

PRACTICAL GUIDE

A COMMON-SENSE APPROACH
TO DEALING WITH SEXUAL
HARASSMENT IN THE WORKPLACE



An incredibly pragmatic & practical guide to manage sexual harassment in the workplace.



A COMMON-SENSE APPROACH TO DEALING WITH SEXUAL HARASSMENT IN THE WORKPLACE

INTRODUCTION

The year is 2020 and as we reflect on that date, surely we've moved on considerably in many work practices since 1984 when the original laws to prevent sexual harassment were introduced.

Yet, despite that very reasonable assumption, our media is awash with the issue. From the High Court of Australia to big companies to our frontline public servants, the list goes on. Statistics show almost two in five women (39%) and just over one in four men (26%) have experienced sexual harassment in their workplace in the past five years.

#MeToo may have felt like an injection of urgency and momentum in 2017, but in reality our progress in eliminating sexual harassment remains too slow. After all, without putting too fine a point on it, how hard can it be to understand that people just want to turn up and do their best in a harassment-free workplace. The impact of not achieving that is huge on the victims, and frankly at mwah. we'd rather see people thrive than just survive. We need to move forward.

***It's simply time we put a stop to sexual harassment.
No one should come to work and be harassed.***

So, in the interest of moving this forward, we put together this straight-forward but pretty comprehensive guide to support you personally in playing a bigger role in stamping out sexual harassment.

It is simple and waffle free, to help support you to increase your awareness, increase your confidence and capabilities in leaning into this topic, and finally, to help eliminate sexual harassment in all our workplaces.

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PART 1: THE BASELINES

What is sexual harassment?

Sexual harassment is defined as any unwanted or unwelcome sexual behaviour which makes a person feel offended, humiliated or intimidated. Sexual harassment is something that should never be taken lightly. It is serious and it has a serious impact on everyone involved.

At mwah. we recommend zero tolerance towards sexual harassment as a baseline for ensuring a safe and inclusive workplace.

In Australia, the Sex Discrimination Act 1984 (Cth) makes sexual harassment unlawful. Examples of behaviours which constitute sexual harassment include:

- Sexually suggestive comments, innuendo or jokes
- Intrusive questions about someone's private life or physical appearance
- Inappropriate staring and leering
- Unwelcome hugging, kissing, patting or groping
- Sexually explicit text messages, images, phone calls or emails
- Indecent exposure
- Sexual assault

In some instances (including indecent exposure and sexual assault), sexual harassment that occurs in the workplace can also be considered a criminal matter. These issues should be referred to the police (with notice given to the person who the complaint is being made against).

PART 1: THE BASELINES

What is not sexual harassment?

There is a clear line between what is sexual harassment and what is not.

To help navigate this line, we suggest you approach your behaviours, interactions and relationships at work with a basic mindset of being fair, reasonable and inclusive; being mindful of the impact of your actions; and open to feedback from others in case their perception of your behaviour is not aligned to your intent.

The same logic applies to romantic relationships that begin at work. As long as your behaviour and interactions come from a place of mutual consent and attraction, and the people involved in the relationship are genuinely comfortable, then there should be no issues with sexual harassment.

Other behaviours which are generally not considered sexual harassment include:

- Genuine friendship
- A hug between friends
- Mutual flirtation
- Compliments on physical appearance between friends

PART 2: SOME MORE FACTORS TO CONSIDER

Once you have the basics, understanding sexual harassment – where it comes from, why it happens, and how best to deal with it – also needs to consider other factors.

These include power, confidence, previous experience, everyday sexism, and language. In this section, we've endeavoured to give you thought starters on each of these factors.

Power

Power is often a factor when it comes to sexual harassment. It frequently (although not always) involves misuse of power or trust, and is often directed to someone with less power who cannot stop the behaviour easily.

If you are the one experiencing it and it's being inflicted by someone you report to or who is above you in the organisational hierarchy, you can feel powerless.

If that person also has the power to hire, fire, or impact on opportunities, development or promotions, then is it any wonder that the impacted person is less willing to stand up or speak out.

But power isn't only positional or hierarchical. It can be based on tenure, if a person is more entrenched in the organisation. It can be based on the power of a role to impact on access to information or important stakeholders. Some people even have a natural ability to convey a sense of power in an inappropriate way irrespective of their position. This can be via physicality, safety, interrupting feelings of security, or impacting reputation. All these aspects of power can also make your life pretty miserable when used inappropriately.

For many, the initial experience of sexual harassment can be early in a career and where the individual is still trying to gain a foothold from which to access opportunities, development, or career roles.

