



# **Bectu guide to dealing with sexual harassment for creative industry workers**

June 2024

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# 1. Sexual harassment in the creative industries

From the Saville enquiry to the Me Too movement, and the allegations against high-profile talent like Russell Brand, the scale of sexual harassment in the creative industries has repeatedly been exposed. And while brave reports by survivors and victims have brought about some positive steps to tackle sexual harassment across the industry, there is sadly, still a long way to go.

The reality of work in the creative sector presents complexities in challenging sexual harassment as a largely freelance workforce. Workers are often doing jobs in precarious or informal environments, where long and late hours are often standard, power imbalances are often extreme, and all too often structured by ‘who you know’.

For workers in these situations, there is often no HR department to report to, or a designated welfare officer on site. It can often be very difficult to navigate even where there are these structures in place, for example, where there is an interlacing of responsibility between commissioners and broadcasters. There is often little trust in official reporting lines, and freelancers may fear losing work or being ‘blacklisted’ if they call out bad behaviour, especially from someone more senior or influential.

Tackling sexual harassment in the creative sector will take big cultural shifts as well as the enforcement of robust standards and investment in policies, procedures and accountability. All the same, there have been some encouraging steps across the industry to take action. Among these building blocks are the BFI’s set of principles, the Film and TV Charity’s ‘Listen, Acknowledge, Act’ resources and the work of Times Up UK. The formation of The Creative Industries Independent Standards Authority (CIISA) as a single point of advice, support, dispute resolution and investigation for the industry, is strongly welcomed by Bectu as another key step to progress.

Bectu and Prospect are now launching our sexual harassment support service to add another resource in the fight against sexual harassment. If you are being sexually harassed or working in an environment that makes you feel uncomfortable, the union is here to support you.

## 2. Using this guide

Everyone, regardless of whether they are an employee, a freelancer, a worker, or self-employed is protected by the law against harassment, abuse and discrimination. And every employer has a duty of care to ensure that the workplace is a safe and respectful environment.

Sexual harassment is never acceptable and should never be tolerated. Organisations and employers that get that right from the start will have the foundations in place to address problems when they do occur. Challenging work cultures that allow sexual harassment requires clear action from the employer to stop unwanted behaviours when incidents are reported.

All the same, this often relies on action from victims and survivors of sexual harassment, including witnesses, who may suffer damage to their mental and physical health, which can impact their ability to engage with professional duties. The greater the perception of institutional tolerance, the greater the impact on individuals.

Freelancers across the creative industries can be particularly vulnerable because there is generally less support available for them than for full-time employees, and reporting processes can be less clear. Power imbalances can be particularly prevalent in the creative industries, where high-profile talent and young and/or junior workers often work together, and finding and keeping work often depends on 'who you know'.

**Bectu is here to support you to understand and exercise your rights, regardless of your employment status.**

Bectu has an important role to play in helping create and sustain respectful workplaces. We work with employers to agree and embed policies that set clear boundaries for appropriate workplace behaviours, and the appropriate procedures that should be implemented when those standards are not met. We support and represent members when a case of sexual harassment at work is reported, and we help create organisations that reflect the culture we want to see in the workplace and in the wider creative industries.

This is intended to be a practical workplace guide, broken up into the following sections:

- What is sexual harassment?
- What does the law say?
- What you should do if you are sexually harassed
- Making a complaint of sexual harassment
- Seeking union support
- What resources are available

The union is here to support you. This guide will help you understand your options for what to do next if you are experiencing any form of sexual harassment.

## 3. What is sexual harassment?

3.1 Sexual harassment is unwanted behaviour of a sexual nature. This can take many forms, including, but not limited to:

- Verbal abuse, sexist 'jokes', innuendo, patronising or inappropriate remarks.
- Comments about a person's body or appearance.
- Unwanted physical contact, physical threats or assault.
- Threatening language or behaviours.
- Leering, lewd gestures, pestering or spying.
- Circulation or display of pornographic material on any platform including social networks.

Some forms of sexual harassment are less 'obviously' recognisable than others.

Whatever you have experienced, if you feel you are being sexually harassed, or have been sexually harassed, please seek support.

It does not matter how much time has passed, you have a right to seek support when you are ready. The only time limitation is if you wish to take your case to an employment tribunal. It is a good idea to keep a record even if you don't feel ready to report the harassment you are experiencing.

