

# **"Harsh Realities"**

## **An educative kit of case studies under the federal Sex Discrimination Act**

### **A word from the federal Sex Discrimination Commissioner**

#### **International Women's Day 1999**

I am of the firm view that to be exposed to the real-life experiences of others, is one of the most important ways to learn and progress, both as individuals and as a society. It was for this reason, when contemplating how to further the aims of International Women's Day 1999, that I decided to compile a set of educative case studies entitled "Harsh Realities". These case studies provide an opportunity to reflect on the experiences of others.

While some complaints lodged under the federal Sex Discrimination Act 1984 are rejected due to lack of substance, inappropriate jurisdiction or being out of time, the majority of those that are accepted are conciliated confidentially. It is from these cases that this kit of material has been drawn. All names of course have been changed to ensure anonymity and confidentiality.

The case studies neither detail legislative frameworks nor outline the roles and responsibilities of employees and employers; there is other material that serves this purpose. Rather, they depict the unsavoury, and at times quite appalling circumstances that have resulted in everyday working women formalising complaints under the Act.

A workplace free of sex discrimination and sexual harassment is a human right; there are those amongst us however, for whom this is not a reality. I therefore believe that the education campaign I am pursuing in order to increase understanding, acceptance and adherence to the federal Sex Discrimination Act can only be aided by the release of this material.

While Australian women have gained significant ground there remain those in our community who lack an understanding of the basic first principles of equality and good management. Do not be surprised if you find the harsh realities documented quite confronting; the material is raw, the experiences objectionable and the language demeaning and offensive. Unfortunately however the case studies provide a realistic insight into the working lives of some women, and an accurate picture of what crosses my desk on a regular basis. Men also face discrimination and harassment in employment, but over 85% of complaints lodged under the Act are made by women, the majority of which involve sexual harassment.

I encourage you to read the case studies and utilise them whenever possible. We all have a role to play, and much to gain from a workplace and a society that understands and respects human rights.

**Susan Halliday**  
**Sex Discrimination Commissioner**

## **1. Pregnancy**

**He also stated that it was company policy to transfer all pregnant workers to light duties**

Ms Hurley worked as a trainee supermarket warehouse manager for two months. In this role Ms Hurley worked full-time hours, even though her employment status was casual.

When Ms Hurley informed her supervisor that she was pregnant she was referred to a senior manager. The senior manager, expressing a significant degree of shock that Ms Hurley was pregnant said that because he could not get continuity of service from someone in her situation she would be transferred

to the position of register operator. He also stated that it was company policy to transfer all pregnant workers to light duties.

Assured that there would be no drop in pay, Ms Hurley found that shortly after commencing her alternative light duties, her hours were progressively reduced until finally she was offered only four hours work per week. Negotiations between Ms Hurley, the union and the employer did not result in a satisfactory outcome.

As a trainee Ms Hurley worked full-time hours, and had a prospect of becoming a permanent staff member after her probationary period. She claimed this was not the case for register operators and that this therefore constituted unfair treatment on the basis of her pregnancy.

Ms Hurley lodged a complaint under the federal Sex Discrimination Act and attended a conciliation conference that resulted in a compensation payment of \$7,500. The employer also agreed to review discrimination policy that governed the operations of the supermarket.

## **2. Sexual harassment**

### **Over a three year period she had been grabbed on the legs, arms and breasts**

Ms Napier was employed by a recreational club for four years. She performed general bar duties and cashier work. Stating that she had been sexually harassed by three of her co-workers, Ms Napier lodged a complaint under the federal Sex Discrimination Act.

Ms Napier said that over a three year period she had been grabbed on the legs, arms and breasts, and that several attempts to kiss her had been made. She stated she was also pinched on the buttocks and was the recipient of comments about her breasts.

Ms Napier repeatedly told her three co-workers that their sexual comments and behaviour were unwelcome, and raised the matter with her supervisors. In Ms Napier's view however, the club did not take sufficient steps to either investigate or address her concerns.

The matter was settled and the club provided Ms Napier with a written apology that included a commitment to ensuring a working environment free from sexual harassment.

## **3. Sexual harassment**

### **When Ms Baxter raised her concerns about Mr Andrew's unwelcome sexual behaviour he sacked her**

Ms Baxter worked as a shop assistant in a grocery store for four months. She asserted that during this time her employer, Mr Andrews, sexually harassed her.

Ms Baxter stated that Mr Andrews constantly made sexual remarks to her and requested she wear tight trousers, skimpy clothing, red lipstick and nail-polish "because it looked sexy". He also asked her out on dates even though she had previously declined such invitations, and made crude sexual comments.

When commenting on the size of certain vegetables Mr Andrews told Ms Baxter that he had "something bigger than that between my legs". Ms Baxter stated that on one occasion Mr Andrews followed her into the cool room, turned off the light, and said that they would play a game, feeling around in the dark to see who could find Ms Baxter.

When Ms Baxter raised her concerns about Mr Andrew's unwelcome sexual behaviour he sacked her. She lodged a complaint under the federal Sex Discrimination Act, which settled with Mr Andrews paying Ms Baxter \$4,500 compensation.

