












Fact Sheet #2 for Managers and Supervisors

Sexual harassment and discrimination

Sexual harassment

Sexual harassment: 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
- Gender Identity

Relationships based on mutual attraction or friendship does 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 men was asking for a bit of 'fun'. Upon returning to the workplace Melissa makes a complaint to her supervisor about Mick's behaviour. Mick 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 advice from 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.

What can you do?

As a supervisor, if you notice any situation which may constitute sexual harassment, speak to the staff members involved, and make sure that the behaviour stops. Don't just assume that it is a joke and that no one is bothered or upset by the behaviour.

Sometimes someone's harassing behaviour will 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 the Equity and Diversity Unit. They can provide advice on how to address and prevent these behaviours in the workplace.

What is 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 positions, but with improved working conditions, by being placed on a bonus system which will effectively increase his salary. Nadia also has considerable experience in her role and is accepted 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?

Examine any policies or workplace practices that you are responsible for to see if there could be any way in which these are discriminatory.

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.

As a supervisor, be aware that a woman returning to work from maternity leave may have special needs associated with breastfeeding. Discuss these with her, if possible before she returns to work, to determine what these needs are and how they can best be accommodated. Make it clear that you want to support her in her return to work and in continuing to breastfeed for as long as she wants to.

Example

Lisa has returned to work after taking maternity leave. Her nine month old son attends the on-site child care facility. While breastfeeding her child amongst a group of friends during lunch, she is asked by another staff member, if she could use the parenting room as other staff are finding it distracting. This is unlawful discrimination on the basis of breastfeeding. Lisa points out that she doesn't want to move and that she is legally entitled to feed her child in a public area.

What can you do?

Be proactive and do some research on how you can support your employees returning from work after having children. More information on breastfeeding in the workplace is available on the Australian Breastfeeding Association's Breastfeeding Friendly Workplace website at 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 supervisor of staff or students, be aware that some people will have parental and/or carer responsibilities for which they may require flexible work or study conditions. Discuss their requirements and work out what you can do to accommodate their needs.

You will also need to seriously consider any requests for flexible working arrangements made by staff with parental or carer responsibilities. Please discuss these requests with the Human Resources Services Division and the Equity and Diversity Unit, if you are considering not approving these arrangements.

For more information on how you can support staff with carer responsibilities, visit www.carersaustralia.com.au

Gender identity

Gender identity means self-identification as a person of a particular gender. A person may identify as a member of a particular gender by their style of dress, medical intervention or by other means, including a change of name. Medical intervention may include hormone therapy, counselling and sex reassignment surgery.

Example

Peter has been preparing to undergo gender reassignment. He currently works in a role that involves a lot of student contact. His supervisor suggests that until the treatment is finished, Peter be taken away from contact with students as he claims they may find the changes confusing, and may make Peter feel uncomfortable.

Peter is upset by this suggestion but does not feel confident to speak to his supervisor about the issue. He consults with staff from the Equity and Diversity Unit who, with Peter's consent, facilitate a meeting with Peter and his supervisor. The Equity and Diversity staff member outlines Peter's needs and his rights and provides his supervisor with assistance in a smooth transition for Peter and his work team.

What can you do?

As a colleague of someone who is undergoing gender reassignment, be supportive of their decision. Call them by their preferred name and refer to them by their preferred gender.

Getting Help

The University encourages managers and supervisors to contact the Equity and Diversity Unit to seek advice on any of the issues presented above.

The University has trained Harassment and Discrimination Contact Officers who can also provide advice, support and information for people with discrimination complaints. See www.deakin.edu.au/equity-diversity/contact-officers.php.

These, and further examples of discrimination are listed on the Equity and Diversity Unit's website. www.deakin.edu.au/equity-diversity/discrimination.php.

