

Sexual Harassment

Sexual harassment is when a person -

1. Engages in unwelcome conduct.
2. Related to
 - A sexual advance
 - A request for sexual favours
 - Any conduct of a sexual nature in relation to the other person and
3. In circumstances in which a reasonable person, would have anticipated the possibility that the person harassed would be offended, humiliated, or intimidated.

Conduct includes oral and written statements, images real, cartoon and hand drawn, physical gestures and sexual innuendos, jokes and banter. Equal opportunity legislation provides protection to all employees, whether they are full time, part time, casual, sub-contractors, and volunteers, against harassment in the workplace.

Sex Based Harassment

Sex based harassment is when a person -

1. Engages in unwelcome conduct.
2. Of a demeaning nature in relation to the sex of the person harassed and
3. In circumstances where a reasonable person, would have anticipated the possibility that the person harassed would be offended, humiliated, or intimidated.

This definition makes some sexist comments now unlawful.



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Hostile Workplace Environment

A hostile workplace environment occurs when a reasonable person, would have anticipated the possibility of the conduct resulting in the workplace environment being offensive, intimidating or humiliating to a person of the sex, by reason of their sex or a characteristic normally attributed to their sex.

Conduct can be written or oral. Factors to be considered include the seriousness of the conduct, whether the conduct was continuous or repetitive and the role/influence or authority of the person engaged in the conduct.

The conduct is limited to the workplace. The conduct does not have to be directed at the person making the complaint.

The conduct is broader than behaviours of a sexual nature but could also include sexual content.

WHAT TO DO IF SOMEONE THINKS THEY HAVE BEEN HARASSED

If a person thinks they have experienced one of these behaviours, then the first thing they can do is find out if their organisation has a Workplace Behaviour Policy and see if it contains a definition similar to the one/s mentioned above. If it does, then they can use this policy to have a conversation with their manager/HR or any other person in authority. Tell him/her what has happened to them and why they think this is one of the above behaviours. It is useful to work out what he/she want the manager/HR to do about it the issue and to ask for it to be done.

Possible things someone could ask their manager to do is have a chat to the person doing the behaviour and find out what their view is and then see if there is room for a combined discussion. Sometimes people might not even know they are doing anything unlawful so giving them a chance to understand/explain their point of view is important. Someone could also ask their organisation to provide education to staff in this area, put posters up or send out emails reminding people of what is appropriate/inappropriate behaviour.

If the behaviour is very serious (either because it has been going on for a long time or is being done by someone in authority or the actual incident is serious) then someone can ask



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their organisation to formally investigate it. They should check and see if their organisation has a complaint management document. If it does it should explain when a matter will be formal and what will be done. Normally a formal complaint is in writing and should explain what has happened by who, when and where. It is important to stick to the facts and avoid emotional language when making a formal complaint.

Once the complaint is formal and the organisation decides that doing an investigation is the appropriate thing to do, they will appoint an investigator (who can be internal or external to the workplace). This means they will interview the complainant (person making the complaint) and any relevant people to support their story and they will also interview the respondent (person responding to the complaint) and any relevant people he/she has. Once they have collected all the facts the information is then used to make a decision, usually by the CEO or equivalent.

If someone does not want to make a complaint internally or they have and it has not been handled to their satisfaction, then they can contact the Equal Opportunity Commission in their State/Territory. Each Commission offers a free conciliation service for victims of sexual harassment. Most matters are sorted out at this stage. The Australian Human Rights Commission manage complaints related to sex-based harassment and hostile workplace environment.

EEO Specialists do not represent individual people making complaints, but we hope this information has been useful in helping work out what to do.

We do provide a comprehensive training service for organisations, to educate their staff about sexual harassment, bullying and discrimination and manager training on how to identify and manage complaints.

If you would like to know more, please call Franca Sala Tenna on

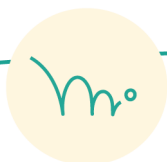
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