

Sexual Harassment and Sex Discrimination Audit & Risk Assessment Tool

This tool is designed to assist employers in complying with the new positive duty to eliminate sexual harassment and sex discrimination under the Sex Discrimination Act 1984 (Cth) and associated duties under work health and safety legislation.

What duties do employers have to eliminate sexual harassment and sex discrimination?

Under changes to the Sex Discrimination Act 1984 (Cth) passed in December 2022, employers have duties to take reasonable and proportionate measures to eliminate, as far as possible:

- sexual harassment (being unwelcome conduct of a sexual nature);
- harassment on the ground of sex (being unwelcome conduct based on the sex of the person, but not necessarily sexual in nature);
- discrimination on the ground of a person's sex (being differential treatment based on the sex of the person);
- conduct that subjects a person to a hostile workplace environment on the ground of sex (being conduct that results in an offensive, intimidating and humiliating environment for people of one sex, but not necessarily directed at a person);
- acts of victimisation that relate to complaints, proceedings, assertions or allegations in relation to the conduct set out above.

In this document we collectively refer to the conduct listed above as “sexual harassment and sex discrimination”.

Workplace sexual harassment can cause both psychological and physical harm, making it a risk to health and safety. Employers therefore also have duties under work health and safety legislation to do all that they reasonably can to eliminate or minimise the risk of sexual harassment at work.

These duties apply to sexual harassment between workers, and to workers being sexually harassed by other people at the workplace, like customers and clients.

In order to comply with their duties we recommend that employers carry out an **audit to assess this risks of sexual harassment and sex discrimination** in their business and then implement appropriate controls to manage those risks. This tool assists business to do exactly that.

How to use this tool

Step 1: Carry out an audit of the sexual harassment and sex discrimination risks in the business. Matters which are known to cause risks of harassment and discrimination are listed in the **Risk Identification Tool** in **Part A** of this document. Note down any that apply to your business in the **Prevention Plan** at **Part D** at the end of this document. As part of this process we recommend consulting staff to gain their input on where any risks lie.

Step 2: For each area of risk that you have identified, **assess the level of risk** by completing columns 2, 3 and 4 in the **Prevention Plan**. These ask you to consider (a) how frequently is the worker exposed to the risk? and (b) how often is the worker exposed to the risk? For example, someone might be exposed to the risk of harassment by customers frequently if they deal with customers every day, and for a long period if they carry out customer-facing duties for the majority of their shift. This would therefore mean there would be a high level of risk, whereas there will be a much lower risk for someone who only occasionally performs customer-facing duties or for short periods.

It might not be possible to carry out this sort of analysis for all the risks you have identified, or there may be other factors that mean that a particular issue you have identified is high risk or low risks. Whilst some risk assessments also ask you to consider the severity of the harm caused, we have assumed that in all cases of harassment or discrimination the level of harm will be high, so we don't ask questions about this in the risk assessment.

Note down the level of risk in the **Prevention Plan**. This rating will help guide you on the appropriate control(s) to implement to deal with issue. The higher the level of risk, will mean the more stringent the control measures you will need to implement to deal with the risk.

Step 3: For each risk listed in the **Prevention Plan** note down **the current controls** that are in place and comment on whether they are effective. You should then select any **other appropriate controls** for dealing with the risk. We have listed some examples of common controls in **Part C – Controls**, but this list is not exhaustive and you may be able to think of others. We also recommend consulting with staff to gain their input into what possible controls could be implemented.

Note down who will be possible for implementing the control and the date they are due to be implemented. You should also note down when you will review this next.

Step 4: Implement the controls you have noted in the Prevention Plan.

Step 5: Regularly review the Prevention Plan in line with the review dates you have identified (we recommend that all risks and controls should be reviewed at least yearly). Update as necessary.

