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Discussion Paper



Innovation-led cultural change: can technology effectively address workplace harassment?

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Abstract: In the post #MeToo era, there has been a global awakening to the pervasive and endemic nature of sexual harassment, accompanied by a realisation of the prevalence of these negative behaviours in the workplace context. However, the limitations associated with traditional reporting methods and the fear of retaliation means many targets choose to remain silent. Trust Tech has been at the forefront of new efforts to facilitate reporting of such incidents. While such technological solutions might assist in driving cultural change, technology is not a panacea and it must be accompanied by strong leadership.

Introduction

In October 2017, the *New York Times* and *New Yorker* published allegations of sexual harassment against film producer Harvey Weinstein. In the days, weeks, months and now years that followed, the #MeToo movement has generated heightened awareness about the prevalence and impact of inappropriate behaviour in the workplaces. This wider discourse has coincided with greater discussion in individual workplaces and at a sectoral level about how to effectively address such misconduct. What steps should employers, and professions, be taking to prevent inappropriate behaviour such as bullying and sexual harassment occurring in the workplace? How can employers, professional associations and regulators encourage targets of this behaviour to speak up? What is best practice for responding to incidents?

No sector has been immune from these discussions. But they have been particularly acute in the legal profession. In 2018, the International Bar Association (IBA) undertook a global survey on the prevalence, nature and impact of inappropriate behaviour in legal workplaces. From a sample of 7,000 respondents across 135 countries, one in two female lawyers and one in three male lawyers said they had been bullied at work or in work-related contexts.¹ One in three female lawyers and one in 14 male lawyers said they had been sexually harassed. In a profession predicated on the highest ethical standards, these findings are damning. In law, the #MeToo movement – and the IBA’s subsequent *Us Too?* report – have precipitated much internal reflection and action in efforts to address the profession’s ‘harassment problem’.

One particularly interesting facet of these discussions has been the emergence of technological solutions, often labelled ‘Trust Tech’. At first glance, this seems unusual – bullying and harassment are fundamentally human problems, how can apps and other high-tech solutions fix personal behaviour? Yet these innovations have proposed a number of ways in which technology can advance efforts to effectively prevent and/or respond to harassment in the workplace.

Trust Tech has been at the forefront of new efforts to facilitate the reporting of incidents. Despite everything #MeToo has done to encourage targets of conduct to speak up, reporting is still extremely rare. The IBA survey found that in 57 per cent of bullying cases and 75 per cent of sexual harassment cases, the incident is never reported. The reasons for this are multiple: from a practical perspective, employees may not know the proper channels for reporting misconduct. Even if they do, they may find these methods difficult and cumbersome, or fear that reporting will lead to retaliation or an adverse reputation. More fundamentally, targets may fear that they will not be believed, or that the incident will not be considered sufficiently serious. Concerns that ‘nothing can, or will be, done’ is

¹ Kieran Pender, *Us Too? Bullying and Sexual Harassment in the Legal Profession* (International Bar Association, May 2019).

another reason why some targets do not report sexual harassment.² A challenge, then, is to seek out ways to encourage victims of sexual harassment to feel comfortable with making initial allegations:³ or better yet, to remove the barriers associated with making initial allegations at all. Technological solutions – such as Whispli, Vault Platform and Talk to Spot – have sought to address these concerns.

As Vault’s website states, ‘75% of workplace misconduct goes unreported, leaving your company and your people exposed. The Vault Platform mobile app helps you capture and resolve more incidents than ever’.⁴

If effective, these innovations could go some way towards addressing the concerns and limitations around traditional reporting methods. However, reporting harassment is just one part of this multifaceted problem. Employers face difficulties creating corporate cultures where employees feel empowered to speak up, regardless of the particular reporting structure. When incidents are reported, organisations have struggled to effectively respond; sexually harassed respondents to the IBA survey who had reported the incidents said that in half of cases, the situation was unchanged or exacerbated following employer intervention. More fundamentally, how should employers be developing capable, emotionally intelligent leaders and managers, and fostering a culture where harassment is not tolerated at any level?