- Bullying that demeans or belittles someone in the workplace or at social events.

3.2 You may be the direct target, or you may work in a place where sexist attitudes make you feel uncomfortable. Whether the behaviour was intended or not, none of these behaviours are acceptable.

3.3 Sexual harassment is often considered largely in terms of unwanted sexual advances or sexual coercion, however many cases involve hostile sexist attitudes, with or without sexual advances.

3.4 If you recognise any of these behaviours then you have experienced

sexual harassment. Workplaces that tolerate unwelcome attitudes of this type create an atmosphere that encourages sexual harassment. This fosters a hostile working environment that undermines people and can lead to serious incidents.

3.5 Our union believes in a zero-tolerance approach to all forms of sexist hostility in the workplace. We will not hesitate to call out organisations that do not take the steps needed to stamp out unacceptable behaviours.

## 4. What does the law say?

**Whatever your employment circumstances, be that as a freelancer, self-employed, on a fixed-term contract or as an employee, you have the right to work free from harassment, abuse and discrimination.**

Reporting mechanisms and workplace policies for sexual harassment may be non-existent or more opaque for freelancers. **Know that you are protected by law whatever your employment status.** The Equality Act protects not only people in traditional employer-employee relationships, but also those 'personally contracted' to do the work. This includes self-employed contract workers and most freelancers.

However, if you are employed by your own Ltd company, your protection is determined through quite a complicated part of the law, which isn't always clear, so it may be worth seeking legal advice.

### Equality Act

4.1 The Equality Act 2010 outlaws sexual harassment at work. While the Equality Act does not apply in Northern Ireland, the Sex Discrimination (Northern Ireland) Order 1976, provides identical provisions.

Sexual harassment often overlaps with other forms of discrimination, for example against a person's race, gender identity, cultural heritage, religion or disability. The Equality Act protects you from intersecting and overlapping forms of harassment and discrimination.

The law also acknowledges where sexual harassment can also overlap with other offences such as stalking.

4.2 The Equality Act defines sexual harassment as unwanted conduct related to sex, or of a sexual nature, which has the purpose or effect of:

- violating the other's dignity, or
- creating an intimidating, hostile, degrading, humiliating or offensive environment.

4.3 The definition of sexual harassment also expressly includes less favourable treatment because of rejection of, or submission to, unwanted conduct which is of a sexual nature or related to sex.

4.4 In deciding whether harassment has occurred, there does not need to be a deliberate attempt to harass. A tribunal must consider the perception of the person making the complaint but also whether it is reasonable for the conduct to be said to be offensive.

4.5 The employer is legally liable for harmful actions carried out by their employees in the course of employment. This applies whether or not the harassment is done with the employer's knowledge or approval. This concept of vicarious liability means that a worker can bring a claim of harassment against an employer for actions carried out by other employees.

4.6 Harassment can occur at work-related events, such as parties, conferences or other social events. Where an event is organised by the employer or is closely related to work, the employer may be liable should any harassment occur.

4.7 An employer has a statutory defence to a claim if they can show they took all reasonable steps to prevent the harassment occurring. What is reasonable will depend on the size and resources of the employer but we would expect, at minimum, that employers would have clear policies that are implemented and regularly reviewed; training for all staff including ensuring that staff are aware of the relevant policies; clear processes for raising complaints; ensuring that complaints are handled sensitively and effectively.

4.8 The legal protection for workers subjected to harassment by a third party, for example a contractor or an external client, can be complicated. Although the Government repealed specific provisions against third party harassment, an employer may be liable for the actions of third parties, if they fail to take appropriate action to safeguard their workers, so advice should still be sought in these circumstances.

4.9 People can be concerned about raising allegations of harassment because of a fear of victimisation.

4.10 Victimation is when a person is treated unfavourably because of doing a "protected act". A protected act is:

- bringing proceedings under the Equality Act
- giving evidence or information in relation to the Act
- doing anything else under the Act
- alleging that someone has contravened the Act.

**If you're a Bectu member and you're unsure whether a situation you're experiencing classifies as sexual harassment, please speak to your local representative, or contact us.**

Bectu and Prospect have a specialist service for anyone who has experienced or witnessed sexual harassment. If you wish to contact the support service directly, you can do so at [SHSS@prospect.org.uk](mailto:SHSS@prospect.org.uk), fill in our contact form <https://forms.office.com/e/xMdNKSeYWW> or call 0207 902 6647. The helpline is open 9am-5pm Monday to Friday.

