

Sexual Harassment Discrimination

It is unlawful under the *Equal Opportunity Act 1984* (the Act) to sexually harass a person.



Under the Act sexual harassment includes an unwelcome sexual advance or request for sexual favours or unwelcome conduct of a sexual nature.

The harassed person must have reasonable grounds to believe that if they reject the advance, refuse the request or object to the conduct, they will be disadvantaged or they are in fact disadvantaged.

Sexual harassment does not need to be repeated or continuous, it can involve a single incident.

Sexual harassment can take many forms including, but not limited to:

- Unwelcome physical touching, hugging or kissing
- Staring or leering at someone or at parts of their body
- Suggestive comments or jokes
- Sexually explicit pictures, e-mails or text messages
- Intrusive questions about a person's private life or body.

Where does the protection apply?

The Act makes it unlawful to sexually harass a person in certain areas of public life, including:

- **Employment** – it is unlawful to sexually harass an employee, co-worker, potential employee or employer, commission agent or a contract worker
- **Education** – it is unlawful for an employee of an educational institution to sexually harass a student or potential student of that institution
- **Accommodation** – it is unlawful for a person who, as principal or agent, has control over accommodation or the letting of that accommodation, to sexually harass a tenant or occupant.

Responsibilities

Organisations must ensure they provide a working environment that is free from sexual harassment and they must take all reasonable steps to prevent it from happening or they may be held responsible for their employees' actions.

A person causing, instructing, inducing, helping or permitting another person to do something unlawful is the same as doing it, for the purpose of the Act.

The Commissioner for Equal Opportunity provides information about the Act, investigates and conciliates complaints, conducts community education and training and develops programs to promote equal opportunity.

Examples of sexual harassment

An employee was found liable for sexual harassment after a female employee alleged his ongoing and unwelcome sexual text messages and emails led to her resignation from the position.

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A landlord requested sexual favours in lieu of rent from a tenant operating an escort agency from the rental property.

oOo

A female employee was repeatedly touched on the bottom, winked at and called names by a work colleague, who also threatened her future employment with the company.

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A male clerk became uncomfortable with the behaviour of a new female supervisor. She would rub his back and neck, press herself against him and pinch him on the backside. The man eventually made it clear to the supervisor that her attentions were unwelcome. She became difficult to work with and started making unfavourable reports about his work performance.

oOo

A young female employee was asked by her employer for sexual favours, harassed on her mobile phone and subjected to degrading sexual comments.

Disclaimer

The material in this brochure is not intended to be legal advice. The Commissioner expressly disclaims any liability in respect to anything done or not done to any person in reliance upon any of the contents of this publication.

The Government of Western Australia

www.wa.gov.au

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Making a complaint

A person who believes they have been subjected to sexual harassment can lodge a complaint with the Commissioner. The onus of proof lies with the person making the complaint.

The incident or incidents in the complaint must have occurred within the 12 months previous to the date you lodge your complaint.

In some circumstances the Commissioner may decide there is good reason, or good cause, to include incidents that occurred more than 12 months before the complaint is lodged.

Limitation on multiple actions

In conjunction with new provisions introduced from 1 January 2025 to the *Industrial Relations Act 1979*, the *Equal Opportunity Act 1984* has been amended so that it is not possible to lodge a complaint of sexual harassment with the Equal Opportunity Commission (EOC) if there is an existing application in the Industrial Relations Commission (IRC) or the Industrial Magistrates Court (IMC) relating to the same allegation(s) of sexual harassment. If the complainant wishes to lodge a sexual harassment complaint with the EOC, they will need to withdraw any application in the IRC and the IMC relating to the same allegation(s).

Similarly, a person who wishes to lodge a sexual harassment complaint with the IRC or IMC will need to withdraw any application made to the EOC relating to the same allegation(s).

How to contact the Commission

By telephone

General enquiries: 9216 3900
Training courses: 9216 3927
Country callers: 1800 198 149

Address

Albert Facey House
469 Wellington Street
PERTH WA 6000

By email

eoc@eoc.wa.gov.au

By visiting our website

www.eoc.wa.gov.au



Interpreter service: 13 14 50

How to follow the Commission



@WA.EOC



@EOC.WA