

Sexual harassment and sex or gender-based harassment fact sheet

Changes to the Work Health and Safety Regulation 2011

What is sexual harassment and sex or gender-based harassment?

Sexual harassment and sex or gender-based harassment are psychosocial hazards known to cause physical and psychological harm.

Sexual harassment means any unwelcome sexual behaviour that a reasonable person could anticipate may make another person feel offended, intimidated or humiliated in that situation.

Sex or gender-based harassment means the harassment of a person on the basis of the person's sex or gender, by unwelcome conduct of a demeaning nature, with the intention of offending, humiliating the person or in circumstances where a reasonable person would have anticipated the person would be offended, humiliated or intimidated by the conduct.

What has changed in relation to how sexual harassment and sex or gender-based harassment is regulated under Queensland work health and safety legislation?

The Queensland Government has introduced new requirements for stronger regulation of sexual harassment and sex or gender-based harassment at work.

Amendments to the **Work Health and Safety Regulation 2011** expand on the existing psychosocial risk provisions by requiring persons conducting a business or undertaking (PCBUs) to specifically manage the risk of sexual harassment and sex or gender-based harassment at work.

These regulations make it clear that workplaces need to be proactive about preventing sexual harassment and sex or gender-based harassment.

PCBUs can manage these risks through proactive identification of risks, the implementation of control measures in accordance with the hierarchy of controls, reviewing control measures and implementing a prevention plan. From March 2025, PCBUs must prepare a prevention plan to manage identified risks to the health or safety of workers, or other, from sexual harassment and sex or gender-based harassment at work.

The **Managing the risk of psychosocial hazards at work Code of Practice 2022** provides further information on how to identify psychosocial risks, including sexual harassment and sex or gender-based harassment, and how to apply the hierarchy of controls to psychosocial hazards. An example of a prevention plan will also be available on the **WorkSafe website** prior to March 2025.

What has not changed?

PCBUs are already required to proactively manage the risk of sexual harassment and sex or gender-based harassment as part of their duty to manage psychosocial risks. This has not changed.

What has changed is that the **Work Health and Safety Regulation 2011** is now more explicit in stating that the risk of sexual harassment and sex or gender-based harassment must be managed, the matters to consider when determining control measures and that PCBUs must record and implement a prevention plan for any identified risks.

What can sexual harassment and sex or gender-based harassment look like?

Sexual harassment and sex or gender-based harassment can be a one-off incident or repeated behaviour, and can be overt or subtle. The most serious acts, such as sexual assault, may constitute criminal offences.

Examples of these behaviours include:

- actual or attempted rape or sexual assault
- physical assault, abuse or threats targeted at an individual because of their sex, gender or sexuality
- inappropriate physical contact including unwelcome touching, hugging, kissing or cornering
- being followed, either in person or via technology
- sexual gestures or indecent exposure
- sexualised comments about a person's appearance or clothing
- derogatory, offensive or demeaning comments about a person because of their sex, sexuality or gender
- comments, insults or jokes of a sexually suggestive or explicit nature, or which are sexist
- inappropriate staring or leering that makes a person feel uncomfortable
- deliberately misgendering someone, including using incorrect pronouns to belittle them
- intrusive questions or comments about a person's private life (e.g. relationship status), physical appearance or bodily functions (e.g. menstruation or anatomy)
- sharing or threatening to share an intimate image or video without consent
- spreading sexual rumours about a person
- sexually explicit gifts, images, videos, cartoons, drawings, photographs or jokes
- repeated or inappropriate invitations to go out on dates or advances and requests or pressure for sex or other sexual acts
- comments about a person's sexual performance or appearance (e.g. rating people on their sexual desirability)
- gendered double-standards or different repercussions for the same actions.

Sexual harassment or sex or gender-based harassment can also be behaviour that while not directed at a particular worker, affects a worker who is exposed to it or witnesses it (such as overhearing a conversation, rumours or seeing sexually explicit posters in the workplace).

