

Where a sexual harassment complaint is received by the Commission, it is investigated confidentially and a member of the Commission's staff will attempt, with the cooperation of the parties involved, to conciliate the dispute. The conciliation officer does not take sides but is there to assist in finding a settlement agreeable to both parties.

An unresolved complaint may be referred to the Anti-Discrimination Commissioner for a hearing. The Commissioner can make orders which are enforceable through the court. There are penalties for victimisation of a complainant or witnesses involved in the investigation.

The Work Environment

It is unlawful to dismiss an employee or to deny or restrict their opportunities or benefits because they have been harassed and failed to comply with unwanted advances. Complainants need not necessarily show that they have been disadvantaged in some concrete sense, eg, that they have missed a promotion or been denied overtime. It is sufficient that their general working environment has become intolerable.

The harassment may be in the form of a threat or an implication that, if the employee does not comply, that person's job prospects will be adversely affected. It does not matter whether the person harassing carried out these threats or not. If employees feel their job or job benefits depend on accepting unwanted sexual attentions, sexual harassment has occurred.

Employer/Management Responsibility

Sexual harassment is not a private matter. It is your responsibility to make sure the workplace is free from harassment because of the legal consequences of not doing so. The efficiency of your organisation will also be enhanced where sexual harassment is eliminated.

If harassment is allowed to go unchecked, the employer has failed to adequately regulate what happens on the job by directing the management or shop floor supervisors or foremen to ensure that appropriate standards of behaviour are encouraged. Unchecked sexual harassment can lead to:

- unnecessary distractions caused by one person making moves and the other fending that person off,
- lower productivity and poor quality work because employees' minds are not on the job,
- low staff morale and more "sickies",
- accidents due to distractions,
- resignations,
- increased costs from lengthy discrimination or industrial court cases.

For further information or advice, contact:

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**Anti-Discrimination Commission
Northern Territory**

Promoting a

Fair Go for all Territorians

Guidelines For Employers



Eliminating Sexual Harassment

Under the Anti-Discrimination Act

- *unwelcome and uninvited sexual conduct is unlawful in the workplace.*
- *employers need to deal with sexual harassment as a management issue.*

These guidelines are intended to assist employers in their task of eliminating this conduct in the workplace. They aim to provide an understanding of the nature of sexual harassment, to suggest appropriate methods of preventing it and suitable procedures for dealing with it when it occurs.

The Northern Territory Anti-Discrimination Act makes sexual harassment unlawful in the areas of:

- education
- work
- accommodation
- goods, services and facilities
- clubs
- insurance and superannuation.

These guidelines deal with sexual harassment in the workplace. Sexual harassment complaints differ from other staff complaints. Allegations of harassment arouse strong emotion and if a claim is found to be true, serious consequences can follow. Investigation of complaints must be confidential and impartial.

Someone who has been harassed can make a complaint to the Anti-Discrimination Commission. Many unions have also adopted a positive policy to stop sexual harassment and may be able to assist in resolving complaints.

Sexual harassment takes place if a person

- subjects another person to an unwelcome act of physical intimacy,
- makes an unwelcome demand or request (whether directly or by implication) for sexual favours from another person,
- makes an unwelcome remark with sexual connotations,
- engages in any other unwelcome conduct of a sexual nature.

.... and does so with the intention of offending, humiliating or intimidating the other person, and a reasonable person would have anticipated such consequences.

It is sexual harassment if a supervisor requests sexual favours from a junior in return for promotion or other benefits or threatens the sack for non-cooperation.

It is also sexual harassment for a boss to make intrusive inquiries into the private lives of employees, or persistently ask them out.

It is sexual harassment for a group of workers to joke and snigger amongst themselves about sexual conduct in an attempt to humiliate or embarrass another person.

What Is Not Sexual Harassment ?

It is not sexual harassment to develop friendships (sexual or otherwise) with other workers where both persons consent. Management has no concern with the private lives of staff unless misconduct starts affecting the workplace.

Workplace Harassment

Women are usually the object of sexual harassment, just as they usually suffer other forms of sex discrimination. Most women have less power than men, hold jobs at lower levels or jobs which are less well paid. Their employers and supervisors are mostly men.

Because of this, most sexual harassment in the workplace is not complained about and therefore remains hidden. Although people may assume that such behaviour is just "normal" and all in good fun, it may be deeply distressing to its victims. Women often don't complain because they feel it isn't right to "rock the boat" or that, even if they do complain, no-one will take them seriously. If the behaviour persists, it may be difficult for the person being harassed to stop it other than by taking a drastic step such as resigning.

Where the harasser is an employer or a person in line management, women are even less likely to complain since that person may also have the power to fire them or influence their employment prospects in other ways.

If a woman sexually harasses a man, or if someone harasses a person of the same sex, that is also unlawful discrimination.

Anti-Discrimination Commission Complaints

Complaints may be settled at the workplace. However, employees who have been sexually harassed at work have the right to make a complaint to the NT Anti-Discrimination Commission. Employers can also contact the Commission to request advice on their legal obligations under the Act.