



ATSILS

Aboriginal and
Torres Strait Islander
Legal Service (Qld) Ltd

Legal Fact Sheet

Sexual Harassment in the Workplace is Against the Law



This fact sheet explains:

- Workplace Responsibilities
- What is Workplace Sexual Harassment?
- What to do if your Sexually Harassed at work?
- Support services available
- Legal advice and legal assistance

1. Workplace Responsibilities

Employers now have a positive duty to prevent and respond to workplace sexual harassment. Training all staff, identifying risk areas, work policies with consequences, and action all reports.

Workers, Customers, Clients and Patients are responsible in taking reasonable care of their own health and safety in the workplace.

To not negatively impact the health and safety of others. This includes not sexually harassing others and following reasonable instructions relating to health and safety.

ATSILS is a non-profit, Aboriginal and Torres Strait Islander community-based organisation with 25 locations across Queensland. We provide innovative and professional legal services covering criminal, civil and family law areas.

Freecall 24/7  1800 012 255

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2. What is Workplace Sexual Harassment?

Sexual Harassment means any **unwelcome sexual behaviour that a **reasonable person** could anticipate may make another person feel **offended, intimidated or humiliated** in that situation.**

- Unwelcome behaviour means unwanted or uninvited behaviour that makes a person feel offended, embarrassed or frightened.
- Whether behaviour is unwelcomed is a question for the person harassed.
- A reasonable person means a neutral and unbiased observer.

Sexual harassment does *NOT* have to:

- Be intentional
- Be repeated behaviour
- Be directed at you e.g. Group chat, mass email and statements made to others
- Be actioned by fellow workers - it can include customers, clients and patients and
- Be to be face to face, it may be sexually offensive behaviour over the phone, emails, social media, texts, offensive posters, pictures and items.

Sexual harassment is not always obvious. It includes a wide range of behaviours. The most common behaviours are:

- sexually suggestive, sexist comments or crude jokes
- intrusive questions about a person's private life or body
- inappropriate staring or leering
- inappropriate physical contact
- unwelcomed touching, hugging, cornering or kissing.

Other examples of sexual harassment include:

- sharing or threatening to share intimate images or video without consent
- repeated or inappropriate invitations to go out on dates in person or via technology
- sexually explicit gifts, images, videos, cartoons, drawings, photographs, or jokes
- followed or watched and someone loitering nearby, either in person or via technology.
- using suggestive or sexualised nicknames for co-workers
- insults or taunts based on sex
- sexual gestures or indecent exposure and
- actual or attempted rape or sexual assault.

It is a human right to be safe in the workplace this includes not being discriminated against based on gender.

Acts such as indecent exposure, stalking, sexual assault, obscene and threatening behaviour (e.g., phone calls, emails, and posts on social media) might be criminal acts - such matters should be referred to Police.

3. What to do if your Sexually Harassed at work?

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

There is no right way to respond to sexual harassment. We all react to stress and trauma differently.

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

- **Tell the harasser to stop** if you're feeling safe and confident to do so; tell them you feel uncomfortable and that their behaviour is not acceptable or welcomed.
- **Remove yourself from the situation** by logging off your device, hanging up the phone, or walking away.
- **Ask for help** from your co-workers (although be guided by your employer's procedures in this regard), manager, security personnel, friends, or family members.
- **Bystanders might act** if feeling safe and confident to verbally discourage the behaviour and reporting such if the behaviour does not stop.
- **Anonymous Reporting**

After experiencing sexual harassment, you should consider:

- **Seek professional help** from a colleague, counselling service, helpline, legal service, employee representative. Support services are listed at the end of this document.
- **Keep a record of what happened**, when and where it happened, who was involved and anything else you think might be important.
- **Report what happened** to management or human resources early, this is often an effective way to make sexual harassment stop. Again, follow your employer's related policies and procedures.
- **Make a complaint** with your WHS officer or lodge a complaint with the Fair Work Ombudsman ([link](#)) or the Australian Human Rights Commission ([link](#)).

You might be worried that making a complaint might make things worse at work. The law protects workers from being unfairly treated for asserting their workplace rights. It is illegal for employers to punish or treat workers unfairly for reporting sexual harassment. If you are - Contact the Fair Work Commission below.

Remember if you are sexually harassed at work, it is not your fault.

4. Support Services

Australian Human Rights Commission

www.humanrights.gov.au

1300 656 419 or 02 9284 9888

Fair Work Commission

www.fwc.gov.au

1300 799 675

Beyond Blue

www.beyondblue.org.au

1300 224 636

1800Respect

www.1800respect.org.au

1800 737 732

Sexual assault support services

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

Lifeline

www.lifeline.org.au

13 11 14

ReachOut

<https://au.reachout.com/>

5. Need legal advice or legal assistance:

Contact ATSILS – *Employment Legal Services – Address Workplace Sexual Harassment*

Freecall 24/7  1800 012 255

www.atsils.org.au/contact/

This Factsheet is not intended to provide legal advice and has been provided for the purpose of providing information only. Whilst all reasonable care has been taken in the preparation of this information, no liability is assumed for any errors or omissions.