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The shifting landscape of work and working lives

Lifting the lid on sexual harassment and power in the workplace

Conference paper

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Summary

Sexual harassment is an enduring feature of the workplace. Yet despite ample evidence of its existence and the harm it causes employees, it appears to be something of an intractable problem for HR professionals and other managers to eradicate. For this paper, we interviewed a range of organisational stakeholders in three institutions to investigate this phenomenon in a university setting. Our qualitative study indicated that effectively challenging sexual harassment is not about the pursuit of lone 'monsters'; instead, it is about unpicking the complicated web of silence and uncomfortable acquiescence that supports the continuation of this behaviour in many workplaces. The implications for practice are that senior managers must recognise that gendered organisational hierarchies and cultures underpin the continuation of sexual harassment and that dismantling them must be central to any meaningful prevention strategies.

Introduction

There can hardly be a bigger shift in the 'landscape of our working lives' than the impact of recent allegations of sexual harassment. The CIPD¹ described this exposure of widespread sexual harassment as alarming. There was a massive response from many women, working in diverse fields and sharing their own experiences through avenues such as the #MeToo movement, which was tweeted 12 million times in the first 24 hours.² HR practitioners have long known about sexual harassment and the secrecy that surrounds it.

It comes as no surprise that only one in five women report sexual harassment to their employers.³ Surveys identify that certain groups of employees, mostly women, often in more junior or precarious jobs, are more vulnerable to sexual harassment.⁴ Critical research directs our attention to the context of unequal power in the employment relationship. Organisations with steep hierarchies, patriarchal patronage and cultures of entitlement are breeding grounds for sexual harassment.⁵ This paper presents some initial findings from an in-depth, qualitative project researching sexual harassment in the workplace. The primary aim of this research is to lift the lid on the uncomfortable link between sexual harassment and power in organisations, which should help us understand why so many organisations fail to tackle it well, and to identify ways in which they may succeed.

Research aims

This research draws upon experiences of, and attitudes to, sexual harassment in the academic workplace, but the messages are generalisable to HR and other managers in every type of organisation. Sexual harassment in the workplace is widespread and commonplace; it remains under-reported, under-investigated, unresolved and damaging to all who experience it.⁶ Every organisation's public image is damaged when harassment occurs, particularly when they attract media attention. This affects relationships between an employer and their current and future employees, as well as with their customers. Ultimately, it is detrimental to the health and well-being of everyone in any organisation.⁷ The overarching aim was to investigate the phenomenon of sexual harassment of academics. The research objectives relevant to this paper are:

- 1 to explore different interpretations of sexual harassment
- 2 to understand why individuals may be reluctant to speak about their own or others' experiences of sexual harassment
- 3 to suggest how policy-makers and HR might challenge the organisational structures and cultures that facilitate sexual harassment and that militate against open and safe reporting of experiences.

Research methodology and methods

This research is underpinned by an interpretative and subjectivist philosophy. Participants must feel able to tell their stories without fear or judgement, as clearly these voices have been silenced in the past.⁸ We have a responsibility to be sensitive to the power dynamics between researcher and researched through sensitive, intense interviewing and to ensure that these voices are heard and relayed as authentically as possible.⁹

The qualitative data comes from 15 semi-structured, in-depth interviews with female academic employees, senior HR practitioners and trade union representatives from three universities in the UK. Access to these participants was via personal contacts and the snowball technique, which is the most effective way of finding interviewees for this kind of sensitive and personal research. We interviewed three trade union representatives, three senior HR practitioners, and nine women academics. Before the interview, each participant read an information sheet, which provided full details of the study and how we planned to protect their anonymity. Interviews were lengthy, digitally recorded and transcribed into verbatim text. The main data analysis technique used was thematic analysis, which involves analysing textual data according to themes. We used a priori themes from our key research objectives, which we have used to structure the findings section. We coded our data by reading and re-reading the transcripts many times, highlighting common and interesting units of data. We finally allocated appropriate codes to each theme.

Findings

Different interpretations of sexual harassment

The discussions demonstrated that asking for individual perceptions of sexual harassment revealed contrasting views. The HR practitioners and trade union representatives all began by citing the legal definition. However, as the interviews continued, their views revealed the limitations of the law. For example:

'One of the legal fallacies is that it's about sex when it's about power and gender.' (HR practitioner E)

'What is missing from the law is how these behaviours are plugged into the positions of power that people occupy and that it may not be explicitly sexual but still hugely gendered and misogynistic.' (TU representative B)

Some participants linked sexual harassment to general bullying and harassment, but delivered in a particularly gendered way. This is not new; bullying has been identified as a gendered phenomenon.¹⁰ However, in this respect, the law is limited because, while sexual harassment has clear legal redress, bullying and harassment does not in the same way. For example:

'Where a powerful man is bullying and creating a framework of coercive control over a female colleague, and there's no way they'd have done it to a man, it's based on gender and power. The way they think of that individual is like domestic abuse.' (TU representative A)

