

# Sexual Harassment

Your rights and options if you are sexually harassed at work



# What is sexual harassment?

Sexual harassment is **unwanted sexual behaviour** that a reasonable person would find **offensive, humiliating, intimidating or undermining**.

Sexual harassment in the workplace is against the law.

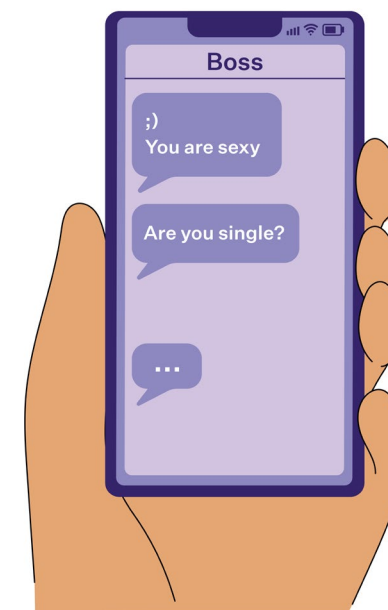
Sexual harassment can include:



Showing you graphic pictures.



Comments about how you look.



Comments of a sexual nature in emails or on social media like Facebook.



Sexually suggestive physical acts or touching.

# What if I have been sexually harassed?

If you have been sexually harassed at work, there are a number of different things you can do.

## **You are legally protected if you complain.**

Your boss is not allowed to treat you badly because you have made a complaint or asked a question about sexual harassment.

If you are fired or some other negative action is taken against you, this is against the law. This is called **victimisation** or **adverse action**.

Unfortunately this does happen sometimes. If so, please get legal help **quickly** (ask us for another appointment).



## **You choose what happens**

It is up to you whether you want to make a claim or a complaint. There are many options to resolve the issue without having to go to court.



1



## Talk to your boss

If you feel comfortable, tell your supervisor, boss or HR manager what happened.

Be polite and try to speak calmly.

Ask for things which would make your situation better, such as working at a different office or with a different manager, or money (**compensation**) for medical expenses or hurt feelings.



### Tips for talking to your employer

You can bring a support person (such as a friend, family member or union representative).

Take written notes about what was said during the conversation and send them to your boss after the meeting (by text or email).

If you reach an agreement, write down what you each agreed to.

2



## Make a complaint to a government agency

Complaints can be made to:

- the Victorian Equal Opportunity and Human Rights Commission
- the Australian Human Rights Commission
- the Fair Work Commission
- Worksafe.

You will be invited to attend a meeting (**conciliation** or **mediation**) where an independent person (**mediator/conciliator**) will help you and your boss to talk to try and agree to a solution.

The mediator/conciliator does not decide your case — it is up to you and your boss to work it out.

3

## Make a claim at a Tribunal or Court.

It may cost you money to go to the Tribunal or Court.

If you go to the Tribunal or Court, you need to fill out forms to start your case and prepare evidence.

3a



## There may be a mediation first

The mediator will help you and your boss to talk to try and agree to a solution.

The mediator does not decide your case — it is up to you and your boss to work it out.

3b



## If you and your boss can't agree, the case may go to trial

A judge will listen to you and your boss and look at the evidence.

They will decide whether you have been sexually harassed.

Your boss may have to pay you money.

Your boss may also have to pay a fine (**penalty**) or do training to learn the law.



# What are the possible outcomes?

Possible outcomes from mediation or Court include:



You receive money  
(**compensation**)

Money (**compensation**) for lost wages, medical expenses and for the hurt and suffering caused.



You receive an apology

An apology from the person who sexually harassed you and/or your employer.

Your boss agrees to change things to make your situation better (such as working for a different supervisor or working in a different office).



Training for your boss

Your boss is required or agrees to attend training to prevent further sexual harassment.



You get your job back  
(if you have been fired)

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**OR**

Your boss helps you to get another job by:

- A** Providing a letter which states how long you worked for and your duties (**reference** or **statement of service**).
- B** Treating the dismissal as a resignation (**retrospective resignation**).

# Are there any time limits?

**If you don't start your legal claim within the relevant time limit, you might lose your right to bring that claim.**

## **If you are fired**

You have 21 days from the date your job ended to bring a claim at the Fair Work Commission.

## **Sexual harassment claims**

You have 2 years (Federal law) or 12 months (State law) from the date of the sexual harassment to bring a claim in the Tribunal or Court.

## **Adverse action claims**

(If you are not fired)

You have 6 years from the date of the adverse action to bring a claim.

# Questions?

## **WEstjustice**

(Interpreters available)

(03) 9749 7720

[westjustice.org.au](https://westjustice.org.au)

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### **Disclaimer**

This document contains general information only and is NOT legal advice. If you require advice about your specific circumstances please consult a lawyer or your union. This information is current at 16 February 2021.

