

# What to do if you've been sexually harassed at work

Sexual harassment is any form of unwanted or uninvited sexual behaviour that's humiliating, intimidating or offensive. If you are currently experiencing sexual harassment in your workplace, you have a range of options available to you.

Sexual harassment can take many different forms, including:

- sexually offensive remarks or facial expressions
- lewd jokes or sharing stories about sexual experiences
- sharing sexual material around the workplace, including posters and screensavers
- repeatedly asking for dates despite being rebuffed, or asking for sexual favours
- sexually offensive remarks, gestures or facial expressions, including staring at the person's body up and down
- inappropriate and suggestive touching or kissing of the person's clothing and/or body
- intrusive questions about sexual activity.

Sexual harassment also includes certain behaviours that may be a criminal offence, such as sexual assault and stalking.

## Understand your options

Below are some of the options you could consider, these do not need to be followed in the order set out:

### *Check your workplace policy*

Your workplace might have a policy that sets out steps you can take, for example a Sexual Harassment Policy, an Equal Employment Opportunity Policy or a Grievance/Complaints Policy. You might have received a copy of these policies during induction, you might be able to access these on your employer's intranet or they might be available through human resources.

If not, or in addition, you might like to think about taking one of more of the steps below.

### *Talk to the other person*

Depending on your relationship with the other person and the nature of the sexual harassment, you could try telling the person that their conduct is unwanted or makes you feel uncomfortable and ask them to stop. This might result in the behaviour ending because sometimes people lack awareness about their actions until it is brought to their attention.

### *Seek assistance*

If you do not feel comfortable talking directly with the person or people involved, or if that method has not worked, you could consider talking to a human resources officer or manager at your workplace. If there is no one more senior than you, you might consider talking to a board member.

This should result in the manager or human resource officer talking to you further about your options. If you want to keep your complaint confidential you need to tell the other person this.

The human resource officer or manager might be able to talk to the person who engaged in the sexual harassment directly or they might recommend that you escalate the issue to a more formal level.

Remember that if the sexual harassment is of a very serious nature, the person you talk to about this may have a duty of care to report it to more senior levels of management to ensure your health and safety in the workplace.

### *Make a formal complaint at work*

If talking to the person involved in the sexual harassment does not work then you could make a formal complaint about the behaviour within your workplace.

If your workplace policies do not provide information on how to do this, it is best to put your complaint in writing and only provide it to a human resource officer or manager. You should provide as much details as you can about the behaviour including who was involved, when it occurred and who else might have seen or heard it. If you have documents or copies of documents that contain sexually harassing material such as emails, pictures or screen shots, this should be included.

A formal complaint made to your workplace should result in an investigation of the matter. This would involve someone asking the person that has sexually harassed you to tell their side of events. They might also need to ask you more questions and gather further information from any witnesses. Once an investigation is complete your employer has to decide what to do and this might include ending the engagement of the person who sexually harassed you, moving them to another location or giving them a warning.

### *Lodge a claim with an external body*

You can make a sexual harassment claim under discrimination legislation to one of the organisations listed below. Visit their website or contact them directly to work out how to lodge a claim.

## **Access support services**

Sexual harassment is not just a legal issue – it can affect your health and wellbeing. It can help to talk to someone you trust and feel comfortable with about how you are feeling. This person could be a family member, friend, work colleague, doctor or healthcare professional.

### *Counselling services*

It can help to talk to a professional about how you are feeling. These services have trained professionals that you can talk to over the phone or online, organise for you to talk to someone face-to-face, or provide information on taking care of your mental health.

- [Lifeline](#) (13 11 14)
- [Beyond Blue](#) (1300 22 4636)

### *Sexual assault specialist service*

[1800Respect](#) is a national specialist service that can provide you with information, referrals to other services, and online or over the phone counselling.

- [1800Respect](#) (1800 737 732)

### *Medical help*

It is your choice whether you seek medical care, though it is often a good idea. Medical care can be provided by general practitioners (GPs), hospital emergency departments, or specialised community health centres.

Importantly, going to a doctor does not always mean that you have to go to the police or face the perpetrator in court.

Call [1800Respect](#) on 1800 737 732 to find your nearest specialised medical care provider.

