

# Experiencing Sexual Harassment

What you can do if you experience workplace sexual harassment



## This resource provides information about what you might consider doing if you experience sexual harassment in legal workplaces

### Recognising sexual harassment

Sexual harassment is unlawful in various areas of public life, including employment. It is defined in both the *Sex Discrimination Act 1984* (Cth) and the *Equal Opportunity Act 2010* (Vic) as any type of unwanted or unwelcome sexual behaviour, which could make a person feel offended, humiliated or intimidated. It has nothing to do with mutual attraction or consensual behaviour, and it is irrelevant whether or not someone intends to offend, humiliate or intimidate you by their conduct.

Harassment can be physical, verbal or occur in writing. You can find more information about the wide spectrum of behaviours that can constitute sexual harassment [here](#).

Workplace sexual harassment can occur in obvious settings, such as the office, but it can also occur in other locations and spaces that are in some way connected to work, for example:

- in shared spaces on the work premises (for example, kitchens and photocopy rooms) as well as in other common areas such as the carpark, lifts, entrance or reception area and bathrooms outside of the work premises;
- other settings in which you work, for example, at court or a client's office, or at your residence if you are working from home;
- at work-related events, meetings or where people are carrying out work-related functions or activities outside of the physical work premises (for example, at a Christmas party, after work drinks with colleagues, at a conference, on a work trip or when travelling to work);
- online and through technologies and social media (for example, during remote work); and
- between people sharing the same workplace (for example, contractors or people in a co-working space).

Employers, managers and other senior leaders have legal and ethical responsibilities to do what they can to prevent and address sexual harassment in their workplaces.



## **If you are experiencing sexual harassment**

You may be worried that others may not think that what you are experiencing is serious enough to be labelled sexual harassment, but if what's happening is of a sexual nature, that is unwelcome, and is conduct that a reasonable person would have understood might offend, humiliate or intimidate you, then it is sexual harassment.

If you're being, or have been, sexually harassed, there are things you can do. Of course, you are not required to take any action – and not taking action at the time doesn't mean you can't take action later – but it is worth understanding what your options are.

If the behaviour being directed at you involves violence (such as physical assault) or makes you fear for your safety (for example if you are threatened with violence, or are being stalked), then that is a criminal matter and you should seriously consider reporting it to Victoria Police.

## **At the time of incident and immediately afterwards**

### **Let the person know that their behaviour or conduct is unwelcome**

If you feel comfortable doing so, and think that it would be effective, you could consider talking to the person who harassed or is harassing you. Let them know their behaviour made or makes you feel uncomfortable and that you don't want it to happen again.

You may be able to resolve the situation yourself by pointing out that the behaviour is inappropriate, makes you feel uncomfortable, offended or embarrassed. They may not realise the effect their behaviour is having on you, and saying something to them may give them the opportunity to change their conduct.

Of course, there are good reasons why you might not want to talk to the person who harassed you. You may feel that it's unlikely to be helpful to do so, or that such a conversation may backfire in some way (for example, that you will suffer some form of retaliation or ostracism). It may depend upon your workplace culture, the circumstances of the harassment and the personality and professional integrity of the person involved – particularly where the perpetrator is someone more senior and/or in a position of authority over you.





Below are some suggestions for things you could say at the time you're being harassed, if you think it would be effective. This is not an exhaustive list and you should tailor the statements below to your own language and the approach best suited to the circumstances:

- *I've told you before I don't want to go out with you / I'm not interested in you romantically – so you can stop asking.*
- *I've asked you (X) times not to do that and you continue to do it. It is disrespectful and it's harassment.*
- *Please stop, you're making me uncomfortable.*
- *I really don't like it when people stand too close to me / touch me / make sexual jokes / comment on my appearance.*
- *What makes you think you can talk to me / touch me like that?*
- *I do have a sense of humour, but that joke isn't funny – it's degrading / humiliating / sexist.*

You don't have to say anything at all, if you don't feel comfortable doing so. It is important to be aware that even if you do not object to inappropriate behaviour in the workplace at the time it occurs it does not mean the behaviour is welcome or that you are consenting to it.

If you don't want to say anything, for whatever reason, you might be able to remove yourself from the situation, such as retreating to a safe location, or disconnecting the perpetrator from a phone call.

### **Raise the incident with witnesses or bystanders**

If there was someone else present when the harassment occurred, and you trust and have confidence in that person, you could consider raising the incident with them, seeking their help to speak to the person who harassed you or intervene if it happens again.

### **Keep records**

As soon as you are able, after the event, it's a good idea to take notes and keep any other records detailing what occurred. As you would with a file note, document what was said or done, by whom, when and where. Note whether there were any witnesses, how the incident made you feel and any subsequent action taken.

While you might not feel like reporting the incident to anyone in the immediate aftermath or indeed at all, if you decide to discuss or report it in future – for example, if it happens again, you become aware of it also happening to others or you change your mind – you will have evidence to support any report or complaint.

Keep any additional evidence you may have such as emails, voicemails and text / WhatsApp / video messages. Consider how you will store this documentation safely and securely. Email records to your personal email address for retention and security purposes, and to provide you with a timestamped record.



### Seek support from your networks

Seek support from your family and friends, health professionals and helplines.

Helplines such as [1800 RESPECT](#), the Victorian [Sexual Assault Crisis Line](#), [Lifeline](#) or [Beyond Blue](#) offer free counselling, or you could seek a referral through your GP to speak with a psychologist.

Many workplaces have Employee Assistance Programs, which usually provide free and confidential counselling sessions, and are often available 24 hours a day, 7 days a week.

