IMPACT
LEGAL & BUSINESS SERVICES

HARASSMENT FLOWCHART

Was there unwanted conduct?

→ YES

→ NO → **No harassment**

Did the conduct relate to a protected characteristic (or is it unwanted conduct of a sexual nature)?

→ YES

→ NO → **No harassment but be aware that the conduct could still amount to a breach of trust and confidence risking constructive dismissal**

Did the conduct have the purpose of violating the employee's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment?

→ YES

→ NO → **Did the conduct have the effect of violating the employee's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment (Taking account of the employee's perception, surrounding circumstances and whether it was reasonable for the conduct to have that effect?)**

It is harassment. Did the employer take all reasonable steps to prevent the harassment from occurring?

(from "Did the conduct have the effect..." → YES → "It is harassment...")

→ YES → **No liability for harassment. Defence succeeds**

→ NO → **Claim succeeds. Was the claim one of sexual harassment?**

Protected characteristics are age, sex, disability, sexual orientation, religion or belief, gender reassignment, race.

* The new duty affects acts of harassment occurring on or after 26 October 2024.

Claim succeeds. Was the claim one of sexual harassment?

→ YES

Was the decision reached after 25th October 2024?*

→ NO → **No further considerations**

→ YES

Did the employer take reasonable steps to prevent the harassment from occurring?

→ YES → **No further considerations**

→ NO → **Tribunal can uplift compensation by up to 25%**