



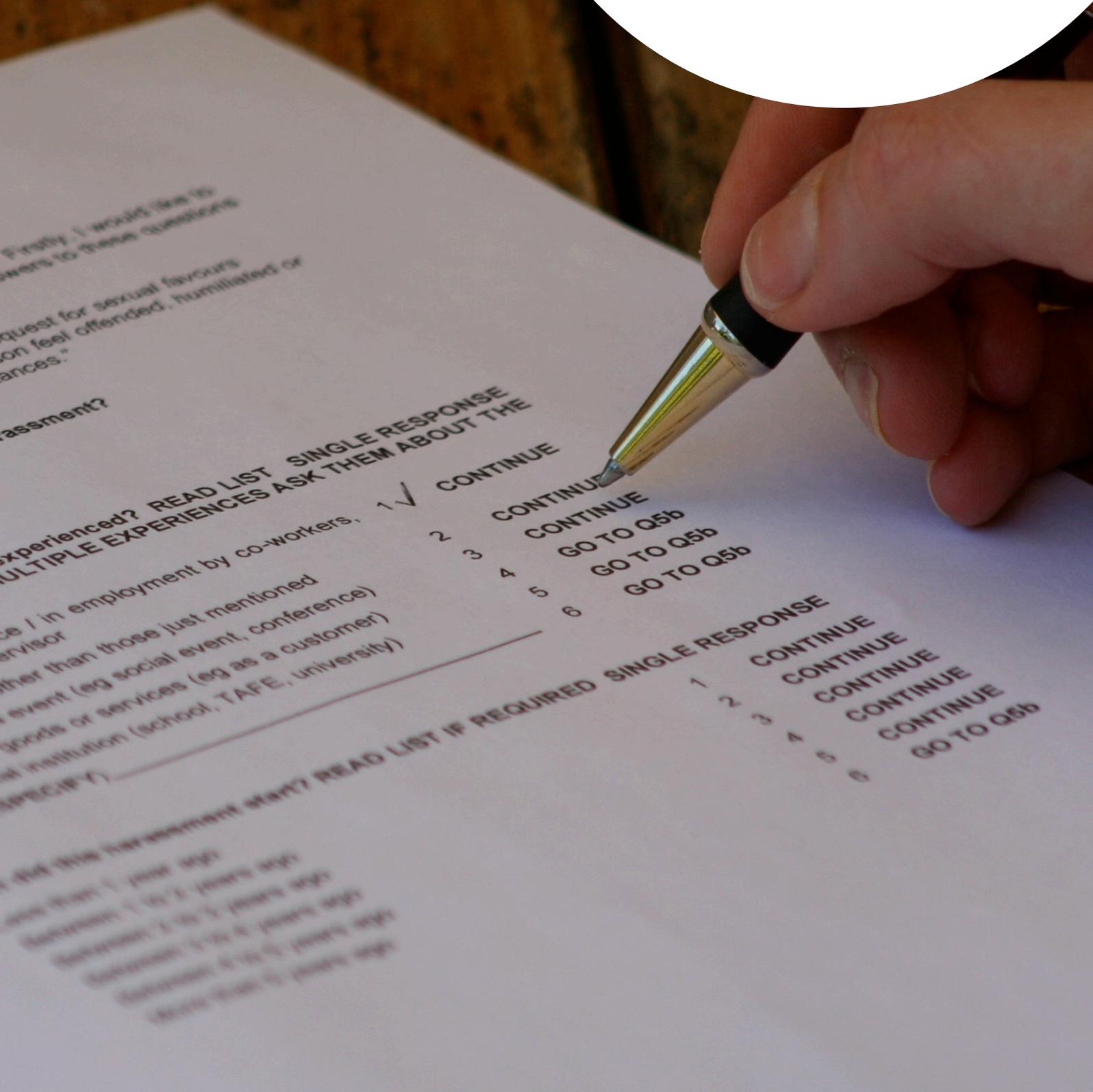
Australian Human Rights Commission

everyone, everywhere, everyday

2008

# Sexual harassment: Serious business

Results of the 2008 Sexual Harassment National Telephone Survey



Firstly, I would like to ask you to answer to these questions  
request for sexual favours  
person feel offended, humiliated or  
dignities.

harassment?

experienced? READ LIST SINGLE RESPONSE  
MULTIPLE EXPERIENCES ASK THEM ABOUT THE

1 ✓ CONTINUE  
2 CONTINUE  
3 CONTINUE  
4 GO TO Q5b  
5 GO TO Q5b  
6 GO TO Q5b

places / in employment by co-workers, supervisor  
other than those just mentioned  
event (eg social event, conference)  
clubs or services (eg as a customer)  
educational institution (school, TAFE, university)

When did this harassment start? READ LIST IF REQUIRED SINGLE RESPONSE

1 CONTINUE  
2 CONTINUE  
3 CONTINUE  
4 CONTINUE  
5 CONTINUE  
6 GO TO Q5b

less than 1 year ago  
between 1 to 2 years ago  
between 2 to 3 years ago  
between 3 to 4 years ago  
between 4 to 5 years ago  
more than 5 years ago

# Sexual harassment: Serious business



Results of the 2008  
Sexual Harassment National  
Telephone Survey

Australian Human Rights Commission  
October 2008

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# Foreword

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Welcome to my report presenting the findings of the Australian Human Rights Commission's second national telephone survey on sexual harassment.

When I became the federal Sex Discrimination Commissioner in September 2007, I conducted a national Listening Tour to connect with women and men across Australia and hear directly about the issues affecting them.

One of the topics that featured regularly in my national discussions was sexual harassment. People described to me incidents of sexual harassment across a range of industries and occupations. For some, the issue was difficult to talk about. Others told me about the serious and enduring impacts of sexual harassment. For this reason, sexual harassment is a key priority area for my term.

In 2008, it is critical that we have an accurate picture of the prevalence, extent and nature of sexual harassment. Importantly, we also need to track trends and patterns over time.

The results of this survey show that sexual harassment remains a serious problem for Australian workplaces.

The good news is that there has been some improvement in the five years since the last survey. In 2008, 22% of women and 5% of men have experienced sexual harassment in the workplace, compared to 28% of women and 7% of men in 2003.

Disturbingly, the 2008 survey finds that there is a significant lack of understanding as to what sexual harassment is. Around one in five respondents who expressly said they did not experience sexual harassment according to the definition in the *Sex Discrimination Act 1984* (Cth) went on to report experiencing behaviours that may in fact be sexual harassment under the law.

Once again, very few people who experienced workplace sexual harassment made a formal complaint.

The message from these findings is simple. Employers need to ensure that their employees have a solid understanding of what sexual harassment is. This involves comprehensive training on the types of behaviours that may amount to sexual harassment.

Employers need to create a workplace where people feel supported to make complaints. Complaints should be investigated expeditiously



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**Elizabeth Broderick**  
Sex Discrimination Commissioner and  
Commissioner responsible for  
Age Discrimination

and employers should take appropriate and swift action when sexual harassment happens. Importantly, those at the most senior levels must demonstrate leadership and make clear that there is no place for sexual harassment in their workplace. Sexual harassment must be taken as seriously as the bottom line.

Every person in this country should be safe in their workplace. That is why the *Sex Discrimination Act 1984* (Cth) makes sexual harassment unlawful.

After nearly a quarter of a century of legal protection, sexual harassment remains an unfortunate reality. In 2008, I challenge all employers to draw a line in the sand and join with me in saying enough is enough.

A handwritten signature in black ink that reads "E. Broderick". The signature is written in a cursive, flowing style.

**Elizabeth Broderick**

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# 1. Summary of survey findings

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## 1.1 Background

The Australian Human Rights Commission (the Commission) conducted a national telephone survey between July and September 2008 to investigate the nature and extent of sexual harassment in Australian workplaces. Two thousand and five telephone interviews were conducted with people aged 18 to 64.<sup>1</sup> The sample of survey respondents was representative of the Australian population by age, gender and area of residence. The survey is based on a similar national telephone survey conducted by the Commission in 2003.

The aims of the survey were to find out:

- the prevalence of sexual harassment in Australian workplaces
- the types of sexual harassment experienced in Australian workplaces
- the nature of sexual harassment, including characteristics of those who experience harassment, characteristics of harassers and characteristics of workplaces where harassment occurs
- how sexual harassment is reported and the outcomes of complaints
- trends in the nature and extent of sexual harassment in Australia between 2003 and 2008.

## 1.2 Key findings

*Sexual harassment continues to be a problem in our workplaces, despite some improvement since 2003<sup>2</sup>*

- The 2008 survey found that 22% of women and 5% of men aged 18-64 have experienced sexual harassment in the workplace in their lifetime, compared to 28% of women and 7% of men in 2003.
- Around one in three women in Australia aged 18-64 have experienced sexual harassment in their lifetime. The majority of sexual harassment continues to be experienced in the workplace (65%).
- Nearly half of those who have been sexually harassed in the last five years report that it has also happened to someone else in the same workplace.
- Over one in ten Australians have witnessed sexual harassment in the workplace in the last five years.
- 4% of Australians have experienced sexual harassment in the workplace in the last five years, compared to 11% in 2003.

*There is a lack of understanding about what sexual harassment is*

- Around one in five (22%) respondents who said they **had not** experienced 'sexual harassment'<sup>3</sup> then went on to report having experienced behaviours that may in fact amount to sexual harassment under the *Sex Discrimination Act 1984* (Cth). For example:

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1 Please see Appendix 1 for a full explanation of the methodology. Individuals under 18 did not qualify for the national telephone survey as permission from parents or guardians would be required for their participation.

2 The incidence of sexual harassment reported here is based on asking respondents whether they had personally experienced sexual harassment according to the legal definition. These figures do not include the incidence of specific sexual harassment behaviours.

3 Based on being provided the definition of sexual harassment from the *Sex Discrimination Act 1984* (Cth).

- 5% reported behaviour(s) that included physical harassment such as unwelcome touching, hugging, cornering or kissing, inappropriate physical contact, or actual or attempted rape or assault.
- 10% reported being subject to unwelcome sexually suggestive comments or jokes that made them feel offended.
- 9% reported being subject to unwelcome intrusive questions about their private life or physical appearance that made them feel offended.

#### *The large majority of sexual harassment goes unreported to employers and other bodies*

- The number of people who have formally reported or made a complaint after experiencing sexual harassment has significantly decreased over the last five years.<sup>4</sup>
- Only 16% of those who have been sexually harassed in the last five years in the workplace formally reported or made a complaint, compared to 32% in 2003.
- For those who did not make a complaint:
  - 43% did not think it was serious enough
  - 15% were fearful of a negative impact on themselves
  - 21% had a lack of faith in the complaint process
  - 29% took care of the problem themselves.

#### *Sexual harassment includes a range of behaviours, both physical and non-physical*

- For survey respondents who experienced sexual harassment in the last five years:
  - the most common type of sexual harassment reported was unwelcome sexually suggestive comments or jokes that made the respondent feel offended (56%)
  - around one in three (31%) reported some kind of physical harassment, including unwelcome touching, hugging, cornering or kissing, inappropriate physical contact, or actual or attempted rape or assault
  - around one in five said they were subjected to sexually explicit emails or SMS messages
  - women were more likely to experience physical sexual harassment, compared to men. 35% of women reported some kind of physical harassment, compared to 25% of men.

#### *Sexual harassment is a problem for all employers – small, medium and large*

- In the 2008 survey, there was an even spread of employer size among those who had experienced sexual harassment in the last five years – 39% worked for large employers, 30% medium employers and 31% small employers.<sup>5</sup> This is a similar finding to the 2003 survey.

### 1.3 Recommendations

The findings of the 2008 national telephone survey bring attention to six key areas for action to reduce the incidence and impact of sexual harassment. These are:

1. Prevention and reporting of sexual harassment
2. Increasing reporting of sexual harassment
3. Better legal protection from sexual harassment
4. Monitoring of sexual harassment
5. Better support for victims of sexual harassment
6. Further research on sexual harassment

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4 This includes complaints within workplaces and to external agencies such as the state and territory equal opportunity commissions and the Australian Human Rights Commission.

5 For the purposes of this survey, large employers are defined as more than 100 employees, medium employers are 26-100 employees and small employers are less than 25 employees. However, it should be noted that the Australian Bureau of Statistics defines small employers as having 1-19 employees, medium employers as having 20-199 employees and large employers as having over 200 employees.