Often this means the newer or more junior person has no established support networks, are unfamiliar with the processes and systems in the organisation, and can be overwhelmed by the situation. Imagine those first few days or weeks when your new job felt like a dream come true – you were working alongside powerful, influential people with the greatest possibilities at your feet? To then find out that the environment wasn't quite what you expected, and to be harassed, must feel overwhelming.

PART 2: SOME MORE FACTORS TO CONSIDER

Power

We often hear the comment 'I thought no-one would believe me as he/she/they are the (insert high level role here)'. Inappropriate behaviour occurs at all levels in an organisation, a position title doesn't negate behaviour, nor does it excuse it. As individuals we are all responsible for the way we treat each other, and often more senior leaders can set the expectations and provide the role modelling for everyone else.

If you are in a position of power – use it wisely and to enable a positive culture where sexual harassment cannot thrive.

Confidence

It is well worth considering where a person being impacted by sexual harassment has had their confidence knocked along the way, and whether that is impacting their ability to speak up and play a role in stopping inappropriate behaviour.

Depending on the nature of behaviours experienced, there may have been consistent undermining of how the person does their work. Simple things like were there are exclusions such as not being invited to coffee or other social events with the rest of the team, inside or sexist jokes, or changing work expectations and deadlines. These subtle behaviours all create doubts in the person experiencing them that over time diminish confidence and self-assurance.

When you lose confidence in yourself, you are unlikely to call out the behaviour.

PART 2: SOME MORE FACTORS TO CONSIDER

Previous experience

As people, we learn based on previous experience – the saucepan is hot, we've burnt ourselves once and we learn not to touch it again.

The same can apply when we experience or witness inappropriate behaviour. If we told someone and nothing happened, if we tried to get it stop or intervene yet it continued - this all makes you feel cautious to try again.

As you address a culture where nothing has happened to complaints or issues in the past, it is super important to create new expectations. Address why nothing happened last time, and why things are changing this time. As an individual, if you intend to stay in a workplace, then eliminating harassing behaviour is important.

**Don't give up, this time it could be different
– try again.**

Everyday Sexism

In some workplaces, sexism is alive and well with many experiencing inappropriate or out-of-date comments daily. Often people are not realising they are even saying sexist comments - unconscious bias making an appearance or someone engaging their mouth without thinking first. Ways of speaking become part of the culture, and seem accepted until someone with new eyes (and ears) joins the team. Everyday sexism is often the foundation on which sexual harassment is built. As such, it needs to be addressed.

***When it comes to everyday sexism, you don't
need to walk on eggshells.***

Most often, we use terms and language daily that we think is acceptable. You are not necessarily a bad person for using terms and language like that outlined below, but you might need to update your approach, and think more contemporarily about the language you use and how it might be perceived. You simply need to check your language and approach and think it through so that it helps create a great workplace where everyone can thrive and not one where people doubt your good intent.

Unsure what language to use? Check out our frequently heard terms and language below and learn how you can respond without making it worse.

PART 2: SOME MORE FACTORS TO CONSIDER

Totally unacceptable language for 2020

To cut to the chase, we've compiled a list of language that we think should be left in the past. In 2020, it is totally inappropriate to talk this way. It's time to move on and stop saying these things.

- "Bend over and pick that up. Your bottom looks great when you are in that position"
- "I'd give you one....."
- "Your breasts are looking great today."
- "You obviously got some on the weekend."
- "You're a good looking girl. When are you going to get a boyfriend/married/have kids?"
- "I'm not sure why you'd want to do this work. It's not really work for women".
- "I love having a young good looking guy on my team. I've wanted that for ages".

All these examples are real and collected from cases we've dealt with recently. In each case they led to someone looking, at best, out of date, and ill-intended.

Everyday expression of everyday sexism needs to be left behind if you want to build a great culture where everyone feels comfortable and able to thrive



PART 2: SOME MORE FACTORS TO CONSIDER

Language you can respond to and help make a change

There is a way to address just plain old-fashioned language and move people forward. We've noted some examples below, so you can start addressing the underlying language of sexism, and help shift people's minds to a 2020 place.

IT SOUNDS LIKE	WAYS TO RESPOND	
	Now	Later
<p>"You sound a lot like my wife"</p>	<p>TIP: Everyone has unconscious bias and it can play out negatively in the workplace if you don't slow down your thinking to avoid gender stereotypes.</p> <p>"Classic sexism, right there."</p> <p>"Unless you meant that as a compliment, it's just not ok to say that."</p> <p>"I know you meant that as a joke, but that actually comes across as quite sexist."</p> <p>"You know, jokes like that promote stereotypes. They're not appropriate."</p>	<p>"I wanted to talk to you about something I heard you say earlier. I'm sure you meant it as a joke, but it's actually just rude. Jokes like that promote stereotypes. Let's just treat colleagues with respect."</p> <p>"I think you meant it as a joke, but it can sound really awkward and odd. Can we not refer to me as 'like your wife', whatever it meant."</p> <p>"I'm sure you meant it as a joke, but it puts people in an odd position, and no one knows what to say. Don't want to insult your wife, but I'm not sure what you're trying to say."</p>



