

FACT SHEET:

Sexual harassment

Sexual harassment is prohibited by the *Anti-Discrimination Act 1991*.

What is sexual harassment?

For there to be sexual harassment, all of these elements need to be present:

1. The conduct is sexual in nature
2. The conduct is unwelcome
3. The conduct is done *either*:
 - (a) with the intention of offending, humiliating, or intimidating the target; or
 - (b) in circumstances where a reasonable person would have anticipated the possibility that the target would be offended, humiliated, or intimidated.

It includes uninvited physical intimacy such as touching in a sexual way, uninvited sexual propositions, and remarks with sexual connotations.

It has nothing to do with mutual attraction or consensual behaviour.

Sexual harassment can take various forms and may be obvious or subtle, physical or verbal. Examples of sexual harassment include:

- unwelcome physical touching;
- sexual or suggestive comments, jokes or innuendo;
- unwelcome requests for sex;
- intrusive questions about a person's private life or body;
- the display of sexually explicit material such as posters or pictures;
- unwanted invitations to go out on dates;
- staring or leering;
- sex based insults or taunts; and
- sexually offensive communications, including telephone calls, letters, faxes, email and computer screen savers.

Sexual harassment does not have to be repeated or continuous to be against the law. A single act can be unlawful.

Examples of sexual harassment

A café operator making unwanted sexual or suggestive comments, jokes or taunts to patrons.

Your boss or a colleague repeatedly asking you out on dates despite you saying no, or asking questions about your sex life, or making unwelcome comments about your appearance.

A friend sending you text messages with pornographic images, even though you have told them not to.

When and where is sexual harassment unlawful?

Sexual harassment is unlawful no matter where it happens - while at work, in a shop or restaurant, at school or college, when looking for accommodation, or when dealing with tradespeople, businesses or State or local government officials. Unlike discrimination that is only unlawful if it happens in a specified area of activity, sexual harassment is unlawful wherever it happens in Queensland.

If sexual harassment happens in a workplace, an employer may be legally responsible for sexual harassment by their employees, unless reasonable steps are taken to prevent it from happening.

Employers need to take reasonable steps to ensure they protect their staff from sexual harassment and other types of discrimination and vilification, and make sure their workplaces are free of this type of behaviour.

This may include writing policy about sexual harassment and making sure all employees, especially managers and supervisors, are trained in how to reduce or prevent incidents from happening. Employers should also introduce an effective process for dealing with complaints.

Employers or organisations can't avoid their legal responsibility by saying they were not aware of sexual harassment in their workplace.

This means that the employer, as well as the person or persons who engaged in the sexual harassment, can be liable to pay compensation for loss or damage suffered by a person as the result of sexual harassment.

What can I do if I'm being sexually harassed?

If you have been sexually harassed, you may want to deal with the situation yourself. Talking to the person or people involved and telling them you object to what they are doing and asking them to stop might be enough. However this option may not always be safe or appropriate, or you might not feel able to deal directly with the other person yourself.

If the harassment happens at work, you could seek assistance and further options from your manager, union representative, human resource personnel or equity contact officer. If your workplace has a process for dealing with complaints, you could lodge a complaint with your employer.

If the harassment happens at a school or educational institution, you might seek assistance from a teacher, guidance officer or other welfare staff.

You can make a complaint to the Commission regardless of whether you have tried to deal with it yourself.

Some sexual harassment, such as sexual assault, indecent exposure and stalking, is also a criminal offence and can be reported to the police.