## **4. Sexual harassment**

### **Initially Ms Yates did not complain because she was fearful of losing her job**

Ms Yates, who was employed as a farm worker with a large agricultural producer, stated co-worker Mr Johnston sexually harassed her. Allegedly Mr Johnston regularly touched Ms Yate's buttocks and upper body, and made demeaning comments about her in front of other co-workers.

Ms Yates stated that the sexual harassment commenced within several weeks of her starting her job, and continued for fifteen months. Initially Ms Yates did not complain because she was fearful of losing her job. Eventually however she raised the matter with senior management and was advised that Mr Johnston would be issued with a warning. Senior management also stated that if she suffered any victimisation for having reported the incident she should inform them immediately. Finally senior management notified Ms Yates of her right to complain to a relevant external anti-discrimination authority.

Ms Yates believed that her employer did not address her concerns as promised, and that Mr Johnston only received a warning after she had resigned.

Ms Yates documented her experiences and lodged a complaint under the federal Sex Discrimination Act. The complaint settled with her employer paying her \$4,000 compensation.

## **5. Sexual harassment**

### **She stated that her employer had neglected to provide any sexual harassment information or training**

Ms Krohn was sixteen years old when she was employed full-time in a fruit and vegetable shop as a cashier.

Ms Krohn reported that she was indecently assaulted and sexually harassed by co-worker Mr Stafford. In particular, Ms Krohn said that on one occasion Mr Stafford led her out of the sight of other co-workers, grabbed her, kissed her on the mouth and placed his hand inside her clothing, touching her genital area and breasts.

Ms Krohn left the employer at lunchtime that day, and was taken by a friend's mother to the local police station where she reported the incident. Ms Krohn initiated criminal proceedings in the local court for which Mr Stafford was sentenced to weekend detention for aggravated indecent assault.

Ms Krohn lodged a complaint under the federal Sex Discrimination Act. She stated that her employer had neglected to provide any sexual harassment information or training and consequently failed to provide a safe working environment.

The indecent assault and surrounding circumstances significantly impacted on Ms Krohn's ability to work. She claimed she had lost her self-confidence, her trust in men and the ability to go out alone in public.

The matter was settled at a conciliation conference with Ms Krohn receiving a compensation payment of \$16,000. Mr Stafford paid \$5,500 and the employer paid \$10,500.

## **6. Pregnancy, sexual harassment and victimisation**

**Her supervisor asked when she intended to stop working and commented “it doesn’t look very nice with you doing table service while you are pregnant”**

Ms Osborn was employed by a small recreational club to undertake a variety of tasks including bar work, poker machine payouts and table service. She stated that during her period of employment the club discriminated against her on the grounds of sex and pregnancy, and that she had also been sexually harassed.

Ms Osborn said that she had made an internal complaint of sexual harassment which resulted in her being victimised. She said the victimisation consisted of a denial of further work after the birth of her child, even though she had been employed with the club as a casual for over 18 months prior to the birth.

Ms Osborn’s sexual harassment complaint was against two club officials. She stated they made comments such as “come back to my place for some sex” and “your tits are getting bigger”. Ms Osborn said that one of the officials had touched her stomach without permission when she was well into her pregnancy. Her internal complaint to her supervisor resulted in verbal apologies from the two officials and at the time Ms Osborn was satisfied with this resolution. She subsequently became disgruntled however, believing that her shifts were reduced as a means of retaliation for having made the internal sexual harassment complaint.

Ms Osborn stated her supervisor asked when she intended to stop working and commented “it doesn’t look very nice with you doing table service while you are pregnant”. Due to the reduction in her shifts Ms Osborne left work four weeks earlier than planned.

Claiming that she had always intended to return to work after the birth of her baby, Ms Osborn attempted to regain work with the club on a number of occasions. She was told there was no work available.

The employer argued that Ms Osborn had requested a reduction in her hours because she was having difficulty coping with the workload as well as attending to family responsibilities during her advancing pregnancy, and that she finally resigned from her position and left of her own free will. The employer further argued that all issues to do with the sexual harassment complaint were satisfactorily resolved at the time and that no victimisation occurred as a result of her complaint. Finally Ms Osborn’s supervisor denied making comments about the pregnancy.

Ms Osborn lodged a complaint under the federal Sex Discrimination Act. The matter was settled with an amount of \$7,500 being paid to Ms Osborn and the provision of a written work reference.

## **7. Sex discrimination**

**The sex discrimination consisted of offensive and derogatory remarks made by the site manager, the shift supervisor and a co-worker**

Ms Siddell worked as a security officer in a shopping centre. Known as a “rover” or a shift supervisor’s relief and helper, Ms Siddell alleged that she was discriminated against on the basis of her sex. The sex discrimination consisted of offensive and derogatory remarks made by the site manager, the shift supervisor and a co-worker.

Ms Siddell said she had been referred to as “only a stupid female”, a “bitch” and “brain dead”. She claimed that while the comments were not made directly to her, co-workers informed her about what had been said. Ms Siddell’s co-workers provided written statements supporting this. She was told directly that she was too small to do a good job and that she could not be taken seriously in her job and should not be promoted.

Ms Siddell noted that when a shift supervisor position became available, the usual practice was to promote a “rover”. Technically next in line when a shift supervisor’s position arose, she was informed that the job would be advertised.