It may come from other workers of the business or undertaking including managers, supervisors, colleagues or subordinates. It may also come from another PCBU or their workers that share premises or work on the same tasks. It can also occur from third parties such as customers, clients, patients and their families, students, visitors, delivery persons and others.

What circumstances do the regulations apply to?

The new regulations apply to the management of the risks of sexual harassment and sex or gender-based harassment at work.

A 'workplace' means a place where work is carried out for a business or undertaking and includes any place where a worker goes, or is likely to be, while at work. This means sexual harassment and sex or gender-based harassment at work can happen:

- at a worker's usual workplace
- in a place where the worker is undertaking work at a different location (such as a client's home)
- where the worker is engaging in work-related activities such as work trips or if the PCBU hosts a work-related social activity such as a Christmas party
- by phone, email or online (such as through social media platforms)
- at worker accommodation (such as accommodation provided at fly-in, fly-out sites).

What do PCBUs need to do?

PCBUs must manage the risk to the health and safety of a worker, or other person, from sexual harassment and sex or gender-based harassment at work.

As sexual harassment and sex or gender-based harassment are psychosocial risks, this means these risks must be managed under Part 3.1 of the **Work Health and Safety Regulation 2011**, with additional requirements prescribed in sections 55A to 55H.

This means PCBUs must:

- identify reasonably foreseeable hazards—identify when and where sexual harassment or sex or gender-based harassment could occur (e.g. at the usual workplace; while making deliveries; via email; through use of shared accommodation/amenities); how it could occur (e.g. from contact with customers or the public, or from other workers); the potential nature of the harassment (e.g. verbal or physical, overt, subtle), and who is likely to be affected
- eliminate the risk so far as is reasonably practicable and if it is not reasonably practicable to eliminate the risk, minimise the risk so far as is reasonably practicable in accordance with the **hierarchy of controls**
- maintain and review control measures—this may include developing a reporting process or other improvements
- do all these things in consultation with workers and health and safety representatives (HSRs) if required.

In addition to these requirements, sections 55A to 55H of the **Work Health and Safety Regulation 2011** provide specific obligations in relation to:

- matters that must be considered when determining control measures
- additional triggers for when control measures must be reviewed
- the preparation of a prevention plan where a risk of sexual harassment or sex or gender-based harassment has been identified.

Who is at risk of experiencing sexual harassment or sex or gender-based harassment?

While anyone can experience sexual harassment or sex or gender-based harassment, there are certain groups of people who are at higher risk. Factors which may increase the likelihood of a worker experiencing sexual or sex or gender-based harassment include:

- women workers where most workers at the workplace are men
- workers who are new to the workforce
- workers under 30 years of age
- LGBTIQ+ workers
- workers who do not conform to traditional gender stereotypes
- Aboriginal and Torres Strait Islander workers
- workers with a disability

- workers from culturally and linguistically diverse backgrounds
- migrant workers
- workers holding temporary visas
- people in insecure working arrangements (e.g. casual or labour hire).

Women are significantly more likely to experience sexual harassment or sex or gender-based harassment than men, and while most men do not condone or engage in sexual harassment, data shows that men are significantly more likely to engage in sexual harassment and sex or gender-based harassment than women.

It is important to note, however, that sexual harassment and sex or gender-based harassment can also be exhibited by women towards men. It can occur in any workplace and any industry, but especially in workplaces with a high degree of power imbalance and/or gender inequality.

What are the potential impacts of sexual harassment or sex or gender-based harassment?

Sexual harassment and sex or gender-based harassment can cause physical and psychological harm to the person it is directed at and anyone witnessing the behaviour. This can lead to significant social and economic costs for workers, their families, the organisation and the wider community.

