



Australian
Human Rights
Commission

National Inquiry into Sexual Harassment in Australian Workplaces

Have your Say – Conversation Toolkit

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**National Inquiry into sexual harassment in Australian workplaces
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Australian Human Rights Commission 2018



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About the Australian Human Rights Commission

The Australian Human Rights Commission (Commission) is Australia's national human rights institution, established in 1986 by legislation of the federal Parliament. The Commission's operations are determined independently of the government through the President and Commissioners.

The Commission's purpose is to provide independent and impartial services to promote and protect human rights and fundamental freedoms, and address discrimination and breaches of human rights. The Commission engages at the policy level – encouraging government, industry and community groups alike to see fundamental rights and freedoms realised. This includes increasing gender equality and addressing workplace sexual harassment.

The Commission is accredited as an 'A' status National Human Rights Institution (NHRI) under the United Nations Principles relating to the Status of National Institutions (the Paris Principles). 'A' status NHRIs have independent and formal participation rights in the United Nations Human Rights Council, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of Persons with Disabilities, the Committee on the Elimination of Race Discrimination and the Committee on the Rights of the Child.

The Commission also provides human rights analysis to the courts and parliamentary inquiries, conducts research and contributes to policy development.

The Vision:

Human rights: everyone, everywhere, everyday

The Mission:

To lead the promotion and protection of human rights and freedoms in Australia by:

- Making human rights part of everyday life and language;
- Empowering all people to understand and exercise their rights and responsibilities;
- Providing an efficient and effective national investigation and dispute resolution service;
- Holding government accountable to international human rights obligations and domestic legal standards; and
- Fostering collaborations that inspire action on human rights.

Kate Jenkins

*Sex Discrimination Commissioner
Australian Human Rights Commission*



Foreword from the Sex Discrimination Commissioner

The ability to work in a safe environment, free from sexual assault or harassment, is a basic human right.

In recent months, many women and men have come forward publicly to tell their stories of sexual harassment in the workplace, shining a light on this issue both in Australia, and around the world.

These personal accounts have made clear the devastating impact sexual harassment can have on individuals' lives, as well as the significant costs to business and the community.

This spotlight on sexual harassment has turned the tide and created a clear and unprecedented appetite for change. Therefore, in June 2018 I announced a National Inquiry into sexual harassment in Australian workplaces (National Inquiry).

The National Inquiry will consider the impact of workplace sexual harassment, the drivers of these behaviours, existing good practices being undertaken by employers and the adequacy of the existing legal framework.

Over the next 12 months, the Commission will be conducting public community consultations in all Australian capital cities and a number of regional cities.

The Commission will be speaking to a range of individuals, industry groups, unions and community organisations.

The Commission will also undertake research and will collect information through written submissions, to develop concrete, practical strategies to prevent and better respond to workplace sexual harassment. This is why we need your input.

This toolkit has been designed to enable you to have your say and prepare a submission to the National Inquiry together with your colleagues or community in the form of a facilitated conversation.

Engaging in an open and respectful conversation about sexual harassment in the workplace is the first step to changing the culture of Australian workplaces. I encourage you to be part of that change.

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

Kate Jenkins
Sex Discrimination Commissioner

October 2018

About the National Inquiry into Sexual Harassment in Australian Workplaces

The National Inquiry is being conducted pursuant to the Commission's functions under the *Australian Human Rights Commission Act 1986* (Cth).

The focus of the National Inquiry is on the nature and prevalence of sexual harassment in Australian workplaces, the drivers of this harassment and measures to address sexual harassment in Australian workplaces.

The National Inquiry will examine these systemic issues, and will therefore not be investigating or making findings about individual allegations of sexual harassment as part of the National Inquiry.