Ms Siddell complained internally that she was being discriminated against and harassed but felt that the issue remained unresolved. She claimed that more weight was given to the position of those causing the problem, even though she had statements from witnesses who supported her allegations.

Ms Siddell lodged a complaint under the federal Sex Discrimination Act and the matter was settled with Ms Siddell gaining the shift supervisor’s position. The site manager, shift supervisor and co-worker received warnings that their behaviour was not acceptable and the site manager was required to attend a conflict resolution and harassment training course. The shift supervisor and co-worker were transferred to another site.

## **8. Sexual harassment**

**She stated that he stood so close she could feel his genitals on her buttocks...he laughed telling her to keep serving the customer**

Ms Dixon was seventeen years old when she alleged sexual harassment against Mr Costa, the restaurant manager of a take away food store. She had worked in the store for one month when she resigned due to the level of unwelcome sexual behaviour.

Ms Dixon said Mr Costa asked her if he could get between her legs when she was standing in front of the refrigerator, commented on her trousers, and when she was serving, breathed on her neck. She stated that he stood so close she could feel his genitals on her buttocks. On this occasion she moved away, and he laughed, telling her to keep serving the customer.

On other occasions Ms Dixon said Mr Costa would make intrusive inquiries about her private life, often asking if she was “going to get a screw on the weekend.” On all of these occasions Ms Dixon made it known to Mr Costa that his behaviour was unwelcome.

Ms Dixon lodged a complaint under the federal Sex Discrimination Act which resulted in Mr Costa agreeing to compensate Ms Dixon a sum in excess of \$2,000.

## **9. Pregnancy**

**When she advised the surgery that she could not financially manage on the reduced hours, one of the doctors responded “well you’re the one who’s pregnant”**

Ms Callos worked for a doctor’s surgery as a casual employee several days a week. She agreed to increase her working hours from six to ten hours on the days she worked to cover the resignation of another employee, when requested to do so by her employer.

Six months later Ms Callos advised her employer that she was pregnant. As agreed she then took some holidays over the Christmas period. On her return she was advised that her hours of work had been reduced and that she need only work four hours per day. Ms Callos then discovered that while she was away on holidays someone else had been employed to work the majority of her hours. When she advised the surgery that she could not financially manage on the reduced hours, one of the doctors responded “well you’re the one who’s pregnant”.

Ms Callos resigned due to the financial difficulties that working fewer hours posed for her, lodging a complaint under the federal Sex Discrimination Act.

The employer argued that the nature of Ms Callos’s casual position allowed for the change in hours and that someone else had been employed because she had taken holidays. The employer argued that

on her return she could not perform her duties that required using the industrial floor cleaner because she was pregnant. Finally, the employer argued Ms Callos planned to leave anyway to have her baby.

Ms Callos said she had no intention of leaving the position when she returned from her Christmas holidays as the baby was not due for six months. She also stated she had planned to return to her position once the baby was born.

The matter was settled by conciliation with Ms Callos receiving a \$3,500 compensation payment.

## **10. Sexual harassment**

### **Mr Jimenez followed her home that evening and propositioned her**

Ms Johnson was an employee of a labour hire firm that contracted her services to a manufacturing company. Ms Johnson stated that she overheard her co-worker, Mr Jimenez, who was an employee of the manufacturing company, inform his friend that she lived alone. Mr Jimenez followed her home that evening and propositioned her. She declined and rang the security guards on duty, reporting the event to them. A few days later Mr Jimenez apologised for frightening Ms Johnson.

Ms Johnson had no further contact with Mr Jimenez for several months until he complained about the beverage machine in the canteen where she was working. Ms Johnson stated that he was aggressive, pushy and rude. She acknowledged that she lost her temper with him and said “that because he couldn’t get his end in he thought he could get back at her”. Ms Johnson reported the incident.

From this point on Mr Jimenez allegedly stared at Ms Johnson in an intimidating manner and made abusive phone calls during which he called her a slut. Mr Jimenez complained to the management of the manufacturing company that Ms Johnson was spreading rumours about him and his relatives who worked at the same site. He denied harassing Ms Johnson.

Ms Johnson was interviewed about the matter by the contracting company, and offered a transfer. She refused the transfer and was dismissed two days later. Ms Johnson lodged a complaint under the federal Sex Discrimination Act. The complaint was settled between the parties prior to the set public hearing date.

While Ms Johnson originally included Mr Jimenez, the labour hire firm that employed her, and the manufacturing company to whom she was contracted as respondents to the complaint, she withdrew her complaint against the manufacturing company. The settlement comprised Mr Jimenez paying Ms Johnson \$300 compensation and the labour hire firm paying her \$900.

## **11. Sexual harassment and family responsibilities**

### **Mr Simons victimised her making specific reference to the time she took off to look after her sick children, after she told him to stop sexually harassing her**

Ms Draper stated that the process manufacturing company for whom she worked as a production manager discriminated against her on the basis of sex and family responsibilities. Ms Draper also stated that Mr Simons, the company’s personnel manager, had sexually harassed her over a period of four years. According to Ms Draper the sexual harassment consisted of Mr Simons continually standing too close to her and putting his arms around her.

