about their experiences and systemic problems being tackled. Therefore, think carefully and take legal advice before using such agreements or clauses in response to sexual harassment complaints.

Source: The Equality and Human Rights Commission. Turning the tables: ending harassment at work:

www.equalityhumanrights.com/en/publication-download/turning-tables-ending-sexual-harassment-work

- Your policy should include and reference, as appropriate, third parties such as clients and freelancers. It needs to be clear about what action will be taken if there is a complaint about harassment involving such a third party.
- When writing your policy, it is important to make the following points clear to your employees:
 - It's never appropriate to initiate unwanted physical contact: touching legs, arms, hands, faces or intimate body parts.
 - It's never appropriate to send overly personal or suggestive communications to a colleague, whatever their level or role.
 - It's never appropriate to request or suggest sexual favours as a means to promotion, salary increases or for business gains.
 - It's never appropriate to hire or promote a person (or not to do these) based on their level of physical attractiveness.
 - It's never appropriate to verbally or otherwise sexually objectify anyone's body; by using innuendos, suggestive or lewd comments or otherwise.
 - It's never appropriate to ask personal or intimate questions about someone's clothing choices.
 - It's never appropriate to ask someone about their sexual habits, sexuality, gender or push for them to share their sexual experiences.
 - It's never appropriate for someone in a junior role to be asked by someone in a senior role to visit their home, hotel room or other place of stay alone, nor is it appropriate for someone in a senior role to visit someone in a junior role in their place of stay, uninvited.
 - It's never appropriate to exploit or wield your power over others.
 - It's never appropriate to use a person's gender and perceived attractiveness as a way to impress clients and for business gains.
 - It's never okay to excuse someone's behaviour because they are an important customer, client or have seniority.
 - It's never okay to excuse someone's behaviour because they are held in high esteem e.g they come up with big ideas, run a huge team, win new business.

- It's never okay to excuse bad behaviour as 'banter'.
- It's never okay to excuse someone's behaviour because...
 - ...that's 'just the way they are'
 - ...of their gender
 - ...of their sexual orientation, even if it's different to your own
 - ...the harassment wasn't physical
 - ...of impaired thinking due to drug or alcohol use
- It's never okay to excuse someone's behaviour because it was away from the office and in environments such as...
 - ...pubs
 - ...parties and social occasions
 - ...business trips and overnight stays
 - ...award shows
 - ...festivals and conferences
- It's never okay to rely solely on non-verbal cues as consent for sexual behaviour; relying on face and body movements alone is not enough and dangerous. Get verbal consent

Note: these points are built from verbatim responses to the timeTo survey carried out in March and April 2018.

3. Taking action

b) for those who have been sexually harassed

- Sexual harassment can cover a range of unwelcome behaviours from the seemingly trivial, to the criminal. By confronting in an appropriate and safe way – a way that is right for you – you will give confidence to others to speak up too.

If you feel like you're being harassed, be confident in your voice. Tell the person their behaviour is not acceptable. Use language that makes it clear you do not accept their actions. Explicitly point out to them what they are doing and cite this code if necessary.
- If the moment moves quickly and you are in shock, it's okay to draw their attention back to their unacceptable behaviour, whether that be a week or two weeks after it happened and tell them it was unwanted and unwelcome. Be aware though that if the matter is serious enough to warrant a claim in the Employment Tribunal you may have a time limit of only three months in which to notify of your claim.

- It may be that the person who is behaving in this way is in a position of power and so speaking up may not always seem easy. Likewise, you may not feel safe enough to speak up. If this is in the case, remove yourself safely from the situation.
- In all instances make a detailed note of what happened, including how it made you feel, what was said and any witnesses and talk to someone about it. This could be your line manager, HR department or another senior leader in the business. By speaking up it may enable your company to see a trend and therefore manage this as necessary.
- Depending on the severity of the harassment or if the harassment is reoccurring, you may also need to put it in writing, keeping a copy for yourself, and follow your company's grievance or bullying and harassment procedure, so keeping a diary or list detailing the times you have been harassed will become a useful guide.

You need to be aware that, once you have made an official complaint, your company is obliged to investigate it and deal with it in accordance with the ACAS Code of Practice on Disciplinary and Grievance Procedures.

- You need to be prepared that an investigation may fail to substantiate your allegation. This doesn't mean you are wrong to come forward. Staff who make complaints or who participate in good faith in any investigation, must not suffer any form of retaliation or victimisation as a result.
- Your company is obliged to address and deal with the harassment, it is prohibited by law and your employer has a duty of care to keep you safe.
- In extreme cases, the harassment may amount to criminal conduct such as sexual assault, stalking, indecent exposure or offensive communications, meaning it may be appropriate to talk to the police.
- Consider how you want the matter resolved and what support you need from your company. What outcome do you want and how can your company and potentially, the harasser work towards this outcome? Your company will also have to be guided by their policies including bullying and harassment and ACAS Code of Practice on Disciplinary and Grievance Procedures.

