



Preventing harassment of crew by the public Employer duties from 30 October 2026

The third-party harassment rule and ‘all reasonable steps’ for event operations in Great Britain

OTAS Insight WF-001 | All levels: Operational • Tactical • Strategic

Correct as of 20 October 2026 | England, Scotland and Wales | Not legal advice | otas.live/insights/



The short version: what changes on 30 October 2026

Third-party harassment

Liable for the public

- An employer can be liable when a third party harasses its employee at work
- Third party: audiences, guests, client staff, artists, suppliers, contractors
- Covers all harassment under s.26, not only sexual
- No 'three strikes': no earlier incidents needed

Sexual harassment duty

Every reasonable step

- The s.40A duty has applied since 26 October 2024
- From 30 October 2026: 'all reasonable steps'
- Every step that is reasonable for you, not just some
- EHRC can enforce it; tribunals can add up to 25% to compensation in a successful sexual harassment claim

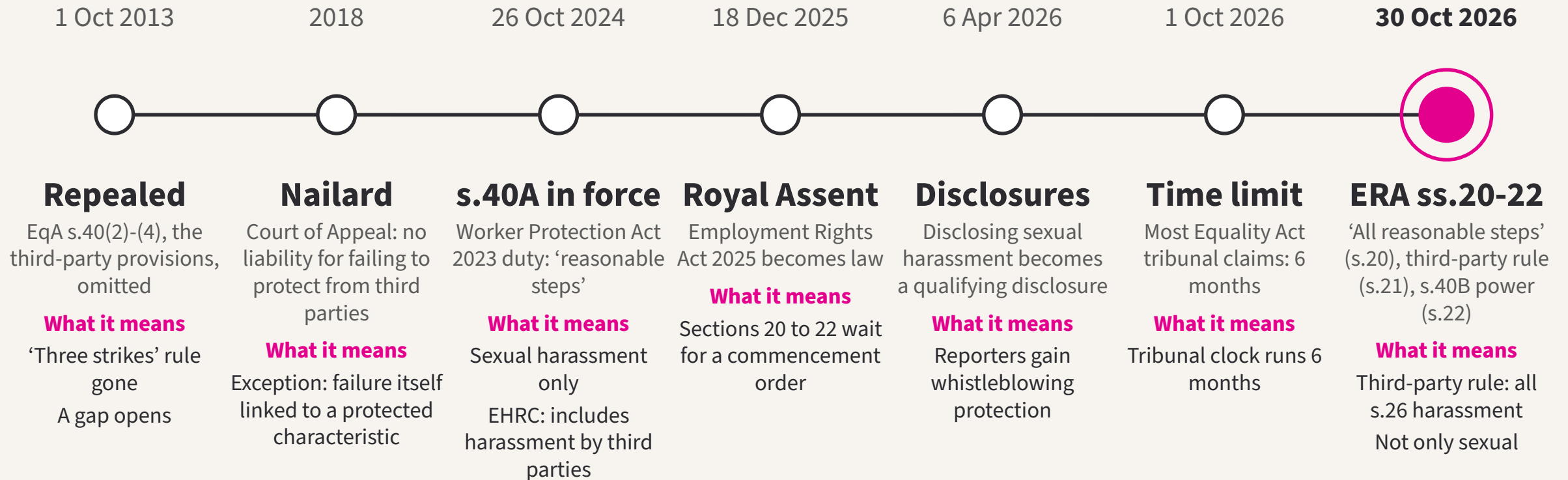
Your defence

Prevention, with records

- Not liable just because a member of the public behaved badly
- The test: did you take all reasonable steps to prevent it?
- Keep the evidence: a step you cannot show is hard to rely on

England, Scotland and Wales only, not Northern Ireland. General information, not legal advice.

What changed and when: 2013 to 30 October 2026



Next: regulations under s.40B on what counts as 'reasonable steps' are expected in 2027/28, after consultation. Conduct before 30 October 2026 is judged under the law at the time.

