

# Preventing and responding to sexual harassment in the workplace



Sexual harassment is a cultural and work health and safety issue pervading our workplaces.

The Australian Human Rights Commission (AHRC) Respect@Work Inquiry found current approaches to preventing and responding to workplace sexual harassment are inadequate. Approaches typically rely on complainants coming forward and reporting sexual harassment, thereby contributing to their ongoing stress.

Instead, the AHRC recommends a new approach that is victim-centric; practical; adaptable for all organisations and industries and designed to minimise harm to workers. The new framework is structured around seven domains. It recognises that improving workplace prevention and responses requires a more holistic approach, looking beyond policies, training and procedures.

To better **prevent** workplace sexual harassment, the AHRC recommends action in the following domains: **leadership; risk assessment and transparency; culture and knowledge.**

To better **respond** to workplace sexual harassment, the AHRC recommends action in the following domains: **support; reporting; measuring and evaluation.**

Based on these seven domains, the Community and Public Sector Union (CPSU) has developed a 'Framework for ensuring safe and respectful workplaces' for implementation in workplaces.

A Framework for Ensuring Safe and Respectful Workplaces

# A Framework for Ensuring Safe and Respectful Workplaces

1. Sexual harassment is a serious workplace health and safety hazard which no worker should experience. It can cause physical, emotional, psychological and economic harm.
2. The <Agency> has a positive duty to provide a safe work environment without risk to workers' health and well-being. This obligation includes a requirement to take all reasonably practicable steps to prevent sexual harassment from the workplace. Where sexual harassment does occur, the <Agency> has a duty to ensure that incidents are responded to promptly, safely and confidentially.

## What is sexual harassment

3. Sexual harassment is an unwelcome conduct of a sexual nature that makes a person feel offended, humiliated and/or intimidated where a reasonable person would have anticipated that reaction. Sexual harassment in the workplace is unlawful under the *Sex Discrimination Act 1984* (Cth).
4. Sexual harassment is unlawful regardless of the sex, sexual orientation or gender identity of the parties. It can be subtle and implicit rather than explicit. Sexual harassment can take various forms. It can be unwelcome sexual advance, a request for sexual favours, or other unwelcome conduct of a sexual nature, both physical or non-physical. It can

be perpetrated by individuals internal to the workplace, work peers, managers and clients, and individuals external to the workplace.

## Preventing workplace sexual harassment

### LEADERSHIP

5. The <Agency> recognises senior leaders have a crucial role in ensuring safe and respectful workplaces. Senior leaders shall be visible and proactive in their efforts to address workplace sexual harassment, challenging inappropriate conduct and workplace cultures.

### WORKPLACE CULTURE

6. Power disparities within our communities and workplaces enable sexual harassment, with gender inequality recognised as a key driver. Some individuals experience 'intersecting' forms of discrimination which may increase their experience of sexual harassment. Vulnerable groups include workers identifying as Aboriginal and Torres Strait Islander, LGBTQIA, culturally and linguistically diverse, workers with disability, young workers and those in insecure work.
7. The <Agency> will take positive steps to build a diverse and inclusive culture welcoming of workers from a range of backgrounds, experiences and identities.

Where it exists, the <Agency> will take positive steps to eliminate gender inequality in the workplace; overcome gender segregation; eradicate disrespectful and discriminatory cultures including sexism, homophobia and transphobia.

8. To this end, the <Agency> agrees to work with employees, Health and Safety Representatives (**HSRs**) and the CPSU to develop an action plan to address each of the aforementioned areas of concern.
9. The action plan will:
  - Recognise that gender inequality in the workplace sustains cultures that enable sexual harassment and develop policies and processes to address systemic barriers to gender equality.
  - Give specific attention to vulnerable workers, including those engaged in service delivery roles; casual workers (or otherwise insecurely engaged); workers identifying as LGBTQIA; Aboriginal and Torres Strait Islander workers; workers who are culturally and linguistically diverse, young or have a disability.
  - Assess and address the risk of exposure to sexual harassment in the work environment; the way work is designed and managed; and in workplace policies, procedures and practices.
  - Build awareness through regular communications, supported by clear and comprehensive policies.
  - Build accountability through regular reporting on the impact of initiatives to better prevent and respond to sexual harassment
10. The <Agency> agrees to progressively review the action plan's implementation with employees, HSRs and the CPSU.

## RISK ASSESSMENT AND TRANSPARENCY

11. The <Agency> is committed to transparency about issues relating to sexual harassment in the workplace. The <Agency> will identify and assess the risk of sexual harassment in the workplace and develop controls to remove identified risks in consultation with employees, HSRs and the CPSU.
12. The <Agency> will develop and publish guidelines on solutions to overcome sexual harassment in the workplace; to address sexual harassment risks and the incidence of sexual harassment in the workplace in consultation with employees, HSRs and the CPSU.

## EDUCATION AND AWARENESS

13. The <Agency> will facilitate training for all senior leaders to ensure an understanding of sexual harassment as a serious work health and safety issue, and training to engender a diverse and inclusive workplace culture, in particular improving gender equality.
14. The <Agency> will provide information and training to all workers about its commitment to eliminating workplace sexual harassment including but not limited to the <Agency's> sexual harassment policy and guidelines. The <Agency> will ensure all new workers receive this information and training as part of their new starter induction.
15. The <Agency> will identify Harassment Contact Officers (**HCOs**) in consultation with employees and the CPSU. It is preferable to have a diverse range of people of different genders, identities, backgrounds and levels. All Harassment Contact Officers and

HSRs will be provided paid time training that supports understanding of sexual harassment as a serious work health and safety issue and how to respond to incidents of sexual harassment.

## Responding to workplace sexual harassment

### NO ADVERSE ACTION

16. The <Agency> agrees that no adverse action will be taken against a worker who reports experiencing or witnessing sexual harassment, or whose attendance or performance suffers as a result of such incidents.

### SUPPORT

17. The <Agency> will ensure appropriate internal and/ or external support is provided to any worker who experiences or witnesses sexual harassment at work. This includes access to appropriately qualified counselling and support services, access to leave or flexible work arrangements and paid time to participate in any investigative processes.
18. The <Agency> will ensure the well-being, protection and safety of the complainant, clarify issues of privacy and confidentiality, and ensure the timeliness of information. The <Agency> will ensure the principles of natural justice and procedural fairness will underpin any relevant investigative process. This includes an individual's right to union representation.
19. The <Agency> may provide access to support services to those who perpetrate sexual harassment where such support is considered appropriate in assisting the individual to change their behaviour.

## REPORTING AND RESPONDING TO REPORTS

20. The <Agency> will develop with employees, HSRs, HCOs and the CPSU a clearly described and robust complaint handling process for incidents of sexual harassment in the workplace. The complaint handling process will describe flexible reporting options (internal and external, formal and informal) and support channels which are culturally appropriate.
21. The <Agency> will ensure the principles of natural justice and procedural fairness will underpin any relevant investigative process. This includes an individual's right to union representation. Where sexual harassment is found, the <Agency> will take prompt action, and proportionate and consistent sanctions will be applied.

## DATA COLLECTION AND MEASURING

22. The <Agency> will ensure data on activities to address sexual harassment, gender diversity, as well as incident reports pertaining to sexual harassment, are maintained to assist in identifying instances of sexual harassment and reviewing progress towards a workplace free of sexual harassment. This de-identified data will be made available to the national consultative committee and national work health and safety committee. The CPSU will also have access to this data on request.