



## MCA INDUSTRY TOOLKIT

*The minerals industry is committed to eliminating sexual harassment in its workplaces and has adopted a national Industry Code that provides clear expectations on members to establish both preventative and response measures to address sexual harassment.*

*This document is part of the MCA Industry Toolkit that has been developed for our members and their employees and comprises a suite of Fact Sheets, Guidance and Templates.*

## FACT SHEET

# What is sexual harassment?

Sexual harassment can take various forms. It can be directed at one person or be prevalent throughout a workplace that makes the environment you are working in uncomfortable or threatening.

Sexual harassment is not always obvious, repeated or continuous. Sexual harassment can be a one-off incident, differing to bullying, which is characterised by repeated behaviour.

Sexual harassment can also be a behaviour that while not directed at a particular person, affects someone who is exposed to it or witnesses it (such as overhearing a conversation or seeing sexually explicit posters in the workplace).<sup>1</sup>

Sexual harassment can happen during working hours, at work-related activities such as training courses, conferences, trips and work-related social activities.

Sexual harassment might come from other workers, a supervisor or manager or customers or clients.

While the MCA Respect@Work Industry Toolkit is focused on sexual harassment and similar conduct that occurs at a workplace or during work-related activities, MCA members should also be aware that safety and other risks may arise from inappropriate conduct of a sexual nature that occurs outside of the workplace (such as potential criminal conduct) and such conduct will also need to be proactively managed.

## The legal definition

The Sex Discrimination Act 1984 (Cth) (Sex Discrimination Act) defines sexual harassment as:

- an unwelcome sexual advance to the person harassed;
- an unwelcome request for sexual favours to the person harassed; or
- other unwelcome conduct of a sexual nature in relation to the person harassed,

in circumstances where a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

The Sex Discrimination Act makes sexual harassment **unlawful** in certain areas of public life, including employment. Similar protections also exist under State and Territory anti-discrimination laws (with some minor differences in the definitions of sexual harassment).

<sup>1</sup> Safe Work Australia Guide: <https://www.safeworkaustralia.gov.au/topic/workplace-sexual-harassment>

# Examples of workplace sexual harassment

## Verbal forms of sexual harassment

- such as sexually suggestive comments or jokes
- intrusive questions about private life or physical appearance
- using suggestive or sexualised nicknames for co-workers
- insults or taunts based on sex

## Visual forms of sexual harassment

- sexually explicit pictures, posters or gifts
- inappropriate staring or leering
- sexual gestures
- indecent exposure

## Physical forms of sexual harassment

- inappropriate contact
- unnecessary familiarity, such as deliberately brushing up against a person
- unwelcome touching, hugging, cornering or kissing
- actual or attempted rape or sexual assault

## Technology based forms of sexual harassment

- sexually explicit emails, SMS or social media
- indecent phone calls
- repeated or inappropriate advances online
- sharing or threatening to share intimate images or film without consent

## Intimidating or threatening behaviours such as or

- repeated invitations to go on dates
- requests or pressure for sex
- being followed, watched or someone loitering nearby

Holding work events in strip clubs or having similar performers/entertainers at work events (such as strippers and topless waitresses/waiters) may also form the basis of a claim of sexual harassment in some circumstances, as well as normalising behavior which may encourage other instances of sexual harassment.

Sexual harassment can also be a form of gendered violence. Safe Work Australia defines gendered violence as any behaviour directed at any person or that affects a person because of their sex, gender or sexual orientation, or because they do not adhere to socially prescribed gender roles, that creates a risk to health and safety. This includes violence targeted at someone because they identify as lesbian, gay, bisexual, transgender, intersex, queer or asexual (LGBTIQA+). The Safe Work Australia Guide: [Preventing workplace violence and aggression](#) provides information on preventing and responding to workplace violence and aggression, including gendered violence<sup>2</sup>.

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<sup>2</sup> Safe Work Australia Guide: [Preventing workplace violence and aggression](#)