



Summary

THE EMPLOYER:

Grafters Group Ltd, trading as CSI Catering Services International, a hospitality recruitment agency.

CLAIMANT:

AB, an agency worker assigned to hospitality events.

INCIDENT:

Date: **1 November 2021**

- AB believed she was scheduled to work at Hereford Racecourse. After missing official transport, she posted in a work WhatsApp group seeking a lift.
- A colleague (CD) offered a lift. Instead of taking AB home or to the venue, CD drove her to a golf course and subjected her to sexual harassment (unwanted touching, showing pornographic material, sexually explicit comments).

EMPLOYER RESPONSE:

- AB reported the incident to her manager and the police. CD was arrested but released without charge.
- No internal investigation or disciplinary action was taken.

INITIAL TRIBUNAL DECISION:

- Harassment accepted but employer not liable because CD was off-duty, incident occurred outside workplace, and lift was not employer-arranged.

EAT DECISION AND LEGAL ANALYSIS

Date: 28 August 2025

Judge: HHJ James Tayler

KEY ISSUE:

Whether harassment occurred “in the course of employment” under s.109 Equality Act 2010.

TRIBUNAL ERROR:

Applied an overly narrow interpretation, focusing on employer approval rather than connection to employment.

EAT FINDINGS:

The correct test is whether the conduct had a sufficient nexus to employment, not whether it was authorised.

FACTORS SUPPORTING NEXUS:

AB’s belief she was working that day.

Lift arranged via work-related WhatsApp group.

Previous practice of colleagues giving lifts.

Relied on principles from Chief Constable of Lincolnshire Police v Stubbs: acts outside workplace can be work-related if closely connected.

OUTCOME: APPEAL ALLOWED;

case remitted for reconsideration.

THE LEGAL ISSUE

The dispute revolves around whether the employer (Grafters Group Ltd) can be held **vicariously liable** for sexual harassment committed by an employee under section 109 of the Equality Act 2010, which states:

“Anything done by an employee in the course of employment shall be treated as also done by the employer.”

The challenge lies in interpreting “in the course of employment” when the harassment occurs:

- Outside the workplace (in a car and at a golf course).
- Outside working hours.
- During an activity not formally authorised by the employer.



EFFECTS OF STRESS ON THE EMPLOYEE

The harassment incident likely caused severe psychological and physical stress for AB. Emotionally, she may have experienced anxiety, fear, and loss of trust in both colleagues and the employer, compounded by the lack of an internal investigation. Such stress often leads to depression, low mood, and even post-traumatic stress symptoms like intrusive thoughts and hypervigilance. Physically, prolonged stress can result in sleep disturbances, headaches, fatigue, and other somatic complaints. Professionally, stress can reduce concentration and productivity, increase absenteeism, and potentially force the employee to avoid future assignments or leave the industry, impacting career progression. Socially and financially, isolation and income loss may occur if work hours are reduced or employment ends. These effects highlight the employer’s duty to prevent harassment and support affected employees, as failure to do so can lead to reputational harm and legal risk.

IMPACT ON EMPLOYER – IN BRIEF

- **Legal Risk:** Possible liability under Equality Act 2010 for harassment outside the workplace, leading to compensation claims and legal costs.
- **Compliance Breach:** Failure to investigate and prevent harassment may breach statutory duties.
- **Reputational Damage:** Negative publicity can harm brand image and client confidence.
- **Operational Issues:** Lower employee morale, higher turnover, and recruitment challenges.
- **Financial Impact:** Increased insurance premiums and potential loss of business opportunities.
- **Policy Burden:** Need for stronger anti-harassment policies, training, and monitoring of informal communication channels.



LEGAL FRAMEWORK AND PRECEDENTS

Employer liability for harassment is governed by section 109 of the Equality Act 2010, which provides that anything done by an employee “in the course of employment” is treated as also done by the employer. The interpretation of this phrase has been shaped by case law, emphasising a broad approach to ensure the effectiveness of anti-discrimination legislation.

Application in **AB v Grafters Group Ltd [2025] EAT 126**

The EAT applied these principles to modern work practices, holding that harassment during a car journey arranged via a work-related WhatsApp group could be “in the course of employment”. The decision underscores that employer liability is not limited to physical workplaces or working hours; informal and digitally facilitated arrangements can create a sufficient nexus to employment.

CASES HIGHLIGHTING VICARIOUS LIABILITY

1. Chief Constable of Lincolnshire Police v Stubbs [1999] IRLR 81

- Principle:
- Acts of harassment outside the workplace (e.g., at social events) can still be “in the course of employment” if sufficiently connected to work.
- Relevance:
- The EAT in *AB v Grafters Group Ltd* applied this principle to informal arrangements like car lifts organised via work-related channels.

2. Jones v Tower Boot Co Ltd [1997] ICR 254

- Principle:
- “In the course of employment” should be interpreted broadly to achieve the purpose of anti-discrimination legislation.
- Relevance:
- Reinforces that employer liability is not confined to authorised or formal work activities.

3. Mohamud v WM Morrison Supermarkets plc [2016] UKSC 11

- Principle:
- Vicarious liability can apply where there is a close connection between the employee’s conduct and their employment.
- Relevance:
- Supports the EAT’s reasoning that the nexus between harassment and employment matters more than location or timing.

4. Bellman v Northampton Recruitment Ltd [2018] EWCA Civ 2214

- Principle:
- Employer liability extended to a violent act at a work-related social event because of the connection to employment.
- Relevance:
- Illustrates how informal settings linked to work can trigger liability.

KEY TAKEAWAYS

- Broad interpretation of “in the course of employment”: Liability under Equality Act 2010 extends beyond the physical workplace and working hours.
- Nexus test is decisive: The focus is on whether the harassment was sufficiently connected to employment, not whether the employer authorised the activity.
- Informal arrangements matter: Car lifts arranged via work-related WhatsApp groups or similar channels can create legal exposure.
- Employer approval is not determinative: Lack of formal authorisation does not absolve liability if the connection to work is strong.
- Digital communication channels increase risk: Work-related messaging platforms can facilitate situations that fall within “course of employment”.
- Reinforces existing precedents: Builds on *Stubbs*, *Tower Boot*, and other cases, applying principles to modern informal and hybrid work contexts.
- Compliance implications: Employers must update policies, provide training on off-site conduct and digital behaviour, and strengthen reporting and investigation procedures.
- Strategic risk: Failure to act can lead to legal liability, reputational damage, operational disruption, and breach of the statutory duty to prevent sexual harassment (effective October 2024).

AB v Grafters Group Ltd (t/a CSI Catering Services International) (Sexual Harassment) [2025] EAT 126 (28 August 2025)

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