PART A – SEXUAL HARASSMENT & SEX DISCRIMINATION RISK IDENTIFICATION TOOL¹

	Signs your workers may be at risk of sexual harassment or sex discrimination	Yes	No	Comment
Workplace characteristics	Sex-segregated workplaces (where work is typically or historically performed by men or women) and workplaces with rigid workplace norms on gender stereotypes.	<input type="checkbox"/>	<input type="checkbox"/>	
	Leaders with unquestioned, discretionary authority to hire, fire and promote.	<input type="checkbox"/>	<input type="checkbox"/>	
	Actual or perceived interconnection between those responsible for handling complaints and those with authority to hire, fire and promote.	<input type="checkbox"/>	<input type="checkbox"/>	
	Workplaces that are highly hierarchical with large power disparities between job levels.	<input type="checkbox"/>	<input type="checkbox"/>	
	'Command and control' and 'respect for rank' management structures e.g. police force, defence force, medical profession, legal profession.	<input type="checkbox"/>	<input type="checkbox"/>	
	Workplaces that protect 'high-value' or 'indispensable' workers from accountability for unacceptable behaviour.	<input type="checkbox"/>	<input type="checkbox"/>	
	Workplaces that value profit over protecting workers, including: <ul style="list-style-type: none"> enabling customers/clients* to harass workers; 'Customer is always right' ethos or placing the customer/client* in a more powerful position to the worker; and Normalisation and acceptance of poor service by customers/clients*. (* or other third party)	<input type="checkbox"/>	<input type="checkbox"/>	
	High pressure workplaces such as frontline and emergency services, with an attitude that workers need to let off steam to deal with the pressures of work and certain behaviours don't need to be taken seriously.	<input type="checkbox"/>	<input type="checkbox"/>	
Short-term contracts with a reliance on reputation and word-of-mouth referrals for securing the next job (e.g. individuals in the fashion and entertainment industries and junior doctors completing their placement training).	<input type="checkbox"/>	<input type="checkbox"/>		

¹ This has been developed using the Risk Identification Tool at <https://www.respectatwork.gov.au/organisation/prevention/risk-assessment-and-transparency/identifying-risks-workplace-sexual-harassment>

	Signs your workers may be at risk of sexual harassment or sex discrimination	Yes	No	Comment
	Highly competitive job market with large supply of candidates but few job opportunities available.	<input type="checkbox"/>	<input type="checkbox"/>	
	Industries where people fear becoming 'black listed' if they raise a complaint e.g. information, media and telecommunications industry.	<input type="checkbox"/>	<input type="checkbox"/>	
	Workplaces where Junior workers or trainees depend heavily on experienced and powerful senior workers for training, assessment of performance, job opportunities and career progression (e.g. medical and legal professions).	<input type="checkbox"/>	<input type="checkbox"/>	
	Small business where confidentiality and confidence to raise issues may be difficult to achieve and avenues to raise complaints are restricted due to business size.	<input type="checkbox"/>	<input type="checkbox"/>	
	Workplaces that are geographically or socially isolated.	<input type="checkbox"/>	<input type="checkbox"/>	
	Workplaces where workers reside together in a remote location and/or in accommodation that is shared or closely located?	<input type="checkbox"/>	<input type="checkbox"/>	
Physical work environment	Some areas in or around the workplace are intimidating to enter, are isolated or poorly lit, have limited natural surveillance (e.g. meetings rooms, store rooms), and confined spaces where workers are not able to maintain personal space or need to touch each other to move past.	<input type="checkbox"/>	<input type="checkbox"/>	
	In-home work (such as providing childcare, nursing, cleaning services, aged or disability care) with direct client contact and little or no oversight.	<input type="checkbox"/>	<input type="checkbox"/>	
	Technological or physical barriers to monitoring and observing behaviours e.g. closed doors, working from home.	<input type="checkbox"/>	<input type="checkbox"/>	
	Sexualised or sexist materials are on display (e.g. posters, calendars, screensavers).	<input type="checkbox"/>	<input type="checkbox"/>	
	Workplace environments that are inherently sexualised or where the business mode is centred around sex appeal e.g. a bar, hotel or club, where customers have a mindset of 'picking up' or where there is high possibility of sexual encounters.	<input type="checkbox"/>	<input type="checkbox"/>	
	Lack of privacy or security for workers using bathrooms/change rooms.	<input type="checkbox"/>	<input type="checkbox"/>	
	Male dominated workforce.	<input type="checkbox"/>	<input type="checkbox"/>	