Area for action	Recommendations
<p><b>1. Prevention of sexual harassment</b></p>	<p><b>Pre-employment education</b></p> <p>1.1 State and territory education departments should introduce targeted education programs in secondary schools to increase knowledge and understanding of sexual harassment in the workplace, and build skills to enable employees to respond to sexual harassment.</p> <p>These could be:</p> <ul style="list-style-type: none"> <li>- built into curriculae which addresses employment relations, including general bullying and harassment, pay and working conditions and/or career education</li> <li>- built into the National Council to Reduce Violence against Women and Children’s school program on respectful relationships.</li> </ul>
	<p><b>Employer education on responsibilities and liability</b></p> <p>1.2 The Australian Human Rights Commission should update and promote <i>Effectively preventing and responding to sexual harassment: A Code of Practice for Employers</i>, for employers and human resource professionals to increase knowledge of best practice sexual harassment prevention and response frameworks.</p> <p>1.3 Employer groups and associations should promote the <i>Effectively preventing and responding to sexual harassment: A Code of Practice for Employers</i> amongst their membership.</p>
	<p><b>Employer policies and training</b></p> <p>1.4 Employers should comply with the Commission’s, <i>Effectively preventing and responding to sexual harassment: A Code of Practice for Employers</i> with particular reference to:</p> <ul style="list-style-type: none"> <li>- developing and implementing a formal sexual harassment policy</li> <li>- providing regular training to employees</li> <li>- monitoring the incidence of sexual harassment and reviewing the effectiveness of policies through regular workplace audits.</li> </ul> <p>1.5 The Australian Government should fund the Australian Human Rights Commission to work with relevant Australian Government agencies and small business representative groups to develop and promote the use of specific sexual harassment training guidelines for small business.</p>
	<p><b>Sharing knowledge of good practice in sexual harassment prevention</b></p> <p>1.6 The Equal Opportunity for Women in the Workplace Agency should keep an online database of good practice sexual harassment policies, prevention programs and practices for sharing amongst employers.</p>

<p><b>2. Reporting of sexual harassment</b></p>	<p><b>Reporting of sexual harassment in the workplace</b></p> <p>2.1 Every employer – small, medium and large – should have a sexual harassment complaints procedure readily accessible to employees, as set out in the Commission’s <i>Effectively preventing and responding to sexual harassment: A Code of Practice for Employers</i>.</p> <hr/> <p><b>Complaints to the Australian Human Rights Commission</b></p> <p>2.2 The Australian Government should increase funding to ensure the Australian Human Rights Commission is adequately resourced to (i) continue to provide information to ensure people understand the law and rights and responsibilities under the law and (ii) ensure the ongoing provision of an efficient and effective complaint service.<sup>6</sup></p>
<p><b>3. Better legal protection from sexual harassment</b></p>	<p><b>Senate and Legal Constitutional Affairs Committee Inquiry into the effectiveness of the Sex Discrimination Act 1984 (Cth) in eliminating discrimination and promoting gender equality.<sup>7</sup></b></p> <p>3.1 The Australian Government should adopt the recommendations contained in the Australian Human Rights Commission’s submission to the Senate and Legal Constitutional Affairs Committee Inquiry into the effectiveness of the <i>Sex Discrimination Act 1984</i> (Cth) in eliminating discrimination and promoting gender equality. In particular the Act should be amended as follows:</p> <p>In Stage One (for immediate introduction)</p> <ul style="list-style-type: none"> <li>- Amend the reasonable person standard in the definition of sexual harassment so as to include a reference to the individual circumstances and characteristics of the victim.</li> <li>- Extend coverage of sexual harassment to better protect workers from sexual harassment by customers, clients and other persons with whom they come into contact in connection with their employment</li> <li>- Extend sexual harassment protection to all students regardless of their age. Extend sexual harassment to provide protection to students from all staff members and adult students, not just those at their own education institution.</li> </ul> <p>In Stage Two (for introduction within three years)</p> <ul style="list-style-type: none"> <li>- Consider enacting a free standing prohibition against sexual harassment in public life.</li> <li>- Consider imposing a positive duty to avoid sexual harassment.</li> </ul>

6 This was recommended in the Commissions submission to the Senate and Legal Constitutional Affairs Committee Inquiry into the effectiveness of the *Sex Discrimination Act 1984* (Cth) in eliminating discrimination and promoting gender equality (Recommendation 39).

7 The full submission can be found at [http://www.humanrights.gov.au/legal/submissions/2008/20080901\\_SDA.html#3](http://www.humanrights.gov.au/legal/submissions/2008/20080901_SDA.html#3).

<p><b>4. Monitoring of sexual harassment</b></p>	<p><b>Monitoring sexual harassment in the workplace</b></p> <p>4.1 The Australian Government should fund the Equal Opportunity for Women in the Workplace Agency or the Australian Human Rights Commission to develop an audit kit to assist employers to monitor the incidence of sexual harassment.</p>
<p><b>5. Better support for those who experience sexual harassment</b></p>	<p><b>National data collection and monitoring</b></p> <p>4.2 The Australian Government should fund the Australian Human Rights Commission to repeat its national telephone survey every five years in order to track trends in the nature and extent of sexual harassment. The survey should use questions based on the definition of sexual harassment and questions based on specific behaviours to track trends in the level of understanding of sexual harassment.</p>
<p><b>6. Further research on sexual harassment</b></p>	<p><b>Support for employees in the workplace</b></p> <p>5.1 Employers should ensure that, where the employer already provides an employment assistance program, the employer offers the program to employees who have experienced sexual harassment in the workplace.</p> <p><b>Increase capacity of other support services to provide support to victims of sexual harassment</b></p> <p>5.2 Support services such as working women’s centres, women’s and men’s counselling services, women’s legal services and sexual assault services should be provided specific funding to increase their capacity to provide support to victims of sexual harassment.</p> <p><b>6.1 Australian researchers should undertake further research to examine:</b></p> <ul style="list-style-type: none"> <li>(a) Organisational policies and practices which are most effective in preventing and responding to sexual harassment.</li> <li>(b) The nature of workplace contexts and cultures where sexual harassment occurs.</li> <li>(c) The use, effectiveness, accessibility and experience of workplace and external complaints processes in remedying sexual harassment.</li> <li>(d) The experience of sexual harassment among employees of culturally and linguistically diverse backgrounds, employees with a disability, Aboriginal and Torres Strait Islander employees and gay and lesbian employees.</li> <li>(e) The experience of sexual harassment among employees under the age of 18.</li> <li>(f) The longer term impacts and outcomes of sexual harassment on victims, such as future employment opportunities, and effects on family and peer dynamics.</li> </ul>

## 2. About the Sexual Harassment National Telephone Survey

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We were playing [and] mucking around. I knew he liked me. I didn't like him back. He made physical sexual advances and I had to fight him off. He was the boss. It was my word against his [so] I didn't raise it with the employer.<sup>8</sup>

### 2.1 Background to the 2008 national telephone survey

Under the *Sex Discrimination Act 1984* (Cth), the Australian Human Rights Commission (the Commission) is charged with the responsibility to undertake research and educational programs to promote the objectives of the legislation. These objectives include the elimination of sexual harassment in the workplace.

Since the introduction of the legislation, the Commission has regularly undertaken a range of activities to reduce the prevalence of sexual harassment including issuing guidelines for employers, conducting research and developing educational materials for the public.

In 2003, the Commission undertook Australia's first comprehensive national telephone survey to provide a rigorous report on the nature and extent of sexual harassment in Australian workplaces. The national telephone survey of 1006 randomly selected participants found that 28% of women and 7% of men had personally experienced sexual harassment in the workplace during their lifetime.

Sexual harassment presented as a significant issue during the Sex Discrimination Commissioner's Listening Tour in 2007 and early 2008.<sup>9</sup> The Commissioner heard about sexual harassment across a range of industries and workplaces she visited.

Participants raised a number of specific issues in relation to sexual harassment, such as:

- a lack of understanding as to what sexual harassment is and where the line is drawn between acceptable and unacceptable behaviour
- victims of sexual harassment often fear making complaints because of further victimisation
- young women in early employment are especially vulnerable to sexual harassment
- new technologies, such as mobile phones and social networking websites, are adding a new dimension to sexual harassment
- some employers are unclear about the best way to respond to incidents of sexual harassment.

Following the Listening Tour, Commissioner Broderick announced sexual harassment as a key priority for her term.

In July 2008, the Commissioner announced that she would be repeating the national telephone survey, based on the 2003 survey, to track trends in the nature and extent of sexual harassment.

The findings of the survey will inform the Commission's educational strategy to drive down the incidence and impact of sexual harassment.

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8 Human Rights and Equal Opportunity Commission, *Sex Discrimination Commissioner's Listening Tour - Women's focus group 6* (2008).

9 Elizabeth Broderick started as Sex Discrimination Commissioner in September 2007. Her first major project was a national Listening Tour to gain community and stakeholder feedback on three key themes relating to gender equality: economic independence for women; work and family balance over the lifecycle; and freedom from discrimination, harassment and violence. The Listening Tour Community Report, *What matters to Australian women and men: Gender equality in 2008*, can be found at [http://www.humanrights.gov.au/sex\\_discrimination/listeningtour/index.html](http://www.humanrights.gov.au/sex_discrimination/listeningtour/index.html).

## 2.2 Aims of the 2008 national telephone survey

The aims of the 2008 national telephone survey were to find out:

- the prevalence of sexual harassment in Australian workplaces
- the types of sexual harassment experienced in Australian workplaces
- the nature of sexual harassment – characteristics of those who experience harassment, characteristics of harassers and characteristics of workplaces where harassment occurs
- how sexual harassment is reported and the outcomes of complaints
- preferred sources of information about sexual harassment
- trends in the nature and extent of sexual harassment between 2003 and 2008.

## 2.3 Summary of methodology

Between July and September 2008, two thousand and five randomly selected respondents representative of the Australian population aged 18 to 64, were interviewed by telephone about sexual harassment in the workplace. Respondents were representative of the Australian population in terms of age, gender and area of residence.

In July 2008, the first wave of this national telephone survey was conducted with a sample of 1005 people.

The survey used for this first wave replicated almost exactly the survey used in the 2003 national telephone survey conducted by the Commission, with some minor word changes.

In September 2008, a second wave of telephone interviews were conducted with 1000 nationally representative people aged 18 to 64.

The Commission made changes to the survey for the second wave. Questions were added to measure the incidence of specific behaviours that may in fact constitute sexual harassment under the *Sex Discrimination Act 1984* (Cth). These questions were asked of those who said they had not experienced 'sexual harassment' in the workplace in the last five years according to the definition based from the *Sex Discrimination Act 1984* (Cth). These questions were not asked in the 2003 national telephone survey. The questions were added to assess the level of understanding of sexual harassment and to gain a more robust estimation of the prevalence of sexual harassment in the workplace.

The 2008 national telephone survey was conducted on behalf of the Commission by Market Focus International.

Further information about the design, methodology and limitations of the national telephone survey can be found at **Appendix 1**.

## 2.4 What is in this report

This report sets out the findings of the 2008 national telephone survey and, where possible, compares the results to the 2003 national telephone survey results.

The following chapters of the report include analysis of the extent of sexual harassment in Australian workplaces, the nature of sexual harassment in Australia and patterns of reporting sexual harassment in Australian workplaces.

### A note about how the findings are reported

The data reported from the 2008 and 2003 national telephone surveys draws on the reported experiences of respondents. Conclusions about the nature and extent of sexual harassment have been drawn based on these reported experiences.

## 2.5 Language and definitions

The following terms are used in this report:

**Respondent:** the person who has been interviewed in the national telephone survey.

**Target:** those respondents who have personally experienced sexual harassment.

**Harasser:** the person who is the alleged perpetrator of sexual harassment.

**Small, medium and large employers:** For the purposes of this survey, large employers are defined as more than 100 employees, medium employers are 26-100 employees and small employers are less than 25 employees. However, it should be noted that the Australian Bureau of Statistics defines small employers as having 1-19 employees, medium employers as having 20-199 employees and large employers as having over 200 employees.

### *Definition of sexual harassment*

The definition of sexual harassment provided to respondents is drawn from section 28A of the *Sex Discrimination Act 1984* (Cth):

(1) For the purposes of this Division, a person sexually harasses another person (the **person harassed**) if:

(a) the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or

(b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed; in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated or intimidated.

(2) In this section:

**conduct of a sexual nature** includes making a statement of a sexual nature to a person, or in the presence of a person, whether the statement is made orally or in writing.

The survey also asked respondents about particular behaviours which courts have accepted as potentially falling within the above definition.

The above definition includes both a subjective element (whether the behaviour was unwelcome to the target) and objective elements (whether the conduct was of a sexual nature and whether a reasonable person would have anticipated that the target would be offended, humiliated or intimidated). Respondents in the national telephone survey were asked to self-identify as having been sexually harassed or the recipient of certain unwelcome behaviours that may constitute sexual harassment. It is therefore not possible to assess whether the relevant conduct would necessarily meet the above statutory definition, which may depend on a variety of factors including how a reasonable third person would have viewed the conduct.

## 3. The extent of sexual harassment in Australia

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### Key findings

- The 2008 survey found that 22% of women and 5% of men aged 18-64 have experienced sexual harassment in the workplace in their lifetime, compared to 28% of women and 7% of men in 2003.
- One in five (20%) people in Australia aged 18-64 report experiencing sexual harassment at some time in their life. Around two thirds (65%) of these individuals have experienced this sexual harassment in the workplace.
- Over one in ten Australians aged 18-64 have witnessed sexual harassment in the workplace in the last five years.
- Around one in five (22%) respondents who said they **did not** experience 'sexual harassment'<sup>10</sup> in the workplace in the last five years then went on to report experiencing behaviours that may in fact amount to sexual harassment under the *Sex Discrimination Act 1984* (Cth). For example:
  - 0.5% reported behaviour(s) that included physical harassment such as unwelcome touching, hugging, cornering or kissing, inappropriate physical contact, or actual or attempted rape or assault.
  - a.10% reported being subject to unwelcome sexually suggestive comments or jokes that made them feel offended.
  - b.9% reported being subject to intrusive questions about their private life or physical appearance that made them feel offended.

### 3.1 Introduction

I'm 47 and four years ago my [male] boss asked me if I was wearing a g-string. It was in front of everyone. I told him off. I was of the opinion that once you reach a certain age the risk is lower but it still happens.<sup>11</sup>

The 2003 national telephone survey conducted by the Commission was the first major national research to measure the extent of sexual harassment in the general population of Australia. The 2008 national telephone survey built on the 2003 survey.

Understanding the prevalence of sexual harassment and monitoring changes over time is critical to developing effective responses.

This section of the report provides analysis on the incidence of sexual harassment amongst Australians aged 18-64, comparing the results of the 2003 and 2008 national telephone surveys.

Two methods of questioning were used to measure the incidence of sexual harassment in Australia.<sup>12</sup> Firstly, the definition of sexual harassment was provided based on the *Sex Discrimination Act 1984* (Cth). Based on this definition, respondents were asked whether they had experienced sexual harassment and where and when it occurred. To enable comparison, these questions were asked in both the 2003 and 2008 national telephone surveys.