The Terms of Reference for the National Inquiry require the Commission to review and report on:

- a national survey of the prevalence, nature and reporting of sexual harassment in Australian workplaces, by sector
- online workplace-related sexual and sex-based harassment and the use of technology and social media to perpetrate workplace-related sexual and sex-based harassment
- the use of technology and social media to identify both alleged victims and perpetrators of workplace-related sexual harassment
- the drivers of workplace sexual harassment, including whether:
 - » some individuals are more likely to experience sexual harassment due to particular characteristics including gender, age, sexual orientation, culturally or linguistically diverse background, Aboriginal and/or Torres Strait Islander status or disability
 - » some workplace characteristics and practices are more likely to increase the risk of sexual harassment
- the current legal framework with respect to sexual harassment
- existing measures and good practice being undertaken by employers in preventing and responding to workplace sexual harassment, both domestically and internationally
- the impacts on individuals and business of sexual harassment, such as mental health, and the economic impacts such as workers compensation claims, employee turnover and absenteeism, and
- recommendations to address sexual harassment in Australian workplaces.

In conducting the National Inquiry the Commission will have regard to the economic impact of sexual harassment in the workplace, drawing on economic modelling.

Additionally, three years after the release of the National Inquiry report (the Report), the Commission will:

- conduct an assessment of any changes in the prevalence, nature and reporting of sexual harassment in Australian workplaces since the National Inquiry, and
- make any further recommendations necessary to address sexual harassment in the workplace.

Toolkit introduction

This toolkit will help interested individuals or groups within Australian workplaces, communities and groups to conduct facilitated conversations to inform the National Inquiry.

The toolkit includes:

- a guide to having a conversation to collate input for the National Inquiry
- an information sheet for participants
- an infographic on the results of the National Survey into workplace sexual harassment
- consultation questions and prompts for the facilitator to guide the conversation.

Anyone can use this toolkit to facilitate a discussion at your workplace, in a community organisation or among a group of friends. Input gathered in this way can be provided to the Commission online on the Commission's website <https://www.humanrights.gov.au/submissions-national-inquiry-sexual-harassment-australian-workplaces>. All contributions are confidential unless you request otherwise, and will form part of the consultation material analysed to inform the recommendations the Commission will make on completion of the National Inquiry.

Ideas expressed in your conversation should be captured and submitted by **31 January 2019** to be considered as part of the National Inquiry.

Why have your say?

Facilitated conversations can provide valuable input into the National Inquiry by collating feedback that is:

Efficient – because several participants can communicate and collaborate together, information can be gathered and summarised very quickly.

Engaging – because participants have a genuine opportunity to contribute to an active discussion, they will often feel heard and involved in a way that is more immediate than an online consultation process where they make their contributions alone.

Grounded in shared experiences – because participants have, and will share, different types and levels of experience with the content of the workshop, they will learn from each other as the workshop progresses.

Representative of multiple perspectives – because each participant will bring their own perspective, experiences and ideas to the workshop, the feedback from the workshop will provide valuable input into the National Inquiry.

Planning a facilitated conversation

To be successful, a facilitated conversation usually needs:

- an effective facilitator
- clearly defined objectives
- good preparation
- respectful behaviour from participants
- a record of the ideas raised in the workshop.

Identify participants

Begin by considering who you should invite to participate in the conversation. Consider inviting people from various parts of your organisation to ensure representation of different roles and levels of seniority.

Also consider the size of the group. As a general rule, a single facilitator can effectively work with six to twelve participants. Larger groups may need additional facilitators and the ability to break discussions into subgroups.

Choose your approach

Facilitated conversations can be conducted in a number of different ways. Consider which option is most suited to you depending on the characteristics of the group, the venue, the available time and equipment and the experience of the facilitator. Types of approaches include:

A group discussion is the least formal approach. The facilitator leads a discussion among participants, organised around key questions, while the scribe(s) write down the major points raised for each discussion. This approach can work for smaller groups or where the venue does not have space for equipment like flipcharts or butcher's paper. A group discussion often encourages a flow of ideas, but it may also be challenging to record the key points raised during the course of the discussion, and to stay focused on the conversation questions. This approach is also challenging for scribes, who have limited opportunities to check their understanding of points raised in the discussion.