Managing relationships should be an employer's priority throughout this process for all individuals involved. The type of support offered may vary depending on the severity of the accusations. For example, whilst mediation can be a great way of healing relationships, it may not be appropriate in some instances and you can guide your employer on what you would find most helpful. If you are finding that the whole situation is impacting on you emotionally, ask your employer if they have a company Employee Assistance Programme that would offer confidential counselling.

Be aware that if you enter into discussions with your company about a settlement agreement, you will need legal advice. This isn't necessarily an outcome we advocate but a settlement agreement may be something you want to pursue as part of the resolution and ultimately, that is your decision to make.

- If you've been sexually harassed and you need further guidance on any of these issues – or if you just want someone to talk to – contact the **NABS Advice Line**. The advisors are trained to deal with issues regarding sexual harassment and much more and if they can't help, they can direct you towards someone that can. **Call: 0800 707 6607**

3. Taking action

c) for witnesses of sexual harassment

- Speak up. As an observer of this type of behaviour, it can be much easier to just pretend it's not happening and ignore it. After all, it may bring you unwanted attention or bring you into a situation you don't want to be a part of. And, as uncomfortable as it may feel to become involved, in the longer term, it will make you feel much more uncomfortable to know something was happening to a fellow colleague and you failed to act.
- Spotting the offensive behaviour is the first step in dealing with it, whether you're experiencing it yourself or seeing it amongst colleagues. Sexual harassment can be dressed up in humour or dismissed as a joke or banter, making it easy to miss or not take seriously. Recognise this action for what it is and take action.
- Tell the person you don't find their behaviour funny or appropriate, or point out the offence. Give them an insight into their behaviour, they may simply need a new perspective on what is and isn't socially acceptable and you may be doing them a favour so they don't behave in this way again.
- Offer support: practical and emotional if you can to those affected by this type of behaviour.
- Talk to a senior leader so that they can clarify to the organisation what is and isn't acceptable behaviour.
- If you want to check what possible actions you could take, call the **NABS Advice Line**. You may also want to suggest to the person whom you believe is being harassed that they get in touch. **Call: 0800 707 6607**

3. Taking action

d) for people who fear they have behaved inappropriately

- If you are unsure as to whether you have behaved inappropriately, get some feedback on that behaviour. It may not be appropriate to speak directly to the person you have potentially offended so if there were others present, ask for their perspective in the first instance. If there were no other people present then this will need to be handled sensitively and if it's not appropriate to speak to the person directly, then consider involving another party such as someone from HR to manage such conversations.
- If it's determined that your behaviour was unacceptable and someone has taken offence apologise immediately and sincerely and change your behaviour from that point forward.
- Consider and reflect on your behaviour and understand what led to these circumstances. Be clear about how you will ensure this behaviour won't happen again; consider whether you need training or to seek other kinds of help. Be open to suggested ways of reforming.
- Be realistic. You may need to take professional legal advice if your behaviour is considered sexual harassment.
- Speak to someone to work out the best course of action to remedy the situation. The **NABS Advice Line** can offer you some perspective and impartial, confidential advice. **Call: 0800 707 6607**

3. Taking action

e) for people who have been wrongfully accused of sexual harassment

- As difficult and uncomfortable as it may be, your company will need to establish the facts of the accusation made against you. They are obliged to investigate a complaint and deal with it in accordance with their policies including bullying and harassment and the ACAS Code of Practice on Disciplinary and Grievance Procedures.
- Such a process should also provide you with the opportunity to be heard and defend the allegation fully to your employer. You also have the right to appeal an outcome.
- Managing relationships should be an employer's priority throughout this process for all individuals involved. If you are finding that the whole situation is impacting on you emotionally, ask your employer if they have a company Employee Assistance Programme that would offer confidential counselling. Also consider speaking to family, friends and seek professional support, if needed.

- Be realistic. You may need to take professional legal advice if your behaviour has been considered sexual harassment and you believe you have been wrongfully accused.
- Speak to someone to weigh up your options and work out the best course of action. The **NABS Advice Line** can offer you some perspective and impartial, confidential advice. **Call: 0800 707 6607.**

4. Long-term culture change

We should all be working towards a future where no one has to endure sexual harassment. Here are some ideas that company leaders and HR professionals can work on and undertake as appropriate and practicable to their organisation:

- Proactively understand what is happening within your own company, don't wait for people to come forward or for a situation to occur, or assume it's not taking place because you've not heard about it. You can undertake an anonymous survey and share the results internally to build clarity and transparency.
- Live by your company values. Your progress towards eradicating sexual harassment will be severely undermined if you make allowances for certain people who are held in high esteem, if you laugh along with the crowd at someone else's expense or hire a sexist comedian for your company Christmas party.
- Empower your HR department. HR should not be faceless within your organisation. They need to be part of influencing company culture for the better and given the autonomy to ensure that all policies and procedures are abided by fairly.
- Create 'anti-harassment champions' akin to a designated safeguarding lead in schools, who are trained to deal with sexual harassment and choose the correct approach for the organisation to take in the circumstances, widening the options beyond speaking to a line manager or the HR department.
- Provide a phone-line or build online reporting tools to allow anonymous complaints with no fear of reprisals but note that anonymity should not be encouraged across the board as they prevent an employer being able to fully investigate and the accused from being able to fully understand the case against them.
- Provide all staff with training to recognise and remove sexual harassment, starting with line managers. Have clear and realistic harassment scenarios and make this part of your induction process.