	Signs your workers may be at risk of sexual harassment or sex discrimination	Yes	No	Comment
Workplace composition	Male dominated management, leadership, board and decision-making roles.	<input type="checkbox"/>	<input type="checkbox"/>	
	Male dominated customer or client base.	<input type="checkbox"/>	<input type="checkbox"/>	
	Younger workers (including under 18 years), interns, apprentices, graduates or other workers who are new to the workforce.	<input type="checkbox"/>	<input type="checkbox"/>	
	Women from migrant and non-English speaking backgrounds, people on employer sponsored visas, women with disabilities, women of multicultural and multifaith backgrounds.	<input type="checkbox"/>	<input type="checkbox"/>	
	People in insecure work, such as casuals, contractors short term workers, temporary workers and freelancers.	<input type="checkbox"/>	<input type="checkbox"/>	
	Members of the LGBTIQ community.	<input type="checkbox"/>	<input type="checkbox"/>	
	Indigenous Australians.	<input type="checkbox"/>	<input type="checkbox"/>	
	Volunteers.	<input type="checkbox"/>	<input type="checkbox"/>	
Workplace trends	High staff turnover, particularly of female or junior workers.	<input type="checkbox"/>	<input type="checkbox"/>	
	Gender differences in shifts or teams (e.g. women more reluctant to work with particular workers or take particular tasks).	<input type="checkbox"/>	<input type="checkbox"/>	
	Concentration of men in senior positions and men being promoted more often than women.	<input type="checkbox"/>	<input type="checkbox"/>	
	Women performing roles that are considered gender 'atypical' e.g. work that men have historically performed or work that is seen to diverge from stereotypes of women's roles relating to caring and motherhood.	<input type="checkbox"/>	<input type="checkbox"/>	
Workplace requirements	Different uniform requirements for men and women, prescriptive dress codes or expectations for how women should look at work (such as high heels, skirts and makeup), or dress requirements that require workers to wear revealing clothing or indecent slogans.	<input type="checkbox"/>	<input type="checkbox"/>	

	Signs your workers may be at risk of sexual harassment or sex discrimination	Yes	No	Comment
	Travel and overnight stays.	<input type="checkbox"/>	<input type="checkbox"/>	
	Working in regional or remote locations where workers may be socially isolated.	<input type="checkbox"/>	<input type="checkbox"/>	
	Attendance at formal or informal client functions, conferences or work social events.	<input type="checkbox"/>	<input type="checkbox"/>	
	Shift work, after-hours and longer hours.	<input type="checkbox"/>	<input type="checkbox"/>	
	Use of alcohol in a work context and/or workers are encouraged to socialise outside of work hours.	<input type="checkbox"/>		
	Workplaces where workers interact directly with customers, clients, patients, users, members of the public either face to face, online or over the telephone.	<input type="checkbox"/>	<input type="checkbox"/>	
	'Customer is always right' ethos or place the customer (or other third parties) in a more powerful position to the worker.	<input type="checkbox"/>	<input type="checkbox"/>	
	Workplaces where poor service by customers (or other third parties) is normalised or expected.	<input type="checkbox"/>	<input type="checkbox"/>	
Workplace behaviours and culture	Existence and tolerance of 'everyday sexism', such as jokes, sexually demeaning comments and innuendo, small disrespectful acts of harassment or inequality, and homophobia/transphobia in the workplace.	<input type="checkbox"/>	<input type="checkbox"/>	
	Reports of harassment or inappropriate behaviours are not taken seriously or there is a lack of resources and capability to handle reports.	<input type="checkbox"/>	<input type="checkbox"/>	
	Issues relating to inequality are ignored or deprioritised.	<input type="checkbox"/>	<input type="checkbox"/>	
	High degree of informal interactions.	<input type="checkbox"/>	<input type="checkbox"/>	
	Dominant masculine or 'blokey' culture or behavioural expectations, e.g. <ul style="list-style-type: none"> ● acceptance of swearing and combative and aggressive exchanges; ● resistance to flexible work or accommodation of caring responsibilities; ● conformance to gendered norms or stereotypes about work performed by women and expectations of masculinity 	<input type="checkbox"/>	<input type="checkbox"/>	

	Signs your workers may be at risk of sexual harassment or sex discrimination	Yes	No	Comment
	People, particularly women, in the workplace place significant focus on self-resilience and self-reliance above all else?	<input type="checkbox"/>	<input type="checkbox"/>	
	Gendered and binary networking events or mentoring opportunities (e.g. work lunches at men's clubs, invitations to play golf with the boss).	<input type="checkbox"/>	<input type="checkbox"/>	
	Differences in the unspoken expectations of male and female workers (e.g. women routinely being the ones to take minutes, organise catering, prepare rooms for meetings and clean up after events).	<input type="checkbox"/>	<input type="checkbox"/>	
	Male workers dominate meetings or decisions.	<input type="checkbox"/>	<input type="checkbox"/>	

PART B – CONTROLS²

We include below a number of controls that you may wish to implement in order to address risks of sexual harassment and sex discrimination in the workplace. These are not the only possible controls and you may be able to identify others. A number of the controls, such as those dealing with implementation of policies, procedures and training will be relevant to multiple risks that have been identified.