Ms Draper stated that she was demoted when she took a day off to look after her two sick children. At this stage Ms Draper had worked in the machine room as a process worker and production manager for six years. She stated that Mr Simons victimised her making specific reference to the time she took off to look after her sick children, after she told him to stop sexually harassing her. Ms Draper stated that Mr Simons said she had to choose between her children and her work at the factory.

Distressed, Ms Draper took two days sick leave. Back at work the following day she was asked to account for her absence by another senior employee. Of the view that her employer did not support her, she took further time off for which she had a medical certificate detailing stress and depression for the period of time she was absent.

Returning to lodge her medical certificate, she saw her position advertised on the notice board as a vacancy and understood this to mean that she had been dismissed.

The employer stated that there was no record of complaint about Mr Simon's behaviour and that Ms Draper had an unacceptably high level of absenteeism - several times the amount allowed under the relevant award. The employer also argued that the responsibilities associated with being a production manager required more regular attendance than Ms Draper could adhere to and that attempts had been made to accommodate her family commitments by changing her duties back to that of a production team member which, the employer claimed, would not have altered her salary.

Ms Draper made a complaint under the federal Sex Discrimination Act and the matter was settled with the employer agreeing to a \$5,000 compensation payment and the provision of a satisfactory work reference.

## **12. Sex discrimination and family responsibilities**

**Her new roster did not mirror her normal hours which accommodated her role as the sole carer of three small children**

Ms Gardiner lodged a complaint of discrimination against her employer, a major retail store. She claimed that she had been unfairly transferred from one store to a new store, and given duties that required less skill because of her family responsibilities.

Ms Gardiner argued that because of her family responsibilities the opportunity to work as Head Cashier and Payroll Clerk was denied and instead she was placed in the position of Service Deli Assistant. She also stated that her new roster did not mirror her normal hours, which accommodated her role as the sole carer of three small children with creche and school evening pick-up deadlines.

With the support of union representatives Ms Gardiner lodged a complaint under the federal Sex Discrimination Act.

The employer stated that everything possible had been done to accommodate Ms Gardiner within the limits of the enterprise agreement, and within her personal restrictions. The employer also argued that the new store required clerical employees to be available for extended hours and that attempts had been made to find something suitable to both parties.

Ms Gardiner's complaint was settled without admission of liability on the employer's behalf, on the basis that Ms Gardiner would continue to be employed to work hours that accommodated her parental responsibilities.

## **13. Sexual harassment**

**Mr O'Connell continuously sexually harassed her. She claimed that he touched her gratuitously and intimately**

Ms Geogouli lodged a complaint under the federal Sex Discrimination Act stating that her bar manager, Mr O'Connell, continuously sexually harassed her. She claimed that he touched her gratuitously and intimately, and placed his hands between her legs.

Ms Geogouli spoke to the manager of the hotel who warned Mr O'Connell to cease all unwelcome behaviour. No other action however, was taken and Ms Geogouli became distressed and uncomfortable at work. She eventually took stress leave stating that as a result of the harassment she had become claustrophobic, and often felt unsafe in public. She was generally reluctant to go out.

Ms Geogouli's complaint settled with Mr O'Connell paying \$4,000 in compensation and the employer paying \$10,000. The employer chose to admit no liability.

## **14. Sexual harassment**

**The complaint was conciliated and resulted in a \$15,000 payment, a reference and an apology**

Ms Howell was employed as an assistant to Dr Thatcher for four weeks. She stated that one night after working late, Dr Thatcher insisted on giving her a lift home. On the way home he parked the car and made sexual advances towards her, grabbing her neck and breasts, and kissing her. Ms Howell states that she ran from the car crying, after which Dr Thatcher caught up with her, apologised, and drove her the rest of the way home.

Ms Howell stated that because she needed her job, she returned to work the following day. Dr Thatcher again made unwelcome sexual advances towards her when they were alone. She stated he came up to her from behind and rubbed her shoulders and neck when she was at the computer.

Ms Howell left her job and was unemployed for some time. Stating that she now felt unsafe working with a male employer, Ms Howell lodged a complaint under the federal Sex Discrimination Act.

As part of her evidence, Ms Howell provided statements from previous employees of Dr Thatcher that documented they too had experienced incidents of sexual harassment.

Ms Howell sought compensation for loss of wages, stress and anxiety. She also sought compensation for the disadvantage suffered due to discontinuing a career development course she was required to withdraw from because she no longer worked within a medical practice.

The complaint was conciliated and resulted in a \$15,000 payment, a reference and an apology from Dr Thatcher.

## **15. Pregnancy**

**Ms Jenkins yelled at her for not advising that she was pregnant during her job interview; an incident which took place in front of other staff**

Ms Mohamed was employed as a casual shop assistant for several weeks when she was approached by Ms Jenkins, the business owner, and asked whether she was pregnant. When Ms Mohamed confirmed that she was, she claims Ms Jenkins yelled at her for not advising that she was pregnant during her job interview; an incident which took place in front of other staff.

A few days later Ms Mohamed's employment was terminated on the basis that she could not do the work required of her, and that she was dishonest for not disclosing her pregnancy during her job interview.