Several interviewees described sexual harassment as part of a continuum of behaviours, with some of them seen to be somehow less important. Some research has introduced the notion of a 'severity index', with lower-grade behaviour at one end – which is not really perceived to be proper sexual harassment – and higher-grade behaviour (like physical assault) at the other end.¹¹ Our interviewees reported various behaviours, which they believed ranged from the 'less severe' (that is, usually less physical), often not perceived to be serious enough to count as 'proper' sexual harassment. Our participants reported the following range of behaviours, starting with the less serious to the more serious:

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- gendered exclusion tactics (for example, a male not allowing a female colleague a key to their shared office)
- a male manager's abuse of fractional contracts (he expected the part-time female academic to continue to teach on a module even though she would not be paid for these hours)
- public gendered insults (for example, 'stop behaving like a little girl')
- sexualised 'banter' (to a woman academic with large breasts from male colleagues, for example, when she passed by them: 'can you fit between those chairs?')
- specifically sexual 'banter' (from a very senior male manager on the telephone to a female PA: 'I want to feel your high heels on my back')
- touching, groping and assault of a female academic in a lift at a conference
- sending hundreds of emails and stalking on social media for years (with inappropriate comments, such as: 'you look nice in this photograph' or 'I saw you having coffee with JK yesterday').

For most of our participants, the interview gave them an opportunity to reflect, in far more depth, than they had ever done previously, about this notion of severity and a range of behaviours. As one very senior HR practitioner concluded, '*I just didn't want to see it at the time or for a very long time afterwards.*'

The reluctance to report sexual harassment

Our respondents reported that employees who wish to complain about sexual harassment are usually silenced – this has been termed as 'reluctant acquiescence'.¹² Our research supported their view that other, third-party actors (HR practitioners, line managers and colleagues) can be complicit in securing this reluctant acquiescence from 'victims'. There were many reasons given for this 'reluctant acquiescence'.

First, the opaque and contested nature of sexual harassment: as identified earlier, there are very different perceptions of what constitutes sexual harassment and the perceived 'severity' of each experience. This prevents some employees from complaining about what has happened to them, as they are not confident that it is 'serious enough'. Similarly, colleagues and line managers indicated reluctance to bear witness, as it might not be 'real' sexual harassment. For example:

'I thought I sounded stupid to say, "I feel uncomfortable when we meet." It was easier to pretend it's not happening. [Although as time passes], it goes on so long you accept it as normal.' (Woman employee B)

Discussing how she would be perceived if she reported her experience of sexual harassment:

'She's a troublemaker, she can't take a joke.' (Woman employee C)

'I told my young PA to "button up, Frank's coming in today." I should have protected her, but I didn't want to see it [at the time].' (Woman line manager B)

Second, the power of the perpetrators and the complicity of third parties: sexual harassment is often about power and hierarchy. Most organisations reflect vertical and horizontal segregation on gendered lines, which means that men dominate positions of power and belong to powerful (but often invisible) networks. Most 'victims' are women, who dominate the lower rungs and occupations of any organisation, and generally do not belong to powerful networks. Consequently, it is usually very difficult and risky for the 'victim' to challenge powerful perpetrators and their potential supporters. It can even be difficult for male colleagues to challenge male sexual harassers, as it may be risky to betray the 'boys' club'. For example:

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'Everyone knows this senior man who creates a hostile environment for women, but even if you had video evidence [of him], there would be a quiet exit route found for him [by senior male colleagues]. Life for the accusers would be tough and that's the reality.' (TU representative D)

Discussing how complaints of sexual harassment against a senior male manager were rebuffed and ultimately silenced: *'The senior management team acted as a cheerleader for him'* (HR practitioner E)

Discussing why she believed her complaint about a male colleague went no further than her line manager, to whom she had complained: *'My manager didn't act, but then [he was in a compromised position as] he was having an affair with his student at the time.'* (Woman employee B)

'It's easier to challenge [sexual harassment] as a union rep and much less so as a male colleague.' (TU representative F)

Third, the perceived effectiveness of HR, the grievance process and the (mis)use of NDAs (non-disclosure agreements): our participants displayed a lack of confidence in HR and the usefulness of organisational processes (such as grievance procedures) to challenge sexual harassment. Third-party actors were viewed as complicit in securing the 'reluctant acquiescence' of 'victims'. HR was seen as lacking power, on the 'side' of the organisation and unwilling to be transparent about such cases. For example:

'There was an HR woman there [in the grievance hearing about sexual harassment] who just smiled a lot ... People [accused of, or victims of, sexual harassment] disappear under the cloak of night, it's a culture of confidentiality and secrecy.' (This was reference to the use of NDAs to exit people.) (Woman employee A)

'My grievance was demoralising, HR were not powerful enough and were more concerned about [protecting] the organisation than me.' (Woman employee C)

