

Causes and Risk Factors of Sex Discrimination, Sexual Harassment and Other Unlawful Behaviours

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New provisions in the *Sex Discrimination Act 1984* (Cth) place a **positive duty** on organisations and businesses to take reasonable steps to eliminate the following behaviour as far as possible:

- discrimination on the ground of sex in a work context
- sexual harassment in connection with work
- sex-based harassment in connection with work
- conduct creating a workplace environment that is hostile on the ground of sex
- related acts of victimisation.

We refer to these behaviours as '**unlawful behaviours**' in this factsheet.

Reviews of Australian workplaces have found clear evidence that certain societal factors play a key role in driving sexual harassment and sex discrimination.

In addition, workplace and industry factors can increase the risk of unlawful behaviours occurring in a workplace.

Anyone can experience unlawful behaviours, in any workplace, across all industries. Some workers, however, are more likely to be targets of certain types of behaviour than others.

Understanding the underlying causes, risk factors, and who is most likely to be at risk, can help to prevent and respond to it.

Underlying causes

Gender inequality and power imbalances between workers are the main underlying causes of workplace sexual harassment and sex discrimination. In addition, some people are more likely to experience unlawful behaviours due to the intersecting forms of discrimination and exclusion they face. Lack of accountability can also drive unlawful behaviours in a workplace.

Power imbalances, such as workplace hierarchies, create a context where someone who holds power may gain a sense of entitlement, while others may hold a fear of challenging or speaking out against that power.

While the removal of power imbalances may not be possible, organisations and businesses should consider reducing their effects – including by ensuring safe avenues for reporting unlawful conduct by leaders and managers and demonstrating that they will be held accountable for their actions.

Gender inequality

Gender inequality is the unequal distribution of resources, opportunity and value afforded to people because of their gender. Examples of gender inequality in the workplace include workplaces or leadership positions that are dominated by men; a gender pay gap; gender-segregation; a lack of access to appropriate facilities for women and gender-diverse workers; expectations that workers will perform certain jobs because of their gender; or a culture of sexist and/or transphobic jokes.

Intersectional factors

Intersecting forms of discrimination and exclusion are the multiple and overlapping forms of discrimination that a person may experience because of their identity (for example, because of their race, ethnicity, Aboriginal or Torres Strait Islander identity, disability, LGBTIQ+ status, gender, age or migration status), which puts them at a higher risk of being discriminated against.

Intersectional factors can also exacerbate a person's experience of unlawful behaviour. For example, they may be forced to endure behaviour such as sex discrimination and sexual harassment in combination with other discriminatory behaviours, such as race, age or disability discrimination.

Lack of accountability

Lack of accountability for disrespectful and discriminatory behaviour in the workplace can help relevant unlawful conduct to thrive. A lack of accountability sets the workplace tone, creating cultures where relevant unlawful conduct is accepted and unchallenged. On the other hand, clear expectations about appropriate behaviour, set and upheld by workplaces, can reduce the likelihood of relevant unlawful conduct occurring.

Specific industry and workplace risk factors

There is a risk of sex discrimination, sexual harassment, and other unlawful behaviours happening in **every workplace**. However, your business might have a **higher risk** if:

- most of your workers are men
- most of the supervisors or managers in your workplace are men
- your workplace **lacks diversity**
- your business involves **interacting with third parties** (such as clients, customers and/or others)
- you employ **casual staff** and/or **workers on short-term contracts**
- your workplace is very **hierarchical**
- your workplace is **isolated** or **remote**
- your workplace is **divided by gender** (for example, women in the office, men on the tools)
- **alcohol** is consumed, especially at work social events
- you and/or your staff **do not understand** sex discrimination, sexual harassment and other unlawful behaviours
- **disrespectful behaviour** is generally accepted or common in your workplace
- you don't have a **policy** or **code of conduct** which sets expected standards of behaviour
- you have not responded appropriately or **held people accountable** for unlawful behaviours in the past (or have not applied a policy or code of conduct consistently).

You can find more information about the positive duty under the Sex Discrimination Act on the Commission's website. Resources include *Guidelines for Complying with the Positive Duty*, an *Information Guide: Relevant Unlawful Conduct, Drivers, Risk Factors and Impacts*, a *Quick Guide*, *Small Business Resource*, and other factsheets.