- Freelancers and contractors must be empowered to use the same reporting structures as employees. They should also be clear about the company's policies upon induction.
- Inform clients and suppliers of your values, policies and ways of working so they are clear of what is acceptable and unacceptable behaviour within your company.
- Many respondents in our survey expressed a belief that a more diverse and gender balanced management line-up would have a positive impact on the incidence of sexual harassment and also how companies deal with it.

You will have ideas of your own; we'd love to hear and share them to ensure that we can all learn and benefit from best practice.

5. Sources of support and advice

This section contains a list of organisations who may be able to help you seek advice and support on issues around sexual harassment.

ACAS

Provide information, advice, training and conciliation helping to prevent or resolve workplace disputes <http://www.acas.org.uk/index.aspx?articleid=1461>

ACAS Helpline: 0300 123 1100

- www.acas.org.uk/index.aspx?articleid=2042
- Guidance on sexual harassment
www.acas.org.uk/index.aspx?articleid=6078
- Guidance on whistleblowing in the workplace
www.acas.org.uk/index.aspx?articleid=1919
- Code of Practice on Discipline and Grievance
www.acas.org.uk/index.aspx?articleid=2174

CIPD

The professional body for HR and people development. www.cipd.co.uk

- Standing up to sexual harassment #Withyou: has some useful resources for HR professionals on sexual harassment
www.cipd.co.uk/news-views/policy-engagement/preventing-sexual-harassment

CITIZENS ADVICE

Provides free, confidential and independent advice to help people overcome their problems. www.citizensadvice.org.uk

- Sexual harassment: www.citizensadvice.org.uk/law-and-courts/discrimination/what-are-the-different-types-of-discrimination/sexual-harassment/
- Victimization: www.citizensadvice.org.uk/law-and-courts/discrimination/what-are-the-different-types-of-discrimination/victimisation/
- Rape and sexual assault: www.citizensadvice.org.uk/family/gender-violence/rape-and-sexual-assault/

EQUALITY ADVISORY SUPPORT SERVICE

Is available for people who think they may have been discriminated against.

- EASS Helpline: 0808 800 0082
www.equalityadvisoryservice.com/app/home

IPA

The professional institute for advertising, media and marketing agencies. Incorporated by Royal Charter. www.ipa.co.uk

The IPA has published a Code of Best Practice on Dignity at Work for its members. IPA member agencies with legal enquiries about harassment in the workplace can seek advice from Juliet Bawtree, Associate Director, Legal and Public Affairs (Employment).

LEWIS SILKIN

A commercial law firm that works within the creative industries
www.lewissilkin.com

- #aLastingChange: has some useful resources for employers on sexual harassment including guides and policy documents that are free to download
<http://www.lewissilkin.com/Campaigns/A-Lasting-Change>

NABS

One of the three main **timeTo** partners; NABS (National Advertising Benevolent Society) is the support organisation for the advertising and media industry. As well as offering career coaching, mentoring and events – NABS also provides expert, impartial and confidential information and guidance on a range of issues, including workplace sexual harassment. They can provide support to anyone working in the advertising and media industry, including freelancers, contractors and those in-between work.

Specific ways NABS can help include:

- Providing information and guidance on what constitutes sexual harassment and what you can do if you have been subject to sexual harassment, witnessed it, if you fear you have behaved inappropriately or if you have been wrongfully accused of sexual harassment.
- Providing support around the emotional impact sexual harassment may have
- Sign-posting to any necessary specialist organisations
- **NABS Advice Line: 0800 707 6607**
email: support@nabs.org.uk
nabs.org.uk

ROSA

A charitable fund set up to support initiatives that benefit women and girls in the UK
www.rosauk.org

The Justice and Equality Fund, managed by Rosa, was set up to end the culture of harassment and abuse <http://www.rosauk.org/blog/justice-and-equality-fund/>
Aims of the fund include working to make sure people know their rights, access to good quality support and support for legal cases including funding. To register an interest in applying for grants email info@justiceequalityfund.org

THE EQUALITY AND HUMAN RIGHTS COMMISSION

An independent statutory body with the responsibility to encourage equality and diversity, eliminate unlawful discrimination, and protect and promote the human rights of everyone in Britain. www.equalityhumanrights.com

EHRC "Turning the tables: ending sexual harassment at work" report: published on the 27th March 2018, this report proposes a series legal changes to ensure more protection from sexual harassment at work. To get ahead of the curve and begin implementing changes, review the proposals here <https://www.equalityhumanrights.com/en/publicationdownload/turning-tables-ending-sexual-harassment-work>



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For free, confidential and impartial advice and support, for anyone working in the advertising, marketing and media industry, call the **NABS Advice Line on 0800 707 6607**, 9am-5.30pm on week days



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timeto.org.uk



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This report was written by **Lorraine Jennings**, Director of Services at NABS and **Tess Alps**, Chair of Thinkbox.