### Review your workplace's sexual harassment policies and procedures

Find out about how your workplace deals with sexual harassment by reviewing any relevant policies and procedures. You might find this information in induction or human resources materials or on your workplace intranet. Depending on the size of your organisation, a sexual harassment policy or procedure may be contained within a broader policy document such as a harassment policy covering various forms of unlawful harassment. Alternatively, there might be a standalone policy.

### Talk to trusted colleagues

After you have reviewed your workplace policies and procedures, it may help to speak to a trusted colleague or raise the issue informally with a trusted human resources or other manager in your workplace. Note that a manager or colleague may be required to escalate the matter, if a workplace policy, duty of care or legislative obligation requires this, particularly in circumstances that may: constitute a criminal offence or occupational health and safety risk; or require disciplinary action.

If you suspect or know that you are not the only person experiencing sexual harassment in your workplace, you could approach others who are also being harassed. You may be able to provide each other with support and consider raising the issue with your employer together.

## Options for reporting sexual harassment

There are a number of options and pathways for reporting sexual harassment. Each serve a different purpose, and result in different outcomes.

The resolution process for – and potential outcomes of – making a complaint to your employer will depend upon your workplace policies and procedures. See the information below for more detail about this.

For external reporting options, there are different pathways depending on whether you are seeking:

- **conciliation** (provided by Human Rights Commissions);
- a **regulatory response**, which can involve investigations, findings and orders being made against either individuals (for example, against lawyers by the VLSB+C) or organisations (for example, against workplaces by WorkSafe Victoria); or
- a **police response**, in response to sexual harassment involving crimes or offences.



The reporting option you choose will depend upon the type of outcome you're seeking. Contact any of the organisations below for further information about what you might expect from their complaints resolution processes.

Remember to look after yourself and seek support from your networks if you decide to make a formal complaint.

## **Report the conduct to your employer**

Your workplace should have policies or procedures that outline how and to whom to report sexual harassment within the workplace and provide information about what you might expect to occur if you choose to report through that avenue.

If you feel confident that your employer will take a sexual harassment complaint seriously and has appropriate mechanisms in place to resolve the complaint, you may decide to make a formal complaint.

If you decide to make a formal complaint to your employer it is important to provide as much detail and evidence as possible, including details about anyone else who may have witnessed it. This is where notes taken at the time of the incident would be of great assistance.

An investigation by your employer will generally involve the person who harassed you being asked about the incident/s. The investigator may also need to ask you further questions, gather evidence and interview any witnesses. Ask to have a support person with you as part of this process, if you feel like you need one.

Your employer will likely have a range of responses to consider following the outcome of the investigation procedure, including deciding whether or not the harassment can be substantiated. If it is substantiated, the perpetrator may be subject to internal disciplinary action, including being informally or formally warned, being required to apologise, being moved or re-assigned, or having their employment terminated. It might be helpful to think about and discuss with your employer what kind of outcome you would like to see happen from the process.

If you are not satisfied with the way in which your complaint is handled by your employer, you can make a complaint about the harassment to an external body.

It's important to know that you don't need to report sexual harassment to your workplace first if you're not comfortable doing so. You can go straight to an external body.

## **Report it externally**

### **Human Rights Commissions**

Both the [Victorian Equal Opportunity and Human Rights Commission](#) and the [Australian Human Rights Commission](#) provide information, receive complaints, and offer free and impartial conciliation services to people who have experienced harassment in any area of public life, including the workplace. It is unlawful to victimise or treat unfairly someone who has made a complaint about sexual harassment under the *Sex Discrimination Act 1984 (Cth)* or *Equal Opportunity Act 2010 (Vic)*.





## Victorian Legal Services Board and Commissioner

The [VLSB+C](#) is responsible for regulating lawyers in Victoria. We do not tolerate sexual harassment by lawyers and consider it unacceptable conduct that is capable of constituting professional misconduct. If you have been sexually harassed by a lawyer, you are strongly encouraged to report or make complaints to our designated sexual harassment team by:



**Calling (03) 9679 8001 and asking to speak to a Sexual Harassment Complaints Team member**



**Emailing [harassmentcomplaints@lsbc.vic.gov.au](mailto:harassmentcomplaints@lsbc.vic.gov.au)**



**Visiting our online reporting tool at [lsbc.vic.gov.au/Sexual-Harassment-Complaints](https://lsbc.vic.gov.au/Sexual-Harassment-Complaints)**

We will deal with reports and complaints sensitively and in a way that gives complainants control over their story. If you don't want to make a formal complaint, or would like to stay anonymous, that's okay. We do not have to take any action following an informal report, although it may help us identify areas of concern in the profession, and inform our responses, including education campaigns. If you want to formally complain, we can investigate and we may be able to take disciplinary action against the person complained about.

You can also contact us if you believe a Victorian legal practice has failed to take reasonable steps to ensure their lawyers engage in professional conduct.

### WorkSafe Victoria

Sexual harassment represents a form of harm or injury for which employers (and employees) can be held liable under equal opportunity and occupational health and safety legislation. Therefore, in some circumstances, complaints about sexual harassment can also be reported to [WorkSafe Victoria](#). If you believe your workplace has systemic failings in creating and maintaining a safe and healthy workplace (including in relation to sexual harassment), you can seek further information or potentially refer the matter to an inspector by calling the WorkSafe Victoria advisory service.

### Victoria Police

Complaints can be made to [Victoria Police](#) in relation to incidents of sexual harassment that might constitute an offence or crime.