10 According to the definition from the *Sex Discrimination Act 1984* (Cth) s 28A.

11 Australian Human Rights Commission, *Sex Discrimination Commissioner's Listening Tour - Brisbane Community Consultation* (2008).

12 For full detail of the questions please see Appendix 2 for a copy of the 2008 national telephone survey.

Since the 2003 survey, however, further research by the Commission on survey methodologies in relation to sexual harassment indicated that additional questions should be included in the survey in order to improve the assessment of the incidence of sexual harassment.

The literature on sexual harassment survey methodologies observes a difference in the estimated incidence depending on how respondents are asked about their experience. Asking respondents whether they have experienced sexual harassment based on providing a legal definition of sexual harassment<sup>13</sup> can be daunting, as it requires the respondent to make a judgement about the kinds of behaviours that a lawyer or court would regard as constituting sexual harassment. This also relies on the perceptions of the respondent as to what sexual harassment may or may not be, rather than simply whether they have experienced particular types of unwelcome behaviour. As such, questions based on a definition of sexual harassment may lead to under-reporting of the incidence of sexual harassment, as most people have quite narrow perceptions of what constitutes sexual harassment.<sup>14</sup> In contrast, questions that specify the behaviours are more concrete and are less reliant on a person's own understanding of sexual harassment.<sup>15</sup>

For this reason, questions based on specific behaviours are likely to yield a more realistic incidence of sexual harassment. Accordingly, in the second wave of the 2008 telephone survey, an additional set of questions was asked to measure the incidence of specific *behaviours* that are likely to be forms of sexual harassment.<sup>16</sup> Respondents were asked whether they had experienced these behaviours in the workplace or at work-related events in the last five years in a way that they felt was unwelcome.

The results of the 2008 national telephone survey reflect these explanations of methodological variations. The questions based on the legal definition of sexual harassment provided a more conservative incidence of sexual harassment and the questions based on specific behaviours provided a higher incidence of sexual harassment.

### 3.2 Incidence of sexual harassment in the general population

Between 2003 and 2008, there has been a statistically significant decrease in the number of people between the ages of 18 to 64 who have personally experienced sexual harassment.

In the 2008 national telephone survey, 20% of respondents between the ages of 18 to 64 said they had personally experienced sexual harassment, compared to 28% in 2003.<sup>17</sup>

The survey results reveal that women are around four times as likely to experience sexual harassment compared to men. Breaking the results down by gender, 32% of women said they personally experienced sexual harassment, compared to 41% in 2003. By comparison, 8% of men reported experiencing sexual harassment, a reduction from 14% in 2003.

This incidence is based on being provided the definition of sexual harassment. It does not include the respondents who said they did not experience sexual harassment, but then reported experiencing a behaviour that may amount to sexual harassment under the *Sex Discrimination Act 1984* (Cth).

### 3.3 Incidence of sexual harassment in the workplace<sup>18</sup>

The majority of sexual harassment continues to be experienced in the workplace. In both the 2003 and 2008 surveys, 65% of those who experienced sexual harassment said it was in the workplace. In contrast, 5% said they experienced sexual harassment in an educational institution (4% in 2003), 1% had experienced sexual harassment in the provision of goods and services (same as 2003), and 28% said they had experienced sexual harassment 'elsewhere' (same as in 2003).

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13 Based on the *Sex Discrimination Act 1984* (Cth).

14 R Illies et al, 'Reported incidence rates of work-related sexual harassment in the United States: Using meta-analysis to explain reported rate disparities, 56(3), 607-618.' (2003) 56(3) *Personnel Psychology* p.607.

15 R Illies et al, 'Reported incidence rates of work-related sexual harassment in the United States: Using meta-analysis to explain reported rate disparities, 56(3), 607-618.' (2003) 56(3) *Personnel Psychology* p.607.

16 Please see question 5 (b) of the survey at Appendix 2.

17 Sample size = 2005; Margin of error  $\pm$  2.2% 95% confidence level.

18 This incidence is based on being provided the definition of sexual harassment. It does not include the respondents who said they did not experience sexual harassment, but then reported experiencing a behaviour that may amount to sexual harassment under the *Sex Discrimination Act 1984* (Cth).

Women are more likely than men to experience sexual harassment in the workplace. Breaking the results down by gender, 22% of women and 5% of men have experienced sexual harassment in the workplace in their lifetime, compared to 28% of women and 7% of men in 2003.

### 3.4 Incidence of sexual harassment in the workplace in the last five years

The 2008 national telephone survey shows that there has been a statistically significant decrease in the level of sexual harassment experienced in the workplace in the last five years.<sup>19</sup> In the 2008 survey, 4% of the population reported experiencing sexual harassment in the workplace in the last five years, compared to 11% in 2003.<sup>20</sup> The majority (67%) of those who personally experienced sexual harassment said they experienced it over five years ago, compared to 40% in 2003.

There are a number of possible explanations for the decrease in the number of respondents who reported experiencing workplace sexual harassment in the last five years.

One possible explanation may be that there has been an increase in employers using effective sexual harassment policies and prevention strategies since 2003, particularly with the introduction of new delivery methods in sexual harassment training. Employers may have gained an increased awareness of their legal obligations in regards to sexual harassment. If this is the case, these results suggest that these preventative efforts are proving effective and therefore should be continued. An analysis of the actions employers are taking to prevent and respond to sexual harassment, and the effectiveness of those strategies, is an area for further research.

Another potential explanation for the reduction in the incidence of workplace sexual harassment in the last five years could be a lower awareness of sexual harassment in 2008 compared to 2003. This may mean people are less likely to identify their experience as sexual harassment. The results of this telephone survey suggest a significant lack of understanding as to what sexual harassment is.<sup>21</sup> However, the specific sexual harassment behaviour questions were not asked in 2003. These questions would need to be repeated in the next national telephone survey in order to track trends in the level of understanding of sexual harassment over time.

### 3.5 Incidence of specific sexual harassment behaviours in the workplace

The 2008 national telephone survey asked respondents who said they **did not** experience workplace 'sexual harassment' in the last five years according to the definition provided<sup>22</sup> whether they experienced a range of specific behaviours that are likely to constitute sexual harassment.<sup>23</sup>

A significant portion of respondents reported experiencing specific sexual harassment behaviours, despite saying that they did not experience sexual harassment. Indeed, 22% of respondents who said they did not experience workplace 'sexual harassment' in the last five years,<sup>24</sup> still went on to report experiencing *one or more* behaviours that in fact may constitute sexual harassment under the *Sex Discrimination Act 1984* (Cth).

The most common behaviour reported was being subject to sexually suggestive comments or jokes that made respondents feel offended (10%), followed by intrusive questions about their private life or physical appearance that made respondents feel offended (9%).

The results show that some respondents did not identify physical sexual harassment behaviours as sexual harassment. Of those respondents who said they did not experience workplace 'sexual harassment' in the last five years according to the definition, 5% reported some kind of physical sexual harassment, including unwelcome touching, hugging, cornering or kissing, inappropriate physical contact or actual physical assault.

19 This incidence is based on being provided the definition of sexual harassment. It does not include the respondents who said they did not experience sexual harassment, but then reported experiencing a behaviour that may amount to sexual harassment under the *Sex Discrimination Act 1984* (Cth).

20 Sample size = 2005; Margin of error  $\pm$  2.2% 95% confidence level.

21 See section 3.5 Incidence of specific sexual harassment behaviours in the workplace.

22 According to the definition in the *Sex Discrimination Act 1984* (Cth).

23 For these set of questions Sample size = 947, margin of error is  $\pm$  3.2% 95% confidence level.

24 According to the definition provided from the *Sex Discrimination Act 1984* (Cth).

<b>Table 1: Sexual harassment behaviours experienced in the workplace in the last five years</b>	
<b>Experienced any of these behaviours in the workplace in the last five years in a way that was unwelcome?</b>	<b>Incidence of sexual harassment behaviours amongst those who said they did not experience sexual harassment in the workplace in the last five years based on the definition (multiple responses allowed) (n=947)<sup>25</sup></b>
Unwelcome touching, hugging, cornering or kissing	3%
Inappropriate physical contact	3%
Actual or attempted rape or assault	1%
Inappropriate staring or leering that made you feel intimidated	5%
Sexually suggestive comments or jokes that made you feel offended	10%
Sexually explicit pictures, posters or gifts that made you feel offended	5%
Repeated or inappropriate invitations to go out on dates	2%
Intrusive questions about your private life or physical appearance that made you feel offended	9%
Sexually explicit emails or SMS messages	6%
Repeated or inappropriate advances on email, social networking websites or internet chat rooms by a work colleague	1%
Requests or pressure for sex or other sexual acts	1%
None	78%

The significant difference between the reported incidences of sexual harassment based on the two types of questions directly points to a lack of understanding of what sexual harassment is, particularly for those who experience it. For example, it is evident that around one in ten respondents did not identify unwelcome sexually suggestive comments or unwelcome intrusive questions about one's private life as sexual harassment. This finding demonstrates the need for ongoing workplace education about sexual harassment with a strong focus on raising awareness of the specific behaviours that may constitute sexual harassment.

25 Margin of error for this sample size is + 3.2%, 95% confidence level.

### 3.6 Incidence of witnessing sexual harassment

The number of Australians who have reported witnessing sexual harassment in the workplace in the last five years has remained at similar levels between 2003 and 2008.

Around 12% of the general population said they have witnessed sexual harassment in the workplace in the last five years, compared to 14% in 2003.<sup>26</sup>

The 2008 national telephone survey found that respondents are more likely to have witnessed sexual harassment in the workplace if they are living in a capital city, compared to a regional and rural area. Employees for large organisations (more than 100 employees) are more likely to witness sexual harassment compared to employees of small (25 or less employees) and medium (26 to 100 employees) organisations.<sup>27</sup>

Similar to the 2003 national telephone survey, the large majority of those who witnessed sexual harassment (88%) took some form of action when the harassment happened. The most common type of action was to talk or listen to the victim (72%) followed by offering advice to the victim (69%).

It is noteworthy that around one in three (35%) of those who witnessed sexual harassment reported it to their employer, compared to only 16% of those who experienced sexual harassment who made a formal report.

The willingness of people to take action following witnessing sexual harassment highlights a number of issues. The findings of the 2008 national telephone survey suggest that those who witness sexual harassment are more likely to report it to employers compared to those who experience it. This could be because witnesses are less likely to have feelings of embarrassment or fear of a negative impact on them personally.<sup>28</sup>

It is clear that work colleagues play an important role in supporting those who experience sexual harassment and taking action when it happens. It is critical that employers provide avenues for witnesses of sexual harassment to make formal complaints or reports without the fear of negative repercussions.

The static level of sexual harassment being witnessed in Australian workplaces is concerning for a number of reasons. Consistently witnessing sexual harassment, particularly where action may not be taken by the employer to prevent or remedy it, can have a detrimental effect on workplace cultures and gender relations in the workplace. Further, witnessing sexual harassment may also be an indicator of a workplace culture that tolerates sexual harassment, particularly where this occurs regularly. A number of researchers have commented on the 'chilly climate' of workplaces where sexual harassment is tolerated, arguing that this adversely impacts upon other aspects of gender relations in the workplace such as the occupational attainment of women in the workplace.<sup>29</sup>

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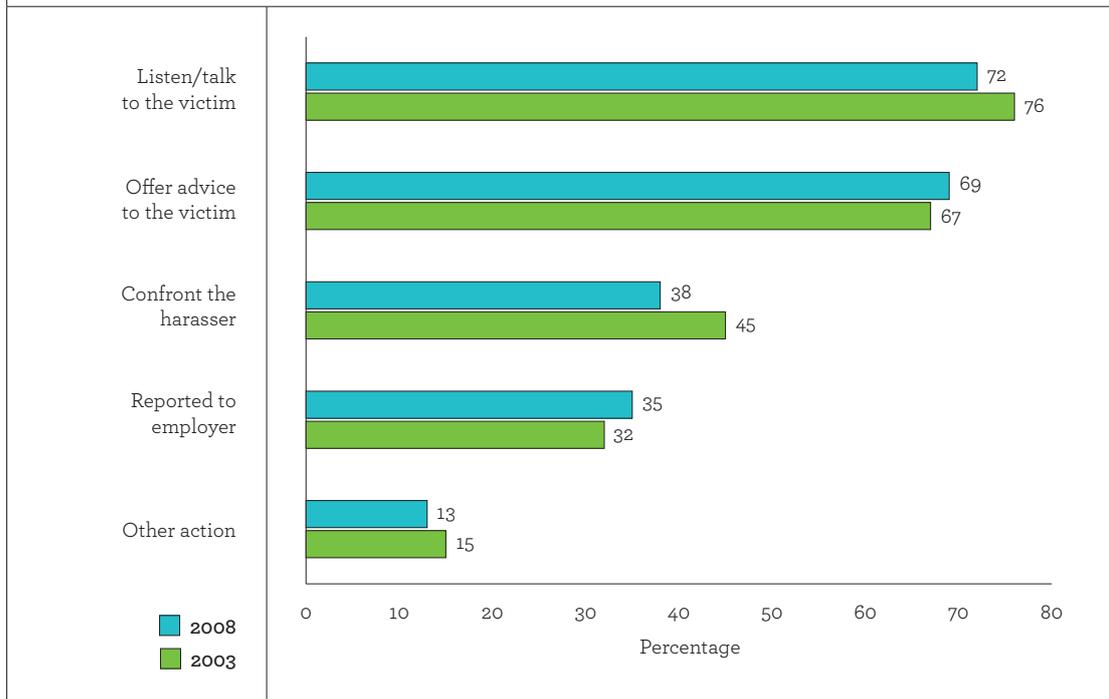
26 Sample size = 2005; Margin of error  $\pm$  2.2% 95% confidence level.

