

The Lycetts logo is displayed in a large, bold, dark blue sans-serif font. A thin vertical red line is positioned to the right of the logo.

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The top half of the page features a photograph of vibrant green leaves in the foreground, with a modern glass skyscraper in the background. The sun is shining brightly between the building's windows, creating a lens flare effect.

NEW WORKPLACE HARRASMENT LAW. COMPLIANCE AND PROTECTION IN THE SPOTLIGHT.

David Still, of insurance broker Lycetts, examines the implications of the new Worker Protection Act and highlights how proactive compliance and management liability insurance can safeguard businesses and directors against heightened risks.

The new Worker Protection (Amendment of Equality Act 2010) Act 2023, which came into force on 26 October 2024, introduces a landmark requirement for employers to proactively prevent workplace sexual harassment.

This shift not only establishes a “preventative duty” for employers but also increases potential liabilities for directors, officers and companies themselves, making Management Liability Insurance (MLI) an essential safeguard for navigating this new legal landscape.

WHAT DOES THE WORKER PROTECTION ACT INTRODUCE?

The new Act imposes a “preventative duty” on employers, requiring them to take “reasonable steps” to protect employees from sexual harassment, including harassment from third parties, such as clients, vendors or contractors.

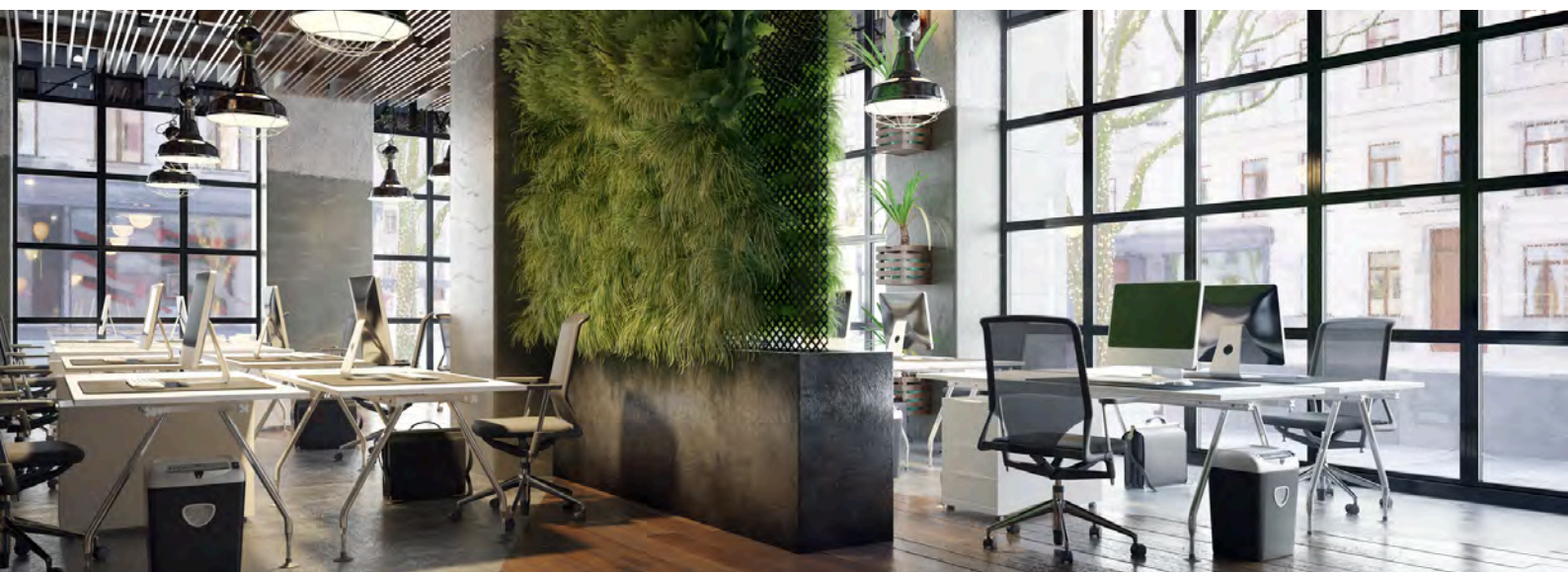
This means that employers are now expected to anticipate and mitigate harassment risks proactively, not simply respond to complaints.

