



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).¹

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).

¹ 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 violence².

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