

WORKERS' RIGHTS DISCRIMINATION AND SEXUAL HARASSMENT



You must be treated fairly when it comes to getting a job, in opportunities for training and promotion, in your working conditions and if you are dismissed. This applies whether you work as a full-time or part-time, casual, or on a fixed term contract.

Discrimination

There are federal and state laws about discrimination and equal opportunity, which make it unlawful to be treated unfairly on the basis of race, sex, sexual preference, age, intellectual or physical disability, family responsibilities, pregnancy, marital status, breastfeeding, political opinion, affiliation or activity, trade union activity, religion, irrelevant medical or criminal records, national extraction or social origin. You have the right to a workplace that is free from discrimination. Discrimination occurs when someone treats a person less favourably than another because of a particular characteristic such as those listed above.

Note that the different Acts have slightly different grounds for discrimination, so it is best to check to see which law best applies to your situation.

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You have rights

It is against the law to treat you unfairly because you complained or because you supported someone else who acted on those rights. If you have complained to your union, the Fair Work Ombudsman, the Equal Opportunity Commission (EOC), the Australian Human Rights Commission (AHRC) or anywhere else, then it is illegal for your employer to dismiss you, demote you, discriminate against you, or treat you badly because you complained.

Sexual Harassment

Sexual harassment is unwelcome attention of a sexual nature.

Behaviour such as touching you, telling smutty jokes in your presence, repeated questions about your personal life or sexual habits, demands for sexual favours or sending offensive pictures by e-mail may be considered sexual harassment. If this kind of behaviour offends you, or makes you feel nervous or humiliated, then you may be being sexually harassed. The behaviour doesn't have to be ongoing to be sexual harassment, it can be a one off incident.

Perpetrators of sexual harassment may consider their behaviour is just 'fun and games', but sexual harassment in the workplace is against the law whatever its degree of seriousness, whether it's the actions of a single individual or a group, or whether it's a boss or a co-worker. You have the right to be treated with respect and you do not have to put up with it. Regardless of where you work, your employer must make sure your workplace is free from sexual harassment.

What can I do?

There are a number of things you can do:

- If it is safe to do so, tell the harasser that you want the behaviour to stop. You can do this in writing but always seek advice before you send anything in writing.
- Talk to others at work, especially others who also may have been harassed. They may be able to support you.
- Complain to your boss or supervisor.
- Tell your harasser's superior if your boss or supervisor is the one harassing you.
- Check if your workplace has a policy for dealing with sexual harassment and/or a complaints procedure that you can follow.
- Keep a written record of what has happened.