Ms Jenkins said that Ms Mohamed had been offered a choice of two positions, and that she had chosen the one that required more carrying and stacking. Ms Jenkins also said she considered Ms Mohamed to be capable of completing these tasks and had trained her, only to have Ms Mohamed refuse to perform the tasks. Finally Ms Jenkins noted that the other position Ms Mohamed could have had was now filled.



Ms Mohamed argued that the training provided had consisted of only four hours and that she had not been offered a choice of two positions. She denied refusing to move boxes stating she had devised an alternative method of pushing the boxes along the floor and then lifting them.

Ms Mohamed made a complaint under the federal Sex Discrimination Act, stating that she had been terminated because of her pregnancy. She detailed she had suffered a level of humiliation and that it would be very difficult to get work because of her advanced stage of pregnancy. The matter settled between the parties for an amount of \$3,000.

## **16. Sexual harassment**

### **Repeated sexual innuendo, crude overtures and being touched and grabbed in an unwelcome sexual manner forced Ms Chandler to resign**

Ms Chandler complained that she had been sexually harassed by two co-workers while working as a contracted security officer. Ms Chandler said the harassment occurred over a six month period and included verbal harassment including, “show me your tits”, “suck my dick”, “sit on my face” and “I suppose a f\*\*\* is out of the question?” She further alleged she was called a slut and a bitch. Her co-workers also told her that the work site was for men only and that she should be at home.

The pressure and stress of repeated sexual innuendo, crude overtures and being touched and grabbed in an unwelcome sexual manner forced Ms Chandler to resign.

Ms Chandler complained to the senior guard who did not act on her complaint. The senior guard’s lack of action resulted in Ms Chandler formalising a complaint to the owner of the premises. A meeting between Ms Chandler and the manager of the security company was arranged. During this meeting Ms Chandler stated that she was most upset by what she had encountered, however, Ms Chandler perceived the manager’s attitude as hostile. As a consequence she left work immediately and did not return.

A few days later two company representatives visited Ms Chandler’s home. Although she was given a commitment that her co-workers would be disciplined for the sexual harassment incidents and terminated if there were further problems, Ms Chandler alleged that it was made clear to her that to continue working at the same site would be difficult. Ms Chandler was then offered evening work at an alternative location, which she declined, formally tendering her resignation.

Ms Chandler lodged a complaint under the federal Sex Discrimination Act, providing statements from other co-workers supporting her version of events. The matter was settled between the parties with the security company agreeing to pay Ms Chandler over \$15,000, as well as provide her with a satisfactory work reference and introduce a workplace sexual harassment policy.

## **17. Sexual harassment**

### **Ms Chang sought assistance from an external counsellor**

Ms Chang was employed as a casual marketing assistant in the hospitality industry. She formalised a complaint under the federal Sex Discrimination Act, stating that her supervisor, Mr Wardell, had sexually harassed her.

Frequently telling her and her co-workers dirty jokes, Ms Chang said Mr Wardell would also make comments such as “you have nice tits and a nice ass” as well as grab her breasts and request sex.

Ms Chang sought assistance from an external counsellor in an attempt to deal with the stress and depression she experienced as a result of the sexual harassment.

Having provided statements from co-workers who had experienced similar behaviour, Ms Chang's matter was settled with Mr Wardell agreeing to personally pay Ms Chang \$3,000 and the employer making an \$8,000 compensation payment.

## **18. Sexual harassment**

### **She had been subjected to on-going hostile behaviour from other co-workers as a result of her initial internal complaint**

Ms Smythe stated that her co-worker, Mr Ahmed, sexually harassed her when she was employed as a dispatch clerk within a large food-processing corporation.

Ms Smythe said that several weeks after commencing her employment Mr Ahmed began asking questions of a sexual nature about her private life. She stated he also came up to her with his hands extended to touch her breasts, made comments of a sexual nature, was verbally abusive and tried to see her while she was in the change room.

This behaviour continued for several months before Ms Smythe raised the sexual harassment incidents and unwelcome comments with management. She requested a transfer to another section.

Mr Ahmed received a warning from management, but continued to belittle Ms Smythe using abusive language. Ms Smythe said her health deteriorated given the lack of support from management. A series of absences from work on sick leave led to Ms Smythe eventually being transferred to another section temporarily. She alleged that Mr Ahmed then exposed himself to her in the workplace.

Ms Smythe resigned twelve months later stating that there had been no real acknowledgment of the sexual harassment and that she had been subjected to on-going hostile behaviour from other co-workers as a result of her initial internal complaint.

Advised by her doctor to leave the working environment as it continued to have a detrimental impact on her health, Ms Smythe lodged a complaint under the federal Sex Discrimination Act which settled at conciliation for an amount of \$10,000, paid by the employer.

## **19. Sexual harassment**

### **Distressed by the incident, Ms Stockwell complained to her supervisor who laughed the incident off as a joke**

Ms Stockwell stated that she was sexually harassed by her co-worker, Mr Strong, while working as a casual waitress. She said Mr Strong made sexually explicit jokes around her, physically rubbed against her and brushed past her, often asking her questions of a sexual nature such as "when was the last time you had sex?" After twelve months Ms Stockwell approached Mr Larcos, the restaurant manager, and advised him of the continuous unwelcome sexual behaviour. Mr Larcos took no action to remedy the situation.

