

# Good practice, good business



Australian  
Human Rights  
Commission

everyone, everywhere, everyday

Eliminating discrimination and harassment from your workplace

## WRITING AN EFFECTIVE SEXUAL HARASSMENT POLICY

Some employers have a general workplace policy which covers all forms of unlawful discrimination and harassment (such as discrimination and harassment on the grounds of race, disability, sexual preference, age, etc). Others decide there is a need for a stand alone sexual harassment policy, particularly if sexual harassment is a common or recurring problem within the workplace.

### ***What to include in a policy***

A sexual harassment policy should include the following:

#### ***A strong opening statement on the organisation's attitude to sexual harassment***

This should state that the organisation is committed to ensuring that the working environment is free from sexual harassment, that it will not be tolerated under any circumstances and that disciplinary action will be taken against any employee (or agent) who breaches the policy. To give the policy credibility and maximum impact, the opening statement should appear above the signature of the chief executive officer.

#### ***An outline of the organisation's objectives regarding sexual harassment***

This demonstrates that the organisation is committed to a comprehensive strategy for eliminating sexual harassment. Employers may wish to consider something along the following lines.

This organisation aims to:

- create a working environment which is free from sexual harassment and where all members of staff are treated with dignity, courtesy and respect

- implement training and awareness raising strategies to ensure that all employees know their rights and responsibilities
- provide an effective procedure for complaints, based on the principles of natural justice
- treat all complaints in a sensitive, fair, timely and confidential manner
- guarantee protection from any victimisation or reprisals
- encourage the reporting of behaviour which breaches the sexual harassment policy
- promote appropriate standards of conduct at all times.

#### ***A clearly worded definition of sexual harassment***

There is no single, universally accepted definition of sexual harassment. However, the definition adopted should be consistent with the legal definition to avoid any confusion. The most important element to emphasise in any definition is that sexual harassment is unwelcome behaviour of a sexual nature. For example, sexual harassment can be defined in the following way:

*Sexual harassment is any unwanted, unwelcome or uninvited behaviour of a sexual nature which makes a person feel humiliated, intimidated or offended. Sexual harassment can take many different forms and may include physical contact, verbal comments, jokes, propositions, the display of offensive material or other behaviour which creates a sexually hostile working environment.*

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***Some examples of sexual harassment that are relevant to the particular working environment***

The policy should identify specific examples of sexual harassment, such as: uninvited touching; uninvited kisses or embraces; smutty jokes or comments; making promises or threats in return for sexual favours; displays of sexually graphic material including posters, pinups, cartoons, graffiti or messages left on notice boards, desks or common areas; repeated invitations to go out after prior refusal; “flashing” or sexual gestures; sex-based insults, taunts, teasing or name-calling; staring or leering at a person or at parts of their body; unwelcome physical contact such as massaging a person without invitation or deliberately brushing up against them; touching or fiddling with a person’s clothing including lifting up skirts or shirts, flicking bra straps, or putting hands in a person’s pocket; requests for sex; sexually explicit conversation; persistent questions or insinuations about a person’s private life; offensive phone calls or letters; stalking; and offensive e-mail messages or computer screen savers.

***What sexual harassment is not***

The policy should explain that sexual harassment is not behaviour which is based on mutual attraction, friendship and respect. If the interaction is consensual, welcome and reciprocated it is not sexual harassment.

***A statement that sexual harassment is against the law***

The policy should make it clear that sexual harassment is against the law. Reference should be made to the federal, state or territory anti-discrimination laws that apply to the organisation. Staff need to know that legal action could be taken against them for sexual harassment and that they could also be exposing the company to liability.

***The circumstances in which sexual harassment may occur***

The policy should state that a person may be sexually harassed by a supervisor or manager, co-worker, contractor, service provider, client or customer. Although not all these situations would necessarily give rise to a complaint

under the legislation, it makes good sense to provide an internal procedure for dealing with any sexual harassment which could affect the welfare of employees. The policy should also state that sexual harassment is not just unlawful during working hours or in the workplace itself and not only between co-workers.

The behaviour is unlawful in any work-related context, including conferences, work functions, office Christmas parties and business or field trips and includes interactions with clients and customers.

***The consequences that can be imposed if the policy is breached***

The policy should include a general warning to all employees of the consequences they can expect if they do not comply. Depending on the severity of the case, consequences may include an apology, counselling, transfer, dismissal, demotion or other forms of disciplinary action. Employees should also be informed that immediate disciplinary action will be taken against anyone who victimises or retaliates against a person who has complained of sexual harassment.

***Responsibilities of management and staff***

The policy should state that the organisation has a legal responsibility to prevent sexual harassment, otherwise it can be liable for the behaviour of its employees.

This means that managers and supervisors have a responsibility to:

- monitor the working environment to ensure that acceptable standards of conduct are observed at all times
- model appropriate behaviour themselves
- promote the organisation’s sexual harassment policy within their work area
- treat all complaints seriously and take immediate action to investigate and resolve the matter
- refer a complaint to another officer if they do not feel that they are the best person to deal with the case (for example, if there is a conflict of interest or if the complaint is particularly complex or serious).

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All staff have a responsibility to:

- comply with the organisation's sexual harassment policy
- offer support to anyone who is being harassed and let them know where they can get help and advice (they should not, however, approach the harasser themselves)
- maintain complete confidentiality if they provide information during the investigation of a complaint. Staff should be warned that spreading gossip or rumours may expose them to a defamation action.

***Information on where individuals can get help, advice or make a complaint***

The policy should tell employees where they can get help if they are sexually harassed. Depending on the size of the organisation and the system that is in place for dealing with sexual harassment, employees can be advised to approach their manager or supervisor, sexual harassment contact officer, equal employment opportunity officer, human resources manager, industrial relations manager and/or their union delegate. Where possible, a number of different contact people of both sexes should be provided so that staff can approach someone they feel comfortable with. It is not appropriate to only give staff the option of approaching their line manager because there may be cases where the manager is the alleged harasser or is perceived to be closely associated with the harasser and therefore not impartial.

***A brief summary of the options available for dealing with sexual harassment***

Employees should be advised of the different ways that sexual harassment can be addressed. This includes informal action such as confronting the harasser directly (but only if the individual feels confident enough to do so), making a formal complaint to a manager or using the

organisation's internal complaints procedures. The way that complaints will be handled should be documented in the policy or in a separate complaints procedure. Staff can be referred to this if they require more information. Employees can also approach the Australian Human Rights Commission or the relevant state or territory anti-discrimination agency for information and confidential advice.

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This fact sheet is part of *good practice, good business* – information and resources for employers to address discrimination and harassment in the workplace.

Available online at [www.humanrights.gov.au/employers/](http://www.humanrights.gov.au/employers/)

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