

Workplace sexual harassment – advice for workers

This information sheet provides advice for workers about duties under work health and safety (WHS) laws and what to do if you experience or witness sexual harassment at the workplace.

What is sexual harassment?

Sexual harassment is unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated, where that reaction is reasonable in the circumstances¹.

Sexual harassment can take various forms. It can include unwelcome hugging, kissing or other types of inappropriate physical contact, staring or leering, intrusive questions about your private life or physical appearance, unwanted invitations to go out on dates, requests for sex, or sexually explicit emails, calls, text messages or online interactions.

Such behaviour does not have to be directed specifically at you. Sexual harassment includes behaviour that makes the environment you are working in uncomfortable or threatening in a sexually hostile way, such as sexually offensive pictures or a culture of suggestive comments or jokes.

Workplace sexual harassment can happen during working hours, at work-related activities such as training courses, conferences, trips and work-related social activities. It might come from other workers, your supervisor or manager, or from your customers or clients.

What work health and safety duties apply?

What does your employer (the PCBU) need to do?

Sexual harassment is against the law.

The *Sex Discrimination Act 1984* (Cth) prohibits sexual harassment in a workplace. Sexual harassment is also covered by WHS laws as it is a workplace hazard which is known to cause psychological and physical harm.

WHS laws requires a person conducting a business or undertaking (PCBU), such as your employer, to take care of the health and safety of workers (including contractors, apprentices and volunteers) and other people like visitors and customers at your workplace. Your employer must treat the risk of

¹The Guide: [Preventing workplace sexual harassment](#) defines sexual harassment as any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature in circumstances where a reasonable person, having regard to all the circumstances, would anticipate the possibility that the person harassed would be offended, humiliated or intimidated. Legal definitions of 'sexual harassment' may vary in each state and territory.

sexual harassment just as they would any other workplace hazard. This means they must eliminate or minimise the risk of sexual harassment as much as they reasonably can. Your employer should have measures in place to prevent sexual harassment and policies and procedures on how to address it if it happens. Information on these measures can be found in the Guide: [Preventing workplace sexual harassment](#).

You employer must provide a safe physical and online work environment. In addition, your employer should also provide all workers with:

- procedures to prevent and respond to sexual harassment
- a workplace policy which sets out how the workplace will prevent and respond to sexual harassment, including acceptable standards of behaviour of all workers
- information on what sexual harassment is - it is important that everyone has a good understanding of the variety of behaviours which can constitute sexual harassment and an understanding of diversity such as gender, gender-identity, sexuality, disability, and cultural and linguistic diversity
- training in communication skills and how to respond if you experience or witness sexual harassment, including strategies for addressing inappropriate behaviour, and
- an accessible and user-friendly process to report sexual harassment informally, formally, anonymously and confidentially, including information on the support services available.

Your employer must also consult with you and your health and any safety representatives (HSRs) about health and safety matters. You should raise any concerns you have about work health and safety in your workplace with your employer, including concerns about sexual harassment. Your employer cannot discriminate against or disadvantage you for raising WHS concerns.

What do workers need to do?

As a worker, you have a duty to take reasonable care of your own health and safety, and not adversely affect the health and safety of yourself or others. This means workers must not sexually harass co-workers or other people at the workplace. Workers must also follow any reasonable instruction given by their employer to comply with a health and safety duty (such as following workplace policies and procedures to prevent and respond to sexual harassment).

In some circumstances, workers or their HSRs have the right to refuse to carry out or stop unsafe work. The risk must be serious and imminent. If you stop work because it is unsafe, you must tell your employer as soon as possible and be available for other suitable work. See the Guide: [Preventing workplace sexual harassment](#) for further information.

The Australian Human Rights Commission also publishes guidance to help workers understand their rights under the *Sex Discrimination Act 1984*. A list of resources can be found at the end of this document.

What should I do if I am being sexually harassed at work?

Sexual harassment can cause psychological and physical harm and it should not be ignored.

Your employer should provide you with information and support on how to respond if sexual harassment is directed at you, what you should do if you witness it and how to report it.

How you respond to sexual harassment may vary depending on the nature of the incident.

For example, you may choose to do one or more of the following:

- If you feel safe and comfortable doing so, tell the other person that you object to their behaviour and ask that it stop. You may be able to resolve the situation yourself by pointing out that the behaviour is inappropriate, makes you feel uncomfortable or unsafe. They may not realise the effect their behaviour is having on you or others, and your feedback may give them the opportunity to change their actions.
- Seek support from other workers, other people nearby or security personnel.
- Remove yourself from the situation, such as retreating to a safe location, asking the harasser to leave the work area or disconnecting the harasser from a phone call. Also see the information above about a workers' right to cease unsafe work.
- You may decide to seek help from Police, for example if the behaviour involves violence such as physical assault or the threat of physical assault.