PART 2: SOME MORE FACTORS TO CONSIDER

Language you can respond to and help make a change

IT SOUNDS LIKE	WAYS TO RESPOND	
	Now	Later
<p>“You’re working full time – won’t that affect your kids?”</p>	<p>FACT: Research shows that children benefit economically, educationally and socially when both their parents work.</p> <p>“Umm. Thanks. We’ve spent a lot of time working out what’s right for us and our children. I think we’ve got it just right for us”.</p> <p>“When did you last ask a man that question?” “The same way people have managed throughout history.”</p> <p>“You probably don’t mean it, but that sounds pretty judgy.”</p> <p>“That’s quite a sexist question. It’s the 21st Century, so we all make it work.”</p>	<p>TIP: This is the opportunity to acknowledge or call out different parenting approaches.</p> <p>“I just wanted to talk to you about what you said earlier. Asking a question like that is pretty sexist. Looking after children isn’t only a woman’s responsibility. It’s just not ok to say things like that.”</p> <p>“Looking after children isn’t a woman’s only responsibility or choice. I’m just working to get all the moving parts working well for my family”.</p> <p>“It was such an awkward question – When did you last ask that question of a man?”</p>



PART 2: SOME MORE FACTORS TO CONSIDER

Language you can respond to and help make a change

IT SOUNDS LIKE	WAYS TO RESPOND	
	Now	Later
<p>“Can you organise the morning tea?”</p>	<p>TIP: Pay attention to who is organising morning teas (and cleaning up afterwards) in your work area. If you see a problem, change things up.</p> <p>“That’s not just a woman’s job, you know? Let’s give a guy a turn.”</p> <p>“I’m happy to this time. But can we chat about rotating it woman/man, though? Would be pretty good role modelling.”</p> <p>“I did that last time. Maybe someone else could do it this time?”</p>	<p>“I just wanted to raise with you, that it seems like it’s always women organising the morning teas here.</p> <p>It’s probably not an intentional thing, but it’s a pretty bad look.</p> <p>Can we rotate it in the future?”</p>



PART 2: SOME MORE FACTORS TO CONSIDER

Language you can respond to and help make a change

IT SOUNDS LIKE	WAYS TO RESPOND	
	Now	Later
<p>“Such a ball breaker/bossy”</p>	<p>FACT: Research shows that when a woman shows assertive traits in the workplace, such as by confidently pursuing goals, her colleagues will label her as abrasive or bossy. It is important we all update our thinking and respect assertiveness as a trait that is acceptable for everyone to display.</p> <p>“It’s a classic double-bind. If she’s confident, she’s a ballbreaker, and she’s not confident, she’s not ready to lead. How do we get this one right?”</p> <p>(The ‘double-bind’ question also works later. It’s asking a person to coach you through the balance, and in doing so, realise that it’s a silly comment and out of date. Confidence is pretty critical for everyone.)</p> <p>“No, mate, actually she’s outstanding.”</p> <p>“That’s classic unconscious bias – a woman is a ball breaker, but a man is a leader.”</p> <p>“That’s 1970s sort of language. What you actually mean to say is – she’s awesome and gets stuff done.”</p>	<p>The ‘double-bind’ question also works later. Its asking a person to coach you through the balance, and in doing so, realise that it’s a silly comment and out of date. Confidence is pretty critical for everyone.</p> <p>“I just wanted to talk to you about what you said earlier. That sort of comment is pretty sexist. It’s just not ok to say that.”</p> <p>“I really think we’re better than this comment. “Ballbreaker” is so old-fashioned and not OK. I really want us to lift into a better way to talk about confidence and about gender”.</p>



PART 2: SOME MORE FACTORS TO CONSIDER

Language you can respond to and help make a change

IT SOUNDS LIKE	WAYS TO RESPOND	
	Now	Later
<p>"If I were 20 years younger..."</p>	<p>"If you were 20 years younger, you'd still be being inappropriate."</p> <p>"Comments like that are just not ok. You can't talk about colleagues like that."</p> <p>"That's pretty close to sexual harassment, mate. Just stop."</p> <p>"AMA - Awkward Moment Alert".</p> <p>"Super uncomfortable right now. Not sure why."</p> <p>Or direct – Diffuse but hold power - "Inappropriate. Really!?"</p>	<p>"I flagged it as inappropriate but didn't want to embarrass you or make it worse. That sort of comment is just not OK. You're talking about colleagues."</p> <p>If you've flagged it, have a practice with a friend before you go back and address later, or discuss with your boss.</p> <p>"I just wanted to talk to you about what you said earlier. It's really inappropriate to say things like that about colleagues. It made me feel uncomfortable, and it would be pretty close to sexual harassment if they heard you say it. Better not to say things like that in the future."</p>



