



## Fact Sheet: Sexual Harassment

Sexual harassment is unlawful.

You can call the **Kingsford Legal Centre on 9385 9566 or 1300 722 795** for free, confidential legal advice about sexual harassment.

### ***What is sexual harassment?***

Sexual harassment includes any:

- unwelcome sexual advance;
- unwelcome request for sexual favours; or
- unwelcome conduct of a sexual nature

that could cause offence, humiliation or intimidation to the person harassed, where that reaction was reasonable in the circumstances.

**Whether or not the behaviour is unwelcome will depend on how the person harassed experiences it, not the intention behind it.**

Examples of sexual harassment may include any unwelcome:

- Sexually suggestive comments or jokes;
- Sexual gestures or exposure of a person's private parts;
- Touching, hugging, cornering or kissing;
- Staring or leering at a person;
- Comments or questions about a person's private life or body;
- Requests for dates, sex or any sexual acts;
- Display or circulation of images of a sexual nature; or
- Sexually charged or hostile work environment.

## When is sexual harassment unlawful?

Sexual harassment constitutes unlawful sexual discrimination under the *Sex Discrimination Act 1984* (Cth) and *Anti-Discrimination Act 1977* (NSW) if it happens in certain areas of life, including:



### Sexual harassment in employment

Example: Maria's boss keeps asking her to have a drink with him outside of work hours, despite her ongoing refusal. He also keeps commenting on how "beautiful" and "fit" she is, even though she has told him that these comments make her feel uncomfortable.

### Sexual harassment in education

Example: Carl's university lecturer has sent him several emails containing sexual innuendo, which he has ignored. Last week his lecturer bumped into him before class and asked him whether he was "seeing anybody."

## Where can you go if you have been unlawfully sexually harassed?

### Australian Human Rights Commission

You can make a complaint about sexual harassment to the AHRC.

- You can make a complaint for free
- Complaints can be made online by going to: <https://humanrights.gov.au/complaints/make-complaint> or writing to the Commission.
- They will assist you to negotiate with the person you are making a complaint against.
- It is best to complain within **24 months** for complaints under the *Sex Discrimination Act*.

### Anti-Discrimination NSW

Alternatively, you can make a complaint about sexual harassment to Anti-Discrimination NSW.

- You can make a complaint for free
- Complaints can be made by completing a complaint form, available at: [www.antidiscrimination.justice.nsw.gov.au](http://www.antidiscrimination.justice.nsw.gov.au), or writing to the President of Anti-Discrimination NSW
- They will assist you to negotiate with the person you are making a complaint against.
- It is best to complain within **12 months**.

### **Fair Work Commission- Orders to stop sexual harassment**

The Fair Work Commission can also now make orders to prevent a worker from being bullied or sexually harassed at work where:

- A worker has been bullied or sexually harassed (or both) by an individual or a group of employees; and
- There is a risk that the worker will continue to be sexually harassed or bullied at work by that individual or group of employees

There is no timeframe for a worker to lodge an application for an order to stop bullying or sexual harassment (or both). However, the worker needs to have a connection to the workplace when lodging the application.

- The Fair Work Commission must start to deal with the application within 14 days after the application has been lodged.
- A filing fee of \$74.90 is applicable (as at 1 January 2022)

If you have been dismissed from your job you should get immediate legal advice about your other complaint options, as strict time limits may apply to some types of complaints.

Applying for an order to stop sexual harassment may not stop you from making other types of complaints- it is best to get advice about the best option for you.

### ***Some sexual harassment can also be a crime***

Some sexual harassment may also be a crime - for example, an act of obscene exposure, physical assault or sexual assault may constitute sexual harassment as well as a criminal offence. Criminal offences can be reported to the NSW Police by calling Triple Zero (000).

If you need medical or psychological assistance you should contact the emergency department of your local hospital, your local doctor or NSW Health's Sexual Assault Service.

**You should get legal advice about the best option for you.**

**Kingsford Legal Centre offers free, confidential advice on sexual harassment (02) 9385 9566 or 1300 722 795 or email us at [legal@unsw.edu.au](mailto:legal@unsw.edu.au)**

***This factsheet is current as at 5 April 2022. It contains general information only and does not constitute legal advice.***

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