Potential impacts of sexual harassment or sex or gender-based harassment on the affected individual include:

- decreased job satisfaction, commitment to work and productivity as well as negative impacts on a person's job or career including resignation from the workplace
- emotional and cognitive reactions such as loss of confidence and self-esteem, irritability, anger, tearfulness and mood swings
- behavioural changes such as withdrawal and substance abuse
- physical injuries as a result of assault, physical reactions such as headaches, indigestion, tiredness and loss of appetite
- illnesses such as cardiovascular disease, musculoskeletal disorders, immune deficiency and gastrointestinal disorders (e.g. as a result of stress)
- stress, depression, anxiety, post-traumatic stress disorder, self-harm or suicidal thoughts.

In severe cases exposure to psychosocial hazards, including sexual harassment or sex or gender-based harassment, may lead to death by suicide.

What needs to be considered when determining control measures for sexual harassment and sex or gender-based harassment?

Sexual harassment and sex or gender-based harassment are types of psychosocial hazards.

Under section 55D and 55F of the **Work Health and Safety Regulation 2011**, PCBUs who implement control measures to manage the risk of sexual harassment and sex or gender-based harassment must have regard to all relevant matters. This includes, among other things, specifically considering the characteristics of **workers**, the **workplace** and the **work environment**.

It is not enough to just think about sexual harassment and sex or gender-based harassment generally—PCBUs must consider the individual circumstances of the workplace.

Sexual harassment and sex or gender-based harassment at work can happen where one group of people have power or control over another group or person in the workplace. It is also less likely to be stopped if the person on the receiving end feels unable to speak up.

Matters relating to the characteristics of workers may include, for example:

- women workers where most workers at the workplace are men
- workers who identify as LGBTQIA+, non-binary, or gender non-conforming
- workers with a disability
- young workers
- Aboriginal and Torres Strait Islander workers
- persons from diverse ethnic backgrounds.

The combination of two or more characteristics will often result in an increased vulnerability in workers. For example, a workplace with a small number of young casually employed workers and a majority of older and permanently employed workers might have some increased risks for sexual harassment.

Matters relating to the characteristics of the workplace or the work environment may include:

- the workplace culture permits inappropriate behaviour
- there is a lack of diversity, generally, or in management positions
- the worker may be exposed to people consuming alcohol
- the worker may be exposed to third parties at the workplace
- the work is remote or isolated.

While the regulation provides some examples, this list is not exhaustive.

Consulting with the workforce is a good way to explore other examples. Implementing clear and safe work systems and procedures, such as workplace policies that are understood through formalised training, as well as having clear procedures for reporting of sexual harassment and sex or gender-based harassment, will assist PCBU's in meeting these requirements.

What types of control measures can be implemented to manage the risk of sexual harassment or sex or gender-based harassment?

PCBU's must first seek to eliminate the risk of sexual harassment and sex or gender-based harassment so far as is reasonably practicable, or if it is not reasonably practicable to eliminate the risk then minimise the risk so far as is reasonably practicable.

What is, reasonably practicable, means that which is, or was at a particular time, reasonably able to be done to ensure health and safety, taking into account and weighing up all relevant matters including:

- the likelihood of the hazard or the risk concerned occurring
- the degree of harm that might result from the psychosocial hazard or risk
- the availability and suitability of ways to eliminate or minimise the risk
- what the person concerned knows, or ought reasonably to know, about the hazard or risk, and about the ways of eliminating or minimising the risk
- after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

In practical terms, this means that all the relevant matters in relation to the hazard and its risk are considered and weighed up to achieve a balance that provides the highest level of protection that is possible and reasonable in the circumstances. The hierarchy of controls must be followed if it is not reasonably practicable to eliminate a risk. The hierarchy of controls ranks control measures from the highest level of protection and reliability to the lowest and requires duty holders to minimise risks by one or more of the following methods:

- **Substitution**—minimise the risk by substituting (wholly or partly) or replacing a hazard or hazardous work practice with something that gives rise to a lesser risk.
- **Isolation**—minimise the risk by isolating or separating the hazard or hazardous work practice from any person exposed to it.
- **Engineering controls**—minimise the risk by implementing engineering controls as a physical control measure.

If the risk remains, it must be minimised by implementing administrative controls, so far as is reasonably practicable.