A structured workshop is a more traditional approach that generally needs more space, preparation and equipment, usually including flip charts or a whiteboard. For this approach, the facilitator leads the discussions focused around the consultation questions and a scribe will capture major points on the flip chart or whiteboard as they are raised in the discussion. Participants in the workshop may then be given the opportunity to reflect on the key points captured through the workshop and identify any gaps or provide additional input.

The ideas collected through the facilitated conversation can then form the basis of input into the National Inquiry, and can be submitted [online](#).

Scheduling the conversation

Choose a time and venue that will be convenient for the participants and where the group will not be interrupted. If you are conducting the conversation at your workplace you should seek approval to do so from management, and try to schedule a time that allows as many participants to attend as possible (for example, during lunchtime, or at a time/day of the week suitable to those who work part-time). Ensure you allow enough time for the approach that you plan to use. We suggest a minimum of one hour for a small group, and longer for larger groups or more detailed discussions.

Give the information sheet to participants in advance so that they understand the purpose and background of the conversation as well as where and when it will be held.

Important information about safety:

Some participants may have experienced or witnessed sexual harassment, and may become distressed or upset during or after the conversation. Participants may also disclose or report incidents of sexual harassment in the workplace.

The participant information sheet in this toolkit contains information about organisations people can contact should they become upset or distressed. If you are organising the conversation at your workplace, talk to your workplace's human resources department or to management about appropriate policies regarding sexual harassment that participants should be aware of, and who to speak to in case they wish to report an incident of sexual harassment in the workplace. Also include the details of your workplace's Employee Assistance Program (if available). Bring these details with you to the event.

If you find that discussing or listening to others' experience(s) of harassment is causing you or other participants to the conversations distress, you can access counselling and other support through:

1800RESPECT (Ph: 1800 737 732) – National Sexual Assault, Domestic Family Violence Counselling Service.

If your workplace does not have a policy on sexual harassment, the Commission has developed resources for employers that provide practical guidance on how employers can prevent sexual harassment and how to respond effectively when it occurs: [Ending workplace sexual harassment: A resource for small, medium and large employers](#)

Facilitators and scribes

Facilitator(s)

The role of the facilitator is to help the group to express and capture the ideas that will be submitted as input into the National Inquiry, using the conversation questions provided in this toolkit as a guide.

Importantly, the facilitator should focus on seeking input from the participants rather than expressing their personal views about the content.

It is important for the facilitator to know enough about the content of the discussion to understand the ideas expressed by participants. The consultation questions included in this guide include some prompts for the facilitator to encourage discussion.

The subject matter of the National Inquiry, some of the ideas raised, or experiences shared, may be sensitive or distressing for some participants. The facilitator should observe participants to identify those who may be distressed and ensure access to appropriate support.

A good facilitator will:

- be impartial and objective
- listen actively
- summarise contributions and draw out similarities and differences between ideas
- sensitively manage participants at the discussion to ensure everyone engages respectfully and has an opportunity to contribute; and
- manage time.

Scribe(s)

The role of the scribe is to help record the ideas raised in the conversation. Depending on the approach that you choose, this might include writing on flipcharts or whiteboards, taking handwritten notes or capturing the main points on a computer or laptop.

It is important that the scribe summarise the ideas raised by the participants instead of capturing everything that was said. Therefore it is important that the scribe also has a copy of the conversation questions to be able to effectively follow the conversation.

How to run the conversation

Starting the conversation

The facilitator should begin by thanking the participants for attending, and by introducing themselves, why you are having the conversation, and how it will be conducted. Due to the sensitive subject matter, it may be useful to establish some basic ground rules up front, including:

- respect the views of others
- personal experiences and perspectives should be treated as confidential, or subject to the Chatham House Rule¹
- one conversation at a time (unless break-out conversations are part of the workshop approach)
- time is limited and will be managed by the facilitator to ensure that all key topics are addressed in the time available.

