

Where can I make a legal claim if I've been sexually harassed at work?



What is sexual harassment?

According to the *Sex Discrimination Act 1984* (Cth), sexual harassment is unwelcome sexual behaviour where the victim feels offended, intimidated or humiliated, and it is reasonable in the circumstances for them to feel that way. **Sexual harassment is against the law.**

Sexual harassment can include:

- Verbal comments or jokes which are of a sexual nature or suggestive
- Physical contact such as kissing, touching, patting, hugging, pinching or groping
- Displaying or sharing sexual, nude or erotic pictures or video (either in person or via email, social media, text messages)
- Staring, ogling or leering
- Intrusive questions about someone's personal life or body
- Unwelcome requests to go out on dates, have sex or develop a relationship
- Unwelcome gifts and declarations of love

If you are experiencing sexual harassment in the workplace, you may be able to make a legal claim.

Time limits to make legal claims can vary from 21 days to 2 years. It is important to get legal advice as soon as possible.

#1: Be safe and get support

- Speak to and get support from your family, friends or a health professional
- For severe incidents, you may need to go to a hospital or report it to the police
- Once you're able, organise your thoughts by journaling and putting together a timeline of events with as many details as you remember

#2: Know your legal rights

- It is unlawful to sexually harass someone at work
- You have a right to a safe workplace that is free from sexual harassment
- You have a right to make a complaint in relation to your employment
 - If you feel comfortable, consider making an internal report or complaint to your supervisor, team leader, HR or People & Culture or management
 - ***If you are dismissed after making a sexual harassment complaint, you only have 21 days to challenge the dismissal***
- Get legal advice from your union or the Working Women's Centre SA

Potential legal pathways after getting legal advice

Workers Compensation

- If workplace sexual harassment leads to psychiatric injury and you are unable to work
- Return to Work SA claim to cover income and medical expenses

SafeWork SA

- Request SafeWork SA to investigate psychosocial health and safety in a workplace
- Cannot claim compensation or seek individual outcomes this way

Australian Human Rights Commission (AHRC)

- If the conduct happened in the last 24 months (i.e. 2 years)
- Relevant law is *Sex Discrimination Act 1984* (Cth)
- Timeframe for conciliation - 6 to 12 months

Another option through the AHRC is to report concerns that your employer is not complying with their positive duty to prevent sexual harassment.

Equal Opportunity SA (EOSA)

- If the conduct happened in the last 12 months (i.e. 1 year)
- Relevant law is *Equal Opportunity Act 1984* (SA)
- Timeframe for conciliation - 2 to 6 months

Fair Work Commission (FWC)

- If the conduct happened in the last 24 months (i.e. 2 years)
- Relevant law is *Fair Work Act 2009* (Cth)
- Timeframe for conciliation - 2 to 6 weeks