Any further remaining risk must then be minimised with suitable personal protective equipment (PPE), so far as is reasonably practicable.

Examples of control measures for sexual harassment or sex or gender-based harassment may include:

- changing the design of work under section 55D(2)(c) to avoid workers working alone, and instead working in pairs where appropriate
- changing the design and layout and environmental conditions, of the workplace under section 55D(2)(d) by ensuring internal and external lighting provides good visibility, including safe entry and exit to the workplace
- implementing administrative controls such as formal training on the prevention of sexual harassment and sex or gender-based harassment
- providing and using PPE such as the provision and use of personal distress alarms.

Further information regarding the application of the hierarchy of controls to psychosocial risks can be found in the [Managing the risk of psychosocial hazards at work Code of Practice 2022](#).

When must control measures for sexual harassment or sex or gender-based harassment be reviewed?

As with other health and safety risks, PCBU's must review and modify or replace a control measure for managing sexual harassment and sex or gender-based harassment if it is not working effectively. Reviewing control measures should be done regularly and must be done:

- if a person reports sexual harassment or sex or gender-based harassment at work
- when the control measure does not control the risk so far as is reasonably practicable

- before a change at the workplace that is likely to give rise to a new or different risk that the control measure may not effectively control
- if a new hazard or risk is identified
- if the results of consultation indicate a review is necessary
- if a HSR requests a review because they reasonably believe one of the above has occurred and it has not already been adequately reviewed.

What is a prevention plan?

From March 2025, PCBUs must prepare a plan to manage identified risks to the health or safety of workers, or other persons, from sexual harassment and sex or gender-based harassment at work.

The obligation to prepare a prevention plan applies where a risk of sexual harassment or sex or gender-based harassment has been identified and control measures

are needed to eliminate or minimise the risk. If a risk of sexual harassment or sex or gender-based harassment has not been identified, for example, where the PCBU is a sole trader, a prevention plan is not required.

Further guidance and information on the preparation of a prevention plan will be provided prior to the commencement of this requirement. This will include provision of a prevention plan template.

Where can I get help?

The [Managing the risk of psychosocial hazards at work Code of Practice 2022](#) provides further information on relevant matters to consider when determining control measures for psychosocial hazards generally, such as training and policy implementation, and also provides guidance on how psychosocial hazards may interact to increase risks to the health and safety of workers.

Further resources published by Workplace Health and Safety Queensland are also available:

People at Work

Australia's only validated and evidence based psychosocial risk assessment survey tool with benchmarking that measures psychosocial hazards and factors.

Mental health resources

Contains resources to help keep your workers safe from mental health risks.

Injury Prevention and Management program

IPaM is a joint initiative delivered by WHSQ and WorkCover Queensland. It is a free program designed to help Queensland businesses develop and implement sustainable health, safety and injury management systems.

Further support

Workers impacted by sexual harassment and sex or gender-based harassment may wish to contact an organisation listed below for further information or support. In the event of emergency, call emergency services on 000 or attend your local hospital emergency department.

- [Queensland Mental Health Commission](#)
- [Lifeline Australia](#)—13 11 14
- [Mental Health access line](#)—1300 642 255: Available 24 hours a day, seven days a week, linking callers to the nearest public Queensland mental health service.
- [1800RESPECT](#)
- [Sexual Assault helpline 1800 010 120](#)
- [Queensland Health—sexual assault services](#)
- [Queensland Health—sexual health clinics](#)
- [Living Well](#)—support for men affected by sexual assault
- [OurWatch](#)—a national leader in the prevention of violence against women and their children
- [1300 MH CALL: Mental health access line](#)
- [Suicide Callback Service](#)
- [13 YARN](#)—to connect with an Aboriginal or Torres Strait Islander Crisis Supporter
- [Beyond Blue](#)
- [Workers' Psychological Support Service](#)—assists Queensland workers who have experienced a work-related psychological injury
- [Queensland Police Service](#) (non-urgent reporting)—131 444