27 These results should be interpreted with caution as the sample was not representative by employer size.

28 See reasons for not reporting sexual harassment in section 4.9.

29 C Burton, *Gender Equity in Australian University Staffing* (1997); J Williams et al, 'Beyond the 'Chilly Climate': Eliminating Bias Against Women and Fathers in Academe' (2006) *Thought and Action* p.79.

Figure 1: Type of action taken after witnessing sexual harassment



## 4. The nature of sexual harassment in Australian workplaces

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### Key Findings

- The most common type of sexual harassment reported was unwelcome sexually suggestive comments or jokes that made the respondents feel offended (56%).
- 31% of those who reported experiencing workplace sexual harassment in the last five years experienced some kind of physical harassment including unwelcome touching, hugging, cornering or kissing, inappropriate physical contact, or actual or attempted rape or assault.
- Technology is a tool for sexual harassment. Around one in five of those who experienced workplace sexual harassment in the last five years were subject to sexually explicit emails or SMS messages.
- The majority of sexual harassment involved a male harasser and female target (62%), a similar finding to 72% in 2003.
- There was an even spread of employer size among those who had experienced workplace sexual harassment in the last five years – 39% worked for large employers, 30% medium employers and 31% small employers.<sup>30</sup> This is a similar finding to 2003.

### 4.1 Introduction

I've been living [in these work quarters] for three years and I've had knocks on my door at night with guys saying, "Guess you're feeling a bit lonely, love?" It shouldn't happen. I've been sitting with a group of males and one will ask, "Don't you think it's my turn [for sex] tonight?"<sup>31</sup>

Understanding and monitoring the nature of sexual harassment is vital to developing appropriate responses and prevention strategies. Examining the nature of sexual harassment includes looking at how the sexual harassment manifests in the workplace. This includes the types and duration of harassment; who experiences sexual harassment; who the harassers are and the feature of workplaces where it happens.

In the 2003 and 2008 national telephone surveys, the respondents who reported experiencing sexual harassment in the workplace in the last five years<sup>32</sup> were asked a number of additional questions to track trends and patterns in the nature of sexual harassment.

This section provides an analysis of the nature of sexual harassment in the workplace including the characteristics of the sexual harassment, characteristics of the target of sexual harassment, characteristics of the harasser and characteristics of the workplace where the sexual harassment happened. The section also reports on significant trends between the 2003 and 2008 national telephone surveys relating to the nature of sexual harassment.

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30 Please interpret with caution as the sample was not representative by employer size.

31 Australian Human Rights Commission, *Sex Discrimination Commissioner's Listening Tour – women's focus group 7* (2008).

32 This includes respondents who reported experiencing sexual harassment in the workplace in the last five years based on the definition and those who reported experiencing one or more behaviours in the workplace in the last five years that may amount to sexual harassment under the *Sex Discrimination Act 1984* (Cth).

**A note about this section**

The survey results on the nature of sexual harassment are drawn from extended interviews with respondents who experienced sexual harassment in the workplace in the last five years.

The 2008 data in this section includes respondents who reported experiencing sexual harassment in the workplace in the last five years based on the definition of sexual harassment **and** those who reported experiencing one or more behaviours in the workplace in the last five years that may amount to sexual harassment under the *Sex Discrimination Act 1984* (Cth). The 2003 data includes respondents who reported sexual harassment in the workplace in the last five years based on the definition only.

The comparisons between the 2003 and 2008 should be interpreted with caution due to changes in methodology.

## 4.2 Types of sexual harassment<sup>33</sup>

Respondents were asked whether they had experienced the following types of behaviours:

- Physical harassment
  - a. unwelcome touching, hugging, cornering or kissing
  - b. inappropriate physical contact
  - c. actual or attempted rape or assault.
- Non-physical harassment
  - a. inappropriate staring or leering
  - b. repeated or inappropriate advances on email, social networking websites or internet chat rooms by a work colleague (not asked in 2003)
  - c. repeated or inappropriate invitations to go out on dates
  - d. intrusive questions about your private life or physical appearance that make you feel offended
  - e. sexually suggestive comments or jokes that make you feel offended
  - f. sexually explicit pictures, posters or gifts that make you feel offended
  - g. sexually explicit emails or SMS message
  - h. requests or pressure for sex or other sexual acts.

Overall, the majority of sexual harassment experienced in the last five years involved non-physical sexual harassment (69%), which represents a statistically significant increase from 38% in 2003.

In 2003, the majority (62%) of those who experienced sexual harassment in the last five years experienced some type of physical harassment. There has been a statistically significant decrease in this figure to 31% in the 2008 national telephone survey.

However, it should be noted that these changes may be attributed to the change in the survey methodology for the second wave of interviews. For instance, those who said they *did not* experience workplace sexual harassment in the last five years,<sup>34</sup> were likely to go on and report they had experienced *non-physical* sexual harassment behaviours. Those who said they *did* experience sexual harassment in the workplace in the last five years, were more likely to report experiencing *physical* sexual harassment behaviours.

These results suggest that a significant portion of respondents do not perceive or understand that *non-physical* sexual harassment behaviours such as sexually suggestive comments or intrusive questions may constitute sexual harassment. The results also suggest that those who experience physical behaviours such as unwelcome hugging, cornering or kissing are more likely to identify such behaviours as sexual harassment.

33 This includes respondents who reported experiencing sexual harassment in the workplace in the last five years based on the definition **and** those who reported experiencing one or more behaviours in the workplace in the last five years that may amount to sexual harassment under the *Sex Discrimination Act 1984* (Cth). Sample size = 298, Margin of error  $\pm$  5.7%.

34 According to the definition provided based on the *Sex Discrimination Act 1984* (Cth).

With respect to specific behaviours, in the 2008 national telephone survey, the most common type of behaviour was sexually suggestive comments or jokes that made respondents feel offended (56%).

Around one in three targets reported being subjected to physical types of sexual harassment including inappropriate physical contact, unwelcome touching, hugging, cornering or kissing or actual or attempted rape or assault.

Over one in five respondents who experienced workplace sexual harassment in the last five years were subject to sexually explicit emails and SMS messages. This indicates that the increased use of technology in the workplace may be adding a new dimension to the nature of sexual harassment in the workplace. As such, employers need to develop comprehensive guidelines to set out appropriate and inappropriate use of new technologies.

The prevalence of non-physical sexual harassment highlights the need for employers to clearly communicate to employees that conduct such as inappropriate emails, SMS messages, sexually suggestive comments or jokes and unwelcome intrusive questions may all amount to sexual harassment under the law. Effective prevention of workplace sexual harassment involves employers taking steps to create a workplace culture where no type of sexual harassment is tolerated.

### 4.3 Number of types of harassment experienced

On average, targets of sexual harassment experienced two types of behaviours that may amount to sexual harassment. However, those who experienced any type of *physical* sexual harassment were likely to experience more than four behaviours, and sometimes up to seven types of behaviours. This suggests that physical harassment is often part of a set of other types of sexual harassment behaviours. Physical sexual harassment may also be the culmination of an escalating set of behaviours beginning with non-physical sexual harassment.

### 4.4 Gender differences in types of harassment

There are some differences in the types of harassment experienced according to gender. Women are more likely to experience physical sexual harassment such as inappropriate physical contact, unwelcome touching, hugging, cornering or kissing, compared to men. Of those who experienced workplace sexual harassment in the last five years, 35% of women experienced some kind of physical harassment, compared to 25% of men.

Men were more likely to experience exclusively non-physical types of sexual harassment such as sexually explicit pictures, posters or gifts that made them feel offended or sexually explicit emails or SMS messages. Of those who experienced workplace sexual harassment in the last five years, 75% of men experienced non-physical sexual harassment exclusively, compared to 65% of women.

Types of behaviours experienced (multiple responses allowed)	2003 Respondents who personally experienced sexual harassment in the workplace in the last five years based on definition (Note: incidence of specific behaviours not asked in 2003) n=200	2008 Respondents who personally experienced sexual harassment in the workplace in the last five years based on definition and who experienced one or more behaviours that may constitute sexual harassment n=298
<i>Margin of error</i>	+ 7%	+ 5.7%
Unwelcome touching, hugging, cornering or kissing	45%	23%

Inappropriate physical contact	19%	22%
Actual or attempted rape or assault	3%	4%
Inappropriate staring or leering that made you feel intimidated	67%	32%
Sexually suggestive comments or jokes that made you feel offended	85%	56%
Sexually explicit pictures, posters or gifts that made you feel offended	16%	18%
Repeated or inappropriate invitations to go out on dates	36%	16%
Intrusive questions about your private life or physical appearance that made you feel offended	60%	47%
Sexually explicit emails or SMS messages	17%	22%
Repeated or inappropriate advances on email, social networking websites or internet chat rooms by a work colleague	Not asked in 2003	6%
Requests or pressure for sex or other sexual acts	19%	10%

#### 4.5 Duration of sexual harassment

There was a significant increase in the number of respondents who described their sexual harassment as a one-off incident between the 2003 and 2008 surveys. In 2008, 39% of respondents said that their sexual harassment was a one off incident, compared to 15% in 2003.

Overall, the 2008 national telephone survey found that sexual harassment was less likely to last for more than one month compared to 2003.

Two new categories to measure the duration of sexual harassment were added to this question in the 2008 survey: ongoing and sporadic. Ongoing sexual harassment refers to incidents that have had an indeterminate duration. Sporadic sexual harassment refers to incidents that have stopped and started over a period of time. Around one in five targets said their sexual harassment was ongoing or sporadic.

#### 4.6 The duration of sexual harassment and the types of harassment

In the 2008 national telephone survey, there was a difference in the duration depending on whether the sexual harassment involved physical sexual harassment or non-physical sexual harassment only. Respondents who experienced physical sexual harassment were more likely to say the harassment went on for more than one month. For those who experienced non-physical sexual harassment only, it was more likely to be a one-off incident. This again suggests that physical sexual harassment is often the culmination of an escalating pattern of behaviours beginning with non-physical harassment. For

employers, this indicates that effectively and quickly responding to non-physical harassment may often be effective in preventing an escalation to physical sexual harassment.

#### 4.7 Severity of harassment

One of the legal tests of sexual harassment under the *Sex Discrimination Act 1984* (Cth) is whether a reasonable person would anticipate that the person targeted would feel offended, humiliated or intimidated by the behaviour.<sup>35</sup>

The level of severity of the harassment was measured by asking respondents how intimidated and offended they felt on a five point scale, with five being extremely intimidated/offended and one being not at all intimidated/offended.

The average score for feeling *intimidated* was slightly less in 2008 (2.7) compared to 2003 (3.0). The average score for feeling *offended* was 3.2 in the 2008 survey, again slightly less compared to 3.5 in the 2003.

Similar to the 2003 survey, on average, respondents felt more offended than intimidated by the harassment. In 2008, 40% felt very or extremely offended by the harassment, compared to 29% of respondents who felt very or extremely intimidated.

In 2008, the more offended or intimidated a respondent felt increased the probability of reporting the harassment. Of those who formally reported the sexual harassment, over two thirds were very or extremely offended and half were very or extremely intimidated. Consistent with the 2003 national telephone survey, this suggests that those who experience a more severe impact from sexual harassment are more likely to make a formal report.

Looking at the severity and types of sexual harassment experienced, those who experienced some kind of physical harassment were likely to be more offended and intimidated by the experience than those who experienced non-physical harassment. In terms of gender breakdown, women are likely to feel more offended and intimidated by sexual harassment, compared to men.

#### 4.8 Observation of other sexual harassment incidents in the same workplace

The results of the 2008 survey indicate that there may be pockets of sexual harassment across workplaces. Nearly half of those who had been sexually harassed in the last five years reported that it has happened to someone else in the same workplace (47%). This number represents a decrease from 58% since 2003.

Of those who reported that others in their workplace experienced sexual harassment, 39% said it was common, 32% said that it occurred sometimes, 21% said it was rare and 8% said it was very rare.

Employees of large and medium organisations were more likely to observe other incidents of sexual harassment in the same workplace, compared to employees of small business.<sup>36</sup>

There are two possible explanations for this result. Firstly, there may be one harasser who targets a number of individuals in the workplace. Secondly, the workplace may have a culture that tolerates sexual harassment or where sexual harassment is entrenched. It cannot be determined from the survey results whether the harassment was from the same harasser or whether there are a number of different harassers. This is an area that warrants further research.

#### 4.9 Gender of harasser and target

The 2008 national telephone survey found that 81% of harassers are male. The majority of sexual harassment involved a male harasser and female target (62%), a small decrease since 2003 (72%).

The second most common type of sexual harassment involved a male harasser and male target (18%), a small but statistically significant increase from 7% in 2003. The sexual harassment complaints received by the Commission involving male harassers and male targets suggests that this type of harassment most commonly takes place in male-dominated work environments where the targets are

35 *Sex Discrimination Act 1984* (Cth) s 28A.

36 These results should be interpreted with caution as the sample was not representative of employer size.

perceived to be different in some way from the dominant group in the work place. These differences may be based on the target's age or race or perceptions about their sexuality or masculinity.

Sexual harassment involving female harassers and male targets was reported by 15% of respondents, a slight decrease from 19% in 2003.

## 4.10 Characteristics of the target of sexual harassment

### (a) Age

Both the 2003 and 2008 national telephone surveys did not ask respondents their age at the time they were sexually harassed. For this reason, it is difficult to ascertain the age of targets. Women who reported experiencing workplace sexual harassment in the last five years were most likely to be aged 25-44 and male respondents are most likely to be aged 35-44. Respondents may be between one to five years younger than their reported age at the time they experienced sexual harassment in the workplace.

Some studies on sexual harassment have found that young women are more likely to experience sexual harassment in the workplace.<sup>37</sup> The vulnerability of young women to sexual harassment in early employment was also raised as an issue during the Sex Discrimination Commissioner's Listening Tour.