PART 2: SOME MORE FACTORS TO CONSIDER

Language you can respond to and help make a change

IT SOUNDS LIKE	WAYS TO RESPOND	
	Now	Later
<p>“Good afternoon” (to a flexible worker)</p>	<p>“I know you mean that as a joke, but it comes across as quite judgmental.”</p> <p>“What do you mean by that?”</p> <p>“I work 0930 to 1730. What hours do you work?”</p> <p>“That’s pretty unhelpful. We’re all doing our hours.”</p> <p>“Eek, awkward old-fashioned moment”</p> <p>“It’s not the 1970s, work is changing my fearless friend”.</p> <p>“Are we having an ‘hours off’ like 1990? Woah!”</p>	<p>“I know you meant that as a joke, but it came across as pretty old-fashioned”</p> <p>“I know you meant that as a joke, but it was awkward. You can do better. Work has changed”.</p>



PART 2: SOME MORE FACTORS TO CONSIDER

Language you can respond to and help make a change

IT SOUNDS LIKE	WAYS TO RESPOND	
	Now	Later
<p>Being ignored or talked over e.g.</p> <p>“The suggestion I have is ABC” (Then a colleague interrupts with “The idea I have is ABC”).</p>	<p>“I think that is the point _____ was making, wasn’t it, _____?” which invites the person back into the conversation with their idea in their voice again. But doesn’t shut the person who restated down so harshly that they have another negative response.</p> <p>“Sorry, Jess hadn’t finished what she was saying.”</p>	<p>“Hey, I just wanted to let you know – at the meeting this morning you cut Jess off while she was talking. You probably didn’t even think about it at the time, but it’s not a good look. You might want to be more mindful in future – everyone should have a chance to speak without being interrupted.”</p> <p>This is about respect and hearing every voice. “I wasn’t sure in the meeting that you heard _____, and she is often not heard, so I wanted to make sure it was on the table that they had made a great point”.</p>



PART 2: SOME MORE FACTORS TO CONSIDER

Language you can respond to and help make a change

IT SOUNDS LIKE	WAYS TO RESPOND	
	Now	Later
<p>“They only got the promotion because they are a girl”</p>	<p>“maybe it was her qualifications, her experience, her achievement/performance or her leadership capability. I’m not sure where ‘being a woman’ was on the criterion”</p> <p>“You know she’s outstanding, right?”</p> <p>“No, she got her promotion through a merit-based selection process.”</p> <p>“Someone could be really hurt by a comment like that.”</p> <p>“I’d hate to think someone might say that about me if I got a promotion.”</p>	<p>“I just wanted to talk to you about what you said earlier. That sort of comment comes across as being pretty sexist. I’d be really hurt if someone said something like that about me. Recruitment processes are merit-based. She got her promotion because she was better than the other applicants.”</p>



PART 2: SOME MORE FACTORS TO CONSIDER

Language you can respond to and help make a change

IT SOUNDS LIKE	WAYS TO RESPOND	
	Now	Later
<p>“Stop acting like a girl”</p>	<p>FACT: Language reflects and reinforces social norms. Using ungendered language is an important part of solving sexism.</p> <p>“I am a girl.”</p> <p>“What does that mean?” (diffusing without aggression)</p> <p>“Are talking like that viral video – ‘Run Like a Girl’ or the ‘Code like a girl’ program? Both are awesome!”</p> <ol style="list-style-type: none"> 1. “That phrase actually doesn’t mean anything. It’s just sexist and unhelpful.” 2. “It’s the 21st Century. Can we just stop using that phrase now?” 3. “Let’s just cut that phrase from the office dictionary. Goodbye gender stereotypes.” 	<p>“I just wanted to talk to you about what you said earlier.</p> <p>I realise you probably didn’t even think about it, but a comment like “stop acting like a girl” is actually pretty sexist because it promotes stereotypes.</p> <p>It’s better to avoid using phrases like that.”</p> <p>Change “it’s not a huge deal”, to “It mightn’t seem like a huge deal, but something a colleague said earlier today made me uncomfortable and I just thought ‘we’re better than that’, so I’m raising it”.</p>



PART 2: SOME MORE FACTORS TO CONSIDER

Note:

When you respond to someone and use one of the possible responses above, you do need to consider the context of the situation you are in, the positional power of the person saying it, and also your level of confidence in responding.

