












Fact Sheet #2 for Staff

# Discrimination and sexual harassment

## Sexual harassment

Sexual harassment is an unwelcome sexual advance, an unwelcome request for sexual favours or any other unwelcome conduct of a sexual nature. The intention is irrelevant to the definition. Sexual harassment may be a single incident or a series of incidents.

Examples of sexual harassment include:

-  sexual propositions or persistent requests for dates
-  unwelcome or improper remarks or insinuations about a person's sex life or private life
-  suggestive comments about a person's appearance or body
-  sexually explicit conversations
-  persistent unwelcome social invitations or telephone calls from a colleague at work or home
-  display or distribution of offensive messages or material either on hard copy or electronically
-  displaying sexually suggestive pictures or pornography, screen savers and internet sites
-  sexually explicit emails or SMS messages
-  pinching, stroking, touching in a sexual way, or brushing against a person.

### ***This Fact Sheet covers:***

- Sexual harassment
- Sex discrimination
- Pregnancy and breastfeeding
- Carer or parental status

Relationships based on mutual attraction or friendship do not constitute sexual harassment. If the interaction is consensual, welcome and reciprocated it is not sexual harassment. Behaviour that constitutes sexual harassment will not be tolerated under any circumstances.

### ***Example 1***

Melissa attends a conference with some male colleagues which involves an overnight stay. After the official conference proceedings are over, she has dinner and a few drinks with her colleagues. She is walking back to the accommodation with Mick, one of her colleagues, when he makes inappropriate sexual suggestions and an unwelcome sexual advance. She rejects his advances and is angry with his behaviour, to which Mick responds that he thought that a woman who had dinner and drinks with a group of male colleagues was asking for a bit of 'fun'. Upon returning to the workplace Melissa makes a complaint to her supervisor about Mick's behaviour, and he apologises and agrees to undertake some training on sexual harassment.

### **Example 2**

Damian is a young single male working in an otherwise all-female work area. On Monday mornings his colleagues make a point of asking about his weekend, and if he met anyone or 'got lucky'. Damian feels uncomfortable with these comments and seeks the advice of a Harassment and Discrimination Contact Officer. The Contact Officer suggests that Damian talk to his supervisor about running a training session about sexual harassment. The supervisor arranges for the Equity and Diversity Unit to run the training and the behaviour of his co-workers changes as they realise that their behaviour constituted sexual harassment.

### **Tip**

Be aware that even if you do not intend to offend the person by your actions or behaviour, if the behaviour is unwelcomed, it is sexual harassment.

### **What can you do?**

Sometimes someone's harassing behaviour may be unintentional, but the effect on the person being harassed can be quite profound. If you notice anyone being sexually harassed, speak up or report it to a supervisor or Contact Officer. Make sure that you are not participating in any harassing behaviour. If you witness behaviours that constitute sexual harassment you should report it to a supervisor or the Equity and Diversity Unit.

## **Discrimination**

Discrimination occurs if a person treats or proposes to treat a person with one of the attributes covered by the legislation unfavourably because of that attribute or personal characteristic. It is unlawful to discriminate against people on the basis of age, breastfeeding, carer status, employment activity, family responsibilities, disability, gender identity, industrial activity, marital status, parental status, physical features, political belief or activity, pregnancy, race, religious belief or activity, sex and sexual orientation.

## **Sex discrimination**

Sex discrimination is being treated unfairly because of your gender.

### **Example**

Hassan has considerable technical experience and has worked in commercial organisations for some time. He was encouraged to accept his current position which is at a lower level of pay than his previous position by being placed on a bonus system which will effectively increase his salary. Nadia also has considerable experience in her role and accepts a similar position to Hassan. She is pleased to have this job as she has been on maternity leave for some time and she is glad to be working for a family-friendly organisation.

Nadia is discussing her employment with Hassan who reveals that he is effectively on a higher pay level. They are both surprised at this disparity, as they have similar levels of experience. Nadia raises this with her supervisor, who says that she is not eligible for the bonus as she has access to family-friendly work provisions. Nadia points out that Hassan also has access to these, and states that she would like to receive the same pay for the same work. She makes a complaint to the Equity Opportunity Commission which agrees to investigate her case.



### **What can you do?**

If you see someone being treated unfairly on the basis of their sex, point this out if possible or report the behavior to a supervisor or seek advice from the Equity and Diversity Unit. It may be the case where a workplace policy results in unfair treatment, or where someone is unintentionally discriminating on the basis of gender.

## **Pregnancy and breastfeeding**

It is against the law to discriminate against a woman who is pregnant or might become pregnant or who is breastfeeding a child or expressing milk.

### **Example**

Lisa has returned to the workplace and needs to express milk for her child who has a place in the site's childcare centre. She goes to the breastfeeding room to express milk regularly. Her supervisor makes a point that she is falling behind in her work because she needs to leave her desk too often and asks if she can express milk during her lunch break. Lisa lodges a complaint with the Equity and Diversity Unit. The matter is resolved, after the supervisor is made aware that his behaviour may constitute discrimination. The supervisor apologises and looks for a suitable alternative arrangement to accommodate Lisa's needs. Lisa now feels supported.

### **What can you do?**

As a staff member returning from maternity leave, talk to your supervisor as early as possible about your needs and how these can best be met. If there are any job requirements that you will be unable to fulfil while breastfeeding you or your supervisor may be able to suggest alternative ways that these can be carried out.

More information on breastfeeding in the workplace is available on the Australian Breastfeeding Association's Breastfeeding Friendly Workplace website at [www.breastfeedingfriendly.com.au](http://www.breastfeedingfriendly.com.au)

## **Carer or parental status**

A carer is a person on whom another person is totally or substantially dependent for ongoing care and attention. This does not include paid care. Carers provide care and support to family members and friends with a disability, mental illness or disorder, chronic condition, terminal illness or who are frail. Care giving may occur occasionally, continuously, in the short-term or over the long-term.

Parent refers to biological parent, step-parent, adoptive parent, foster parent or guardian.



### **Example**

Voula applies for a position that involves a lot of travelling and overnight stays. She mentions in her interview that she has been on maternity leave for the last two years. She is not successful in gaining the position and one of her interviewers says that they didn't think that the position would suit someone with responsibility for a young family. Voula is very upset by this as she made it clear in the interview that she would be able to meet the requirement to stay away overnight. She lodges a complaint with the Victorian Equal Opportunity and Human Rights Commission.

### **What can you do?**

As a staff member with parental or carer responsibilities, you have a right to request flexible working arrangements with your workplace. Discuss these with your supervisor to determine what accommodations need to be made, if any.

### **Getting Help**

The University encourages all staff members to report discrimination and sexual harassment to the Equity and Diversity Unit.

If you think you have been discriminated against or witness discrimination, contact a Harassment and Discrimination Contact Officer. They can provide advice, support and information for people with discrimination and sexual harassment complaints. These are listed on the Equity and Diversity Unit's website ([www.deakin.edu.au/equity](http://www.deakin.edu.au/equity)).

It is against the law to victimise someone because they have made an allegation or formal complaint of discrimination or sexual harassment. People who believe they have been discriminated against, sexually harassed or victimised can contact the Victorian Equal Opportunity and Human Rights Commission.