Who is protected: employees, in the wide sense

01 • Covered

Employees

A contract of employment or apprenticeship, or a contract personally to do the work (s.83)

Wider than employment status for unfair dismissal

02 • Often covered

Casual and agency crew

Many casual and agency-supplied crew who must do the work themselves are covered

Doing the work personally is the key

03 • Depends on the facts

Freelancers

Indicators: doing the work personally, control and integration. A 'self-employed' label does not settle it

Real right to send a substitute: less likely covered

04 • The employer's duty

Supplied crew

If you supply stewards or bar staff to a client, you are likely the one who must take the steps

Whether the client is liable as principal (s.41) is not clear

05 • Not tested in the courts

Volunteers

EHRC: not protected under the work provisions, but may be under the services provisions

Good practice: give volunteers the same protections

06 • Our view, untested

Travel and hotels

'In the course of employment' is wide. We read it as the site, travel and employer-arranged hotels

No tribunal has ruled on this under the new rule

Know your crew: list who is engaged on what basis, and note any crew under 18. The new rule protects employees, not job applicants.

Third parties: anyone who is not you or your staff

- **Who counts** Anyone other than the employer and its employees: audience members, guests, client staff, artists and their teams, VIPs, suppliers and contractors.
- **In person or online** Acas says a third party “could harass someone online or in-person”.
- **All harassment, not only sexual** Conduct related to age, disability, gender reassignment, race, religion or belief, sex or sexual orientation, as well as sexual harassment.
- **Not covered** Pregnancy and maternity, and marriage and civil partnership, are outside the harassment provisions.
- **No ‘three strikes’** No earlier incidents are needed, and the employer need not have known the person before.
- **The test** It happened in the course of work, and the employer failed to take all reasonable steps to prevent it. Trivial conduct will not meet the test.

Where it shows up at events

Bars and front of house many people drinking, less chance to identify the person later

Ingress and egress queues, ejections, crew tired or waiting alone

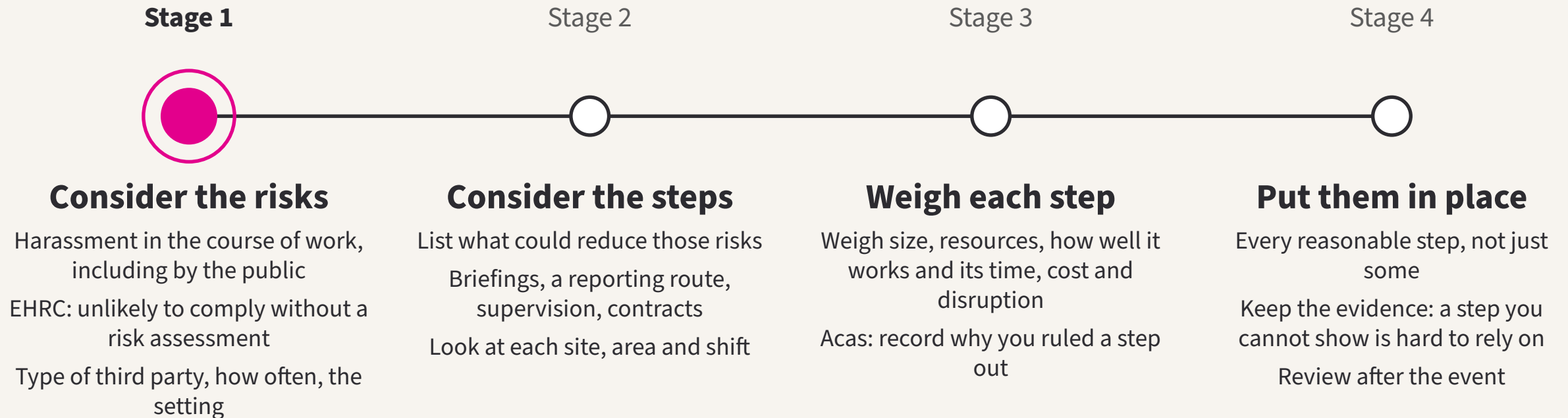
Artist liaison and backstage power imbalance, pressure not to complain

Hospitality and hotels after-show events can count as work

The gap it closes

Third-party rules left the Act in 2013. From 30 October 2026 they are back, in a wider form.

All reasonable steps: 4 stages, each recorded



The test: all reasonable steps are taken when “there are no further steps that they could reasonably have been expected to take” (EHRC).

Risks: tribunal claims, a 25% uplift and EHRC action

25%

can be added to compensation where the employer also breached the s.40A duty. Whether it applies when the harasser is a third party is untested.

Tribunal claims. An employee can claim for a breach of s.40, including the new third-party rule.

6-month time limit. From 1 October 2026, starting with the date of the act. Acas early conciliation comes first for most claims.

EHRC enforcement. Investigations, unlawful act notices, agreements and injunctions, even without an incident.

Victimisation. A crew member who reports a guest must not lose shifts for it.

The uplift needs a s.40 claim that involved sexual harassment. A breach of s.40A cannot be claimed on its own.