After experiencing sexual harassment, you should consider:

- Seeking support (including psychological support) from a colleague, helpline, counselling service, legal service or employee representative. Support services are listed at the end of this document.
- Reporting what happened to a supervisor, human resources area or the person designated by your organisation. Reporting unwanted or offensive behaviour early is often an effective way to make sexual harassment stop. Your employer should have workplace policies or procedures in place on how to report sexual harassment (including reporting confidentially or anonymously) and how reports will be dealt with.
- Approaching the other person(s) involved to talk about your concerns after the incident has occurred, if you feel safe and comfortable doing so. You could have a support person with you when you do this.
- Keeping a record of what happened, when and where it happened, who was involved and anything else you think may be important.
- At any time, you can contact your WHS regulator for further advice or lodge a complaint with the Australian Human Rights Commission or your state or territory anti-discrimination agency.

Some forms of sexual harassment may be criminal acts, such as indecent exposure, stalking, sexual assault and obscene or threatening communications (e.g. phone calls, emails and posts on social media). These matters should be referred to Police.

You may be worried that things will get worse if you report sexual harassment. Remember, you have a right to feel safe at work. It is illegal for you to be disadvantaged because you have reported sexual harassment - if you are, you can seek help from the [Fair Work Ombudsman](#).

A list of support services and other agencies who may be able to help can be found at the end of this document.

What should I do if I see or hear about sexual harassment at work?

If you see sexual harassment happening or hear about it, you may choose to do one or more of the following:

- If you feel safe and comfortable doing so, tell the other person that you object to their behaviour and ask that it stop.
- Talk to the person experiencing harassment. One of the best things you can do is to listen and ask them what support they need. You can also help them find information so they can decide what to do next.
- You should report sexual harassment to a supervisor, human resources area or the person designated by your organisation, while also considering any privacy concerns of the person you are reporting on behalf of.
- Talk to your employer or your representatives about a sexual harassment policy, prominently displaying and communicating the policy in your workplace, raising awareness about sexual harassment and providing training to all workers.

You may need to adapt what action you take depending on the situation. The focus should always be on your safety and the safety of the person who is being harassed.

Depending on your role in the organisation, you may have a duty to report sexual harassment and check that processes are being followed.

What should I do if I am accused of sexual harassment at work?

Being accused of sexual harassment can be upsetting and come as a surprise, but it is important to be open to feedback from others, and if necessary, be prepared to change your behaviour.

An accusation of sexual harassment should be taken seriously. Your employer should have workplace policies or procedures in place about how reports of sexual harassment will be dealt with.

You may wish to seek advice and support from a trusted person, HSR or employee assistance program if your workplace has one. You could also seek support from other organisations such as a helpline, counselling service, legal service or union.

Who else can help?

If you have not been able to resolve the situation within your workplace, there are a number of agencies that can give you further advice and assistance:

- If you feel you have been sexually harassed in the workplace, you can make a complaint to the [Australian Human Rights Commission](#) or your relevant state or territory anti-discrimination body. A solicitor advocate or union can also make a complaint to the Commission on your behalf.
- Your [WHS regulator](#) may be able to investigate if a business is meeting their WHS obligations by providing a safe working environment that is without risk to health and safety. You can also contact your WHS regulator if you feel you have been discriminated against for raising a health and safety issue.

- If you feel you have been treated adversely by your employer because you reported sexual harassment, you can contact the [Fair Work Ombudsman](#) on 13 13 94.

Further information

You may also find useful information on strategies for dealing with challenging workplace behaviours in [Dealing with Workplace Bullying – A Worker’s Guide](#).

Information about how a business can manage the health and safety risks of sexual harassment is in the Guide: [Preventing workplace sexual harassment](#).

The Australian Human Rights Commission provides guidance for workers on anti-discrimination matters: [Recognising and responding to sexual harassment in the workplace: Information for employees](#) and [Getting to know the Sex Discrimination Act: A guide for young women](#).

Support services

Australian Human Rights Commission

www.humanrights.gov.au
1300 656 419 or (02) 9284 9888

1800 Respect

www.1800respect.org.au

ReachOut

<https://au.reachout.com>

Beyond Blue

www.beyondblue.org.au
1300 224 636

Lifeline

www.lifeline.org.au
13 11 14

Sexual assault support services

www.humanrights.gov.au/our-work/sex-discrimination/list-sexual-assault-services