While you might want to respond immediately upon hearing it, there is nothing wrong with taking a moment to consider your response. Finding your confidence and a space to raise a different way of thinking is perfectly acceptable, and avoids you blurting out a response that will see you on the defensive.

Humour can also work, but only if you're confident with. You want to be clear, constructive and helpful, not appear rude or sarcastic in your approach. And keeping in mind that some situations just aren't funny, and sincerity is a faster route to the heart of the issue.

These are just suggestions. The bottom line is to take the approach that works best for you.



PART 2: SOME MORE FACTORS TO CONSIDER

Common Responses

There are also some common responses that you will hear in response to your words if you're interrupting everyday sexism. Here's some ideas on how to address these too:

WHAT YOU MIGHT HEAR	RESPOND NOW
<p>"This is PC gone mad"</p>	<p>"There have been a lot of changes to what's expected in the workplace and what's accepted in society. This really matters to people. Insensitive or careless comments can be hurtful, kill confidence and harm productivity. These days it's just not on and we need to learn to adapt."</p> <p>Language is important.</p> <p>"Language is important and it's such a small ask – to change a few words to make sure everyone feel included".</p>
<p>"But it's just a joke. People shouldn't be..."</p>	<p>"Certain comments might seem unimportant to you, but to other people they can be hurtful. Ultimately, we all want a workplace where everyone is happy to come every day. And if that means being a bit more thoughtful about what we say, that's not such a big sacrifice. If you want to talk more about this, let me know."</p>



PART 2: SOME MORE FACTORS TO CONSIDER

Common Responses

There are also some common responses that you will hear in response to your words if you're interrupting everyday sexism. Here's some ideas on how to address these too:

WHAT YOU MIGHT HEAR	RESPOND NOW
<p>But you're just taking it the wrong way. I didn't mean anything by it"</p>	<p>"Good to know. But how comments are perceived by others is really important. Now that you know it's not on, let's move on."</p> <p>"You might not have meant anything by it, but it's the way that comments are perceived that matters."</p> <p>"It might not seem like a big deal, but it's a small ask to behave in a way that makes everyone feel included."</p>

Further support and resources regarding sexism:

The Everyday Sexism project seeks to catalogue instances of sexism experienced by women on a day to day basis through personal storytelling: <https://everydaysexism.com/country/au>
<https://www.youtube.com/watch?v=IshrD4mjnNU>

The Male Champions of Change coalition report called "We Set The Tone: Eliminating Everyday Sexism aims to identify what everyday sexism looks like and what impact it has on employees, on career advancement and productivity.
<https://malechampionsofchange.com/reports-and-resources/>

PART 3: EMPLOYER RESPONSIBILITIES

As an employer, you have a legal obligation to maintain a safe workplace.

Establishing good practice to protect your employees from sexual harassment – and immediately addressing any instances reported to you – is part of that obligation.

Good practice is clear. It means that you:

- Ensure that all employees know what sexual harassment is and that it is not acceptable. This should be addressed at induction and followed up again regularly (no less than annually) throughout a person's employment.
- Respond to and resolve any complaints that are made in a timely fashion, whilst ensuring all employees are in a safe and harassment-free workplace as you do.
- Take appropriate action against any person/s found to be sexually harassing others.

Best practice is also giving people an alternate avenue where they feel they can raise issues confidentially and safely.

Note:

Liability - legally you have a responsibility and could be liable as either an employer or as an individual:

Personal liability – individuals can be held personally and financially accountable for acts of Discrimination or Harassment either committed directly by them personally, or as witness to acts that they have failed to respond to.

Vicarious liability – that employers can be held legally responsible for any acts of discrimination or harassment that occur in the workplace (or in connection with a person's employment).

PART 3: EMPLOYER RESPONSIBILITIES

Your role as a leader

As a leader, it is important that you grasp the importance of the following key points about sexual harassment:

- The impact on the individual can be devastating and can last months or even years after the event.
- Sexual harassment is rarely an isolated incident; rather, it is almost always a pattern of behaviour.
- It is your legal and moral responsibility to protect your team from sexual harassment.

As a leader, it is your role to role model great behaviour and to ensure a safe workplace for the team. Practically, this is done by having a great culture where everyone understands the behavioural expectations, and are supported by great, simple practices (for example, practices around complaints, recruitment, and performance) to keep everyone aligned and your intentions transparent and visible to every person.

In addition to creating a safe and respectful culture and practices, there is a range of approaches that you can use to create a safe team/workplace environment where it is clear that sexual harassment will not be tolerated. We would recommend three simple strategies.

• **Setting clear, consistent expectations**

Expectations need to be clear for all employees. They need to be consistent, irrespective of the part of the business the person works within or the job they do (e.g. the rules for the sales team need to be the same as the IT team).