Operational: what crew on the ground can do

- **Know what is not acceptable** Harassment by a guest, a client's staff, an artist's team or another contractor is reportable, sexual or not.
- **Know the route** The named supervisor, the radio call sign or code word and the post-shift form.
- **Step away, then report** Tell your supervisor or event control as soon as it is safe. You do not have to deal with it yourself.
- **Note the facts** Time, place, what happened, what the person looked like, any witnesses.
- **Do not physically intervene** Removing a guest is for trained security staff under the venue's policy.
- **Ask for support** You can ask to move post, take a break or have someone with you at egress.

Whose duty it is

Crew are not responsible for the duty; the employer is.

What support to expect

- Taken seriously
- Moved from the post if needed
- Kept informed about what was done
- Not treated worse for reporting
- Not resolved? Raise it in writing; Acas gives free, confidential advice

In danger? Use the site emergency procedure and call the emergency services.

Tactical: what managers and supervisors put in place

01

Brief every shift

2 points: what behaviour is not acceptable, and exactly how to report it

Keep: briefing sheet, date, time, attendees

02

A route that works on site

A named supervisor per area, a radio call sign or code word, a post-shift form and a no-radio route

Keep: route on the briefing sheet and passes

03

Train supervisors

How to listen, move a crew member, call security and record it. Acas suggests de-escalation

Keep: training record

04

Staff high-risk posts

Where the risk assessment shows it, pair crew at busy bars and late egress points. Plan relief

Keep: staffing plan, sign-in sheets

05

Log and act on each report

Log time, what was seen, what was decided and who was told. Act, then tell the reporter

Keep: log and outcome note

06

Review and protect

Spot hot spots in the debrief and change the plan. No lost shifts or worse posts for reporting

Keep: debrief notes, rota records

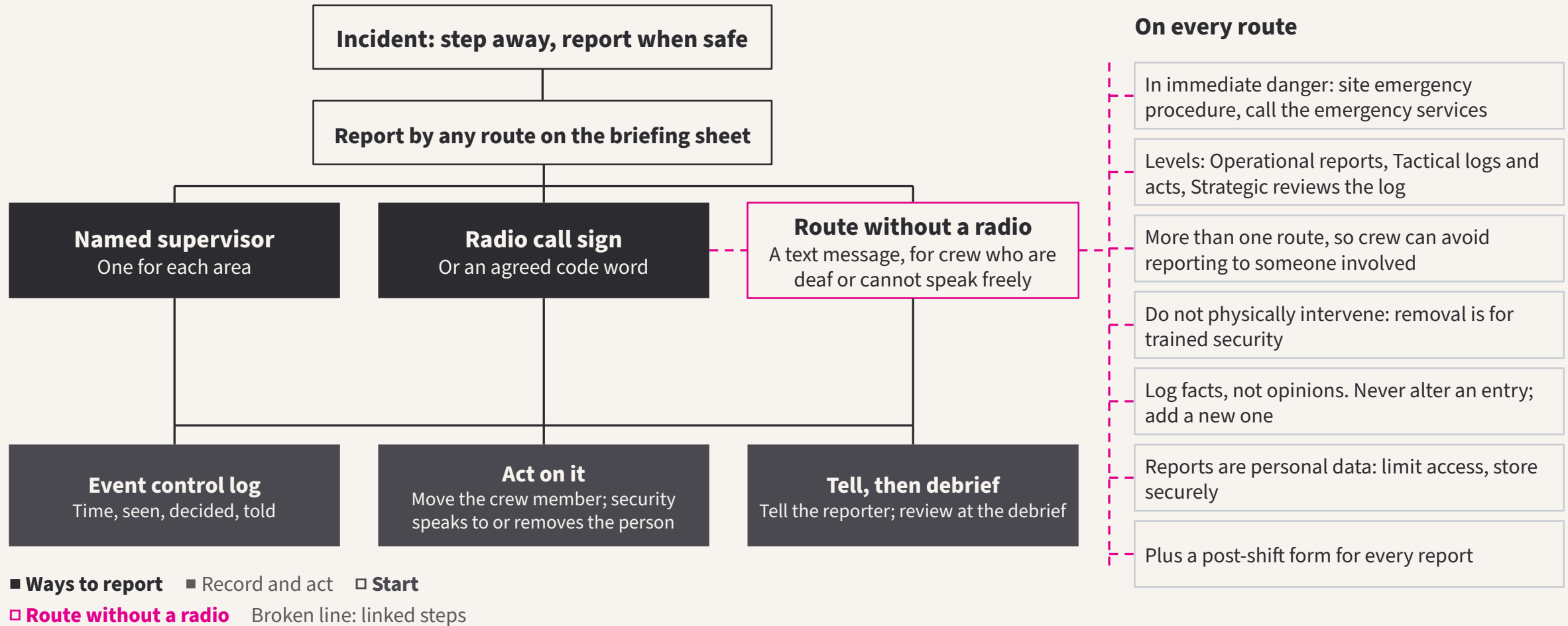
Three levels: Operational for crew on the ground, Tactical for managers and supervisors, Strategic for owners and directors.