4.11 If an individual makes an allegation of harassment in good faith (or provides evidence in support of someone else who has raised allegations under the Act), and they are then subjected to any detriment (such as being isolated, moved to a different role or given worse duties), they may be able to bring a claim of victimisation.

4.12 While there is no time limit on raising cases of sexual harassment informally, with the police, or in raising a formal complaint in most processes, there are strict time limits for bringing a case to an Employment Tribunal. **The rules around this may depend on your worker status, so seek advice from the union.** For employees and workers in most types of cases, including harassment and victimisation claims, the time limit is three months from the act complained of. This time limit can be extended but only in exceptional circumstances where there is good reason that you were unable to make a claim within the time limited period. Therefore, it is important to ensure that advice is sought in good time and that a claim is lodged within the three-month limitation period.

4.13 In all cases the employee should present a grievance in writing to the employer before making a tribunal claim. Failure to do so could result in a reduction of up to 25% of any compensation awarded. The grievance process does not affect the time limits for starting the tribunal process.

4.14 It is mandatory to present a claim to Acas for Early Conciliation (EC) before making the claim to the Employment Tribunal. This must be done before the usual three-month time limit expires. Once the EC application is submitted it has the effect of 'stopping the clock' for the tribunal claim. The rules are complicated so always contact your Bectu negotiator for detailed advice as soon as possible.

### **Other legal claims**

4.15 Harassment is also outlawed by the Protection from Harassment Act 1997. Although this Act was introduced to deal with the problem of stalking, it may also apply to harassment in the workplace.

4.16 This Act covers harassment on any grounds and makes it both a civil and criminal offence. People who have been harassed can seek court orders to restrain the harasser and to claim damages but Bectu would caution that use of this legislation in the workplace is very limited and should only be considered if there is no other remedy. It would normally only apply when it can be shown that the harassment is severe and intentional.

#### **Non-disclosure agreements (NDAs)**

NDAs or confidentiality agreements may be put in place by employers to protect sensitive, commercial or confidential information. But NDAs cannot prevent someone from reporting a crime to the police, or doing anything required by law, such as giving evidence to a court, a tribunal, a regulator or the police. NDAs should not stop someone

4.17 A claim for personal injury may be able to be brought if it can be shown that the claimant has been injured because of the employer's actions or failure to act. The claimant would need to show that the employer's negligence caused the injury to health and that it was reasonably foreseeable that the injury would occur.

#### **Bectu legal assistance**

4.18 Bectu can offer legal advice and assistance, although this is offered at the union's discretion and is decided on the facts and merits of each case. See our Guide to legal advice (see link below) for details of our services and the terms and conditions for advice, or speak to your local rep or full-time official to find out how we can help and advise you.

# What to do if you are being sexually harassed

## Support

Make sure you are practicing self-care, find support from people you trust and get support from the union or specialist services if you need.

## Challenge

If it is safe and you feel comfortable doing so, you can directly challenge the behaviour of your harasser. You can ask a colleague to support you.

## Report

If you want to report sexual harassment to your employer, you have options to do so formally or informally. You can ask to see your contractor or employer's policy to better understand your options.

## Tell someone you trust

Speak to a friend, colleague or speak to the union. Speak about how they can best support you – whether that is just listening or supporting you as a witness.

## Keep a record

Keep a record with details, any witnesses, dates, and times of what you are experiencing and the impact it is having on you as well as any action you take. This is important to provide evidence if you want to report the behaviour and can help you understand what support you need.

It's a good idea to look at your employer's

procedures and policy around sexual harassment to help inform your choices. It might be in a 'code of conduct', 'grievance policy' or 'bullying and harassment policy'.

It is usually a good idea to raise the incident informally as a first step, before raising the problem formally.

Dealing with the issue informally can ensure a quicker resolution. But if you feel this is insufficient, poorly handled, or if you feel things are being swept under the rug, you can then take up a formal procedure.

## Formal Report

Look at your employer's sexual harassment policy or procedure, if they have one. You can then follow this procedure.

If you are a freelancer, check whether this covers you.