Can technology help? Will Trust Tech facilitate a paradigm shift in the reporting of harassment? Will various technological solutions provide impetus for genuine, widespread and long-lasting cultural change in the legal profession and elsewhere? Will they assist in navigating difficult questions in the workplace and, in so doing, gradually mainstream the reporting pathways? Or are these solutions merely gimmicks that cannot hope to address the underlying, distinctly human causes of bullying and sexual harassment? Are they, to paraphrase a common criticism of overhyped technology, solutions in search of a problem?⁵ This article does not propose to comprehensively answer these difficult and important questions. More modestly, it hopes to contribute to the ongoing conversation about how best to tackle a global issue that affects all workplaces, with a particular focus on technology.

In order to ensure that a wide range of perspectives were ventilated in this analysis, the authors provided an initial draft of this article to half a dozen stakeholders and sought their input. Their views have been integrated throughout.

Situating the discussion

Traditionally, workplaces dealt with harassment using internal reporting – either by an employee filing a written complaint (and as the technology developed, via email) or verbally to a designated person within the organisation, (someone in the Human Resources (HR) department, for example). These methods have a number of shortcomings. Research, including the *Us Too?* report, found

2 Louise F Fitzgerald, Suzanne Swan & Karla Fischer, ‘Why Didn’t She Just Report Him? The Psychological and Legal Implications of Women’s Responses to Sexual Harassment’ (1995) 51 J. Soc Issues 117, 112-23.

3 Ian Ayres and Cait Unkovic, ‘Information Escrows’ (2012) 111 Michigan Law Review 145, 146.

4 See <https://vaultplatform.com> accessed 19 October 2020.

5 Jesse Frederik, ‘Blockchain, the amazing solution for almost nothing’ (*The Correspondent*, August 2020) at <https://thecorrespondent.com/655/blockchain-the-amazing-solution-for-almost-nothing/86649455475-f933fe630> accessed 19 October 2020.

a considerable lack of trust in these traditional reporting mechanisms. They make anonymous reporting hard, if not impossible. In many instances, employees are simply not aware of the designated reporting channel. In some workplaces, these traditional approaches were supplemented more recently by reporting hotlines, operated either externally, internally or via automation. While this method is relatively straightforward and easily accessible; not least because of the more general shift to online operations, it has been beset by similar shortcomings. Additionally, hotlines were originally used to meet the requirements of regulation⁶ and were intended to ‘tick a compliance box’, not necessarily to be accessible or usable. In order to meet the demands that an increased focus on interpersonal misconduct has created, HR has tried to adopt these compliance tools for reporting. This has not always been successful; the end user is a very different type than those embedded within a world of regulation.

According to several stakeholders, a more accessible approach is urgently needed. Furthermore, the efficacy of hotlines, and the capture of all pertinent information, often depends on the skill of the operator. If anonymity is to be preserved, it then becomes impossible to follow up with the complainant, and to get more information from the person who made the report, unless they decide to call again. These reporting challenges compound the broader societal challenges to reporting, so when coupled with the fear of retaliation, many people choose to remain silent.

This lack of reporting has broader ramifications for the issue on a sector-wide basis, because low levels of reporting make it difficult for regulators of regulated professions to address inappropriate workplace behaviour. The development and wider use of technology could change how supervisory authorities implement and enforce regulations. In heavily regulated industries like financial services, an increasing number of regulatory authorities are turning to technology to support their work, leveraging supervisory technology (known as ‘Sup Tech’) applications to digitise reporting and regulatory processes.⁷ Sexual harassment is increasingly becoming a regulatory issue in the legal profession,⁸ and in this space, there is scope to link and align the internal use of technologies in individual workplaces with the external regulatory requirements placed on employers in these professions.

Not only does the lack of reporting mean that regulators are ill-equipped to deal with these issues on a macro level, it also means that stakeholders within organisations – who may be well-placed to initiate positive change – remain blind to the prevalence of inappropriate behaviour. If incidents are not reported, it is easy for management to believe that their organisation either does not have these problems on the scale that national and international research has highlighted, or that the existing methods are dealing sufficiently with any problems that have arisen. The problem is out of sight, and therefore out of mind. In October 2019, Vault Platform surveyed 1,000 HR, legal and compliance professionals working with enterprises in the United Kingdom and the United States.⁹ Tellingly, 19 per cent of respondents believe at least 75 per cent of misconduct in their organisation is reported, and around 12 per cent believe 100 per cent is reported. These numbers suggest that nearly one-fifth

6 For example, the Sarbanes-Oxley Act of 2002 was passed to help protect investors from fraudulent financial reporting by corporations. Section 301 requires audit committees to establish procedures for the receipt, retention and treatment of complaints.

