

Respect At Work: Information pack

Securing safe and respectful workplaces for
NSW workers.

October 2023



In this pack you'll find

- Information about the *SafeWork NSW Respect At Work Strategy*
- What is workplace sexual harassment and which workers are impacted
- SafeWork NSW Tools and Resources
- Support and counselling services
- How to contact SafeWork NSW

Introduction: SafeWork NSW *Respect At Work Strategy*



In the past five years, 1 in 3 Australians have experienced sexual harassment at work.

Sexual harassment is an issue that can occur in every workplace, every industry sector, and at any level.

Workplace sexual harassment is a WHS hazard – and it’s preventable.

Under NSW work health and safety laws, businesses have a positive duty to manage psychosocial hazards, including sexual harassment.

The **Respect at Work Strategy 2023-2027** sets out how SafeWork NSW will support NSW businesses to prevent sexual harassment and take appropriate enforcement action to protect NSW workers.

The Strategy was developed in response to the Australian Human Rights Commission 2020 *Respect@Work* Report about the high rates of sexual harassment across Australian workplaces.

**Please share this pack with your stakeholders and members to help
create safer and respectful workplaces.**

Source and footnote: Australian Human Rights Commission 2022 survey <https://humanrights.gov.au/time-for-respect-2022>, Businesses refers to ‘persons conducting a business or undertaking (PCBUs)’ as defined under section 5 of the *NSW WHS Act*.

What is sexual harassment?

Sexual harassment is :

- **unwelcome conduct** of a sexual nature
- which makes a person feel **offended, humiliated and/or intimidated**, where a **reasonable person would** anticipate that reaction in the circumstances.

The most common forms of sexual harassment are:



Sexually suggestive
comments or jokes



Intrusive questions about
a person's private life or
physical appearance



**Inappropriate staring
or leering** that made
them feel intimidated



**Unwelcome
touching, hugging,
cornering or kissing**



**Inappropriate
physical contact**

Sources: section 28A of the *Sex Discrimination Act 1984 (Cth)*, Australian Human Rights Commission 2022 survey
<https://humanrights.gov.au/time-for-respect-2022>

Snapshot

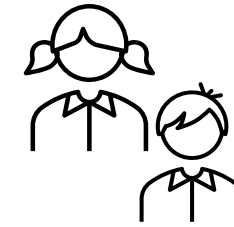
Australian workers impacted by sexual harassment in the last 5 years



41%
of women



26%
of men



46%
of people aged
18-29



56%
of Aboriginal
and Torres Strait
Islander people



46%
of those
who identify
as LGBTQIA+



48%
of those
with a
disability

Source: Australian Human Rights Commission 2022 survey <https://humanrights.gov.au/time-for-respect-2022>

Tools and resources

SafeWork NSW has developed tools and resources for workers and businesses in NSW to identify, respond, and report workplace sexual harassment.

- [Fact sheet on workplace sexual harassment](#)
- [Guide: Regulation Map for NSW Businesses](#)
- [Poster: A WHS Approach to Preventing Sexual Harassment](#)

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Workplace sexual harassment

1 in 3 Australians have experienced workplace sexual harassment in the past 5 years¹.

The impact can be significant for workers' mental and physical health, staff retention and business productivity.

Here's what you can do to provide a safer working environment.

What is workplace sexual harassment?

It's when sexual harassment happens at work and is:

- any unwelcome conduct of a sexual nature
- conduct that makes a person feel offended, humiliated or intimidated, where a reasonable person in the same circumstances would anticipate that reaction.

It doesn't matter if the conduct is intentional or not; it can be one-off or repeated and includes:

- unwelcome physical contact
- sexually suggestive comments or jokes
- sexual assault
- unwanted invitations to go out on dates.

What contributes to workplace sexual harassment?

There are often multiple and complex drivers of workplace sexual harassment.

Key drivers include gender inequality, poor work design (job demands and tasks), and lack of safe and confidential reporting options.

- Workers include employees, trainees, volunteers and contractors.
- A workplace includes your usual place of work, it can be offsite or on location, or where you conduct any work-related activities such as a work trip, conference or event, or a client's home.