It should be noted that this national telephone survey did not interview people under the age of 18 because it would require consent from a parent or guardian. Given that a significant number of Australians enter the paid workforce under the age of 18 and the literature suggests that they may be particularly vulnerable to sexual harassment, this is an area that warrants further research.

### (b) Ethnicity of target of sexual harassment

In the 2008 national telephone survey, English was reported as the main language spoken at home for the large majority (94%) of targets of sexual harassment. However, it should be noted that the national telephone survey methodology does advantage respondents with better English skills. As such, sexual harassment against people of culturally and linguistically diverse backgrounds is an area that this survey is unable to adequately address because the research methodology had reduced access to those who speak a language other than English as their main language.<sup>38</sup>

Given this limitation of the methodology, it cannot be concluded that those who speak English as their main language at home are more likely to experience sexual harassment in the workplace than those who do not. This is an area that warrants targeted research.

### (c) Occupation of target

In the 2008 national telephone survey, targets of sexual harassment were most likely to be a professional worker (31%) or a clerical worker (19%). These were also the most common occupational types for targets of sexual harassment in the 2003 survey. However, there was a statistically significant rise in the number of professional workers and a slight decrease (not statistically significant) in the number of clerical workers between 2003 and 2008.

The number of respondents who were sales workers decreased from 15% to 5% between 2003 and 2008, which may be explained by the decrease in the number of respondents who said they worked in the retail industry at the time of harassment.<sup>39</sup>

It is difficult to draw conclusions from this occupational data as the prevalence of sexual harassment in certain occupations may also be due to:

- the higher numbers of women who work in particular occupations and their greater likelihood of being subjected to sexual harassment; or

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37 Jobwatch, *Sexual Harassment in Employment - Workers Still Exposed (2004)*; P McDonald and K Dear, 'Discrimination and harassment affecting working women: Evidence from Australia' (2008) 22(1/2) *Women's Studies Journal* p.29.

38 Australian Centre for the Study of Sexual Assault, *What lies behind the hidden figure of sexual assault? Issues of prevalence and disclosure - Briefing No. 1 September 2003 (2003)*; D Wilson et al, 'The second computer assisted telephone interview (CATI) forum: The state of play of CATI survey methods in Australia' (2001) 25(3) *Australian and New Zealand Journal of Public Health* p.272.

39 See 4.12 (b) Industry, Characteristics of the workplace.

- the gender composition of particular occupations which has been found to be a contributing factor to sexual harassment.<sup>40</sup>

The results should be interpreted with caution as the sample was not representative across occupation types.

<b>Table 2: Occupation of the target at the time of sexual harassment</b>				
[Note that due to changes in the ANZSCO classifications since the 2003 national telephone survey full comparisons with the occupations of all employed Australians are not possible]				
Occupation of target	2003 national telephone survey – respondents who experienced sexual harassment in the last five years n=200	2008 national telephone survey – respondents who experienced sexual harassment in the last five years <sup>41</sup> n = 226	Australia New Zealand Standard Classification of Occupations (ANZSCO)	Percentage of total employed Australians, by occupations according to ANZSCO classification <sup>42</sup>
Manager, Executive or Official	8%	13%	Managers	13%
Business owner	3%	1%		
Professional	22%	31%	Professionals	20%
Technology professional	1%	1%		
Skilled tradesperson	6%	7%	Technicians and trades workers	14%
			Community and personal service workers	9%
Clerical or office worker	24%	19%	Clerical and administrative workers	15%
Service worker	9%	9%		

40 J Gruber, 'The impact of male work environments and organizational policies on women's experiences of sexual harassment' (1998) 12(3) *Gender and Society* p.301; B Gutek and B Morasch, 'Sex ratios, sex-role spillover and sexual harassment of women at work. , 38, 55-74.' (1982) 38 *Journal of Social Issues* p.55.

41 Includes respondents who said they experienced sexual harassment based on the definition and those who reported experiencing a sexual harassment behaviour.

42 Australian Bureau of Statistics, *2006 Census data* (2007).

Sales worker	15%	5%	Sales workers	10%
Manufacturer's representative	1%	1%		
Semi-skilled worker	3%	7%	Machinery operators and drivers	7%
Unskilled/labourer	4%	4%	Labourers	10%

#### (a) *Employment status of target*

In the 2008 national telephone survey, the majority of those who experienced workplace sexual harassment in the last five years were working full-time (68%) at the time of harassment, which is a slightly less than the proportion of employed people working full-time in the general population (72%).<sup>43</sup>

Around 32% were working part-time, compared to 28% of the general population who are employed part-time.<sup>44</sup> Of those working part-time (32%), 44% were permanent and 46% were casual.

#### (b) *Length of employment*

While some studies<sup>45</sup> have found that those who experience sexual harassment tend to do so earlier in their employment tenure (within the first 12 months), the 2008 national telephone survey suggests that sexual harassment occurs across the range of employment tenures.

Approximately 35% of respondents had been employed less than 12 months when the sexual harassment occurred, 26% had been employed for between 1-3 years and 39% over three years. These findings are similar to 2003.

## 4.11 Characteristics of the harasser

#### (a) *Age of harasser*

Similar to 2003, around two-thirds of harassers were men over the age of 30 and 46% men over the age of 40. Given the small numbers of female harassers (20% of all harassers), it is difficult to draw conclusions about the age of female harassers. The majority of female harassers (13% of all harassers) were aged between 31 and 50.

#### (b) *Harasser's relationship to target*

Similar to the finding in the 2003 survey, half the targets reported their harasser to be a co-worker. Around one in ten targets said they were harassed by a more senior co-worker, a rise from 2% in 2003.

Contrary to common assumptions that sexual harassment predominantly occurs between a manager/employer and employee, the 2008 survey shows a decrease in the number of managers or employers identified as harassers.

The relatively substantial proportion of sexual harassment from co-workers, either senior or at the same level may be indicative a certain workplace cultures where sexual harassment is permitted. Another possible explanation could be the assumption amongst employees that sexual harassment between co-workers is acceptable in contrast to sexual harassment between a manager and an employee.

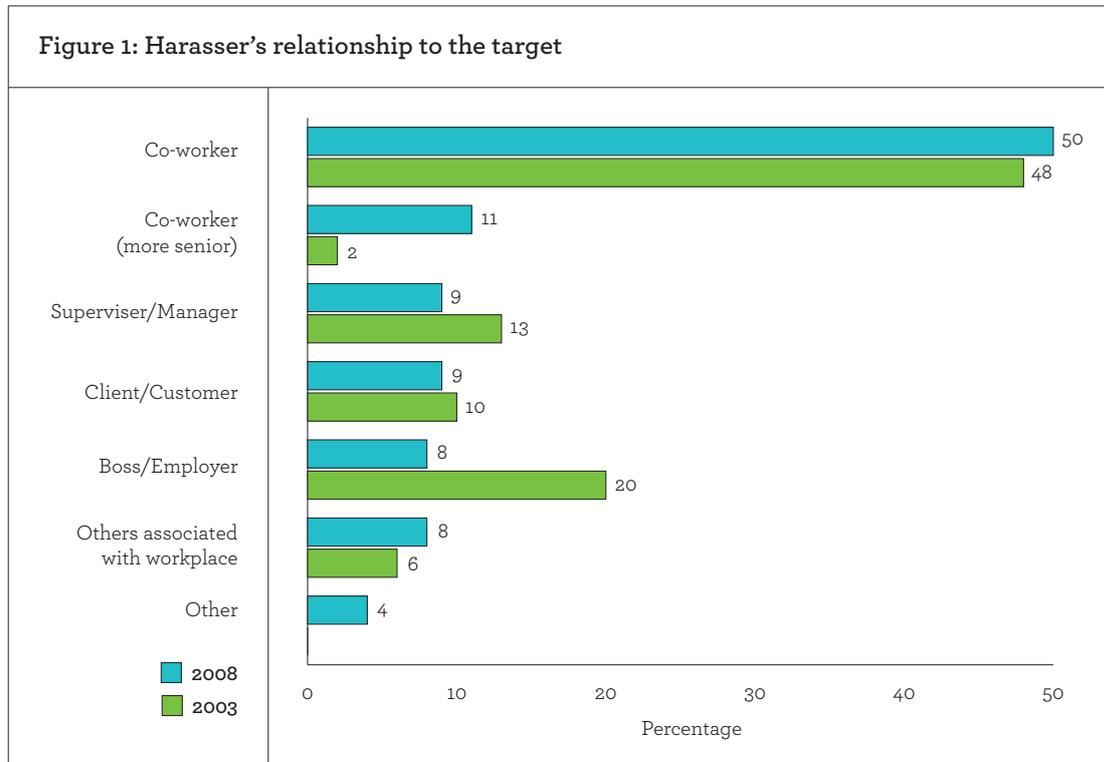
43 Australian Bureau of Statistics, *Australian Labour Market Statistics, October 2008, cat no. 6105.0* (2008).

44 Australian Bureau of Statistics, *Australian Labour Market Statistics, October 2008, cat no. 6105.0* (2008).

45 Jobwatch, *Sexual Harassment in Employment - Workers Still Exposed* (2004); Human Rights and Equal Opportunity Commission, *A Bad Business: Review of sexual harassment in employment complaints 2002* (2003).

Close to one in ten respondents reported that their harasser was a client or customer, which is similar to 2003. This finding supports the need for better legal protection for employees against sexual harassment from clients.

There were no significant differences in the harasser's relationship to the target based on whether the target was male or female.



## 4.12 Characteristics of the workplace

### (a) Employer size

For those who experienced sexual harassment in the last five years, there was an even spread of employer size: 39% large employers, 30% medium employers and 31% small employers. This indicates that sexual harassment occurs across all employer sizes.

Compared to 2003, there was a slight increase in respondents who were employed in large and medium workplaces at the time of harassment and a slight decrease of small employers. In the 2003 national telephone survey, of those who experienced workplace sexual harassment in the last five years, 37% said they were employed by a large employer, 25% reported a medium employer and 38% a small employer.

These results should be interpreted with caution as the sample was not representative of employer sizes. That is, the sample was not selected to reflect the Australian population by their employer size.

### (b) Industry

In the 2008 national telephone survey, the top three industries identified by respondents who experienced sexual harassment in the last five years were: health and community services (14%), education (12%) and accommodation, cafes and restaurants (10%).

Retail was the most common industry in the 2003 survey (16%) and decreased to 8% in the 2008 survey.

While these industries provide some insight into the industries in which sexual harassment is happening, particularly over the last five years, it is important that these results be viewed in the context of organisational factors that may influence the prevalence of sexual harassment.

For instance, some research suggests that it is the workplace cultures and the perceived and/or real tolerance of sexual harassment in an organisation that has the greatest impact on the behaviour of individual employees.<sup>46</sup> Other research suggests that the status of the specific role or occupation of the target of harassment and the power differentials between levels in the workplace as risk factors.<sup>47</sup> Recent research conducted in Victoria has shown that employment status, particularly precarious employment types such as casual and temporary employment, increases the likelihood of experiencing sexual harassment.<sup>48</sup>

This suggests that sexual harassment is not necessarily a characteristic of a specific industry but circumstances of employment and the particular workplace structure or culture.

These results should be interpreted with caution as the population sample was not representative by industry. That is, the sample was not selected to reflect the Australian population by the industry they work in.

<b>Australian and New Zealand Standard Industrial Classification (ANZIC)</b>	<b>2003 National Telephone Survey – Respondents who experienced sexual harassment in the workplace in the last five years n=200</b>	<b>2008 National Telephone Survey – Respondents who experienced sexual harassment in the workplace in the last five years<sup>49</sup> n= 226</b>	<b>Contribution to Total Employment<sup>50</sup></b>
Margin of error	± 7%	+ 6.5%	
Health and Community Services	12%	14%	11%
Education	10%	12%	8%
Accommodation, Cafes and Restaurants	8%	10%	5%
Retail Trade	16%	8%	15%
Property and Business Services	2%	8%	11%

46 L Fitzgerald et al, ‘Antecedents and consequences of sexual harassment in organizations: A test of an integrated model’ (1997) 82 *Journal of Applied Psychology* p.578.

47 P McDonald and K Dear, ‘Discrimination and harassment affecting working women: Evidence from Australia’ (2008) 22(1/2) *Women’s Studies Journal* p.29; R Illies et al, ‘Reported incidence rates of work-related sexual harassment in the United States: Using meta-analysis to explain reported rate disparities, 56(3), 607-618.’ (2003) 56(3) *Personnel Psychology* p.607; R Jackson and M Newman, ‘Sexual harassment in the federal workplace revisited: Influences on sexual harassment by gender’ (2004) 64 *Public Administration Review* p.705.

48 A LaMontagne et al, ‘Unwanted sexual advances in Australian Workplaces: variations by employment arrangement’ (Paper presented at the World Conference of the Promotion of Mental Health and the Prevention of Mental and Behavioural Disorders, Melbourne, 10-12 September 2008).

49 Includes respondents who said they experienced sexual harassment according to the definition and those who reported experiencing one or more sexual harassment behaviours.

50 Australian Bureau of Statistics, *2006 Census data* (2007).

Manufacturing	5%	7%	11%
Construction	5%	7%	8%
Government Administration and Defense	7%	7%	6%
Finance and Insurance	7%	5%	4%
Communication Services	6%	4%	2%
Cultural and Recreational Services	4%	4%	2%
Transport and Storage	3%	4%	5%
Agriculture, Forestry and Fishing	4%	2%	3%
Wholesale Trade	2%	2%	5%
Personal and other Services	6%	2%	4%
Mining	2%	1%	1%
Electricity, Gas and Water Supply	1%	1%	1%

## 5. Information, reporting and complaints

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### Key Findings

- In 2008, only 16% of those who have been sexually harassed in the last five years in the workplace formally reported or made a complaint, compared to 32% in 2003.
- For those who did not make a complaint in the 2008 national telephone survey:
  - 43% didn't think it was serious enough
  - 15% were fearful of a negative impact on themselves
  - 21% had a lack of faith in the complaint process
  - 29% took care of the problem themselves
- In 2008, 30% of respondents who experienced workplace sexual harassment in the last five years sought informal advice and assistance. Most commonly, respondents sought informal advice from their managers or supervisors (39%).

