



Fact Sheet:

The Legal Definition of Sexual Harassment

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, where a reasonable person would anticipate that reaction in the circumstances.

The *Sex Discrimination Act 1984* (Cth) defines the nature and circumstances in which sexual harassment is unlawful. It is also unlawful for a person to be victimised for making, or proposing to make, a complaint of sexual harassment to the Human Rights and Equal Opportunity Commission.

Examples of sexually harassing behaviour include:

- unwelcome touching;
- staring or leering;
- suggestive comments or jokes;
- sexually explicit pictures or posters;
- unwanted invitations to go out on dates;
- requests for sex;
- intrusive questions about a person's private life or body;
- unnecessary familiarity, such as deliberately brushing up against a person;
- insults or taunts based on sex;
- sexually explicit physical contact; and
- sexually explicit emails or SMS text messages.

A working environment or workplace culture that is sexually permeated or hostile will also amount to unlawful sexual harassment. Some of the factors which may indicate a potentially hostile environment include the display of obscene or pornographic materials, general sexual banter, crude conversation or innuendo and offensive jokes.

The Sex Discrimination Act makes sexual harassment unlawful in many areas of public life, including in employment situations, educational institutions, the provision of goods, services and accommodation and the administration of Commonwealth laws or programs.

"A person who sexually harasses is primarily responsible for the sexual harassment. However, in many cases, employers and others can be held responsible for acts of sexual harassment done by their employees or agents."

Employers may limit their liability if they can show that they took all reasonable steps to prevent the sexual harassment occurring. Reasonable steps may include policies and procedures designed to create a harassment-free environment. It could also include procedures to deal with allegations of discrimination made by employees or customers. To be effective, policies must be well implemented, including through the provision of ongoing training, communication and reinforcement.