## Get legal help

### How to find a lawyer

You can find a lawyer through the Law Society or Law institute of your state or territory:

- [Law Society NSW](#) – (02) 9926 0333
- [Law Institute of VIC](#) – (03) 9607 9550
- [Law Society of WA](#) – (08) 9324 8600
- [Qld Law Society](#) – 1300 367 757
- [Law Society of SA](#) – (08) 8229 0200
- [Law Society of TAS](#) – (03) 6234 4133
- [Law Society of NT](#) – (08) 8981 5104
- [ACT Law Society](#) – (02) 6274 0300

### Pro bono help

If you cannot afford a lawyer, you may be able to receive free legal assistance.

Below is a list of legal services that provide or organise free legal assistance for each State or territory.

#### New South Wales

- [Law Access](#) – 1300 888 529
- [NSW Legal Aid](#) – 1300 888 529
- [Community Legal Centres](#) – call Law Access on 1300 888 529
- [Salvos Legal Humanitarian](#) – (02) 8202 1500
- [Law Society NSW Pro Bono Scheme](#) – (02) 9926 0364
- [Justice Connect](#)

#### Victoria

- [Victoria Legal Aid](#) – 1300 792 387
- [Community Legal Centres](#) – (03) 9652 1500
- [Salvos Legal Humanitarian](#) – (03) 9313 2600
- [Justice Connect](#)

#### Western Australia

- [Legal Aid WA](#) – 1300 650 579
- [Community Legal Centre](#) – (08) 9221 9322
- [Law Access](#) – (08) 6488 6813

#### Queensland

- [Legal Aid QLD](#) – 1300 65 11 88
- [Community Legal Centres](#) – (07) 3392 0092
- [Salvos Legal Humanitarian](#) – (07) 3280 8860
- [Law Right](#) – (07) 3846 6317 (Brisbane) or 0439 625 334 (Cairns)
- [Law Society of Qld Pro Bono Referral Service](#) – (07) 3846 6317

#### South Australia

- [Community Legal Centres](#) – (08) 8342 1800
- [Adelaide Legal Outreach Service](#) – (08) 8342 1800
- [Legal Advisory Service](#) – 1300 366 424
- [Legal Services Commission of South Australia](#) – 1300 366 424

#### Tasmania

- [Legal Aid TAS](#) – 1300 366 611
- [Community Legal Centres](#)
- [Law Society of Tasmania Pro Bono Referral Service](#)

#### Northern Territory

- [NT Legal Aid Commission](#) – 1800 019 343
- [Community Legal Centres](#)
- [Law Society Pro Bono Clearing House](#) – (08) 8981 5104

#### Australian Capital Territory

- [Legal Aid ACT](#) – 1300 654 314
- [Community Legal Centres](#)
- [Law Society of the ACT Legal Advice Bureau](#) – (02) 6274 0300
- [ACT Pro Bono Clearing House](#) – (02) 6274 0300

## Things to remember

### Take notes

If you experience sexual harassment, you should also make notes of the relevant conduct including the following details:

- What occurred?
- When did the conduct occur?
- Where did the conduct occur?
- Who was involved? Who may have witnessed or overheard it?

If the sexual harassment is all or partly in writing you should maintain the originals or at least copies of this material. This is especially important where it may later be deleted such as in an instant messaging app.

### You should not be punished for making a claim

Victimisation is unlawful under the discrimination laws. Victimisation is when a person subjects, or threatens to subject, another person to any detriment because they:

- have made, or intend to make, a complaint under discrimination laws including about sexual harassment  
**OR**
- have given, or intend to give, evidence or information in connection with a complaint under discrimination laws including about sexual harassment.

### You can take action for past sexual harassment

If you have experienced sexual harassment in the past, you can still take action.

If you still work at the workplace where the harassment occurred, you can tell your manager or a human resource officer and they can talk to you about your options. If you no longer work at that workplace, you could still report to that workplace to let them know what occurred.

In addition, you could consider lodging a claim with an external body. If the conduct occurred more than 6 months to 2 years ago, depending on the Commission or Tribunal, it may need to go through a process to determine whether it can accept your claim.

### You should follow procedure to avoid defamation

If you experience sexual harassment you should be very careful not to publish the complaint any more widely than to the appropriate person or office tasked with receiving the matter.

If you do publish information about your sexual harassment claim, the person you make the allegations against could claim that you have defamed them. Defamation basically means harming someone's character by publishing material likely to lessen their standing or reputation.

However, the law provides protection for people making a legitimate complaint in good faith to an appropriate authority such as the police, a HR manager or someone else whose role it is to receive allegations of sexual harassment.

Social media is often seen as informal and not too serious but posting on social media posts such as Tweets or Facebook updates can constitute defamation.

