

Sexual Harassment at Work

What is a sexual harassment at work?

Sexual harassment is against the law.

Sexual harassment at work is a form of gender-based violence, affecting the livelihoods and health of women across Australia.

Sexual harassment at work is:

- unwelcome sexual behaviour where the victim feels offended, intimidated, or humiliated,
- and it is reasonable under the circumstances to feel that way (considering the circumstances of the person being harassed, like their age or differences in power between the victim and the harasser).

The behaviour doesn't have to be ongoing for it to be sexual harassment – it can be a one-off incident.

Sexual harassment at work is nothing to do with mutual attraction or friendship. If there is consent, it is not sexual harassment.

What does “at work” mean?

Sexual harassment “at work” includes conduct in all the places and events associated with work, including staff rooms, storerooms or vehicles, Christmas parties and conferences.

This could also include something that happens at a private residence or hotel room, depending on the circumstances.

Sexual harassment at work can take many forms:

- Deliberate verbal comments of a sexual nature, suggestive remarks, ridicule, or offensive jokes.
- Physical contact such as touching, pinching, patting, hugging, and brushing against another person's body.
- A display of offensive or erotic pictures.

- Sexual teasing, practical jokes, sexual name-calling or ‘stirring’.
- Sexually suggestive looks or gestures such as leering, ogling, or staring.
- Unwanted advances of a sexual nature.
- Continuous requests or pressure to develop a relationship, such as asking out on dates.
- Persistent questions or comments about a person's private life, such as asking “Do you have a boyfriend?”
- Sexually based emails, text, or direct messages, including messages with sexual innuendo.
- Considering a person's physical attributes rather than their skill or experience.

Sexual harassment at work can be a crime.

Forms of sexual harassment which may be classed as a criminal offence include:

- Physically molesting a person
- Indecent exposure
- Obscene communications (phone calls, emails, letters, computer or phone messages and videos)
- Sexual assault
- Stalking

These actions should be reported to the Police.

What is the difference between sexual harassment and sexual assault?

Sexual harassment is a much broader concept than sexual assault and covers a wide variety of sexual behaviours.

Sexual harassment can include sexual contact like unwanted touching, hugging, and kissing, but it doesn't have to just be about contact – it can also

include sexual comments, inappropriate jokes, or showing offensive material to you or others.

Sexual assault is where you are forced, coerced, or tricked into some sort of sexual activity, including kissing, touching, sexual acts or penetrative sex.

Some cases of sexual harassment can also be a part of a sexual assault – for example, if your boss or colleague forced you to kiss them, that could be a case of both sexual harassment and sexual assault.

If you have been sexually assaulted, read the Sexual Assault Support Service (SASS) Fact Sheet: [‘It’s happened to me’ – Information for adults who have been sexually assaulted](#).

What are the effects of sexual harassment?

Sexual harassment can cause all kinds of effects to a person:

- Psychological distress – stress, anxiety or depression
- Physical symptoms of stress – nausea, fatigue, headaches, feeling like crying
- Unable to sleep, losing confidence
- Low job satisfaction and low performance at work
- Missing out on a promotion or work entitlements
- Unable to concentrate
- Unable to relax
- Difficulty coping with everyday tasks

What can I do if I think I may be being sexually harassed at work?

There is no right or wrong way of dealing with sexual harassment – there are both formal and informal approaches. How a situation is dealt with can depend on the victim’s situation - it might be appropriate to use more than one approach in combination.

If you are being sexually harassed:

- Tell someone who you can trust – someone who is able to look out for you. Make sure to let them know what affect the sexual harassment is having on you, and how you might want to handle the situation.
- Try to avoid where you are left alone with the offender.

- Talk to your doctor about the ways the harassment might be affecting your health and wellbeing.

Informal ways of dealing with sexual harassment.

- It may not be possible for you to confront the harasser directly, but if you feel safe to do so, you can. You can take a support person with you while you do this. Sometimes the harasser is unaware how their behaviour is affecting you, so this can sometimes be an effective way to deal with it.
- You could also report incidents of sexual harassment to a contact person in your workplace and discuss ways of informally resolving the situation.
- Talk to your co-workers, especially other people who may have experienced sexual harassment and who may be able to support your complaint.
- Keep clear notes (like a diary) if you experience incidents of sexual harassment, or if it reported to you by a colleague. Make sure to write down dates, times, places, who was there and what was said. Any records of an incident should be kept safe.

Formal ways of dealing with sexual harassment.

- Check to see if your workplace has a sexual harassment policy. If it does, it should list the procedures to follow, if you feel safe to do so.
- If you work under an award or an enterprise agreement, your award or agreement will list a procedure you could follow.
- If you are a member of a union, you can have a union representative advocate for you on your behalf.
- If the sexual harassment is current or has recently happened, you can apply to the Fair Work Commission to make an order to stop sexual harassment.
- You can report sexual harassment to WorkSafe Tasmania. They can investigate and prosecute (but is only likely to do so in the most serious of cases).
- A complaint can be made to Equal Opportunity Tasmania under the Tasmanian Anti-Discrimination Act.
- A complaint can be made to the Australian Human Rights Commission under the Federal Sex Discrimination Act.

If you have made a complaint:

- Don’t be discouraged if people choose not to believe you. You don’t have to resign to escape sexual harassment – if you feel like you have no choice but to resign, get advice first.
- If your employment is terminated because you made a complaint of sexual harassment (or if you helped a

colleague make a complaint), this is called **victimisation**, and is against the law. You may be entitled to claim for unfair dismissal.

- Women may be scared to make a complaint due to the threat of a defamation case. If you have already made a complaint of sexual harassment to your employer or another external organisation, your complaint can actually be used as a defence against defamation charges.

Limitations – time limits to make a complaint.

Different time limits apply under different laws, depending on the approach you want to take to address the sexual harassment.

If your employment has been terminated because of making a complaint about sexual harassment and you want to get your job back, or you want compensation for your loss of employment, you have **21 days** to lodge a complaint with the Fair Work Commission.

Under Tasmanian law, complaints of sexual harassment can be made within **12 months** of the incident.

Under Federal Anti-Discrimination Law, complaints of sexual harassment can be made within **two years** of the incident.

Other timeframes apply if you want to appeal the outcome of any official process.

How we can help.

You can also contact Women's Legal Service Tasmania for help.

We can provide you with information or advice about sexual harassment and complaint procedures, and we can help you plan to address the situation, including making a complaint.

We can also advocate on your behalf and may be able to represent you in certain circumstances.

Contacts

Additional help is available by contacting the following organisations:

- [Women's Legal Service Tasmania](#) can be contacted on **1800 682 468**.
- [Sexual Assault Support Service \(SASS\)](#), phone **1800 697 877**.
- [Laurel House Sexual Assault Support](#) (Launceston, Devonport and Burnie), phone **1800 697 877**
- [1800 RESPECT](#), phone **1800 737 732**
- WorkSafe Tasmania, phone **1300 366 322**.
- [Equal Opportunity Tasmania](#), phone **1300 305 062**.
- [Australian Human Rights Commission](#), phone **1300 369 711**

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