Workplace Characteristics & Workplace Behaviours and Culture

Leadership and management commitment – Ensure all senior figures understand their duties under discrimination and WHS laws, the risk management process these require, the business case for effectively managing these issues, and the roles of various organisational leaders (e.g. human resources and WHS managers). Ensure that sexual harassment and sex discrimination is routinely discussed at leadership level, including periodic reports on metrics regarding number of complaints and steps being taken to reduce risks.

Sexual harassment and sex discrimination policies – Implement policies which set out standards of appropriate behaviour and procedures for what a worker should do if they experience or see sexual harassment / sex discrimination and how they can report it.

Ways for workers to report issues - Provide a range of accessible and user-friendly ways to make a report either informally or formally. Ensure reports are dealt with confidentially. Allow for methods of anonymous reporting.

Procedures for dealing with complaints – Implement procedures for dealing with complaints of sexual harassment or sex discrimination, including how they will be investigated and by whom in a way that will prevent actual or perceived bias or favouritism. Ensure there are adequate processes for how feedback will be provided to workers who have raised concerns. Ensure procedures mean complaints are dealt with consistently. Collect details of all complaints, including those that are not pursued formally by the complainant, to help you identify systemic issues at the workplace.

Training – implement effective including:

- **Training for all workers** on appropriate standards of behaviour, procedures for what they should do if they experience or see sexual harassment / sex discrimination and how they can report it.
- **Training for managers** to understand their obligations to prevent sexual harassment and sex discrimination; to help them create a safe, respectful workplace and an environment where workers feel safe to report concerns; and so that the managers know exactly what to do if they see, experience or have a worker approach them about harassment or discrimination.

Ensure that training occurs regularly so that workers are reminded of these matters frequently (e.g., once a year, etc).

² This list has been developed from the SafeWork NSW Code of Practice: Managing Psychosocial Hazards at Work: <https://www.safework.nsw.gov.au/resource-library/list-of-all-codes-of-practice/codes-of-practice/managing-psychosocial-hazards-at-work>

Communication – Ensure that adequate methods exist for communication with workers, so that matters relating to sexual harassment and sex discrimination (e.g. updates to policies, etc) are effectively communicated. Consider communication methods for workers who work remotely, infrequently and/or have English as a second language. Implement processes so that reminders about harassment and discrimination regularly occur – e.g. in staff newsletter, posters in the workplace, through electronic communications, etc.

Consultation - Ensure workers are regularly consulted on issues of sexual harassment and sex discrimination and how they will be addressed in the workplace. Ensure methods exist for employees to provide feedback and for this feedback to be reported to leadership and to be actioned. Implement periodic (anonymous) surveys to ask questions about whether workers have experienced / witnessed harassment or discrimination and their knowledge of how to raise complaints / concerns.

Supervision – Ensure that all workers are receiving adequate supervision in their role so that instances of sexual harassment or sex discrimination are less likely to go unseen, this is particularly important when workers are at remote locations or working from home. Ensure that all workers have regular 1:1 meetings so that any issues can be raised with their manager. Ensure that all workers have adequate access to senior management (e.g. their manager’s manager) or to another senior figure in the business so that any issues with their own manager can be raised.

Checks and balances on decision-making – Ensure that there are appropriate checks and balances on decision-making to reduce the risks of managers with unchecked authority to hire, fire and promote from taking discriminatory decisions, or from taking decisions to silence complainants. Consider implementing systems where other managers have oversight of hiring, firing and promotion decisions.

Workplace Composition and Workplace Trends

- Use recruitment and promotion strategies that create a diverse workforce.
- Consider whether procedures need to be implemented to protect particularly vulnerable groups (young workers, people from non-English speaking backgrounds, people with disabilities, Indigenous Australians, LGBTIQ+ workers, etc) such as increased levels of supervision, appointing an appropriate person to liaise with and represent their interests, a “buddy” system where individuals are coupled with someone else in the organisation with whom they can raise concerns, etc.
- Collect data on trends concerning hiring, promotion and turnover of staff on gender lines.
- Conduct exit interviews with exiting staff to identify any issues of harassment or discrimination that contributed to their leaving the organisation.