7 Dirk Broeders & Jermy Prenio, ‘Innovative technology in financial supervision (Sup Tech) – the experience of early users’ (2018) 9 Financial Stability Institute of the Bank for International Settlements at www.bis.org/fsi/publ/insights9.pdf accessed 19 October 2020.

8 Kieran Pender et al, *Beyond Us Too? Regulation of Bullying and Sexual Harassment in the Legal Profession* (International Bar Association, forthcoming).

9 *Guardians of Organisational Culture; Separating the vision from the reality of misconduct reporting* (Vault Platform, forthcoming).

of stakeholders surveyed believe that they either do not have any misconduct in their organisation, or a minimal amount that is being captured by existing processes. This is in conflict with data from the US Equal Employment Opportunity Commission, which found that employees report less than 25 per cent of harassment and misconduct that they witness and experience.¹⁰

It seems that a considerable amount of lip service is being paid to addressing inappropriate workplace conduct, and that organisations make use of outdated methods as more of a ‘tick box’ approach, than as genuine efforts to tackle these challenges. Organisations are able to point to their hotline or a reporting process, if ever they have to explain how they are confronting sexual harassment and workplace bullying, when, in reality, these methods may never be used by employees, nor are they particularly effective in any event. The inadequacies of these traditional methods for reporting grievances in the workplace are increasingly being acknowledged, which means that doing the bare minimum required to comply with the law is no longer enough, as recent examples of employee activism have demonstrated. For example, employees at apparel company Adidas recently sought a new internal reporting tool to speak up at work about incidents of racial discrimination, after Adidas publicly said that they had a hotline to deal with such issues.¹¹

What role could tech play in these changes?

It is against this backdrop that the emergence of various tech solutions is promising. These innovations include products like Talk to Spot, an artificial intelligence (AI) powered conversational interface that follows up with the employee after he or she has reported an incident, and a dashboard for HR, which they can use to address these anonymous reports. Vault Platform is a mobile app which enables employees to submit reports with other affected colleagues, without having access to their identities or data reported. Similarly, Elker is a fully encrypted reporting, feedback and case management system, which connects all of a business’s support team through a single dashboard and allows people in the organisation to confidentially seek advice, raise an issue or give a compliment. WorkShield, in contrast, takes the employer out of the equation entirely and uses a third-party mediator for sexual harassment and discrimination reports. These advances could help to overcome the limitations of the older reporting methods by giving employees alternative means of reporting misconduct and, consequently, allow employers and regulators to engage with and follow up on these grievances meaningfully.

More specifically, these new tech solutions could enable employees to report misconduct without having to speak directly to anyone in the organisation. Having an anonymous process for contacting upper management could empower employees by providing a safe method to voice their grievances. Furthermore, these solutions can ensure complaints are tracked and followed up, which can go some way to addressing the concerns identified above – that employees do not feel that their complaints are heard, let alone acted upon. People have to be able to see that in reporting, they get important messages through to leaders and that their report results in observable change. This is especially important in the context of harassment and bullying. Sam Mercer, Head of Policy: Equality &

10 ‘Enterprises Still Unsure What a “Speak Up” Culture Really Looks Like, According to Research from Vault Platform’ (*EIN Presswire*, 26 November 2019) at www.einnews.com/pr_news/503264969/enterprises-still-unsure-what-a-speak-up-culture-really-looks-like-according-to-research-from-vault-platform accessed 19 October 2020.

11 Khadeeja Safdar, ‘Some Adidas staff ask board to investigate HR chief’ (*The Wall Street Journal*, 16 June 2020) at www.wsj.com/articles/some-adidas-staff-ask-board-to-investigate-hr-chief-11592326241 accessed 19 October 2020.