1. Australian Human Rights Commission. Time for respect: 10th national workplace sexual harassment and harassment survey. 2020. Available at: <https://www.hrc.org.au/resources/publications-and-reports/time-for-respect>

SafeWork NSW

Last updated: September 2023

Regulation map for NSW Businesses: workplace sexual harassment

More information on what is workplace sexual harassment¹

This 4 page guide provides a general overview of the different legal obligations that NSW businesses must comply with in relation to workplace sexual harassment. It provides an overview of the agencies that regulate and respond to breaches of these obligations and their enforcement and compliance powers. Each of the legal frameworks is outlined below and distinct and the agencies operate independently. Compliance with one statutory obligation does not necessarily result in compliance with another obligation.

The guide contains general information only and does not set out all of the relevant laws at each agency's functions and activities. NSW businesses should seek independent legal advice to understand how the laws apply to their situation. SafeWork NSW has also developed a guide on Reporting Options for NSW Workers who have experienced workplace sexual harassment and a poster for NSW businesses on the steps they can take to prevent workplace sexual harassment.

	SafeWork NSW	Anti-Discrimination NSW	Australian Human Rights Commission	Fair Work Commission	Fair Work
Who they are	Safework is the Work Health and Safety (WHS) regulator for NSW and administers the Work Health and Safety Act 2011 (WHS Act).	Anti-Discrimination NSW (ADNSW) is the Anti-Discrimination Act 1977 (NSW) (ADA Act).	The Australian Human Rights Commission (AHRC) is Australia's national human rights institution and an independent federal statutory agency.	The Fair Work Commission (FWC) is Australia's national workplace relations tribunal established by the Fair Work Act 2009 (Cth) (FW Act).	The Fair Work Ombudsman (FWO) is the national workplace regulator established by the FW Act.
What they do	Could not provide details the current text in this law and relate with Safework provides advice to workers, business, industry workplaces and the general community about workplace sexual harassment. Safework also monitors compliance and takes appropriate enforcement action in respect to the WHS Act and Regulations. This includes responding to reports from workers or others in business in relation to possible breaches of these obligations.	ADNSW handles individual complaints of discrimination which includes sexual harassment. ADNSW responds to enquiries, investigates and resolves complaints and raises awareness about discrimination. This includes managing individual complaints from workers against others, including individuals and/or their employer.	The AHRC investigates and conciliates discrimination and human rights complaints, including complaints of sexual harassment under the Sex Discrimination Act 1984 (Cth) (SDA Act). This includes managing individual complaints from workers against others, including workers and/or their employer. The AHRC is also responsible for promoting and enforcing compliance with the positive duty in the SDA Act to eliminate workplace sexual harassment as far as possible. This includes advising businesses to support compliance. From November 2022, the AHRC will also have new powers to enforce compliance with the positive duty.	The FWC issues orders, approves enterprise agreements and helps resolve issues at work. This includes dealing with applications for orders to stop workplace sexual harassment and, where the alleged sexual harassment constituted an offence, making recommendations to the relevant state or territory law enforcement agencies.	The FWO is responsible for promoting and enforcing compliance with the FW Act – including the prohibition on workplace sexual harassment – by providing businesses and workers with advice, education and assistance on workplace sexual harassment. They monitor compliance with the FW Act, issue penalties for breaches of the FW Act and enforce certain orders made by the FWC.
Do businesses have a positive duty to prevent sexual harassment?	Yes. Businesses must eliminate risks to health and safety, including workplace sexual harassment, as far as reasonably practicable.	No. But sexual harassment is specifically prohibited under the ADA Act and businesses can take all reasonable steps to prevent sexual harassment from occurring.	Yes. Businesses must take reasonable and proportionate measures to eliminate workplace sexual harassment, as far as possible. Sexual harassment is prohibited under the SDA Act and businesses can take all reasonable steps to prevent sexual harassment from occurring.	No. Not from 8 March 2023 workplace sexual harassment is specifically prohibited and businesses can be held responsible for breaches if they have not taken all reasonable steps to prevent the sexual harassment from occurring.	No. Not from 8 March 2023 workplace sexual harassment is specifically prohibited and businesses can be held responsible for breaches if they have not taken all reasonable steps to prevent the sexual harassment from occurring.

1. For the purpose of this guidance, 'business' refers to employers and persons conducting a business or undertaking (PCBU) as defined under the Work Health Safety Act 2011 (NSW). PCBU is a broad term used throughout work health and safety legislation to describe all forms of modern working arrangements. More information about PCBU is available on the SafeWork NSW website. ²Workplace sexual harassment includes sexual harassment that occurs at or near work.