Several weeks later Mr Strong grabbed Ms Stockwell around the waist and neck in front of others and began physically rubbing himself against her. Distressed by the incident, Ms Stockwell complained to her supervisor who laughed the incident off as a joke.

Ms Stockwell again spoke with Mr Larcos, who asked her to document her issues in writing. Ms Stockwell went on sick leave and failed to document her concerns. She subsequently found she was not re-rostered for work and her telephone calls to Mr Larcos were ignored, forcing her to seek work elsewhere.

A second complainant, Ms Myers, stated that Mr Strong had also sexually harassed her. She stated that he had come up from behind her and slapped her twice on the buttocks and referred to her as a “bimbo” in front of other staff, which she found humiliating.

Ms Myers took one week’s leave after six months regular casual employment to assist her sick mother. After this she was not re-rostered for any further shifts, despite her attempts to contact Mr Larcos on many occasions.

Ms Stockwell lodged a complaint under the federal Sex Discrimination Act which settled for an amount of \$6,000 paid by the employer, an apology from Mr Strong and a work reference. The employer also agreed to provide discrimination and harassment training for all staff.

Ms Myers also lodged a complaint under the federal Sex Discrimination Act. It was settled for an amount of \$3,000 paid by the employer, the provision of a work reference and written apologies from Mr Strong and Mr Larcos.

## **20. Sexual harassment and sex discrimination**

### **Ms Weiss said she was sexually harassed at a work function**

Ms Weiss lodged a complaint of sexual harassment and sex discrimination against her employer, a communications company, and four male colleagues, Mr Ledowski, Mr McNally, Mr Crisp and Mr Gould.

Ms Weiss said she was sexually harassed at a work function, when Mr Ledowski pulled her toward him and asked her to go out with him. Six months later at another work function Mr Crisp asked her if he could sleep in her bed and repeatedly referred to the size of his penis. On this occasion both Mr Crisp and Mr Ledowski attempted to kiss Ms Weiss and Mr Gould asked Ms Weiss to have a naked spa with him.

Ms Weiss rejected the sexual propositions of her colleagues and complained to a company manager on the same evening. He informed her that she would have to put up with her male colleagues flirting because “it goes with the territory.” Ms Weiss claims she was crying and distressed by the time she arrived home from the function.

Ms Weiss’s boyfriend, angered by reports of the incidents, telephoned Mr Crisp the following day and threatened him with physical violence. Ms Weiss was advised to apologise to Mr Crisp for her boyfriend’s threat, which she attempted to do. Mr Crisp however, refused to speak to her, saying she had “caused him enough trouble already”.

Ms Weiss stated she was then victimised and harassed by management from that point onwards. The victimisation included criticism about her work standards, although her performance remained the same, and that she received her work bonus two months later than everyone else.

Ms Weiss stated that she was sexually harassed by a male client two months later. She was then told by others that this had occurred because her male colleagues were encouraging male clients to sexually harass her by informing them that she “slept with the managers”. Ms Weiss went on leave immediately claiming she could no longer work with her male colleagues.

Ms Weiss informed the human resource manager of the sexual harassment but was told that those named had denied it had occurred. She pursued the matter further, attempting to resolve the dispute internally. This resulted in an offer of either \$20,000 if she left the company or \$15,000 if she stayed and accepted another role.

Ms Weiss declined these offers and lodged an external complaint under the federal Sex Discrimination Act. The matter was settled before it went to conciliation with the company paying Ms Weiss over \$20,000 in damages and providing her with a work reference.

## **21. Sexual harassment and sex discrimination**

### **Ms Dolby stated that she was unable to find work again and remained traumatised and stressed by the incidents**

Several months after Ms Dolby started work at a restaurant on a permanent part-time basis Mr Xiang became the new proprietor of the restaurant. Ms Dolby lodged a complaint of sex discrimination and sexual harassment under the federal Sex Discrimination Act against Mr Xiang a few weeks later.

During the period of time Ms Dolby worked for Mr Xiang she stated that he physically and verbally harassed her, making remarks such as “you’ve got no arse”, “have you had sex up the arse”, “you’ve got no tits” and “you look like the type to have had around 40 men”. Mr Xiang allegedly lay on the ground blocking Ms Dolby’s path so he could look up her skirt, he touched her breasts, locked her in the store room with him, rubbed his genital area against her, and constantly demeaned her appearance. He also continuously swore at her.

Ms Dolby took sick leave in an attempt to recuperate from the work environment. Mr Xiang’s response was that he was “sick of her being sick, just f\*\*king go home”. Ms Dolby did so and decided not to return to work for Mr Xiang.

Ms Dolby stated that she was unable to find work again and remained traumatised and stressed by the incidents. She said she suffered from hair and weight loss, and a lack of trust in male employers because of the incident.

Ms Dolby’s complaint was conciliated and she received \$16,000 in damages. She was also provided with a work reference.

## **22. Sex discrimination**

### **Despite raising this issue with senior management nothing was done to alleviate the situation, with Ms Anwar at one stage working thirteen to fourteen days straight, starting at 5am each day**

Ms Anwar formalised a complaint of sex discrimination against her employer, a major supermarket, claiming she had been treated unfairly because of her gender.