Go through the information sheet with the group, and draw the attention of participants to the help lines listed, and to any relevant internal workplace policies and contact details. Remind the participants that the focus of the National Inquiry is on systemic issues underpinning sexual harassment in the workplace and finding practical solutions. The purpose of having the conversation is not to discuss individual allegations of sexual harassment. Also remind participants about the sensitivity of the subject matter and that some participants may be distressed by the discussion. Participants should also be given the opportunity to withdraw from the conversation if they wish to do so.

If people in the group are not known to each other, ask participants to introduce themselves before starting the discussion.

Confidentiality of input into the National Inquiry

Discuss the confidentiality of all input provided to the National Inquiry. All submissions to the National Inquiry will be treated as confidential unless the person or organisation making the submission specifically ask that the submission be made public. The Commission will not publish confidential submissions on our website.

If you intend to request that the submission from your workshop be made public, make sure you seek the agreement of everyone in the workshop. If you are making a submission on behalf of your organisation, make sure you seek the agreement of the organisation's executive before you do so.

¹ According to the Chatham House rule, participants to the workshop are allowed to discuss the ideas raised and issues discussed at the workshop, but without attributing them to any specific individual.

During the conversation

This toolkit contains four questions to structure and encourage conversation. There is no need to address all of the questions, they can be used as a guide only.

Ensure that everyone in the group has an opportunity to express their views if they wish to do so and that the conversation is not dominated by the most vocal participants. It may be useful to remind participants of the ground rules if required at any point to ensure respectful behaviour.

If you identify any participants who may be distressed by the discussion or the subject matter ensure they are aware of any support options available to them.

When taking notes of the workshop, it is not necessary to record exactly who said what. Focus on capturing the main points raised in the discussion. There is no need to reach consensus or an agreed position. Multiple perspectives can also form the basis of input into the National Inquiry.

At the end

At the end of the discussion, thank everyone for their time and participation. It is useful to ensure that all participants have a copy of the information sheet and any relevant workplace policies and contact details, including the help lines and support available for anyone who might be distressed by the discussion. Note that all participants also have the chance to provide their own submission to the National Inquiry directly through the Commission's website, and to register for updates on the National Inquiry.

After the conversation

Submit the key points captured in the conversation [online](#).

Conversation questions:

1. What do you think are the causes of sexual harassment? Are there particular places or times where sexual harassment is more likely to occur?

Prompts for facilitator:

- Particular characteristics of workplaces (e.g. business size, industry, organisational structure, workplace culture or leadership, physical characteristics of workplaces, or the changing nature of work such as working remotely, hot desking, the 'gig economy')?
 - Particular characteristics of people (e.g., gender, age or other personal characteristics)?
 - Other general cultural factors, attitudes or norms (e.g., gender inequality, social norms or attitudes that condone violence against women, or disrespect towards women)?
2. How do you think sexual harassment in the workplace can be prevented: what works, what doesn't work?

Prompts for facilitator:

- Encourage participants to talk about preventing sexual harassment here, which might cover effectiveness of policies, training, the role of leadership.
 - People might think of community campaigns on violence against women or action in other areas like workplace or road safety.
 - Try to hold the conversation about how complaints are handled for the next question on response.
 - We are interested in any initiatives or programs already in place that we could spotlight or learn from, so any suggestions of good practice are appreciated.
3. When sexual harassment occurs organisations can respond in a number of ways. If an incident of sexual harassment occurred in your workplace, what is the response you'd like to see? What can go wrong?

Prompts for facilitator:

- feedback on how the current complaint system works within workplaces
 - feedback on how the legal framework works
 - experiences of dealing with less serious incidents of harassment
 - experiences of bystander action (or inaction)
 - ideas for better responses.
4. What outcomes or recommendations would you like to see from this National Inquiry?