SafeWork NSW

A Work Health and Safety (WHS) approach to preventing workplace sexual harassment

Under Work Health and Safety (WHS) laws, businesses are required to protect their workers from health and safety risks.

Sexual harassment is a workplace sexual and harassment risk. A WHS approach to preventing workplace sexual harassment involves identifying, assessing and controlling the risk that sexual harassment will occur. This risk is a workplace sexual harassment risk. This risk is a workplace sexual harassment risk.

Let's Debunk Some Myths

Myth: Sexual harassment is a workplace sexual and harassment risk. Fact: Sexual harassment is a workplace sexual and harassment risk.

2. Sexual harassment is only reported internally.

Fact: Sexual harassment can be a workplace sexual and harassment risk.

3. Sexual harassment only involves physical contact.

Fact: Sexual harassment can include any form of unwelcome sexual conduct such as a verbal or written comment, repeated requests to go out on dates, repeated advances or more.

4. It's not responsible if there is an issue between my workers.

Fact: Sexual harassment is a workplace sexual and harassment risk. It is the responsibility of the employer to ensure that all workers are protected from workplace sexual harassment, regardless of whether there has been an incident between your workers.

Leadership & Culture

- Lead by example and demonstrate respectful behaviour.
- Ensure the work environment is respectful and inclusive.
- Provide regular information, training and support to workers on reporting and responding.
- Take consistent action to learn about and meet your WHS obligations.

Education & Consultation

- Have clear and regular engagement with workers on sexual harassment risks and workplace sexual harassment.
- Provide regular information, training and support to workers on reporting and responding.
- Develop policies and procedures on preventing workplace sexual harassment, including on reporting and responding.
- Ensure workers understand their rights and responsibilities as workers, employers, contractors and job seekers.

Workplace Design & Environment

- Identify and eliminate workplace sexual harassment risks, including those related to the design of the workplace.
- Ensure the workplace design is respectful and inclusive.
- Provide regular information, training and support to workers on reporting and responding.
- Take consistent action to learn about and meet your WHS obligations.

Safe Systems & Reporting

- Provide clear and confidential reporting and support systems.
- Ensure workers understand their rights and responsibilities as workers, employers, contractors and job seekers.
- Provide regular information, training and support to workers on reporting and responding.
- Take consistent action to learn about and meet your WHS obligations.

SafeWork NSW provides free advice and support to help businesses, industry and workers meet their WHS duties.

Tools and resources (continued)

- Guide: Reporting Options for NSW Workers
- Strategy: SafeWork NSW Respect at Work
- 45 sec video: WHS duties and sexual harassment






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NSW GOVERNMENT

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Reporting options for NSW workers: workplace sexual harassment

Information on what is workplace sexual harassment*
 This 4 page guide provides a general overview of the external reporting options to NSW workers who may have experienced sexual harassment, and the outcomes available through each government agency. If you are unable to report the issue to your workplace or are not satisfied with their response, you may want to consider these reporting options.
 The guide contains general information only and does not tell you all of the relevant laws or each agency's requirements. To understand which option may be most suitable for your circumstances, you may want to seek independent legal advice. You can call Law Access NSW on 1300 888 329 for further information and referrals to legal services.
 SafeWork NSW has also developed a Regulation Map for NSW Business setting out their legal obligations in relation to workplace sexual harassment.