You can get this right from the start by only recruiting people into your business who are aligned with your culture and demonstrate great behaviours around respect and inclusivity. You can then cement this approach into the mindset of each employee and in your culture by being clear about expectations from day one (through your onboarding program) and ensuring these expectations are integrated into the way people work across the business throughout their whole experience (including development, promotion, performance, and reward).

And, of course, you need to be the role model.

PART 3: EMPLOYER RESPONSIBILITIES

Your role as a leader

• Education

In some cases of sexual harassment, it is not the intention of a 'harasser' to make the other person feel uncomfortable or unsafe. A lack of understanding of sexual harassment and what it looks like and how it impacts people, coupled with a lack of consciousness around a person's own actions, can sometimes be the basis for the bad behaviour. It is critical that leaders (and businesses) invest in educating employees about sexual harassment. This education needs to go beyond 'ticking compliance boxes'. It should be focussed on building a clear understanding of the issues at play, building empathy around the impact of sexual harassment and then setting clear behaviour expectations to guide people's actions.

A good quality education or training program should also provide clear guidance on how to raise and resolve issues, and how the team can support one another and speak out should there be a concern.

Roll this training out regularly (we would recommend at least annually), and make sure there is space for questions to be asked and additional support to be provided where it is needed.

There are a number of organisations that specialise in providing simple training for businesses on sexual harassment; however, there are also a lot of great free resources available from organisations like the Australian Human Rights Commission that you can use to develop your own in-house training that is deeply aligned to your context.

PART 4: DEALING WITH ISSUES

Clear expectations and education will help to create a culture where it is clear to everyone involved in the business that sexual harassment is not OK and will not be tolerated.

This culture can be quickly damaged, however, if issues around sexual harassment are not dealt with appropriately, quickly and seriously. You can read more about how to do this well below.

How to handle sexual harassment issues when you become aware of them

The most important thing you need to do with respect to a sexual harassment issue is to do something! Any action will be uncomfortable, and any investigation will involve people feeling uncomfortable. But, by its very definition, you're already dealing with a bad situation, and a person or people feeling unsafe in the workplace. That's never good.

So, when you receive a complaint, follow our 10-point action plan:

1. Understand the details. If the complaint is in writing, make sure the details are there. If it's verbal, listen well and take notes.
2. If the complaint involves or is being directed towards you, immediately step back from the situation and have a third party take the lead. In a big company, call the team with responsibility for resolving these issues. In a small company, consider calling a third party to ensure arm's length from the situation. There are specialist workplace relations experts who can help you here. If going third party, make sure you choose one that is deeply aligned to your culture, so it does not become purely a legal defence, but rather retains a strong commitment to resolving the issue and ensuring the return to a safe and respectful workplace.
3. Decide whether the situation requires measures to minimise risk or eliminate further harm. If this is the case, then - erring on the side of caution to ensure a safe workplace - separating the two people involved but ensuring both are supported is best. If the situation involves one of your own direct reports, step back and immediately put a second leader between you and the person who has raised the complaint. Do not involve the "in between" leader in the case at all.

PART 4: DEALING WITH ISSUES

How to handle sexual harassment issues when you become aware of them

4. Look at the whole picture. Sexual harassment, like any form of workplace bullying, harassment, or discrimination, usually impacts sick leave, stress leave & resignations. All may well be evidence in your people and culture data, and indicate that a person is already uncomfortable and struggling in the workplace. This data may also indicate whether more than one person has had the same problems.
5. Decide (quickly) whether the issue is small enough to be resolved between two directly involved parties or whether you need to investigate formally.
6. Advise the person, or people, who made the complaint whether you'll be proceeding with a formal investigation and, if so, who will be investigating. Set a timeframe so they are clear on what to expect.
7. If it's a minor issue, perhaps purely due to a lack of understanding, talk to those involved. Depending on the outcome of these conversations, you may wish to: mediate a conversation between both people; coach one person or the other on the expected way to deal with or lead people; discipline the person and advise them that this behaviour cannot be repeated.
8. If it's a bigger issue, you can either investigate the matter yourself or bring in an external party to assist. Whatever approach you take, it is important you get started quickly. Given the seriousness of sexual harassment and the fact that many harassed people don't make a complaint until after many months of suffering, anything longer than a week from the time of receiving the complaint is probably too long. Move quickly, fairly, and transparently.
9. Advise the person who raised the complaint of progress as it is made. Tell the person what the investigation or conversations have uncovered, and what action was or will be taken. They need closure. They didn't seek to be sexually harassed or feel unsafe, and they'll want that chapter of their life finished so they can get back to work and move forward with their life. They want to go home and tell their family and friends (who will probably have lived through this episode with your employee for some months before they made a formal complaint) that you've done the right thing and that it's been resolved.