Prompts for facilitator:

- To ensure everyone has the opportunity to share their thoughts you might ask everyone to make their one suggestion that they feel is most important to be covered by the inquiry. You could then share the list of ideas in the submission.
- If you wanted you could also share this list or the outcomes of the conversation with the CEO of your organisation, as you may gather ideas for improvement that can be implemented immediately. You should only do this in a de-identified way and with the consent of participants.

Information sheet for participants

This information sheet contains:

- an overview of the consultation process for the National Inquiry, including how any information provided will be stored and used
- information about what constitutes sexual harassment
- resources available to support you if you are affected by participating in a conversation about sexual harassment including relevant help line contact numbers
- an infographic on the results of the National Survey into workplace sexual harassment
- conversation questions

Overview of the National Inquiry

The Australian Human Rights Commission is conducting a National Inquiry into sexual harassment in Australian workplaces. The focus of the National Inquiry is on the nature and prevalence of sexual harassment in Australian workplaces, the drivers of this harassment and measures to address sexual harassment in Australian workplaces.

The Commission will examine these systemic issues, and therefore the Commission will not be investigating or making findings about individual allegations of sexual harassment as part of the National Inquiry.

However, the Commission is interested in hearing from individuals and organisations about their views and experiences relating to sexual harassment in Australian workplaces.

This conversation forms part of the consultation process for the National Inquiry. You are welcome to provide your own input into the National Inquiry or to attend a consultation session hosted by the Commission. More information on the National Inquiry is available [here](#).

What is sexual harassment?

Sexual harassment is unwelcome sexual behaviour in circumstances where a reasonable person would have anticipated that the person harassed would be offended, humiliated or intimidated. It has nothing to do with mutual attraction or friendship.

Examples include:

- unwelcome physical touching
- staring or leering
- suggestive comments or jokes
- unwanted requests to go out on dates
- requests for sex
- emailing pornography or rude jokes
- sending sexually explicit texts
- intrusive questions about your private life or body
- displaying posters, magazines or screen savers of a sexual nature.

Everyone has the right to be safe and free from sexual harassment while at work.

The *Sex Discrimination Act 1984* (Cth) also covers you if you are sexually harassed when you are purchasing or providing a good or a service or when you are studying at a school, college or university.

Further resources – where to seek help

Discussing sexual harassment can be distressing. If you find that either during or after participating in the workshop that discussing or listening to others' experience(s) of harassment is causing you distress, you can access counselling and other support through:

1800RESPECT (Ph: 1800 737 732) – National Sexual Assault, Domestic Family Violence Counselling Service.

If you want any further information concerning this Inquiry or if you have any problems which may be related to your involvement in the Inquiry you can contact the National Inquiry Project Team at: SH.Inquiry@humanrights.gov.au or on: (02) 9284 9750.

If you would like more information about sexual harassment, or you would like to make a complaint of sexual harassment to the Commission, you can contact the National Information Service:

Phone: 1300 656 419 or 02 9284 9888

Email: infoservice@humanrights.gov.au

Fax: 02 9284 9611

Online: [Enquiry form](#)

TTY: 1800 620 241 (toll free)

National Relay Service: 1300 555 727 (Speak and Listen) or www.relayservice.gov.au

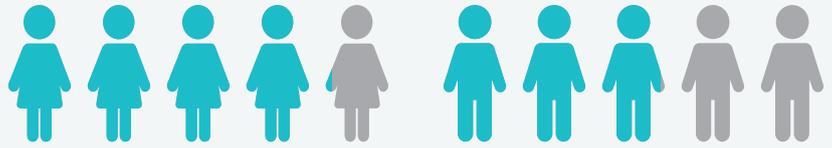
Translating and Interpreting Service: 131 450 or www.tisnational.gov.au

You can also make a complaint online at: www.humanrights.gov.au/complaints/make-complaint

Prevalence of lifetime sexual harassment



72% of Australians have been **sexually harassed** at some point in their lives.



