


Uber ends policy of forced arbitration for individual sexual assault claims

 techcrunch.com/2018/05/15/uber-ends-policy-of-forced-arbitration-for-individual-sexual-assault-claims

May 15, 2018

In a major policy change for its US operations, Uber has announced it's ending mandatory arbitration for individual claims of sexual assault or sexual harassment by Uber drivers, riders or employees.

It is also ending the requirement that victims sign a confidentiality provision preventing them from speaking about the sexual assault or sexual harassment they suffered — saying survivors will now have the option to settle their claims with Uber without having to agree to being publicly silenced in order to do so.

Last month a group of women alleging sexual violence from Uber drivers sent an open letter to the company's board asking to be released from the mandatory arbitration clause in the Uber app's terms of service.

Former Uber engineer Susan Fowler — who was instrumental in highlighting internal problems with sexual harassment and sexism at Uber when she blogged about her experiences at the company last year — also urged CEO Dara Khosrowshahi to end the policy. And in a Twitter exchange in March Khosrowshahi signaled he was willing to consider ending forced arbitration. "I will take it seriously, but we have to take all of our constituents into consideration," he wrote to Fowler then.

Concerns about safety and Uber's attitude to reporting serious crimes were also among the reasons identified by London's transport regulator for withdrawing Uber's license to operate in the UK capital last September.

Although safety transparency measures also being announced by Uber today appear limited to the US market for now. Uber says it will be publishing what it describes as a "safety transparency report" — which it says will include data on sexual assaults and "other incidents" that occur as a result of activity on its platform.

Announcing the moves in a blog post today, entitled 'Turning the lights on', Uber's chief legal officer Tony West writes that the company has committed to doing "the right thing" under its new CEO — a new attitude which requires "three key elements: transparency, integrity, and accountability".

Describing sexual violence as "a huge problem globally", he continues: "The last 18 months have exposed a silent epidemic of sexual assault and harassment that haunts every industry and every community. Uber is not immune to this deeply rooted problem, and we believe that it is up to us to be a big part of the solution."

Commenting on Uber's policy changes to end mandatory arbitration, Jeanne Christensen, a partner at New York based law firm Wigdor LLP, which filed a class action lawsuit against Uber last year on behalf of women who said they were assaulted or raped by Uber drivers, described it as a critical step to "reduce future suffering by women passengers".

But she also flagged Uber's decision to not end forced arbitration for groups of victims acting on a class basis — saying this shows the company is “not fully committed to meaningful change”.

“Victims are more likely to come forward knowing they can proceed as a group. This is the beginning of a longer process needed to meaningfully improve safety,” Christensen added in a statement.

We've reached out to Uber for comment on why it's not ending mandatory arbitration for group claims.

On the decision to end mandatory arbitration for individuals, West writes: “We have learned it's important to give sexual assault and harassment survivors control of how they pursue their claims. So moving forward, survivors will be free to choose to resolve their individual claims in the venue they prefer: in a mediation where they can choose confidentiality; in arbitration, where they can choose to maintain their privacy while pursuing their case; or in open court. Whatever they decide, they will be free to tell their story wherever and however they see fit.”

On the changes to confidentiality provisions, he says: “Divulging the details of what happened in a sexual assault or harassment should be up to the survivor, not us.”

And on the new transparency report, West admits Uber struggled with the decision to publish data — saying this is “because data on safety and sexual assaults is sparse and inconsistent”, and there is no uniform industry standard for reporting it.

He also flags the problem of crimes of sexual violence being underreported.

However, in the end, Uber has decided it will go ahead and publish data. Although it's not clear when the first report will go live (we've also asked about that).

“We're working with experts in the field to develop a taxonomy to categorize the incidents that are reported to us,” adds West. “We hope to open-source this methodology so we can encourage others in the ridesharing, transportation and travel industries, both private and public, to join us in taking this step. We know that a project of this magnitude will take some time, but we pledge to keep you updated along the way.”

Update: Uber isn't giving a timeline for publishing the first report at this stage but a spokeswoman emphasized the process will take time owing to complexities involved with categorizing reports of incidents, and the need to develop a methodology for reporting the data — working with external experts.

On class actions, the spokeswoman said the vast majority of the claims Uber receives are from individuals, saying it believes that a modified confidentiality option and choice of venue are the core issues for individuals, whereas law firms themselves can be incentivized to drive class actions for a profit motive.