### 5.1 Introduction

[Sexual harassment] absolutely still is an issue and people have a fear of making a complaint because it is a career killer. You try and deal with it informally or you just get out.<sup>51</sup>

One of the main responses to sexual harassment is the pursuit of a complaint through grievance or complaints procedures, both within workplaces and through external complaints agencies such as the Australian Human Rights Commission.

This section analyses the findings of the national telephone survey on reporting and complaints in relation to sexual harassment, including whether respondents sought informal advice, whether a formal report was made and to whom it was made, when the sexual harassment was reported, how the complaint was finalised, the outcome of complaints and the level of satisfaction with the complaints process. The section also sets out where respondents would prefer to receive information about sexual harassment.

### A note about this section

The survey results on the reporting of sexual harassment are drawn from extended interviews with respondents who experienced sexual harassment in the workplace in the last five years.

The 2008 data in this section includes respondents who reported experiencing sexual harassment in the workplace in the last five years based on the definition of sexual harassment **and** those who reported experiencing one or more behaviours in the workplace in the last five years that may amount to sexual harassment under the *Sex Discrimination Act 1984* (Cth). The 2003 data includes respondents who reported sexual harassment in the workplace in the last five years based on the definition only.

51 Australian Human Rights Commission, *Sex Discrimination Commissioner's Listening Tour - Adelaide Business Consultation* (2007).

The comparisons between the 2003 and 2008 should be interpreted with caution due to changes in methodology.

## 5.2 Informal advice and assistance

The 2003 national telephone survey found that only one in three people who experienced sexual harassment in the workplace in the last five years made a formal complaint, either in their workplace or through an external agency. In response to this finding, the 2008 survey included a new question asking respondents whether they sought any informal advice or assistance following the sexual harassment and from where it was sought.

The 2008 survey found that 30% of those who have been sexually harassed in the workplace in the last five years sought informal assistance or advice.<sup>52</sup> The most common sources of informal advice and assistance were managers and supervisors (39%), friends or family (24%) and co-workers (21%).<sup>53</sup>

This finding highlights the need for specific training of managers to enable them to effectively respond to sexual harassment, as it is likely they may be the first point of contact for employees. The fact that friends and family also feature as common sources of informal advice demonstrates the need for wider public education on identifying sexual harassment and taking appropriate action.

<b>Table 1: Where respondents sought informal advice and assistance from</b>	
<b>Did you seek informal advice? If yes, where from?</b>	<b>2008 Sample size = 67</b>
Margin of error	± 12%
Manager/Supervisor at work	39%
Friends or family	24%
Co-worker	21%
Employer/boss	13%
Co-worker more senior	6%
Human Resources Manager or equivalent	4%
Australian Human Rights Commission or State agency	3%
Union or Employee Representative	3%
Others	7%

52 Sample size = 226, Margin of error ± 6.5%.

53 Sample size = 67, Margin of error ± 12%.

### 5.3 Formal complaints

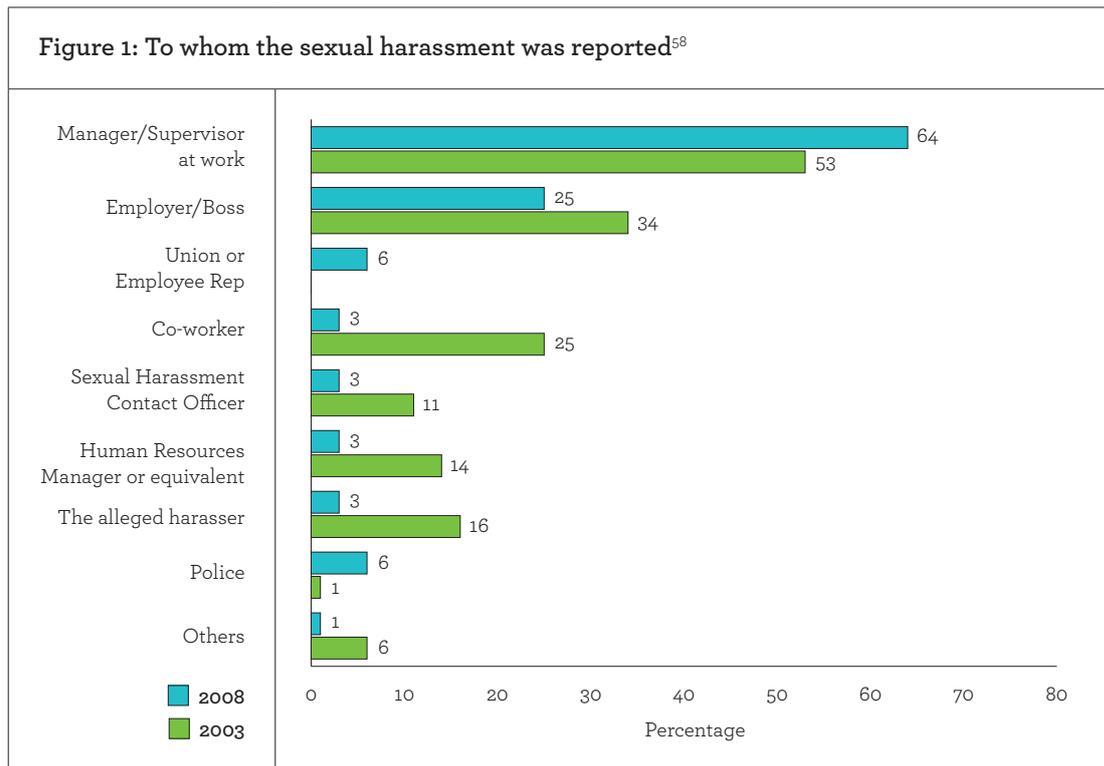
A concerning finding of the 2003 survey was the low level of formal complaints made by those who experienced sexual harassment. The number of complaints made has decreased from 32% in 2003 to 16% in 2008.<sup>54</sup> This finding highlights the need for employers to introduce strategies to increase the accessibility of complaints processes by employees.

Women who have experienced sexual harassment are more likely than men to make a formal complaint (19% of women, 9% of men). A possible explanation for this could be that women are likely to be more intimidated or offended by the harassment compared to men, as found in the 2008 national telephone survey.<sup>55</sup> Women may also more readily make a complaint because they are more likely to experience physical types of sexual harassment which may be perceived as more serious, also a finding of the 2008 national telephone survey.<sup>56</sup>

The majority of those who made formal complaints also sought informal advice. This shows that seeking informal advice is often a step towards making a formal complaint. This evidence suggests that employers should provide employees the option of seeking informal advice in a confidential setting as well as providing a complaints procedure to lodge a formal report.

### 5.4 Who the sexual harassment was reported to<sup>57</sup>

For those who made formal complaints, the majority were lodged with managers and employers. Since 2003, the proportion of formal complaints to a direct manager or supervisor has increased, while the number to employers, sexual harassment contact officers, human resource managers has decreased. This again highlights the need for direct managers and supervisors to receive specific training in effectively responding to sexual harassment in the workplace.



54 Sample size = 226, Margin of error ± 6.5%.  
 55 See 4.7 Severity of harassment.  
 56 See 4.4 Gender differences in types of harassment.  
 57 These results should be interpreted with caution. Sample size = 36.  
 58 These results should be interpreted with caution. Sample size = 36.

## 5.5 When the sexual harassment was reported<sup>59</sup>

The results of the 2008 national telephone survey indicate that, compared to 2003, those who make formal reports are making them sooner after the incident.<sup>60</sup> Over half of those who made complaints reported the incident immediately or the same/next working day, an increase from 31% who reported it within this timeframe in 2003.

Between the 2003 and 2008 surveys, there was a decrease in the number of respondents who waited one or more months to make a formal complaint.

## 5.6 How the sexual harassment was finalised<sup>61</sup>

In the 2008 national telephone survey, of those who lodged a formal complaint, the majority (56%) reported that their complaints were finalised between their boss and themselves. This represents an increase from 44% in 2003.<sup>62</sup> The number of complaints that were finalised between the employer and the respondent decreased from 27% to 14%.

In a similar way to the 2003 survey, a small number of respondents finalised complaints with external agencies such as with their union (3%), in court (3%) and via the police (3%).

Around 17% of respondents reported their complaints had not been finalised at the time the survey was conducted, a similar finding to 2003.

The 2008 survey asked respondents how long their complaints took to finalise, though this question was not asked in the 2003 survey. Contrary to common assumptions that formal complaints are lengthy processes, the 2008 survey found that, for those who make complaints, the majority are finalised immediately or within one month.

These results indicate that while fewer people are making complaints, for those who do complain, their complaints are finalised within the workplace in a short timeframe. This finding highlights the need for employers to build greater awareness and confidence amongst employees about complaints processes and how they work.

## 5.7 Outcomes of complaints<sup>63</sup>

The results from the 2008 national telephone survey show that employers are more likely to deal with harassers or the sexual harassment as an outcome of the complaints process, compared to 2003.

In 2008, 72% of those who made a complaint said one of the outcomes of their complaint was that the harasser or harassment was dealt with, compared to 59% in 2003. This includes:

- harasser was spoken to
- harasser was disciplined
- harasser was dismissed
- harasser formally warned
- harasser was counselled
- harasser was transferred or changed shifts
- harasser was arrested.

While more severe outcomes such as the harasser being disciplined or dismissed were lower in 2008 compared to 2003, outcomes such as the harasser being spoken to or formally warned increased. This may be due to complaints generally being made sooner after the harassment or to greater awareness amongst managers and supervisors about the seriousness of sexual harassment.

A total of 22% of respondents who made a formal complaint reported that the outcome of their complaint resulted in a negative impact on them, compared to 16% in 2003.

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59 These results should be interpreted with caution. Sample size = 36.

60 These results should be interpreted with caution. Sample size = 36.

61 These results should be interpreted with caution. Sample size = 36.

62 These results should be interpreted with caution. Sample size = 36.

63 These results should be interpreted with caution. Sample size = 36.

This includes:

- you were transferred or changed shifts
- you resigned
- you were dismissed
- you were demoted
- you were disciplined
- you were laughed at and ostracised.

While the number of cases in which the harasser was dealt with increased between 2003 and 2008, the number of respondents who continued to experience a negative impact as a result of the complaints process shows that the fear of making a complaint due to a negative personal impact is justified. Some studies have calculated the cost of sexual harassment to employers by estimating the lost productivity, staff changeover and damage to reputation.<sup>64</sup> As well as effectively dealing with complaints, there is a strong business imperative for employers, in cooperation with relevant support agencies, to minimise the negative impact on those who experience it.

Outcome	2003	2008
Harasser or harassment was dealt with (nett)	59%	72%
Negative impact on you (nett)	16%	22%
Nothing was done	13%	22%
Employer made changes to the workplace to prevent sexual harassment in the future	13%	17%
Employer apologised for allowing the harassment	7%	14%
The harasser apologised	10%	11%
The harassment stopped	3%	11%
Other	8%	6%

## 5.8 Satisfaction with the process<sup>65</sup>

Respondents were asked to rate their level of satisfaction with the complaints process, with one being not at all satisfied and five being extremely satisfied. On average, the level of satisfaction with the complaints process did not change between 2003 and 2008. In 2008, the average level of satisfaction was 3.1.<sup>66</sup>

64 L Fitzgerald et al, 'Antecedents and consequences of sexual harassment in organizations: A test of an integrated model' (1997) 82 *Journal of Applied Psychology* p.578; B Stanko and G Miller, 'Sexual harassment and government: Anecdotal evidence from the profession' (1996) 25(2) *Public Personnel Management* p.219. Equal Opportunity for Women in the Workplace Agency, *Harassment and Discrimination (2001-2007)* available at [http://www.eowa.gov.au/about\\_equal\\_opportunity/key\\_agenda\\_items/harassment\\_and\\_discrimination.asp](http://www.eowa.gov.au/about_equal_opportunity/key_agenda_items/harassment_and_discrimination.asp).

65 These results should be interpreted with caution. Sample size = 36.

66 These results should be interpreted with caution. Sample size = 27.

Of those who made a formal complaint, 30% reported they were not satisfied at all with the process, and 26% said they were extremely satisfied. Overall more people were satisfied, than dissatisfied with the complaints process.

However, the significant portion of those who were dissatisfied with the process, coupled with the small number of people lodging formal complaints, calls for employers to improve complaints procedures and ensure they are accessible and transparent to those who use them.

## 5.9 Reasons for not reporting sexual harassment<sup>67</sup>

Those respondents who did not make a formal complaint were asked to provide reasons. Given that the large majority (84%) of those who experienced sexual harassment in the workplace in the last five years did not make a formal report, this information is critical to improving the use of complaints processes.

The most common reason (43%) for respondents not making a complaint was their perception that the behaviour was not serious enough. This finding is consistent with the finding that there is a lack of understanding of what sexual harassment is. If behaviours that are in fact sexual harassment are not identified as such, it is unsurprising that a large number of people believe those behaviours are not serious enough to be reported. It is also consistent with the proportionate increase in exclusively non-physical sexual harassment which may be perceived to be not as serious as physical sexual harassment.

Around one in five (21%) reported that they did not make a complaint because of a lack of faith in the complaints process. This included respondents saying that it was easier just to keep quiet; the complaints processes would be embarrassing; the complaint process would be difficult; they thought they would not be believed; they did not think things would change; they did not trust the people they could complain to or didn't think anything would be done.