The union can help you with this, or you can get legal advice from Rights of Women.

## Informal Report

You can informally share your concerns with a designated staff member, your manager, or a colleague you trust. If you are a freelancer and you are not covered by an employer's formal policy or procedure, or unsure if you are, you can still report to a manager, the person who contracted you, or someone senior who you trust.

You can also speak to the union, one of the support services listed at the end of this guide, or, if you identify as a woman, get legal advice from Rights of Women.

You can refer to ACAS guidance on [informal](#) or [formal](#) complaints to help understand the process

## 5. What you should do if you are being sexually harassed

**5.1 If you feel you are being sexually harassed at work you may be unsure how to stop the unwanted behaviour.** Challenging someone at work can feel daunting, especially if you are a junior member of staff complaining about the actions of a senior colleague or if the harasser is the person who has contracted you. You may not be confident that your complaint will be taken seriously or that you can stop the harassment. You may have direct experience of making a complaint before and it not being properly dealt with. But there are actions that you can take and support you can seek to stop the harassment.

**5.2 Look for support from trusted friends and colleagues.** Harassment is an upsetting experience to deal with. It can leave you feeling vulnerable and isolated. Seeking support from others is an important first step. By talking to someone else you are acknowledging that a problem exists, and it will help you to think through what actions you feel confident to take. If you have witnessed harassment, make sure you are checking in with the target regularly and supporting them to understand their options.

**5.3 Tell your harasser to stop.** If you are feeling uncomfortable with someone's behaviour towards you, and you feel able to, ask the perpetrator to stop. You do not have to justify your complaint, it is enough to state clearly what conduct you want to stop. You may want to talk to a line manager or a union rep before challenging a colleague, it is not always feasible to directly confront your harasser. Seeking support from others will help you to challenge the harasser.

**5.4 Keep records.** Recording incidents, dates, witnesses and any action you have taken will be useful if you decide to make a formal complaint. Your notes can help you to reflect on the actions of others and identify any fellow staff members or colleagues who are supportive.

### Keeping a record

Keeping a written record of what you are experiencing or witnessing can be really important, especially in more precarious or informal environments, so that there is a trail of dated evidence to support you if you want to take your case forward. It can also benefit you to reflect on what you are experiencing and the impact it is having on you.

Take a note of incidents and when they occur, as well as any witnesses, and details about the impact this has on you. You should screenshot or keep records of any harassment through messaging services, email or social media. Also record any actions you take, and it is a good idea to keep a record of your correspondence with the employer about the harassment.

You may choose to keep this as a diary, in notes on your phone or laptop.

If you are considering covertly filming or recording the behaviour of a harasser, there are benefits to having this kind of evidence but you should consider the risks too. You may be breaching your contract or company policy, or another employee or contractor who is recorded might take this up as a breach of trust or privacy. While covert recordings can provide strong evidence of harassment, there are mixed results where covert recordings are used in tribunals, so even if you record the incident, it is not guaranteed you will be able to rely on it as evidence if your case goes to tribunal. You can speak to the union if you want further advice on this.

**5.5 Seek union advice.** Talk to your local union rep, they are there to support you. Bectu and Prospect have a specialist service for anyone who has experienced or witnessed sexual harassment. If you wish to contact the support service directly, you can do so

at [SHSS@prospect.org.uk](mailto:SHSS@prospect.org.uk), via our contact form <https://forms.office.com/e/xMdNKSeYWW> or by calling 0207 902 6647. The helpline is open 9am-5pm Monday to Friday.

They can help you understand your options and link you up with your full time official who can help you to decide what action to take.

**5.6 Talk to your manager or the person who contracted you.** Many workplaces have a formal policy on dealing with sexual harassment. Making your manager or employer aware of the problem will activate this policy, which could lead to a resolution of the problem. If you are not comfortable making a complaint to your direct line manager, you do not have a direct line manager or are unsure of the procedure for reporting harassment, seek out other senior staff or someone you trust. If there is an HR department, they may have a designated manager who deals with sexual harassment complaints, or there may be a confidential helpline at work.

**5.7 Make a formal complaint** If you can't resolve the problem yourself, or the actions from management appear to be going nowhere, you can raise the matter formally. It is a good idea to look up your employer's grievance procedures and any policies that deal directly with sexual harassment. You can also see [what a grievance process looks like here](#). Your union can support you through this process.