PART 4: DEALING WITH ISSUES

How to handle sexual harassment issues when you become aware of them

10. Always remember that you're holding people's psychological well-being in your hands. The first step in living up to this responsibility is investigating and putting a stop to the sexually harassing behaviour. The next step is caring for the person or people who have been harassed. It's not enough to "hope they're OK". We would recommend you offer professional counselling or, at a minimum, ongoing conversations where they can vent a little more. Follow up in a few weeks, then in a few months, to check that they are OK. Without turning yourself into the (unqualified and ill-prepared) psychologist, acknowledge that there has been an impact on this person which can take time for them to process and resolve.

What not to do when handling sexual harassment issues

NEVER fall into these traps when dealing with complaints of sexual harassment:

- Don't turn it into a "he said, she said" situation. Sexual harassment is often a pattern of behaviour as opposed to an isolated incident. It is important to deal with the whole issue. Isolating the person who complained will inflame the situation and lead to further feelings of insecurity.
- Don't turn into a detective. That means no secret meetings or collecting information from uninvolved sources. Maintain your own leadership style and integrity.
- Don't collect complaints and leave a set of complaints unresolved. It takes one claim for the team to look at you, and two for them to decide you're not going to do the right thing and create a safe workplace for them. By claim number three, no one will confide in you again. You will have become part of the problem.

Remember that, above all, you are seeking to resolve the issue. If it's a minor issue, you're aiming to get people working well together again. If it's serious, you need to determine what has happened and what your action will be. If a person has sexually harassed others, it will be very difficult to keep them on your team. If you elect to do so, even with committed coaching you're taking on a level of responsibility for their behaviour that requires you to stay very close to them. Your decision will depend on what culture you want to foster.

PART 5: BYSTANDERS

Often there has been people that have seen, witnessed or been involved in situations where inappropriate behaviour has occurred. The people who stand by and watch events or behaviours unfold are known as bystanders.

Often the more people that are there, the less likely it is that someone will help, This is known as the 'diffusion of responsibility' effect.

We all process things differently and at different times. We are all human and have experienced some level of guilt for not acting in the moment.

In sexual harassment, we often talk about the role of bystanders. What should they do? And we need to acknowledge that it can be extremely hard in some situations to be the one to speak up. This might be out of fear or feeling powerless to change the situation, or amongst extremely powerful people who we feel can make or break our career without skipping a beat.

So, what makes us a bystander?

Research by Latane and Darley suggest there are 5 characteristics that affect bystanders (their research was focussed on emergencies but is equally applicable in the organisational context).

1. The event involves threat of harm or actual harm
2. It's unusual and rare
3. The type of action required differs from situation to situation
4. It cannot be predicted or expected
5. It requires immediate action

PART 5: BYSTANDERS

As a human you then go through cognitive and behaviour processes:

1. Notice that something is going in – what is happening?
2. Interpret the situation - where there is a level of ambiguity, usually we look to others there for guidance, this can cause issues where everyone present is also looking to each other. Where no one responds, it can seem like the situation is not concerning to those present.
3. Degree of responsibility felt – this varies depending on whether you feel the person is deserving of help, how capable you feel as a bystander to do something and the relationship that you have with the person
4. Form of assistance – direct e.g. specifically assisting the victim or detour – through reporting to an authority
5. Implement the action of choice – follow through with it.

Silence can be seen as the behaviour being deemed acceptable, mean the behaviour continues and could escalate further. Don't be silent, do something about it.

Further information and reading:

Australian Human Rights Commission - Sexual harassment from the perspective of the bystander: <https://humanrights.gov.au/our-work/part-2-sexual-harassment-perspective-bystanders>

Harvard Business Review – Too many men are silent bystanders to sexual harassment: <https://hbr.org/2017/03/too-many-men-are-silent-bystanders-to-sexual-harassment>

Australian Human Rights Commission - Bystander Story – Landry – Sexual harassment: Know where the line is: <https://www.youtube.com/watch?v=JdbwCDalUkg>

Skill boosters- Sexual harassment we are all bystanders sometimes: <https://www.youtube.com/watch?v=wwO9a1EOT7g>

PART 5: BYSTANDERS

Calling it out

We see lots of commentary about 'calling it out' – there are pros and cons with this. If you don't call it out, you can be seen to be saying 'that's Ok with me' thereby appearing to be part of the problem. But calling it out is highly contextual.

The context really matters here:

- How well do you know the people around you – the victim and the person being inappropriate?
- Any personal differences you might have with either of the people?
- Is this behaviour normal or out of the blue for the person to be displaying?
- How can you best support the victim without reducing their power even further by rescuing?