Diversity and Corporate Social Responsibility at the Bar Council of England and Wales told the authors that almost no-one she has spoken to about harassment or bullying is interested in traditional notions of punishment of the perpetrator, almost all want the behaviour to stop, to ensure no-one else is subjected to it and for those behaviours to become culturally unacceptable. They want to see harassers and bullies called out by their peers, so victims do not have to do all the ‘heavy lifting’. They do not want to have to risk their careers or reputation by bringing a complaint.¹² So the fact that there is no intermediary with Trust Tech solutions (ie, such as a call centre agent or a member of the HR team) whose involvement might create an opportunity for miscommunication, confusion or even judgement is especially important when dealing with these sensitive topics.

From an employer’s perspective, Trust Tech of this nature could help to streamline the way that HR deals with complaints, making the redress procedure more efficient and meaning that grievances are more likely to be dealt with swiftly. Trust Tech can help to ensure that instances of misconduct are brought to light, which then means that they can be tackled.¹³ For real change to occur, organisations need to be aware of misconduct as and when it occurs in their workplaces. Once these concerns are uncovered, these new technologies could force companies to engage with the issue and address it head on. Julia Shaw, the co-founder of Spot, says that the emergence of these apps and platforms illustrate the willingness and desire for companies to try various solutions that prevent and respond to misconduct in the workplace.¹⁴

Another upside to the use of technology is that there are currently no, or minimal, regulatory barriers, because workplace harassment has not yet become a fully regulated issue in all professions. This can be contrasted with something like whistleblowing, where in some jurisdictions there is limited room for institutions to innovate, while maintaining compliance with regulations. Although workplace harassment is still somewhat nascent as a regulatory issue, as it gains greater regulatory focus,¹⁵ there is the potential for technology to facilitate and support such supervision. This is where the use of Sup Tech could become relevant, benefitting both regulators and regulated workplaces.

For the regulators, Sup Tech can be used for both data collection and data analysis. Information could be pulled directly from the IT systems of the relevant workplaces and collected, before being analysed to determine whether there has been compliance with regulatory standards, and whether there are areas for concern. This could be particularly useful when there are mandatory reporting requirements for issues like sexual harassment (which there are already in some jurisdictions which regulate the legal profession, including England and Wales).¹⁶ The Bar Council of England and Wales has begun to use a form of Trust Tech, and this technology has helped them to get a more detailed understanding of the types of inappropriate behaviours that are happening across the institution, and to spot patterns and support individuals. Mercer says that in a regulated environment like the Bar, the

12 Sam Mercer, Head of Policy: Equality & Diversity and Corporate Social Responsibility, The Bar Council of England and Wales, Comments to Authors on Draft Article (22 September 2020).

13 Kim Elssesser, ‘Can Apps Help Eradicate Sexual Harassment?’ (*Forbes*, 5 March 2020) at www.forbes.com/sites/kimelssesser/2020/03/05/can-apps-help-eradicate-sexual-harassment/#287d09ee5522 accessed 19 October 2020.

14 Anisa Purbasari Horton, ‘These apps try to make reporting sexual harassment less of a nightmare. Do they work?’ (*Fast Company*, 2 December 2019) at www.fastcompany.com/90303329/these-apps-try-to-make-reporting-sexual-harassment-less-of-a-nightmare-do-they-work accessed 19 October 2020.

15 Pender (see n 8 above).

16 Solicitors Regulation Authority (SRA), Code of Conduct for Solicitors, RELs and RFLs; SRA, Code of Conduct for Firms.

ability to record and report incidents confidentially and even anonymously is essential, because the regulator will so often be a ‘sledgehammer’, whatever the size of the ‘nut’, and this will inevitably suppress reporting. So being able to, where appropriate, separate reporting and provision of support from regulation needs to remain an option.¹⁷

For the regulated, technology could improve efficiency through the use of automation and the streamlining of administrative and operational procedures, meaning that compliance with regulations can be made simple, and if incorporated into the day-to-day running of the organisation and its systems, may require minimal extra work. A reduced burden on workplaces might result in more proactive monitoring and overall better compliance. It seems, therefore, that Sup Tech applications could enhance the effectiveness of regulation by improving on traditional or manual processes, thereby allowing for faster and more effective supervisory action.¹⁸ This is an area where there is room for real innovation, and a chance to ensure that regulation is made both effective and flexible. This is in everyone’s interest.

How to implement this technology effectively?