**5.8 Serious sexual assault** If you've been sexually assaulted there are specialist helplines that you can call for support and advice, listed at the end of this resource. They can help talk through your options. If you choose to tell your employer, they should talk to you about whether you want to report the assault to the police. If you do not want to tell the police, you do not have to.

#### **Reporting sexual harassment in informal or precarious environments**

For freelancers and contractors, the processes for reporting sexual harassment can be more challenging than in traditional employer-employee relationships. It may not be clear who your line manager is, or if you have one, or there may be little to no formal structure or access to a human resources department. However, the employer has the same responsibilities to protect you from harassment and discrimination.

In the first instance, if you can, you should approach your line manager or the person who contracted you, but if that's not possible or you don't feel comfortable, you can approach someone else who works for the company and who you feel comfortable talking to. There may be informal steps they can take to ensure the reporting party has little or no contact with the accused harasser.

Know that you are not alone. You can also find support externally, through a specialist organisation, through the union, or through Acas.

Prioritise your safety, but don't try to handle it alone. Find support from specialist organisations and the union, talk to friends and family, and put your own wellbeing first.

## **6. Making a complaint of sexual harassment**

6.1 If you are being sexually harassed you may not be sure whether you want to make a formal complaint, or may be unclear of the process. If you have a line manager, another senior member of staff you trust, or someone who contracted you, speak to them as they may be able to advise you on whether the matter could be resolved informally or dealt with as a formal complaint.

6.2 If after raising a complaint, the matter is not being dealt with to your satisfaction, or you feel that the harassment is too serious to be dealt with informally, you can make a formal

complaint. Whether you are an employee or a freelancer, your employer may have specific policies and procedures for handling sexual harassment complaints. If so, and if you are a freelancer you are covered by the policy, you should follow that policy and procedure to make your complaint.

6.3 The policy should tell you who to send your complaint to and how it will be dealt with. Like any complaint a manager will be assigned to investigate when a complaint is made, so you should note down any relevant information about the harassment. You might also want to tell your union rep so they can support you in making a complaint.

6.4 If your complaint leads to a hearing, your employer must allow you to be accompanied at the hearing, if you make a reasonable request. This would usually be someone you work with or a trade union representative.

6.5 When the procedure has been completed the employer should decide on the outcome and any actions that need to be taken to resolve the complaint. Your employer needs to ensure that you are not victimised for making a complaint by taking steps to protect the person who's made a sexual harassment complaint, as well as other staff.

6.6 If you are a freelancer and you find you are not covered by an employer's policy or procedure, you can still make a complaint to your line manager, person who commissioned you or a senior member of staff and check with them what the procedure is. Again, the union is here to support you so you may want to call for support and advice. Note, if you are working on a BFI production, harassment policies and procedures should cover visitors, full or part-time employed staff, workers or freelancers, 'talent' or production third parties.

6.7 If you are not satisfied with the outcome, you may wish to appeal or take formal legal action. You will need support to guide you through this process. The union can offer advice and help you decide on the best course of action. It is important to note that there are strict time limits for submitting a legal claim (see above).

### **Social media and whistleblowing**

In the wake of sexual harassment and assault allegations against Harvey Weinstein, #MeToo saw millions of women post on social media about their experiences of sexual harassment. While it can be a powerful thing to share your story and find solidarity with others online if you have experienced sexual harassment, there are some things to consider before posting, especially if you do not intend to do so anonymously and wish to name your harasser. There is a chance that it may have unintended consequences, for example, undermining ongoing legal proceedings or putting you at risk, for example of a breach of confidentiality or defamation if your case is not upheld.

There is often a cross-over between reporting sexual harassment and whistleblowing. In the UK, in order for a whistleblowing concern to be protected, an individual first has to raise their concern by making a disclosure. Whistleblowing disclosures must also have a 'public interest', broadly meaning that the disclosure is not just relating to one person.

The reality is complex, and the consequences can depend on the situation and context. If you are thinking about posting about sexual harassment online, it may be worth seeking legal advice first.

## **7. Seeking union support**

7.1 Your union can play a valuable role in resolving a matter of sexual harassment. Local reps can often help guide you through the process and support you during a hearing. The union centrally provides expert legal advice, and our full-time officers can pursue a claim against an employer up to an employment tribunal if the matter has not been properly dealt with.