Having successfully applied for, and been appointed to the advertised position of butcher with the supermarket, Ms Anwar was handed a job description for a lower level position during her induction. She brought this error to the attention of the supermarket manager, Mr Reed, who advised her that there had been no mistake.

Ms Anwar decided to continue with her employment nonetheless, and was promoted to the position of butcher three days later. Six months on she was promoted to second in charge of the Meat Department, and finally to manager of the Meat Department several months later. During this time Ms Anwar’s previous positions were not suitably filled, the consequence being that the Meat Department became understaffed, with Ms Anwar having to work much longer hours. Despite raising this issue with senior management nothing was done to alleviate the situation, with Ms Anwar at one stage working thirteen to fourteen days straight, starting at 5am each day.

An occupational health and safety accident at work, in addition to the continued strain of working continuous excessive hours resulted in Ms Anwar suffering severe stress. This was compounded when

Mr Reed showed no understanding or compassion toward Ms Anwar regarding the pain she was in due to the accident. Shaking and crying uncontrollably, Ms Anwar was forced to take stress leave.

Returning to work Ms Anwar found the understaffing situation had worsened, and she was expected to work longer hours than before. Suffering physically from severe stress and the mismanagement of the situation, she resigned on the basis that her employment situation was unworkable.

Ms Anwar lodged a complaint under the federal Sex Discrimination Act. The supermarket assumed vicarious liability for Mr Reed's behaviour, acknowledging Ms Anwar's complaint of unfair treatment on the basis of gender. The supermarket paid Ms Anwar \$20,000 in damages.

## **23. Sexual harassment**

### **Ms Odamura complained to management about the behaviour...she was threatened with dismissal**

Ms Odamura was employed as a shop assistant by a jeweller for just over a year. She lodged a complaint of sexual harassment against her employer, the store manager, and her general manager.

The sexual harassment consisted of crude remarks and gestures. In particular there were suggestions that Ms Odamura was a prostitute. Asked questions about how many times she'd "done it", she was also quizzed about her virginity. Ms Odamura was also asked to have sex with other men in the shop and to discuss the size of her boyfriend's penis. Ms Odamura was also subjected to being bear-hugged and to continuous touching of her buttocks.

When Ms Odamura complained to management about the behaviour she was threatened with dismissal. She was also told that the employer would not support her application for a business visa. When a work colleague unsuccessfully attempted to stop the sexual harassment, Ms Odamura's general manager and the store manager were clearly made aware of Ms Odamura's dissatisfaction with their unwelcome sexual conduct. They responded to the allegations stating that "they wouldn't have sex with her if they were paid."

Ms Odamura was then encouraged by her employer to return to Japan on the pretext that her business visa application could be processed more quickly. Having returned, her employer then refused to support her visa application. Ms Odamura finally returned to Australia by marrying her fiancé early.

Ms Odamura underwent psychological counselling for the sexual harassment.

Ms Odamura lodged a complaint under the federal Sex Discrimination Act. Of the view that her employer shared responsibility for the continual sexual harassment, Ms Odamura received a \$8000 compensation payment and a private apology from her general manager and the store manager.

## **24. Sexual harassment and sex discrimination**

### **The union lodged a complaint under the federal Sex Discrimination Act on Ms McGregor's behalf**

Ms McGregor was employed as a contract cleaner by a domestic cleaning company. She was rostered to clean the premises of a large hotel. Ms McGregor said she was sexually harassed and discriminated against on the basis of her sex by her manager, Mr Henderson, also an employee of the domestic cleaning company.

Ms McGregor stated Mr Henderson sexually harassed her by grabbing her hand, stroking it, telling her he had missed her and refusing to let it go when she tried to pull her hand away. Ms McGregor also received a message to call a particular extension number and when she did so, Mr Henderson

answered, telling her he wanted to kiss her all over her body. Mr Henderson also attempted to kiss Ms McGregor several times, holding her arms and shoulders while blocking her exit through a doorway.

Ms McGregor complained to management. She stated Mr Henderson started to victimise her from that point in time onwards. Specifically, Mr Henderson failed to advise her of her cleaning duties and refused to acknowledge her position as a supervisor, and provided additional duties to a co-worker.

The union lodged a complaint under the federal Sex Discrimination Act on Ms McGregor's behalf. Mr Henderson, the domestic cleaning company and the hotel were all joined as respondents to the complaint. The domestic cleaning company was joined in its capacity as Mr Henderson's employer, and the hotel was joined as the contracting employer. The union believed both had failed to take all reasonable steps to prevent the sexual harassment and sex discrimination from occurring.

The domestic cleaning company paid Ms McGregor \$10,000 in damages. The hotel agreed to amend its Workplace Harassment Policy to include the name and contact details of a harassment officer. Additionally, the hotel and the domestic cleaning company agreed to develop a joint harassment policy to be displayed at the hotel. Mr Henderson provided Ms McGregor with a private apology.

## **25. Sexual harassment**

**Mr Heller initially denied all allegations of sexual harassment, claiming that Ms Hall left her job because she did not like taking orders from him**

Ms Hall resigned from her job with a real estate agency after ten months employment. She said she resigned because the owner of the real estate agency, Mr Heller, sexually harassed her.