In interviews with HR practitioners, they reported not feeling powerful enough themselves. For example:

'I was not powerful enough to call out this monster; there was an old boys' network on the board and all of them supported him.' (HR practitioner B)

HR practitioners were reluctant to analyse sexual harassment in terms of the gendered nature of organisational power and culture. They preferred discussing it with regard to different personality types or individual aberrations. For example:

'It's just about different personalities.' 'It's just Frank.' And: *'He's just a pathetic old man.'* (HR practitioner A)

Perceptions of lack of power and legitimacy, from within and outside, of the HR profession is not new research. This theme has endured for decades in the academic HR literature.¹³ Discussed less often is the irony of a female-dominated profession, urged to speak the 'language of the business' in order to gain power.¹⁴ Ultimately, this requires HR women to challenge the performances of hegemonic masculinity, which can underpin the so-called 'language of the business' often deployed in (largely) patriarchal organisations.

The implications for practice

There are many implications for organisations that arise from this research. We have built upon the work of McDonald et al¹⁵ and categorised them under three separate headings, related to prevention and response.

Prevention (policy and training)

Organisational policies must clarify what is meant by sexual harassment and this must include a broader conceptualisation of the term than is currently contained in the legal definition. It should encompass gender-based harassment, which communicates hostility that is devoid of sexual interest.¹⁶ These understandings are best developed in the organisation via a consultative approach, where harassment is constructed as a community concern. Employers must publish their sexual harassment policy in an accessible part of their external website and ensure that all current and potential employees are aware of the commitment to preventing sexual harassment. It must be visible throughout the organisation with a clear statement that sexual harassment will be punished. Inevitably, this policy must be supported by training, which is developed from an assessment of the particular organisation, including identifying risk factors such as women's role and status in the organisation. It should raise awareness and clarify misconceptions about what constitutes sexual harassment. Training for managers must include conflict management, with a focus on emotional skills, enabling them to avoid being defensive or denying the legitimacy of complaints.

Prevention (challenging gendered organisational cultures)

The relationship between sexual harassment and the gendered nature of organisational power, while acknowledged in the academic literature,¹⁷ is often absent in practitioner guidance. We argue that organisations must tackle the gendered organisational cultures that support this kind of behaviour if they are to make progress. The existence of large gender pay gaps, disproportionately few women in senior roles, women ghettoised in low-paid, (perceived to be) low-skilled jobs and the dominance (yet invisibility) of performances of particular forms of masculinity will always undermine efforts to challenge sexual harassment. Organisations need to accept that promoting gender equality is an essential part of combatting sexual harassment.

Response

Our research identified the grievance procedure as the most common mechanism for complaint. Yet they found it less than adequate, with employees and union representatives feeling it was unlikely to support the 'victim' and more likely to protect employers from liability. Of course, in many cases, the complaint did not even reach a formal grievance, such was the lack of confidence in any successful outcome.

Organisations need to ensure that there are multiple, anonymous reporting channels including online platforms. There needs to be timely and appropriate management response that takes complaints seriously. Employees need to know that sanctions are applied and that cases are not 'cloaked in secrecy' with an abuse of NDAs. NDAs have been used in many high-profile cases (for example, Harvey Weinstein, Presidents Club, Sir Philip Green). They are the subject of a current investigation by the Women and Equalities Select Committee.¹⁸ The law on NDAs and confidentiality clauses in settlement agreements is complex, but employers should not use them to silence the victim or protect the perpetrator.¹⁹ What our research has made clear is that there is too much secrecy, insufficient record-keeping and a misuse of NDAs in these cases. Organisations must be transparent about how they have dealt with cases and what will happen in the future.

Conclusions

The conceptual framing of sexual harassment as an individual problem of 'different personalities' (a bogeyman and a victim), rather than one with causes and consequences at a systemic level, has limited effective responses. Our research reveals that there is confusion about what sexual harassment encompasses or what actions are deemed 'severe enough' to warrant a complaint that will be taken seriously. This includes behaviour that, while not directly sexual, is obviously gendered, and is undermining and damaging.

Sexual harassment is about power imbalances in the employment relationship and in society. The gendered organisational hierarchies and cultures that facilitate coercion and exploitation are central to a meaningful understanding of sexual harassment, but attention to them is often absent in the strategies of practitioners. The CIPD has a crucial role to play. It can put pressure on governments to strengthen the law on sexual harassment and it can empower HR professionals to challenge this behaviour more robustly and bravely. Recent publications such as the *Manifesto for Work* (2017) and *From Best to Good Practice HR* (2015) indicate a shift in the CIPD's more gender-neutral and unitarist analysis of the employment relationship.²⁰ This may indicate a move away from 'speaking the language of the (often patriarchal) business' and a drive to craft a new language that is underpinned by more diverse sources of power and higher levels of ethical and professional behaviour.

Notes

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