7.2 The perpetrator of sexual harassment may be a member of Bectu or another union and so may seek union representation if they are facing disciplinary action. Where the union does represent someone that is accused of sexual harassment the matter will be dealt with in a way that respects the confidentiality of all those involved and does not conflict with the rights of those seeking union support.

7.3 A harasser may not know, understand or be willing to accept that their actions are offensive. The union's role is to ensure that the procedures are followed and that if a complaint is upheld any disciplinary action taken is appropriate.

7.4 The union is sensitive to the fact that the accused may be better placed to seek greater support from the union. Full-time officers will arrange appropriate representation for victims and survivors of harassment where union support is requested and ensure that confidential information is not inadvertently shared by representatives on different sides of the case.

### **What to do as a witness**

If you have seen someone else being sexually harassed, there are several things you can do to challenge the behaviour and support the person being harassed.

If you feel it is safe to do so, you should step in and try to stop it from happening. That could be simply distracting what's happening by talking to the person being harassed about something different, or saying directly to the harasser that you are finding their behaviour uncomfortable, not funny, or inappropriate. You should always be mindful not to ignore the victim or make the situation more uncomfortable for them.

After the incident has happened, you can also support a complaint being made by the person who is being harassed by making a statement or providing evidence, report on what you have witnessed, or making a sexual harassment complaint yourself. If you are making a complaint yourself, you should get permission from the person who was being harassed first.

Keeping a record of dates, times and details of what you are witnessing is a useful thing to do in case the person being harassed needs supporting evidence from you.

## **8. More information and support**

Bectu and Prospect have a specialist service for anyone who has experienced or witnessed sexual harassment. If you wish to contact the support service directly, you can do so at [SHSS@prospect.org.uk](mailto:SHSS@prospect.org.uk) or by calling 0207 902 6647. The helpline is open 9am-5pm Monday to Friday.

Alternatively, you can call the member contact centre on 0300 600 1878 (Monday to Friday, 8:30am – 6pm) or email [helpdesk@prospect.org.uk](mailto:helpdesk@prospect.org.uk).

Call 999 if you or someone else is in immediate danger.

### **Prospect and Bectu guides**

- Prospect's workplace guide to dealing with sexual harassment <https://union.prospect.org.uk/resource/sexual-harassment-in-the-workplace.html>
- Prospect's guide to legal advice <https://prospect.org.uk/article/guide-to-legal-advice/>
- Members' guide on bullying and harassment in the workplace <https://union.prospect.org.uk/resource/harassment-and-bullying.html>
- Members' guide to equality at work <https://union.prospect.org.uk/resource/members-guide-to-equality-at-work.html>

### **External support**

- Acas: <https://www.acas.org.uk/sexualharassment>

- The Creative Industries Independent Standards Authority: <https://ciisa.org.uk/services/>
- Rape Crisis England and Wales: <https://rapecrisis.org.uk/get-help/want-to-talk/>
- Rape Crisis Scotland: <https://www.rapecrisisscotland.org.uk/contact-support/>
- Rape Crisis Northern Ireland: <https://rapecrisisni.org.uk/get-help-now/>
- Equality Advisory Support Service: <https://www.equalityadvisoryservice.com/app/home>
- Galop – for LGBT+ people: <https://galop.org.uk/get-help/helplines/>
- Hersana – for Black femmes: <https://www.hersana.org/our-services>
- Imkaan provide a list of specialist support services provided by and for Black and Minoritised women: <https://www.imkaan.org.uk/get-help>
- Safeline offer specialist support services for male survivors of sexual abuse and those who support them: <https://safeline.org.uk/services/national-male-helpline/>

**Further guidance:**

- Federation of Scottish Theatre guide: [Harassment in the Performing Arts – guides for freelancers and organisations – Federation of Scottish Theatre](https://www.fest.org.uk/guides-for-freelancers-and-organisations)
- The Creative Industries Independent Standards Authority: <https://ciisa.org.uk/>

**Women who've experienced sexual harassment at work can get free legal advice from:**

- Rights of Women – England and Wales <https://www.rightsofwomen.org.uk/get-advice/sexual-harassment-at-work-law/>
- Scottish Women's Rights Centre  
<https://www.scottishwomensrightscentre.org.uk/services-helpline/>