Given the potential that these technologies have to facilitate change and improve reporting, how should they be implemented effectively? Sylvain Mansotte, the founder of Whispli (a whistleblowing technology tool that also has application in instances of sexual harassment or bullying), says that it is important for these tools to be just as user friendly as the Slacks and Zooms of the world. ‘In 2020’, he says, ‘if you don’t have tools that are sexy to use ... then people will not use them’.¹⁹ To make reporting the norm, it must be made as easy as talking about other forms of conflict and grievances.²⁰ Mansotte suggests that there are four key pillars that organisations need to consider for these Trust Tech solutions to enable someone to speak up: accessibility, usability, awareness and personalisation. Similarly, Jack Murray of Elker says that his solution’s aim is to create a shift in perception: in the same way that Slack or Microsoft Teams have mainstreamed moving face-to-face and phone discussions about operations into digital chat, Trust Tech moves giving feedback into a centralised and safe virtual space, to normalise it as a daily process for everyone in the organisation.²¹

Kevin Roose has noted that over the past decade, eliminating ‘friction’ – the word used to describe any quality that makes a product more difficult or time consuming to use – has become an obsession of the tech industry.²² By reducing the effort needed to do things like rent rooms and hail taxis, hundreds of start-ups have become the preferred choice for consumers and are recognised as major challengers to the traditional ways of going about daily life, to the extent that ‘to Uber’ and ‘to Airbnb’ are common verbs in the modern lexicon. Similarly, if novel reporting technologies are easy to use and consequently become part of the everyday in the workplace, discussions surrounding

17 Mercer (see n 12 above).

18 Broeders and Prenio (see n 7 above).

19 Sylvain Mansotte (2019) ‘Whispli: Born from Sylvain Mansotte’s experience of blowing the whistle on \$20m fraud’, Andrew Warner, *Mixergy* 17 May 2019, available at <https://mixergy.com/interviews/whispli-with-sylvain-mansotte> accessed 19 October 2020.

20 Elsetter (see n 13 above).

21 Jack Murray, Comments to Authors on Draft Article (23 September 2020).

22 Kevin Roose, ‘Is Tech Too Easy to Use?’ (*New York Times*, 12 December 2018) available at www.nytimes.com/2018/12/12/technology/tech-friction-frictionless.html accessed 19 October 2020

their use and, more broadly, the issue of inappropriate workplace conduct could become more commonplace and the stigma around these topics may reduce.

It is clear then, that the lessons from the success of other tech startups can be applied more broadly in addressing workplace misconduct, by socialising the discussions around such issues. For it to be really useful, this technology needs to be familiar to everyone and trusted to be effective, and, for this reason, some of these technology solutions embed themselves into the existing structures of the company, making it easier to use, which in turn helps to normalise reporting. In light of this, off-the-shelf solutions are unlikely to be as useful as customisable or bespoke ones which are relevant to the specific workplace context in which they are implemented.²³

The dearth of reporting incidents of workplace misconduct is sometimes attributed to ‘first-mover disadvantage’: targets do not want to be the first one to come forward for fear of retribution or being dismissed as fabricating the incident.²⁴ If the lesson from #MeToo is safety in numbers, then technology which makes use of information escrows may result in higher rates of reporting and engagement. In some Trust Tech, information is programmed only to be released once certain conditions are met. Allegations are placed into escrow, and only released if accompanied by other corroborating allegations. One is the Callisto reporting system,²⁵ which was designed to be used on American college campuses. This system forwards the reported misconduct only when there are at least two complaints against the same perpetrator. The system works by providing a ‘you are not alone’ promise – because it means that reports are only investigated if another allegation of misconduct is made against the same individual. A *Washington Post* article described this escrow option as converting disputes from ‘he said, she said’ to ‘he said, *they* said’.²⁶ An obvious downside of this solution is that escrowed findings on one-time assailants will never be investigated. Callisto gets around this problem by giving the reporter the option of ‘going it alone’, if they later want to proceed with an incident report once they feel more confident to take action. Vault has also implemented information escrow, alongside cryptography to ensure the integrity of data during the process.

What are the limits of Trust Tech?