Workplace Requirements & Workplace Characteristics

Uniforms / clothing - Avoid sexualised uniforms and ensure clothing is practical for the work undertaken.

Social events - Reinforce workplace policies and what behaviours are expected of workers prior to any events. Ensure that responsible service of alcohol policies are followed and that workers know who to turn to if they experience or witness inappropriate behaviour at the event (eg a designated responsible manager at the event). Ensure there are appropriate ways that workers can get home from events (eg company-funded taxis, etc).

Third-party sexual harassment

E.g. harassment by members of the public, clients, customers, etc. Consider implementing any of the following (see also “physical work environment” below):

- Have procedures in place for refusing service or banning persons with a history of sexual harassment from the workplace e.g. patrons at pubs or clients at health services. If this is impractical, such as for persons who require urgent medical care, put in place additional measures to protect workers, such as ensuring workers do not work alone.
- Avoid the need for workers to work alone where possible e.g. working in pairs, closing the business with security personnel present, or providing a safe escort to a worker’s transport.
- Provide alternative methods of customer service to reduce face-to-face interactions where possible (e.g. online or click-and-collect services, or no contact delivery drops).
- Implementing responsible service of alcohol policies and practices where alcohol is being consumed by clients or customers.
- Clearly communicate to clients and customers that any form of sexual harassment is not tolerated e.g. in service agreements or contracts, and signs at the workplace.
- Manage expectations of clients and customers by clearly communicating the nature of the products or services you are providing (e.g. online and using signage).
- Alternate tasks in the workplace - particularly tasks requiring high levels of customer interaction - with other work tasks and ensure workers have regular breaks.
- Train workers in how to deal with difficult customers or clients, when and how to escalate issues to senior workers and procedures to report sexual harassment.
- Train supervisors and managers in how to deal with difficult customers or clients and their management duties in addressing sexual harassment.
- Establish procedures for dealing with unacceptable behaviour from customers or clients and how workers and managers can respond.
- Tell workers about their right to cease unsafe work.

Physical work environment

Consider implementing the following:

Security

- Security personnel or night-time security patrol.
- Video surveillance.
- Fixed and portable alarm systems.

If you require further assistance with matters relating to sexual harassment or sex discrimination in the workplace, including assistance in implementing best practice policies or procedures, or if you require training for your staff, please contact 1300 144 120 or info@employmentinnovations.com

- Ensuring that communication systems like phones, intercoms and alarm systems are in place, accessible, regularly maintained and tested.
- Ensure vehicles are fit for purpose (e.g. have central locking devices, tracking devices such as GPS systems to allow drivers in distress to be located, lighting inside the vehicle to allow the driver to be aware of passenger behaviour, vehicles are well maintained so they do not break down in unsafe locations or times).

Access

- Control access to the premises (e.g. electronically controlled doors with viewing panels that allow surveillance of public areas before the doors are opened from the inside).
- Prevent public access to the area when people are working alone or at night (e.g. via a security card or code, asking guests to leave the room while workers clean).
- Provide facilities and amenities which give privacy and security (e.g. private and secure change rooms or facilities for workers to use which are separate from customers).
- Separate workers from the public with fixed or removable barriers (e.g. high counters, furniture, screens on counters or screens between a driver and passenger).
- Instal a service window for night transactions and systems like “pay-at-the-pump”.

Visibility

- Ensure internal and external lighting provides good visibility, including in car parks.
- Arranging furniture and partitions within the workplace to ensure good visibility of service areas, improve natural surveillance and avoid restrictive movement.
- Improve natural surveillance in areas such as offices, storerooms and other segregated areas (e.g. using semi opaque glass or screens).

Environment

- Ensure there are no areas where workers could become trapped, such as rooms with keyed locks.
- Provide workers with a safe place to retreat.
- Ensure a safe working environment for workers during travel, including when workers are in a vehicle together, at conferences, off site, at client or customer premises and any other location where work is performed. Have policies which deal with matters such as whether two employees can travel together in a vehicle, whether shared accommodation on work trips is acceptable, expectations regarding social events, etc.