85% of Australian women and 57% of Australian men over the age of 15 have been **sexually harassed** at some point in their lives.

Prevalence of workplace sexual harassment

In the last **12 months**, 23% of women and 16% of men have experienced sexual harassment at work.



In the last **five years**, 39% of women and 26% of men have experienced sexual harassment at work.

Age of people experiencing workplace sexual harassment

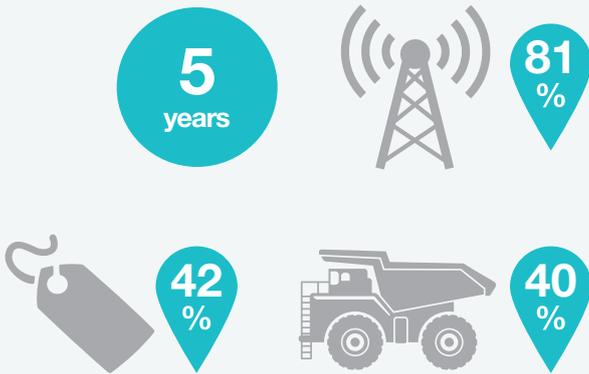
People aged 18-29 (45%) are **more likely** than those in other age groups to have experienced **sexual harassment** at work.



1 in 5 (20%) of 15-17 year olds have been **sexually harassed** at work.



Industries where sexual harassment occurs



In the last **five years**:

- 81% of employees in the information, media and telecommunications industry
- 42% of people in retail and 40% of people in mining

have been **sexually harassed** at work.

Witnesses to workplace sexual harassment

40% of workplace **sexual harassment** incidents were witnessed by at least one other person.



69%

In the majority of cases (69%), the witness **did not intervene**.

Reporting of workplace sexual harassment

Fewer than one in five people (17%) made a formal report or complaint about workplace **sexual harassment**.

17%



Almost one in five people who did report, were labelled a **troublemaker** (19%), were **ostracised, victimised or ignored by colleagues** (18%) or **resigned** (17%).



Confidentiality

The Commission will treat all input provided into the National Inquiry as confidential unless the person or organisation providing the input specifically ask that their input be made public. Confidential information will not be published on our website. We may use material from confidential input, such as quotes, case studies or other references in the report produced as a result of the National Inquiry. If we do this, we will remove any personal information so that you or other people referred to in your input cannot be identified.

We will not release confidential input to anyone without your consent unless required by law. In the case of a request under the *Freedom of Information Act 1982* (Cth) there are likely to be relevant exemptions to production (including for material obtained in confidence and personal information). We would consult you about any FOI request before any decision was made about releasing information.

If you wish to have your input published on the Commission's website, please check 'yes' in the relevant box when providing your input online. Please note that the Commission may decide not to publish personal information, and may redact parts of your input prior to publication. As such, please use pseudonyms, not real names, when providing your input.

Information collected in this way (both public and confidential) will be used for the purposes of the National Inquiry and may be drawn upon, quoted or referred to in the Inquiry report. If material from confidential input is used in this way, it will be de-identified. If information provided is included in the final report, it will be published under a Creative Commons licence and the contents on the report will be able to be used freely for other purposes. Your input may also be used to inform future work by the Commission and the Sex Discrimination Commissioner in relation to sexual harassment.

Conversation questions

1. **What do you think are the causes of sexual harassment? Are there particular places or times where sexual harassment is more likely to occur?**
2. **How do you think sexual harassment in the workplace can be prevented: what works, what doesn't work?**
3. **When sexual harassment occurs organisations can respond in a number of ways. If an incident of sexual harassment occurred in your workplace, what is the response you'd like to see? What can go wrong?**
4. **What outcomes or recommendations would you like to see from this National Inquiry?**

Further Information

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