	 SafeWork NSW	 Anti-Discrimination New South Wales	 Australian Human Rights Commission	 Fair Work Commission	 NSW Police Force
Who they are	SafeWork is the Work Health and Safety (WHS) regulator for NSW and administers the Work Health and Safety Act 2017 (NSW).	Anti-Discrimination New South Wales (ADNSW) is the New South Wales government body that administers the Anti-Discrimination Act 1997 (NSW).	The Australian Human Rights Commission (AHRC) is Australia's national human rights institution and an independent federal statutory agency.	The Fair Work Commission (FWC) is Australia's national workplace relations tribunal, established by the Fair Work Act 2009 (Cth).	The NSW Police Force are the primary law enforcement agency in NSW.
What they do	SafeWork provides advice to workers, businesses, industry, workplaces and the general community about workplace health and safety, which includes workplace sexual harassment. SafeWork can investigate whether a duty holder has breached their WHS duties, engage with the workplace to improve workplace health and safety, and prosecute breaches of WHS laws. SafeWork does not resolve individual disputes (e.g. via mediation).	ADNSW handles individual complaints of discrimination which include sexual harassment. ADNSW responds to inquiries, investigates and resolves complaints, and raises awareness about discrimination. This includes managing individual complaints from workers against others, including individuals and/or their employer.	The AHRC investigates and conciliates individual discrimination and human rights complaints including complaints of sexual harassment under the Sex Discrimination Act 1984 (Cth) (SDA Act). This includes managing individual complaints from workers against others in their workplace and/or their employer. The AHRC is also responsible for promoting and enforcing compliance with the general duty in the SDA Act to eliminate workplace sexual harassment as far as possible.	The FWC makes awards, approves enterprise agreements and hears resolve issues at work. This includes dealing with applications for orders to stop workplace sexual harassment and, where the alleged sexual harassment commenced on or after 6 March 2023, dealing with workplace sexual harassment disputes through its dispute resolution powers.	Police investigate criminal conduct under the Crimes Act 1900 (NSW) including sexual offences and personal violence offences. Some forms of sexual harassment may amount to criminal offences, or may be grounds for an Apprehended Violence Order (AVO) to be made for your protection.
How do I lodge my request?	You can lodge a request for service or incident report to SafeWork by: - Completing the Psychosocial Hazards Request for Service form - Making an workplace report via the Speak Up Safe Lines App - Email: complaints@safe-work.nsw.gov.au - Writing to SafeWork. - Visiting the SafeWork contact us website.	You can lodge a complaint in writing by: - Completing the ADNSW Online Form - Mailing the Form to Anti-Discrimination NSW - Lodging the form by email to complaints@adns.wa.gov.au If you are more comfortable writing your complaint in a language other than English, ADNSW can translate your complaint into English or vice versa.	You can lodge a complaint in writing by: - Completing the AHRC Online Form - Mailing the Form to the Australian Human Rights Commission - Emailing the form to complaints@humanrights.gov.au	You can lodge an application for sexual harassment that commenced prior to 6 March 2023 through Form 72A The sexual harassment that commenced on or after 6 March 2023 through Form 75	You can make a report to the police by calling or attending your local police station. There are often specialised departments that deal specifically with sexual offences. You can also make an online report using the Sexual Assault Reporting Option (SARO).

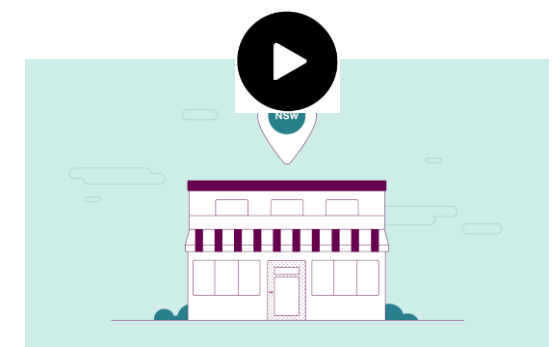
*Except for NSW mine or petroleum sites, which are regulated by the NSW Resources Regulator.
 *Workplace sexual harassment includes sexual harassment that occurs in connection with work.

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SafeWork NSW Respect at Work Strategy: preventing sexual harassment

October 2023 – October 2027

Share on social media



Show your support - 'follow', 'like' and 'share' the SafeWork socials to your own network:



www.facebook.com/NSWSafeWork/



www.linkedin.com/company/safework-nsw/

Remember to @mention us and use the hashtags:

#respectatwork

#safeworknsw

#workhealthsafety

Support and counselling services

If you have experienced or witnessed workplace sexual harassment, you can access support by contacting:

<u>1800 RESPECT</u>	1800 737 732
<u>Full Stop Australia</u>	1800 385 578
<u>Lifeline Australia</u>	13 11 14
<u>Beyond Blue</u>	1300 22 4636
<u>NSW Police</u>	contact the local police station nearest to where the incident occurred

More information

To contact the Respect at Work team, or for help in how to use these resources, reach out to us at:



nsw.gov.au/respect-at-work



respectatwork@safework.nsw.gov.au



Join the SafeWork NSW Respect at Work [mailing list](#)



Request an Advisory Visit with a SafeWork NSW inspector to understand how your workplace can prevent workplace sexual harassment