Ms Hall documented that Mr Heller made remarks of a sexual nature about her private life on numerous occasions, that he asked her to sit on his lap and to raise her skirt so he could see her legs.

Mr Heller also requested that Ms Hall "kiss him passionately" to compensate for work mistakes he said she had made. Finally Mr Heller made sexual remarks about other women in front of Ms Hall.

Ms Hall lodged a complaint of sexual harassment under the federal Sex Discrimination Act. During conciliation Mr Heller initially denied all allegations of sexual harassment, claiming that Ms Hall left her job because she did not like taking orders from him.

The matter was settled with Ms Hall receiving \$12,500 in damages and a private apology from Mr Heller.

## **26. Sexual harassment**

**Ms Sparks explicitly and directly told Mr Brown that his behaviour was unwelcome. She 'loudly and firmly' told him to stop**

Ms Sparks worked as a part-time director of a child care centre. She stated that she resigned from her job because her co-director, Mr Brown, subjected her to repeated unwelcome behaviour of a sexual nature.

The behaviour initially involved Mr Brown giving Ms Sparks bottles of wine, flowers and chocolates, and telling her that she was beautiful. Ms Sparks initially tried to ignore this behaviour. However, the behaviour escalated with Mr Brown attempting to kiss Ms Sparks. He also asked her questions about her private life, in particular about her relationship with her boyfriend. Mr Brown began inviting Ms Sparks out on the weekends, he tried to cuddle her and hold her hand. He finally informed Ms Sparks that he loved her, and asked her to love him back "if not as a lover, then as a brother."

Ms Sparks explicitly and directly told Mr Brown that his behaviour was unwelcome. She “loudly and firmly” told him to stop. Despite this effort on Ms Sparks’s behalf, the behaviour continued. When Mr Brown held Ms Sparks against her will and forcefully kissed her on the lips she took two days off work, posting her letter of resignation to the child care centre the following day.

Ms Sparks made a complaint of sexual harassment under the federal Sex Discrimination Act. While Mr Brown refuted the claims of sexual harassment, the matter was settled with Mr Brown paying Ms Sparks \$3,500 compensation on behalf of himself and the child care centre.

## **27. Sexual harassment**

**The sexual harassment consisted of sexual innuendo and crude references to her sex life, unwelcome touching and sexual propositions**

Ms Kempton worked as a cashier and waitress at a fast food restaurant. She alleged that during this time a co-worker, Mr Lang, sexually harassed her.

Ms Kempton asserted that the sexual harassment consisted of sexual innuendo and crude references to her sex life, unwelcome touching and sexual propositions. Ms Kempton says Mr Lang would also call her “Cupid”, a reference to a local brothel by a similar name. Ms Kempton says that she became most distressed when her younger sister began working at the restaurant and was referred to as “Cupid Junior” by Mr Lang.

Ms Kempton documented that Mr Lang sprayed her chest with a water gun, in front of the restaurant manager in order to see her nipples, and that the manager did nothing. She also claims Mr Lang exposed himself to her and grabbed her genital area.

Criminal proceedings were brought against Ms Kempton’s boyfriend who assaulted Mr Lang when he became aware of the sexual harassment.

Ms Kempton then lodged a complaint under the federal Sex Discrimination Act, stating that Mr Lang had sexually harassed her and that the fast food restaurant was vicariously liable for his actions. Mr Lang, who resigned from the restaurant, did not attend the conciliation conference, and the complaint was settled with the restaurant paying Ms Kempton \$10,000. The restaurant however denied the complaint had any merit despite the outcome of the conciliation conference.

## **28. Sexual harassment and sex discrimination**

**The workplace common-room was full of pornographic material portraying bestiality and nudity. Plus the common-room area lacked a women’s toilet**

Ms Olsen worked in a predominantly male workplace. She held down a job traditionally classified as “men’s work” in the automotive and transport industry.

Ms Olsen said that from the first day she started work she was subjected to numerous and ongoing sexist and sexual remarks. The remarks which related to Ms Olsen’s sex life evolved into rumours that she had an affair with a co-worker. Ms Olsen states that her co-workers talked openly about oral sex in front of her, called her the “brain dead bitch”, made remarks about women’s anatomy over the company’s public announcement system, slapped her on the buttocks, and spread rumours of a sexual nature about her within the local community.

The workplace common-room was full of pornographic material portraying bestiality and nudity. Plus the common-room area lacked a women’s toilet.

Ms Olsen and a male co-worker jointly raised all of these issues with management, the company auditors and the relevant union but received no remedy.

Finally Ms Olsen lodged a workers' compensation claim after having sought the assistance of her doctor and a psychologist. She then chose not to return to work. Her employment was terminated six months later.

Ms Olsen lodged a complaint against her employer under the federal Sex Discrimination Act. She believed her employer was vicariously liable for the extensive sexual harassment and humiliation she had suffered. Initially Ms Olsen's employer denied all liability for the sexual harassment, stating that the company had taken all reasonable steps to prevent such behaviour, by training employees in the company's sexual harassment policy.

Ms Olsen received over \$80,000 compensation. This payment included the workers' compensation claim and damages relating to the complaint of sexual harassment.