

Sexual Harassment in the Workplace

Every person has the right to a workplace free of sexual harassment. Freedom from sexual harassment is a human right.

What is Sexual Harassment?

Sexual harassment is a form of discrimination.

Sexual harassment is any unwanted behaviour, comment, gesture or contact that is known, or ought to reasonably be known, to offend or humiliate. It is behaviour – either direct or indirect - that makes the targeted person feel uncomfortable.

“Lack of intent” is not a defence for sexual harassment. What matters is the effect of the behaviour on the person experiencing the harassment.



Sexual harassment happens to people of all genders, but it happens more often to women, and can happen to anyone, regardless of their role or job.

Sexual harassment in a workplace is not limited to co-workers. Harassment can also occur with contractors, consultants, and customers.

Sexual harassment is an abuse of power. It is often used to control or intimidate someone.

Examples of Sexual Harassment include:

- unwanted touching;
- sexist jokes;
- unwanted remarks and/or jokes about sex, sexuality, gender identity or gender expression;
- showing or sending pornography, sexual pictures or cartoons;
- comments about someone's appearance;
- sexual advances (including repeated, unwanted invitations for dinner, drinks, or dates);
- questions or comments on a person's sex life or relationships;
- staring or sexually suggestive looks;
- bragging about sexual activities or attributes; and
- any behaviour which could reasonably be seen as placing a condition of a sexual nature on the terms of a person's employment, including hiring, firing, scheduling and providing opportunities for training or promotion.

Some forms of sexual harassment can also be a criminal offence. It is a crime if the harassment involves attempted or actual physical assault, including sexual assault or threats of sexual assault. Stalking can also be a crime.

In such cases, you should contact your local police service. You may also contact PEI Victim Services at: **(902) 368-4582** (Charlottetown) or **(902) 888-8218** (Summerside).

Human Rights: Everyone's Responsibility

The Commission develops Fact Sheets to provide the public with a basic understanding of issues arising under the *Human Rights Act*. Each situation is unique. This is not legal advice. If you have any questions, feel free to contact the Commission.

Responsibilities of Employers

Employers are required to:

- provide a safe work environment for staff and customers that is free from harassment;
- take steps to prevent sexual harassment (this may include providing training on sexual harassment and allowing time for employees to take the training);
- have a written Sexual Harassment Policy that explains how to report harassment and who to complain to;
- share the information in the Sexual Harassment Policy with all staff;
- take reports of harassment seriously;
- investigate any complaints quickly and confidentially;
- take necessary action to discipline harassers and ensure a safe and respectful workplace culture; and
- support anyone who is being harassed and make sure there is no retaliation against the person who complained.

A person may not object to the harassment when it first happens. The person being harassed may be in a vulnerable situation or afraid to speak out due to a power imbalance. Someone worried about retaliation if they make a complaint may go along with the unwelcome actions. Sexual harassment is discrimination, and an employer may be held responsible for the actions of their employees or customers.

Responsibilities of Employees

Employees who witness co-workers being sexually harassed should:

- ask the co-worker if the behaviour is unwanted, and offer support;
- tell the harasser that the behaviour is unwanted, if it is safe to do so;
- report the harassment to the person specified in the Sexual Harassment Policy, or to another supervisor if the first person does not investigate;
- write down what you witness about the harassment and about the responses after the complaint (who, what, when, where, names of witnesses);
- take part in any investigation of the complaint; and/or
- contact the union for help if the workplace is unionized.

The Human Rights Commission accepts inquiries from employees and employers about their rights and responsibilities and provides free training on human rights issues.

- You can make a complaint of sexual harassment to the PEI Human Rights Commission.
- **Human rights complaints must be made within one year from the date of the alleged sexual harassment.**
- Human rights complaints can be made at the same time as internal or union complaints and investigations.

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