It is clear then, that stigma around coming forward is a critical problem that needs addressing in this area. Researchers James Detert and Ethan Burris suggest that anonymous reporting, which is a common feature of the methods discussed above, means that the ‘it is not safe to speak up’ message is reinforced. Allowing employees to remain unidentified actually underscores the risks of speaking up and reinforces people’s fears. The subtext is that it is not safe to share your views openly.²⁷

At a practical level, anonymity is suboptimal because of the inability to follow up such claims and because of the subtext which accompanies it. A number of the Trust Tech solutions provide for anonymous reporters to be subsequently contacted through the technology, for the employer to be able

23 Mercer (see n 12 above).

24 Ayres and Unkovic (see n 3 above).

25 Callisto Project, available at www.projectcallisto.org.

26 Ian Ayres, ‘Meet Callisto, the Tinder-like platform that aims to fight sexual assault’ (*Washington Post*, 9 October 2015) at www.washingtonpost.com/opinions/using-game-theory-technology-to-fight-sexual-assault/2015/10/09/f8ebd44e-6e02-11e5-aa5b-f78a98956699_story.html accessed 19 October 2020.

27 James Detert & Ethan Burris, ‘Can you employees really speak freely?’ (*Harvard Business Review*, January 2016) at <https://hbr.org/2016/01/can-your-employees-really-speak-freely> accessed 19 October 2020.

to follow up and keep the target informed of the progress of the report. This alleviates the practical challenge, although it does not solve the problem of how best to create a culture of reporting, and to shift the narrative away from reporting being an unsafe option for a target of inappropriate conduct.

A 2010 report issued by a specially convened Sexual Misconduct Committee at Yale University explicitly did not recommend avenues through which anonymous reports are encouraged.²⁸ Instead, the report encouraged confidential reporting, citing worries that explicit provisions for anonymous reporting might discourage non-anonymous reporting. Perhaps the solution, at least in the early stages, should be confidential, but non-anonymous reporting. If managed properly, this could both encourage reporting, and foster a culture of trust and normalise the reporting process.

Not all agree with anonymity being a problem. Whispli's Mansotte is of the opinion that if the use of anonymity is only for the 'scary stuff' like fraud, corruption and sexual harassment, then it will always be scary for anyone to speak up. However, if anonymity is embraced and made 'business as usual', then it allows the employee to build up trust over time with the tool and they will most likely start using it for disclosures that are less challenging than workplace sexual harassment. Then, if the occasion ever arises when an employee is subject to something more sensitive, it will be far easier to speak up without fear, shame or guilt. However, crucially, he notes that these things take time and we cannot expect anyone to simply come forward and speak up without this trust having been built up.²⁹ Awareness and confidence can only be built gradually. To this end, if reporting and feedback extend beyond things that are classed as harassment and bullying to also cover other trends and requests for assistance in navigating difficult questions in the workplace, then these technologies can become the primary channel for support.

An alternative solution has been explored by the company Workshield. The philosophy behind its Trust Tech is that to eliminate the fear of reporting, you have to take the employer out of the equation and send the report to outside experts like attorneys and HR professionals. The target can make a report to someone outside of the organisation, and because the report does not go initially to a member of the organisation, this may remove the need for anonymity. However, this system also has an option for anonymous reporting, so it seems that even having the option of by-passing the organisation is not enough to obviate the desire that some targets have to remain anonymous.

In the whistleblowing space, research has shown that blockchain is a potential solution with much promise, as it has the potential to strike a balance between the need for anonymity and the importance of the investigating authority being able to contact the whistleblower for further details.³⁰ The way that this works is that the platform relies on zero-knowledge protocols, which entails splitting of information into fragmented pieces before sending it to the nodes for verification. This permits the protection of the reporter's identity, while allowing the members of the network to verify correspondence of the reporter's allegations with the information provided in their report. A project entitled WhistleAI is developing this technology, to realise this potential by combining the benefits of blockchain, crowdsourcing and AI.³¹ In much the same way, this sort of technology could be used

28 *Report from the Sexual Misconduct Committee*, Yale University Office of the Provost (9 July 2010), <https://provost.yale.edu/sites/default/files/files/Report%20from%20the%20Sexual%20Misconduct%20Committee%202010.pdf>

29 Sylvain Mansotte, Comments to Authors on Draft Article (21 September 2020).

30 Kieran Pender, Sofya Cherkasova & Anna Yamoka-Enkerlin, 'Compliance and Whistleblowing: How Technology will Replace, Empower and Change Whistleblowers' in Jelena Madir (ed) *Fintech: Law and Regulation* (EE, 2019), 340.