### Don't ignore the risk of defamation without getting legal advice

While going through the appropriate channels may feel frustrating, it's important to do so. The risk of potential defamation claim should not be ignored. A current example is the claim brought by actor Craig McLaughlin who is suing Fairfax Media, the ABC and fellow actor, Christie Whelan Browne, over claims and reports that he bullied and allegedly indecently assaulted her and other female cast members during the 2014 production of *The Rocky Horror Show*.

If you have been sexually harassed in your workplace, always make the complaint to the appropriate person or authority. Don't publicise it more broadly unless a lawyer tells you it's okay to do so.

Tribunals and Commissions with which you can lodge a sexual harassment claim:

- [Australian Human Rights Commission](#)
- [ACT Human Rights Commission](#)
- [Anti-Discrimination Board New South Wales](#)
- [Anti-Discrimination Commission Northern Territory](#)
- [Anti-Discrimination Commission Queensland](#)
- [Equal Opportunity Commission South Australia](#)
- [Equal Opportunity Tasmania](#)
- [Equal Opportunity Commission Western Australia](#)
- [Victorian Equal Opportunity and Human Rights Commission](#)

Other places where you can report sexual harassment:

- Police
  - If immediately unsafe, call 000
  - If no immediate danger but police assistance is required, call 131 444
- [Safe Work Australia](#)

### **The laws:**

Sexual harassment is unlawful in accordance with the following laws:

- Sex Discrimination Act 1984 (CTH)
- Equal Opportunity Act 2010 (VIC)
- Anti-Discrimination Act 1977 (NSW)
- Anti-Discrimination Act 1991 (QLD)
- Anti-Discrimination Act 1998 (TAS)
- Equal Opportunity Act 1984 (SA)
- Anti-Discrimination Act 1996 (NT)
- Discrimination Act 1991 (ACT)
- Equal Opportunity Act 1984 (WA)

## **What is sexual harassment?**

Sexual harassment in a workplace is:

- unacceptable
- unlawful
- a form of sex discrimination.

**Sexual harassment** means *unwelcome* sexual behaviour, or *unwelcome* conduct of a sexual nature, which could be expected to make a person feel offended, humiliated or intimidated. The intent of the person who engages in the sexual harassment does not matter.

'Conduct of a sexual nature' includes subjecting a person to any act of physical intimacy, making verbal or written statements of a sexual nature to a person or about a person in their presence, or making any gesture, action or comment of a sexual nature in a person's presence.

Sexual harassment may occur in a single incident or a series of incidents. It can be physical, verbal or written.

Sexual harassment may be subtle, rather than explicit or obvious. It frequently, but not always, involves an abuse of power and/or trust and is often directed at a person who may not be able to stop the behaviour easily. The behaviour may occur either at a work location, or outside the workplace if it occurs in connection with work (e.g. at workplace-related functions, during travel that is connected with work). The gender of the two parties is not relevant.

Sexual harassment does not include *consensual conduct* occurring within a personal relationship of mutual attraction and/or friendship based upon the choice and consent of both parties.

Sexual harassment is unlawful in accordance with the laws mentioned below.

## Examples of sexual harassment

The following are examples of sexual harassment:

- unwelcome physical contact (e.g. touching, patting, pinching or brushing against a person)
- leering, patting, touching or unnecessary familiarity
- sexually suggestive, offensive or demeaning comments, emails, jokes or innuendo
- unwanted sexual propositions or advances or demands for sexual favours
- sending emails, text messages or mail that may be sexually explicit and offensive to any gender
- offensive telephone calls
- offensive gestures, staring or displaying offensive material
- unwelcome or uncalled for remarks, questions or insinuations about a person's sexual activities or private life
- suggestive comments about a person's appearance or body
- indecent exposure
- unwelcome remark or statement with sexual connotations to another person or about another person in that person's presence.

An employer may be liable for sexual harassment engaged in by its workers. This is known as "vicarious liability", and it means that if a worker engages in sexual harassment at, or in connection with, a workplace, the person affected by the harassment can make a claim against either the worker, the employer, or both.

Your employer also has an obligation under work health and safety laws to provide you with a safe workplace. Employees also have obligations to ensure that their conduct does not endanger the health of other people. If you are experiencing sexual harassment in your workplace, that may create a risk to your health and well being, contravening work health and safety laws.

### Tribunals and Commissions with which you can lodge a sexual harassment claim:

- [Australian Human Rights Commission](#)
- [ACT Human Rights Commission](#)
- [Anti-Discrimination Board New South Wales](#)
- [Anti-Discrimination Commission Northern Territory](#)
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