Strategic: what owners and directors decide, fund and check

Step	What it looks like	Evidence to keep
Name an owner	One senior person accountable for harassment prevention, reporting to leadership at least each season	Board or leadership minutes
Assess the risk	Harassment by the public in each event risk assessment: late finishes, VIP and artist areas, lone working, queues, ejections	Risk assessment, version and date
Update the policy	Cover third parties and all the relevant protected characteristics; say crew will be supported	Policy with version, date and how it was shared
Tell the public and clients	Customer terms, ticket terms, signs or screens: harassment of staff is not tolerated	Copies of terms, signs, emails
Write it into contracts	Who handles abusive guests, how reports are shared, when crew can be withdrawn from a post	Signed contract or written agreement
Know your crew	Who is on each crew, and on what basis; note any under 18	Crew list
Resource it, check it works	Budget supervision, security, radios and welfare. Review the log; ask crew if they trust the route	Budget, staffing plan, review notes
Handle data lawfully	Keep reports secure, limit access, set a retention period	Data protection notes, retention schedule

Not a legal standard or a complete list: what is reasonable for a large festival operator differs from a small crewing company.

The reporting route: more than one way in, one log



Example log entries and the post-shift form are in the full report, section 7.3.

What we don't know yet: 6 open points

01 • Not made

s.40B regulations

Rules on which steps count as reasonable.

Expected 2027/28, after consultation

Now: follow the EHRC 4 stages; keep records

02 • In progress

Updated EHRC guidance

The EHRC says it is working on it

Now: use the current version; read paras 3.22, 3.45, 3.65-3.68 as out of date

03 • No ruling

Uplift in third-party cases

s.124A refers to s.40, which now includes the third-party rule

Now: assume the 25% uplift may apply

04 • Depends on the facts

Freelancers, supplied crew

Freelancer status turns on the facts. Whether a client is liable as principal (s.41) is unclear

Now: list crew by basis; set the split in contracts

05 • Untested

Volunteers

The EHRC says protection for volunteers has not been tested in the courts

Now: protect volunteers in the same way

06 • Untested

Online and performance

How far work reaches online is untested; no ruling yet on performance content

Now: cover event-linked online abuse; agree conduct with artist teams

Open on 20 October 2026. There is no case law on the new rule yet, so keep a clear record of the steps you take.



Supporting Events
and Professionals
at every stage

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Do your shift briefings, reporting routes and contracts cover harassment of crew by the public?

Request a call with OTAS to discuss how we can help

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Key sources: Employment Rights Act 2025 ss.20-22; SI 2026/1065; Equality Act 2010 ss.26, 40, 40A, 124A; EHRC technical guidance; Acas; DBT factsheets

Spotted an error? Tell us and we will correct it.

General information, not legal advice. Correct as of 20 October 2026. England, Scotland and Wales only.

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Briefing card • about 1 minute

“Before we start: harassment of any of you by the public, guests, clients, artists’ teams or other contractors is not acceptable here. That includes sexual comments or touching, and abuse about your age, disability, race, religion, sex, sexual orientation or because you are trans.

If it happens, step away if you can. Then tell your supervisor or event control as soon as it is safe.

Supervisor: _____ **Call sign:** _____

Code word: _____ **Form at:** _____

Do not try to remove anyone yourself. Security will deal with that. You will be supported, you can ask to move post and nobody loses shifts for reporting. Any questions?”

Read at every pre-shift briefing. Fill in the blanks first.

Before your next show: the checklist, by level

Operational know the route and the 2 briefing points; report each incident as soon as it is safe, with the facts.

Tactical set the route for each site; brief every shift; train supervisors; support high-risk posts; log, review and protect reporters.

Strategic name an owner; risk assess; update the policy and terms; raise contract points; list crew basis; set data rules; review each season.