Around 29% of respondents took care of the problem themselves, a similar finding to 2003 (26%).

Further, 15% feared a negative impact on themselves including being too scared or frightened; the harasser being too senior; being treated as the wrong-doer; damage to reputation; and the fear that people would think they were over reacting.

These findings suggest that an increased awareness of the broad range of behaviours that may amount to sexual harassment under the *Sex Discrimination Act 1984* (Cth) and consistent messages from the employer as to the seriousness of such behaviours, could increase the number of formal reports made. Employers should also clearly communicate how the complaints process works and provide case studies of finalised complaints to challenge any negative perceptions of complaints processes that may exist.

The results also indicate that employers need to better communicate that making a complaint will not result in further victimisation and take active steps to ensure this happens.

The significant number of people who took care of the problem themselves highlights the need for better support for targets of sexual harassment in addition to effective complaints processes. Direct managers should be trained in providing appropriate referrals to employee assistance counselling services or external counselling services where appropriate.

It should be noted that some categories can not be compared between 2003 and 2008 because the categories have been compiled differently.

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67 Sample size = 190, Margin of error  $\pm$  7.1%.

<b>Table 3: Reasons for not making a formal report</b>			
<b>Reasons for not reporting</b>		<b>2003 n=132</b>	<b>2008 n=190</b>
Didn't think it was serious enough		31%	43%
Lack of faith in the complaint process		Unable to compare	21%
This includes:	Easier just to keep quiet	19%	8%
	Complaint process would be embarrassing	4%	5%
	Complaint process would be difficult	4%	3%
	Thought I would not be believed	2%	3%
	<i>Would not change things</i> <i>Did not think anything would be done</i> (these responses combined in 2003)	13%	2% 1%
	Didn't trust the people I could complain too	1%	1%
	Difficulties with the complaint process	26%	NA
Took care of problem myself		26%	29%
Fear of negative impact on me		Unable to compare	15%
This includes:	Too scared/frightened	3%	5%
	Person too senior	6%	4%
	People would treat me like I was the wrong doer	2%	2%
	Damage to my reputation	2%	2%
	Thought people would think I was over reacting	1%	3%
	Afraid of getting fired	5%	3%
	Would have negative impact at work	2%	-
Did not know how to handle the situation		1%	3%

Moved to another place of work	1%	2%
Sexual harassment is accepted in my workplace	1%	1%
Harasser was already being dealt with	1%	1%
I did not know who to report it too	2%	1%
Didn't want to hurt the person who bothered me	3%	1%
Others	8%	3%

### 5.10 Preferred source of information on sexual harassment

All respondents were asked where they would prefer to receive information about sexual harassment if they were experiencing it.<sup>68</sup>

The internet was the most common preferred source of information with 45% of respondents selecting it as their first choice. A further 14% of respondents selected media, including print media, television and radio. The results show that 12% of respondents would prefer to receive information about sexual harassment within their workplace including from their human resource manager, employer or direct supervisor. Around 5% of respondents reported their friends and family would be their preferred source of information.

These findings support the need for a wide reaching education strategy on sexual harassment targeting the internet, the media and individual workplaces.

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68 Sample size = 2005; Margin of error  $\pm$  2.2% 95% confidence level.

# Appendix 1: Design and methodology of the national telephone survey

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## 1. Methodology and analysis

The 2008 national telephone survey was conducted on behalf of the Australia Human Rights Commission by Market Focus International.

Between July and September 2008, two thousand and five randomly selected respondents representative of the Australian population aged 18 to 64, were interviewed by telephone about sexual harassment in the workplace. Respondents were representative in terms of age, gender and area of residence.

In July 2008, the first wave of this national telephone survey was conducted with a sample of 1005 people. The survey used for this first wave replicated almost exactly the survey used in the 2003 national telephone survey conducted by Commission, with some minor word changes.<sup>69</sup>

Since the 2003 survey, however, further research by the Commission on survey methodologies in relation to sexual harassment indicated that additional questions should be included in the survey in order to improve the assessment of the incidence of sexual harassment.

The literature on sexual harassment survey methodologies observes a difference in the estimated incidence depending on how respondents are asked about their experience. Asking respondents whether they have experienced sexual harassment based on providing a legal definition of sexual harassment<sup>70</sup> can be daunting, as it requires the respondent to make a judgement about the kinds of behaviours that a lawyer or court would regard as constituting sexual harassment. This also relies on the perceptions of the respondent as to what sexual harassment may or may not be, rather than simply whether they have experienced particular types of unwelcome behaviour. As such, questions based on a definition of sexual harassment may lead to under-reporting of the incidence of sexual harassment, as most people have quite narrow perceptions of what constitutes sexual harassment.<sup>71</sup> In contrast, questions that specify the behaviours are more concrete and are less reliant on a person's own understanding of sexual harassment.<sup>72</sup>

For this reason, questions based on specific behaviours are likely to yield a more realistic incidence of sexual harassment.

In September 2008, a second wave of telephone interviews were conducted with 1000 nationally representative people aged 18 to 64. Based on the literature, in the second wave of the 2008 telephone survey, an additional set of questions was asked to measure the incidence of specific sexual harassment behaviours.<sup>73</sup> Respondents were asked whether they had experienced these behaviours in the workplace or at work-related events in the last five years in a way that they felt was unwelcome.

The questions were added to assess the level of understanding of sexual harassment and to gain a more robust estimation of the prevalence of workplace sexual harassment in the community.

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69 Human Rights and Equal Opportunity Commission, *20 Years On: The Challenges Continue Sexual Harassment in the Australian Workplace* (2004).

70 Based on the *Sex Discrimination Act 1984* (Cth).

71 R Illies et al, 'Reported incidence rates of work-related sexual harassment in the United States: Using meta-analysis to explain reported rate disparities, 56(3), 607-618.' (2003) 56(3) *Personnel Psychology* p.607.

72 R Illies et al, 'Reported incidence rates of work-related sexual harassment in the United States: Using meta-analysis to explain reported rate disparities, 56(3), 607-618.' (2003) 56(3) *Personnel Psychology* p.607.

73 Please see question 5 (b) of the survey at Appendix 2.

The interviews for the 2008 survey were conducted over the phone using female interviewers. Those respondents who reported experiencing workplace sexual harassment in the last five years, or one or more behaviours that may constitute sexual harassment in the workplace in the last five years qualified for an in-depth interview.

The in-depth interviews examined the nature of sexual harassment and were conducted with 226 respondents.

Given the different types of questions and qualifying requirements for the long interview there were a range of sample sizes for the various questions. This means that the reliability of the results varies across different sections of the survey.

The main samples are set out in the table below.

Questions asked in the 2008 national telephone survey	Sample size	Margin of error
Personal experiences of sexual harassment based on definition, witnessing sexual harassment, preferred source of information on sexual harassment	2005	± 2.2%
Where sexual harassment was experienced	434	± 4.7%
Those who experienced sexual harassment in the workplace in the last five years and one or more sexual harassment behaviours in the workplace in the last five years.	298	± 5.7%
Personal experience of specific sexual harassment behaviours (those who did not experienced workplace sexual harassment, based on definition, in the last five years)	947	± 3.2%
Total sample for detailed interview	226	± 6.5%

The sub-sample who made a formal report of sexual harassment in the 2008 survey was 36. Given the small size of this sample, no firm conclusions can be drawn from the questions relating to formal complaints such as: who the complaint was made to; how it was finalised; what the outcome was, and; how satisfied the respondent was with the process.

## 2. Limitations of the methodology

In 2003, the national telephone survey methodology was chosen as it is one of the most efficient ways to interview a large population-based sample, particularly given the sensitive nature of the topic and the geographic distances in Australia.<sup>74</sup> However, this methodology does have some limitations.<sup>75</sup>

One limitation of the national telephone survey methodology is that it does not adequately represent groups of individuals with limited English skills or who have no or reduced access to a household telephone. These groups may include:

- people from culturally and linguistically diverse backgrounds
- people with disability
- people from lower socio economic backgrounds who may not have a household telephone.

It is important that additional research strategies are used to investigate sexual harassment amongst these groups.

Further, the national telephone survey did not interview people under the age of 18 because it would require consent from a parent or guardian. Given that a significant number of Australians enter the paid workforce under the age of 18 and the literature suggests that they may be particularly vulnerable to sexual harassment, this is an area that warrants further research.

Another limitation of the methodology is the smaller sample sizes, when sub-sampling for particular questions. This means that conclusions from small sub-samples should be drawn with caution. This report footnotes the various sample sizes and margins of errors when reporting on a sub-sample.

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74 Human Rights and Equal Opportunity Commission, *20 Years On: The Challenges Continue Sexual Harassment in the Australian Workplace* (2004).

75 Australian Centre for the Study of Sexual Assault, *What lies behind the hidden figure of sexual assault? Issues of prevalence and disclosure - Briefing No. 1 September 2003* (2003); D Wilson et al, 'The second computer assisted telephone interview (CATI) forum: The state of play of CATI survey methods in Australia' (2001) 25(3) *Australian and New Zealand Journal of Public Health* p.272; Australian Bureau of Statistics, *Information paper: measuring crime victimisation, Australia: the impact of different collection methodologies, Cat. No.4522.0.55.001* (2004).

# Appendix 2: Copy of the 2008 Sexual harassment national telephone survey

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## Screening for Incidence

Hello, my name is ..... from ....., the national research company. We are conducting a social survey about your experience of work and would be grateful for a few minutes of your time.

**S1. Firstly are you aged between 18 and 64?**

- Yes 1 CONTINUE
- No 2 ASK FOR SOMEONE IN HOUSEHOLD WHO IS IN THIS AGE GROUP. IF NOT AVAILABLE ARRANGE CALL BACK.

**1b Which of these age groups are you in?**

- 18-29
- 30-39
- 40-49
- 50-64

**S2. Gender**

- Male 1
- Female 2

**S3. Are you currently employed?**

- Full-time
- Part-time
- Not working
- Refused (DO NOT READ)

**S4. What is the main language spoken at home?**

- English
- Italian
- Greek
- Cantonese
- Mandarin
- Arabic
- Vietnamese
- Other (SPECIFY) .....

This is an important study of the prevalence and impact of sexual harassment. Firstly, I would like to read the definition of Sexual Harassment. I'd like to assure you that your answers to these questions are completely confidential.

*“Sexual harassment is an unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated, and where that reaction is reasonable in the circumstances.”*

**Q1. Have you ever personally experienced sexual harassment?**

- |     |   |           |
|-----|---|-----------|
| Yes | 1 | CONTINUE  |
| No  | 2 | GO TO Q5b |

**Q2. Where was that sexual harassment experienced?**

READ LIST SINGLE RESPONSE (IF PERSON STATES THEY HAD MULTIPLE EXPERIENCES ASK THEM ABOUT THE MOST RECENT EXPERIENCE)

- |  |           |
|--|-----------|
| At your work/in the workplace/in employment by co-workers, your employer, boss or supervisor | CONTINUE  |
| At your work by people other than those just mentioned                                       | CONTINUE  |
| In or at a work related event (eg social event, conference)                                  | CONTINUE  |
| In the provision of goods or services (eg as a customer)                                     | GO TO Q5b |
| In an educational institution (school, TAFE, university)                                     | GO TO Q5b |
| Elsewhere (SPECIFY) .....  | GO TO Q5b |

**Q3. When did this harassment start?**

READ LIST IF REQUIRED SINGLE RESPONSE

- |                          |           |
|--------------------------|-----------|
| Less than 1 year ago     | CONTINUE  |
| Between 1 to 2 years ago | CONTINUE  |
| Between 2 to 3 years ago | CONTINUE  |
| Between 3 to 4 years ago | CONTINUE  |
| Between 4 to 5 years ago | CONTINUE  |
| More than 5 years ago    | GO TO Q5b |

**Q5a. Out of the following, how would you describe the harassment? Please answer Yes or No to each one.** READ LIST ANSWER YES OR NO FOR EACH ACTION ROTATE

**Q5b. In the last five years, have you experienced any of the following in the workplace or at a work related event in a way that was unwelcome? Please answer Yes or No to each one.** READ LIST ANSWER YES OR NO FOR EACH ACTION ROTATE

ROTATE: STATEMENT 'N' SHOULD ALWAYS BE THE FINAL STATEMENT ASKED, THE PENULTIMATE STATEMENT SHOULD BE 'L', AND ALL OTHERS SHOULD BE ROTATED WITH STATEMENT F NEVER TO BE READ FIRST.

			Q5a		Q5b	
COLUMNS BELOW FOR DATA PURPOSES ONLY	ROTATE READ LIST		Yes	No	Yes	No
	Unwanted sexual attention	A	Unwelcome touching, hugging, cornering or kissing			
Unwanted sexual attention	B	Inappropriate staring or leering that made you feel intimidated				
Crude/offensive behaviour	C	Sexually suggestive comments or jokes that made you feel offended				
Crude/offensive behaviour	D	Sexually explicit pictures, posters or gifts that made you feel offended				
Unwanted sexual attention	E	Repeated or inappropriate invitations to go out on dates				
Unwanted sexual attention	G	Intrusive questions about your private life or physical appearance that made you feel offended				
Crude/offensive behaviour	J	Sexually explicit emails or SMS messages				
Sexual assault	K	Inappropriate physical contact				
Unwanted sexual attention	M	Repeated or inappropriate advances on email, social networking websites or internet chat rooms by a work colleague				
Sexual coercion	F	Requests or pressure for sex or other sexual acts				
Sexual assault	L	Actual or attempted rape or assault				
	N	Any other unwelcome conduct of a sexual nature (SPECIFY) .....				