According to guidance from the Equality and Human Rights Commission (EHRC), employers should evaluate potential risk areas, develop clear policies and conduct regular staff training to foster a safe and respectful workplace.

If a tribunal finds that an employer has breached this preventative duty, it may impose an additional compensation uplift of up to 25% in cases of proven sexual harassment.

Furthermore, the EHRC holds enforcement power under the Act to investigate and act on non-compliance, even in the absence of a specific harassment incident.

This proactive accountability adds significant pressure on directors, officers and organisations to ensure compliance.



PREPARING FOR COMPLIANCE: PRACTICAL STEPS FOR EMPLOYERS

To comply with the new duty, employers should implement a structured approach that addresses risk identification, policy enhancement and employee engagement. Steps to consider include:

- **Review and update policies:** Assess and strengthen policies such as equal opportunities, anti-harassment and disciplinary procedures. Review how training is delivered and communicated to ensure employees and management fully understand expectations and protocols.
- **Identify sources of risk:** Analyse past claims, feedback from exit interviews or employee surveys to pinpoint potential gaps. Evaluate scenarios where harassment is most likely to occur and develop strategies to mitigate risks.
- **Enhance training:** Provide regular, comprehensive training to ensure employees and managers can identify harassment, understand the consequences and know how to respond.
- **Establish robust reporting channels:** Create clear, confidential processes for reporting harassment concerns, ensuring whistleblower protection and compliance with data privacy regulations.
- **Regularly review policies and practices:** Periodically reassess policies and training to ensure they remain relevant and effective, especially following incidents or regulatory updates.

INSURANCE CONSIDERATIONS

The introduction of this legislation highlights the critical role of Management Liability Insurance (MLI) in protecting both directors and the organisation.

Within MLI, Employment Practices Liability (EPL) is especially relevant to harassment claims, covering legal costs, settlements and compensation arising from workplace disputes such as harassment, discrimination and wrongful termination

While the Worker Protection Act does not place additional personal duties on directors, it significantly increases the potential for regulatory scrutiny, especially if an organisation's preventative measures are deemed insufficient.

Insurers are likely to expect businesses to demonstrate robust compliance measures when evaluating cover or renewing policies.

WHY MANAGEMENT LIABILITY INSURANCE IS ESSENTIAL

Directors, officers and companies face heightened risks of personal and corporate liability if preventative measures fall short. MLI offers comprehensive protection tailored to specific risks, including:

- Employment Practices Liability (EPL): Workplace claims protection
- Covers employment-related claims such as harassment, discrimination and wrongful termination.
 - For example, harassment claims under the new Worker Protection Act may involve legal costs, settlements and compensation – all of which EPL cover addresses.
- Directors & Officers Liability (D&O): Individual accountability
- Protects directors and officers from personal liability claims related to their actions in their roles.
 - Health & safety prosecutions: A Transport Director was prosecuted for fatigue-inducing practices leading to an accident.
 - Site accidents: A construction director faced charges after a workplace injury.
- Corporate Legal Liability (CLL): Organisational risk management
- Covers claims against the company itself, such as corporate manslaughter cases.
 - Example: A company was fined and incurred substantial legal costs following a fatal workplace accident.

By tailoring an MLI policy, employers can ensure robust protection for both individuals and the company.

BUILDING A CULTURE OF PREVENTION

The Worker Protection Act presents an opportunity for organisations to demonstrate leadership in fostering safer and more inclusive workplaces. By combining proactive compliance strategies with appropriate insurance cover, employers can mitigate risks and support their directors, officers and employees in navigating this new legal landscape.



For more help and advice please contact

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