31 *Ibid.*

in the reporting of harassment, as the benefits would be of a similar nature. There are few existing blockchain based platforms for these sorts of issues, and so there is vast potential for development of this technology. However, despite its potential, blockchain may not be essential to this process, and its use may in fact be technology that complicates, rather than solves, the problem at hand. Murray points out that securing data via distributed ledgers sadly has not yet solved the human trust factor.³²

Trust, it is clear, is at the heart of any viable solution. This links to an additional and more fundamental limitation which has been drawn out by the anonymity issue, is that technology is just one part of the solution. It is not a silver bullet. Shaw of Spot says that ‘we can’t fix every part of the problem. We can only fix parts of it’.³³ Another significant aspect of the problem that needs addressing is workplace culture. Organisations need to create safe spaces for employees to bring up these issues in the first place. A recent study conducted by Vault Platform found that 68 per cent of respondents thought that ‘empowering people to speak up’ is the most effective mechanism for tackling misconduct within an organisation.³⁴ Perhaps the companies that are willing to adopt these technologies will do so in the spirit of being proactive in making these culture changes, rather than just because of fear of future liability. To this end, technology could be a driver of cultural change.

In any event, technology is not a panacea and it must be accompanied by strong leadership which is genuinely devoted to developing this culture. Neta Meidav, the co-founder and Chief Executive Officer (CEO) of Vault Platform says: ‘You can buy tools to help you build a healthy culture, but you can’t buy culture itself. If you don’t support the creation of that culture organically, there aren’t any tools that will save it’.³⁵ Similarly, Elisabeth Kelan of the University of Essex, argues that apps by themselves cannot create this culture.³⁶ She also believes leaders have a key role to play, and says: ‘The most effective ways to challenge sexual harassment I have witnessed is if senior leaders call out this behaviour as inappropriate and sanction it. That sets an example that such behaviour is not tolerated.’ When employees are able to see that those in charge are serious about eradicating inappropriate behaviour from the workplace, it can empower them to speak up. Johnny C Taylor Jnr, the President and CEO of the Society for Human Resources Management, says that unless senior leaders make it clear to employees that the company will act appropriately when they become aware of a violation, employees will continue to err on the side of not reporting.³⁷ Widespread change can only happen from within an organisation; while technology can assist with this, it cannot be relied upon to make that change without clear leadership and buy in from employees at all levels.

There are evidently limits to what technology on its own can achieve, and it remains to be seen whether it will have a role in driving culture change. An interesting question for the future will be how to measure this. How do you track a shift in culture? Is such a shift signalled by more reporting? Or is more reporting just a function of technology that is easier to use, rather than a genuine change in the way that employees feel their complaints will be received? On the

32 Murray (see n 21 above).

33 Elsesser (see n 13 above).

34 Vault Platform Report (see n 9 above).

35 Tom Starner, ‘The Emerging Role for tech in D&I’ (*Human Resource Executive*, 28 August 2019) at <https://hr executive.com/the-emerging-role-for-tech-in-di/> accessed 19 October 2020.

36 Suzanne Bearne, ‘Meet the tech entrepreneurs tackling sexual harassment’ (BBC News, 15 February 2019) at www.bbc.com/news/business-47224682 accessed 19 October 2020.

37 Elsesser (see n 13 above).

other hand, does a culture shift mean less reporting, which could signal that fewer instances of inappropriate behaviour are occurring in the workplace at all?

Conclusion

Trust Tech can be a useful tool in helping to facilitate better reporting of harassment in the workplace, by making employees more willing and able to report incidents that occur. It can also help organisations gain a clearer picture of the prevalence of harassment. Further, it has the potential to ensure more effective and proactive regulation of workplaces. It is open to question whether such technology can, in fact, change workplace culture, which is no doubt an important aspect of tackling this issue. With a bright light being shone on the prevalence of sexual harassment in the workplace, it is an issue that employers can no longer ignore, and employees will no longer tolerate. Effective solutions to this pressing and pervasive problem need to be sought, and because of this, there is room for innovation and technological developments. While technology has its limits, and without more will not be a cure-all, it is clear that Trust Tech can be an important aspect of the wider project of bringing about genuine positive change in workplaces.



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