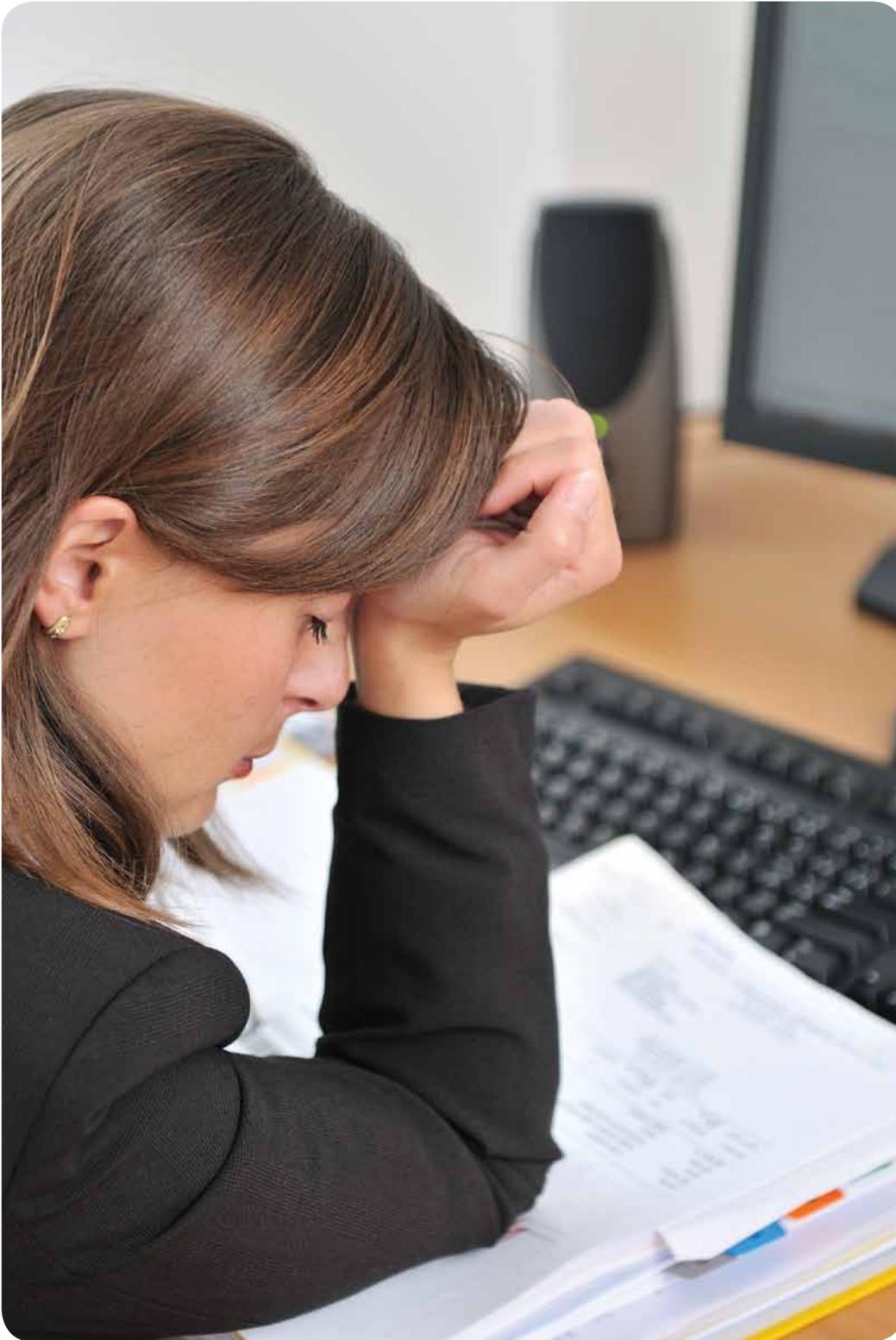
- Get advice and perhaps lodge a complaint. You may be able to claim for lost wages, medical expenses and hurt feelings. (See the Where to go for more help section of this fact sheet)

Whatever you choose to do, do it quickly. A time limit of 12 months applies to complaints under the Equal Opportunity Act 1984 or 12 months under federal legislation. Under the Fair Work Act 2009 you have up to six years to lodge a complaint with the Fair Work Ombudsman about discriminatory treatment at work (see the Fact Sheet on Adverse Action for more information).

Don't be discouraged by others who may not believe you or try to make you feel foolish for complaining. You don't have to resign to escape sexual harassment at work. If you do feel like resigning, get advice first.

What if my boss sacks me because I've complained?

If you are sacked because you made a complaint or because you helped someone make a complaint, that may be unlawful termination. You may be entitled to make a general protections claim under the Fair Work Act 2009, or to lodge a complaint under anti-discrimination legislation. Check the Fact Sheets on When your job ends and Adverse Action for more information.



Where can I get more help?

Your union

SA Unions
Ph: (08) 8279 2222
www.saunions.org.au

Working Women's Centre

Ph: 1800 652 697
www.wwc.org.au

1st Floor, Station Arcade
52 Hindley Street
Adelaide, SA, 5000

Legal Services Commission

Ph: 1300 366 424
www.lsc.sa.gov.au

82-98 Wakefield Street
Adelaide SA 5000

Young Workers Legal Service

Ph: (08) 8279 2233
www.ywls.org.au

Equal Opportunity Commission

Ph: 8207 1977

Australian Human Rights Commission

Ph: (02) 9284 9600
Complaints Infoline: 1300 656 419

Fair Work Ombudsman (FWO)

Ph: 13 13 94
www.fairwork.gov.au

Level 2, 148 Frome St.
Adelaide SA, 5000

Telephone Interpreter Service

Ph: 13 14 50

Legal disclaimer: The Fair Work Ombudsman (FWO) is committed to providing useful, reliable information to help you understand your rights and obligations under workplace laws. The information contained in this publication within the FWO's jurisdiction as set out in the Fair Work Act 2009 is: general in nature and may not deal with all aspects of the law that are relevant to your specific situation; and not legal advice. Therefore, you may wish to seek independent professional advice to ensure all the factors relevant to your circumstances have been properly considered. This information was published on 8 June 2011. The FWO does not accept legal liability arising from or connected to the accuracy, reliability, currency or completeness of this information. This material has been funded by the Australian Government through a Fair Work Ombudsman initiative to produce educative materials on the Fair Work Act.