

SEXUAL HARASSMENT

It is unlawful under the *Equal Opportunity Act 1984* to sexually harass a person.

Under the *Equal Opportunity Act 1984* sexual harassment includes an unwelcome sexual advance or request for sexual favours or unwelcome conduct of a sexual nature.

The behaviour must be such that the harassed person has reasonable grounds to believe if they reject the advance, refuse the request or object to the conduct they will be disadvantaged, or they are in fact disadvantaged.

Sexual harassment does not need to be repeated or continuous, it can involve a single incident.

Sexual harassment can take numerous forms including but not limited to:

- Unwelcome physical touching, hugging or kissing
- Staring or leering at someone, or at parts of their body
- Suggestive comments or jokes
- Insults or taunts based on sex
- Sexually explicit pictures, e-mails or text messages
- Intrusive questions about an employee's private life or body.

Where does the Act apply?

The Act makes it unlawful to sexually harass a person in certain areas of public life and these areas include:

- Employment - it is unlawful to sexually harass an employee, a co-worker, a potential employee or employer, commission agent or contract worker
- Education – it is unlawful for an employee of an educational institution to sexually harass a student or potential student of that institution

- Accommodation – it is unlawful for a person who, as principal or agent, has control over accommodation or the letting of that accommodation, to sexually harass a person.

Responsibilities

Organisations must ensure they provide a working environment free from sexual harassment.

Organisations are liable for the unlawful action/s of their employees unless they can show they have taken all reasonable steps to prevent sexual harassment.

Section 160 of the Act

A person who causes, instructs, induces, aids or permits another person to do something that is unlawful under the Act shall, for the purposes of the Act, be taken to have done the act.

How to Lodge a Complaint

A person who believes they have been sexually harassed can lodge a complaint with the Commissioner.

The onus of proof lies with the person making the complaint. The complaint must be lodged within 12 months of the last incident of harassment however, in some circumstances, the Commissioner may rule there is good reason to accept a complaint that falls outside the 12 month time frame.

The Commissioner tries to resolve complaints by conciliation. In some cases complaints may be dismissed if they lack substance.

Examples of Sexual Harassment

A male clerk became uncomfortable with the behaviour of a new female supervisor. She would rub his back and neck, press herself against him and pinch him on the backside. The man eventually made it clear to the

supervisor that her attentions were unwelcome. She became difficult to work with and started making unfavourable reports about his work performance.

An employer was found liable for sexual harassment after a female employee alleged his ongoing and unwelcome sexual advances led to her resignation.

A landlord requested sexual favours in lieu of rent from a tenant operating an escort agency from the rental property.

A female employee was repeatedly touched on the bottom, winked at and called names by a work colleague, who also threatened her future employment with the company.

A young female employee was asked by her employer for sexual favours, harassed on her mobile phone and subjected to degrading sexual comments.

For more information see the [Your Rights](#) section of our website.

The Commissioner for Equal Opportunity provides information about the Act, investigates and conciliates complaints, conducts community education and training and develops programmes to promote equal opportunity.

How to Contact the Commission

By telephone

General enquiries 08 9216 3900

Training Courses 08 9216 3927

Facsimile 08 9216 3960

Country callers 1800 198 149

TTY 08 9216 3936

Interpreter can be arranged on request

By e-mail

eoc@eoc.wa.gov.au

By visiting our website

www.eoc.wa.gov.au

By visiting our office

Level 2

Westralia Square

141 St Georges Terrace

Perth WA 6000

By post

PO Box 7370

Cloisters Square

Perth WA 6850

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