IF YES FOR ANY OF Q5A OR Q5B, CONTINUE, OTHERS GO TO Q21

**Q5c. On a scale of 1 to 5, where 1 means not at all offended and 5 means extremely offended, overall how offended did the harassment make you feel?**

SINGLE RESPONSE REPEAT SCALE IF NECESSARY

Not offended at all				Extremely offended	Don't Know (DO NOT READ)
1	2	3	4	5	6

**Q5d. On a scale of 1 to 5, where 1 means not at all intimidated and 5 means extremely intimidated, overall how intimidated did the harassment make you feel?**

SINGLE RESPONSE REPEAT SCALE IF NECESSARY

Not intimidated at all				Extremely intimidated	Don't Know (DO NOT READ)
1	2	3	4	5	6

**Q6a. How long did the behaviour/s go on for?** SINGLE RESPONSE READ LIST

- It was a one off
- Less than 1 month
- 1 to 3 months
- 4 to 6 months
- 7 to 12 months
- More than one year
- Ongoing (continuous)
- Sporadic (comes and goes)
- Other (SPECIFY) .....

**Q6b. Do you know if this happened to anyone else in that same place of work?**

- Yes CONTINUE
- No GO TO Q7a

**Q6c. Thinking about your workplace at that time, would you say that this type of behaviour was very rare, rare, occurred sometimes or was common?**

SINGLE RESPONSE REPEAT SCALE IF NECESSARY

- Very rare
- Rare
- Occurred sometimes
- Common
- Don't Know (DO NOT READ)

**Q7a. Did you seek any informal support or advice about the harassment that happened to you?**

- Yes CONTINUE
- No GO TO Q7c

**Q7b. If YES, who did you seek informal assistance or advice from?**

DO NOT READ LIST MULTIPLE RESPONSE

Friends or family	GO TO Q7c
Manager/supervisor at work	GO TO Q7c
Employer/boss	GO TO Q7c
Human Resources manager or equivalent at work	GO TO Q7c
Equity Officer/Sexual Harassment Contact Officer/Harassment Contact Officer	GO TO Q7c
Co-worker	GO TO Q7c
Co-worker more senior than you	GO TO Q7c
A union or employee representative	GO TO Q7c
A lawyer or legal service	GO TO Q7c
Federal Human Rights and Equal Opportunity Commission or state or territory anti-discrimination agency	GO TO Q7c
Counselor/Psychologist	GO TO Q7c
The internet (including search engines such as Google and Yahoo)	GO TO Q7c
Community based or religious service	GO TO Q7c
Ombudsman	GO TO Q7c
Police	GO TO Q7c
Other (SPECIFY) .....	GO TO Q7c

**Q7c. Did you formally report or make a complaint about the harassment to anyone?**

Yes	CONTINUE
No	GO TO Q8

**Q7d. If YES, who did you report the incident to?**

READ LIST MULTIPLE RESPONSE

Manager/supervisor at work	GO TO Q9
Employer/boss	GO TO Q9
Human Resources manager or equivalent at work	GO TO Q9
Equity Officer/Sexual Harassment Contact Officer/Harassment Contact Officer	GO TO Q9
Co-worker	GO TO Q9
The person harassing you	GO TO Q9
A union or employee representative	GO TO Q9
A lawyer or legal service	GO TO Q9
Federal Human Rights and Equal Opportunity Commission or to a state or territory anti-discrimination agency	GO TO Q9
Other (SPECIFY) .....	GO TO Q9

**Q8. Why did you not report or make a complaint?**

DO NOT READ LIST PROBE MULTIPLE RESPONSE

Too scared/frightened	GO TO Q12
Easier to just keep quiet	GO TO Q12
Thought would not be believed	GO TO Q12
Person too senior	GO TO Q12
Complaint process would be embarrassing	GO TO Q12
Complaint process would be difficult	GO TO Q12
Would not change things	GO TO Q12
People would treat me like I was the wrong doer	GO TO Q12
Afraid of getting fired	GO TO Q12
Don't trust the people I could complain to	GO TO Q12
My husband/partner told me not to do anything	GO TO Q12
Damage to my reputation	GO TO Q12
Didn't think it was serious enough	GO TO Q12
Didn't want to hurt the person who bothered me	GO TO Q12
Did not think anything would be done	GO TO Q12
Took care of problem myself	GO TO Q12
I did not know who to report it too	GO TO Q12
Did not know how to handle the situation	GO TO Q12
Thought people would think I was over reacting	GO TO Q12
Sexual harassment is accepted in my workplace	GO TO Q12
Moved to another place of work	GO TO Q12
Harasser was already being dealt with	GO TO Q12
Other (SPECIFY) .....	GO TO Q12

**Q9. What were the results to either yourself or the harasser as an outcome of your complaint?** READ LIST PROBE MULTIPLE RESPONSE

- The harasser was disciplined  
(SPECIFY) .....
- The harasser was transferred or changed shifts
- The harasser resigned
- The harasser was dismissed
- The harasser apologised
- The harasser paid you compensation  
(SPECIFY AMOUNT) .....
- Your employer apologised for allowing the harassment
- Your employer paid you compensation for allowing the harassment  
(SPECIFY AMOUNT) .....
- Your employer made changes to the workplace to prevent sexual harassment in the future
- Your employer provided you with a reference
- You were disciplined  
(SPECIFY) .....
- You were transferred or changed shifts
- You resigned
- You were dismissed
- Nothing was done
- Harassment stopped
- Harasser formally warned
- Harasser spoken to
- You were demoted
- Other (SPECIFY) .....

**Q10. What was the time period between when the harassment began and when you reported it?** READ LIST SINGLE RESPONSE

- Immediately/same day/next working day
- Less than 1 month
- 1 to 3 months
- 4 to 6 months
- Other (SPECIFY) .....

**Q11a. How was your complaint finalised?** READ LIST SINGLE RESPONSE

- Between your boss and yourself GO TO Q11b
- Between your employer and yourself GO TO Q11b
- With your union’s involvement GO TO Q11b
- With the involvement of the Federal Human Rights and Equal Opportunity Commission, or state or territory anti-discrimination agency GO TO Q11b
- By your legal representative/lawyer GO TO Q11b
- In Court GO TO Q11b
- Other (SPECIFY) ..... GO TO Q11b
- Not finalised yet GO TO Q12

**Q11b. How long did it take to finalise your complaint?** READ LIST SINGLE RESPONSE

- Immediately/same day/next working day
- Less than 1 month
- 1 to 3 months
- 4 to 6 months
- 7 to 9 months
- 9 to 12 months
- More than 12 months
- Other (SPECIFY) .....

**ASK IF YES AT Q7c**

**Q11c. On a scale of 1 to 5, where 1 means not at all satisfied and 5 means extremely satisfied, overall how would you rate the total process of dealing with your sexual harassment complaint?** SINGLE RESPONSE REPEAT SCALE IF NECESSARY

Not at all satisfied				Extremely satisfied	Don't Know (DO NOT READ)
1	2	3	4	5	6

**Q12. Was the harasser male or female?** SINGLE RESPONSE

- Male
- Female

**Q13. About how old was the harasser?** SINGLE RESPONSE READ LIST IF REQUIRED

- 15 -20 years
- 21-30 years
- 31-40 years
- 41-50 years
- 51-64 years
- 64+ years

**Q14. What was the harasser's relationship to you?** READ LIST IF REQUIRED SINGLE RESPONSE

- Supervisor/manager
- Boss/employer
- Co-worker
- Co-worker (more senior)
- Client/customer
- Others associated with workplace
- Other (SPECIFY) .....

Now I would like you to think specifically about your workplace when the sexual harassment took place.

**Q15. How many employees would there have been at your employer – in total not just at your workplace?** READ LIST SINGLE RESPONSE

- Small (less than 25 employees)
- Medium-sized (26 to 100 employees)
- Large (more than 100 employees)

**Q16a. At the time of the harassment were you working full-time or part-time?**

- SINGLE RESPONSE
- Full-time
  - Part-time

**Q16b. And was that as a permanent, casual or temporary employee?** READ LIST SINGLE RESPONSE

- Permanent
- Casual
- Temporary

**Q17. At the time of the harassment how long had you been working for this employer?**

- READ LIST SINGLE RESPONSE
- Less than 3 months
  - More than three months but less than 12 months
  - More than 12 months but less than 3 years
  - 3 or more years

**Q18. What was the industry you were working in at the time the harassment took place?**

READ LIST SINGLE RESPONSE

- Agriculture, Forestry and Fishing
- Mining
- Manufacturing
- Electricity, Gas and Water Supply
- Construction
- Wholesale Trade
- Retail Trade
- Accommodation, Cafes and Restaurants
- Transport and Storage
- Communication Services
- Finance and Insurance
- Property and Business Services
- Government Administration and Defence
- Education
- Health and Community Services
- Cultural and Recreational Services
- Personal and other Services
- Other (SPECIFY) .....

**Q19. What was your occupation at the time the harassment occurred?**

SINGLE RESPONSE IF NECESSARY READ LIST

- Professional Worker - lawyer, doctor, scientist, teacher, engineer, nurse, accountant, investment banker, stock brokerage, marketing, musician
- Manager, Executive or Official - in a business, government agency, or other organisation
- Business Owner - such as a store, factory, plumbing contractor, etc.
- Clerical or Office Worker - in business, government agency, or other type of organization - such as a typist, secretary, postal clerk, telephone operator, computer operator, data entry, bank clerk, etc.
- Sales Worker - clerk in a store, door-to-door salesperson, sales associate
- Manufacturer's Representative - outside sales person, sales representative
- Service Worker - policeman/woman, fireman, waiter or waitress, maid, nurse's aide, attendant, barber or beautician, fast-food
- Skilled Tradesman - printer, baker, tailor, electrician, machinist, linesman, railroad engineer, plumber, or does mechanical work such as garage mechanic, carpenter, etc.
- Semi-skilled Worker - operates a machine in a factory, is an assembly line worker in a factory, drives a truck, taxi cab, or bus, etc.
- Unskilled/Labourer/Elementary Occupations - plumber's helper, construction labourer, longshoreman, sanitation worker, maintenance, housekeeping, or other physical work
- Technology professional - web designer, network administrator, systems engineer, programmer, systems analyst, Internet, IT
- Agriculture and Fishery Workers
- Home Duties
- Retired/Pensioner
- Student
- Other (SPECIFY) .....
- Don't Know
- Refused (DO NOT READ)

**ASK ALL**

**Q21. Have you witnessed sexual harassment in your workplace in the last five years?**

SINGLE RESPONSE

- |            |           |
|------------|-----------|
| Yes        | CONTINUE  |
| No         | GO TO Q24 |
| Don't know | GO TO Q24 |

**Q22. Did you take any of the following actions after witnessing this?**

ROTATE READ LIST ANSWER YES OR NO FOR EACH ACTION

	Yes	No	Don't know
Confront the harasser			
Report the harassment to your employer			
Talk/Listen to the victim			
Offer advice to the victim			
Take any other action (SPECIFY) .....			
Take no action			

Now just a few questions about your current situation...

**Q24 Where would be your preferred sources of information about sexual harassment?**

PROBE DO NOT READ LIST RECORD FIRST MENTION AND OTHER MENTIONS

	FIRST MENTION	OTHER MENTIONS
Friends or family		
Internet including search engines such as Google or Yahoo		
Manager/supervisor at work		
Employer/boss		
Human Resources manager or equivalent at work		
Equity Officer/Sexual Harassment Contact Officer/ Harassment Contact Officer		
Co-worker		
Co-worker more senior than you		
A union or employee representative		

A lawyer or legal service		
Australian Human Rights Commission or to a state or territory anti-discrimination agency		
Library		
Counsellor/Psychologist		
Print media such as newspapers, magazines		
TV or radio		
Citizens Advice Bureau		
Don't know		
Other (SPECIFY) .....		

**Q25. Are you of Aboriginal or Torres Strait Islander descent?**

- Yes 1
- No 2

**Q27. What is your total annual HOUSEHOLD income from all sources before taxes? Would it be ...**

READ LIST SINGLE RESPONSE

- Less than \$15,000 per year
- \$15,000 up to \$24,999 per year
- \$25,000 up to \$34,999 per year
- \$35,000 up to \$44,999 per year
- \$45,000 up to \$55,999 per year
- \$55,000 up to \$74,999 per year
- \$75,000 up to \$99,999 per year
- \$100,000 up to \$149,999 per year
- \$150,000 up to \$199,999 per year
- \$200,000 and over
- Don't Know
- Refused

**Q28. Please could you tell me what age you are? (Code actual age)**

WRITE IN AGE .....  
 Refused

**Q29. And can I check your postcode is .....**

**We may be conducting further research in the future. Can we re-contact you in that case?**

- Yes 1
- No 2

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### Dealing with discrimination and harassment

The Sex Discrimination Act protects individuals across Australia from discrimination on the basis of sex, marital status or pregnancy and, in relation to employment, family responsibilities. The Act also makes sexual harassment against the law.

For free advice on discrimination and your rights, or to make a complaint, call the Australian Human Rights Commission Complaints Information Line on **02 9284 9888, 1300 656 419** or TTY **1800 620 241**.

Information about making or responding to a complaint is available at [www.humanrights.gov.au](http://www.humanrights.gov.au)

You can also email us at [complaintsinfo@humanrights.gov.au](mailto:complaintsinfo@humanrights.gov.au)

### Publications

The Australian Human Rights Commission produce a range of free, informative publications available in hard copy and electronic formats. Recent publications from the Sex and Age Discrimination Unit include:

- Gender equality: What matters to Australian women and men (The Listening Tour Community Guide)
- Guide to the Sex Discrimination Act (Brochure)

The Publications Order Form is available online at: [www.humanrights.gov.au/about/publications/index.html](http://www.humanrights.gov.au/about/publications/index.html) or call (02) 9284 9600, fax: (02) 9284 9611 or e-mail: [publications@humanrights.gov.au](mailto:publications@humanrights.gov.au)