The ideal is to be open and empathetic and support the victim to find their own voice. Sometimes when we leap in and speak up loudly in the moment, in an attempt to 'rescue' someone, we can in fact take away their own power further and lessen even further their personal control of the situation. Where you can, bring them into a conversation – invite them to use their voice and be heard – to regain their own control. Support and coach them to raise issues that are important to them. Stand behind them, not in front of them.

The art in playing this critical role well, is to think about the right place, the right time, and be considerate about the people involved, doing this the right way for all involved. As more people call it out, less people will get away with those behaviours. Support people to regain control of the situation. Support everyone being able to join the conversation and set the right standard, not just the leader, and not just one person.

PART 6: PREVENTION AND A ZERO TOLERANCE CULTURE

By far, the best way to address sexual harassment is to prevent it. Creating a culture that has zero tolerance for sexual harassment means every single employee and all leaders have a role in preventing sexual harassment, and an accountability to ensure the workplace is free from harassment. That means a common language with which to discuss culture and raise topics like sexual harassment. That starts with culture and leadership.

Culture

The fundamental foundation to all behaviour in an organisation is the culture. Culture underpins everything that we do. It is about relationships, in the way we lead and treat each other and how we work together. It is about the shared expectations of what's expected from every single person.

It's all well and good to have a values poster plastered over the walls but unless people live, breathe and show those values in the way they work and the way they treat each other, the posters are worthless. When respect and support for one another is a fundamental part of how you work then usually there are less instances of inappropriate behaviour, it is more noticeable when it does occur and confidence in dealing with it increases.

When you have a zero tolerance culture you have a language to discuss the topic, an expectation that issues are raised, and a history of addressing inappropriate behaviour.

PART 6: PREVENTION AND A ZERO TOLERANCE CULTURE

Better Leaders

***The standard you walk past is the
standard you accept***

Leadership is an absolute must when it comes to workplace behaviour and setting the culture that eliminates sexual harassment.

The best leaders always adopt and hold a zero-tolerance position on behaviour that harms others. This includes zero tolerance for sexual harassment and bullying.

Coaching leaders to create and sustain positive thriving cultures is the work we love to do – at mwah. we believe leaders can make the change and keep that momentum going.

If we did both of the above – good culture and good leadership?

We'd see zero, or less, harassment in our workplaces.

PART 6: PREVENTION AND A ZERO TOLERANCE CULTURE

Individuals making a difference

Beyond leadership, each of us has a part to play in making a change in our organisations and creating zero tolerance for sexual harassment. We all want to come to work and do our best and we should be able to do so without being harassed. If someone asks you to leave them alone or change your language – do so and leave them alone to do their job.

You can make a difference:

- Be part of a culture where inappropriate behaviour such as sexual harassment is not tolerated.
- If you are in a position of power – use it wisely and for a positive culture.
- Don't remain silent – do something
 - o Notice what is happening around you
 - o Interpret the situation
 - o Be responsible for doing something
 - o Do it
- Support people to regain control of the situation
- Speak up and call out behaviours that aren't appropriate in our workplaces
- If you are the one experiencing inappropriate behaviours – talk to someone, get support – report it, you are not alone.
- If you already feel included, like you belong, then you have a role watching a situation where someone else doesn't. Support them, coach them and include them.

Together each of us can make a difference towards positive cultures and stop sexual harassment in the workplace.

PART 7: THE DEBATE MOVING FORWARDS

Right now, there is a big debate on how to address sexual harassment. Given the law is given the laws have been in place for 36 years, how can we move forward? There are a number of options being discussed right now.

Here's a summary of the debate:

More laws

We could introduce more laws to try to stamp out sexual harassment, but when you look at the existing laws (Sex Discrimination Act 1984 Cth), combined with the Fair Work systems and work health and safety systems, it's actually pretty clear that 'laws' by themselves aren't the only answer. Adding in the state and territory legislation in support of the Commonwealth ones just reinforces that 'more laws' isn't go to work on its own.

Is there a need to ensure people are aware of the existing laws? Absolutely! And at mwah., we consciously ensure that any training we deliver in this area is extremely clear about the legislation and responsibilities we all have.

Different laws

There is also an argument for new or different laws. The laws around sexual harassment can be a little confusing – having to look across multiple legislation at the commonwealth and state or territory level can mean, as a potential complainant, it can be confusing to work out where to report (assuming of course that there is confidence to report in the first place). And all three systems assume the first step of the process is to make a formal complaint – in our experience, the first thing most people want is simply for the behaviour to stop. So, adding different laws may be part of the answer, but they will need to include clarity and a simplification of the laws that exist already.

Minimising the ability to sweep issues 'under the carpet'

There is a strong debate for making Non-Disclosure-Agreements (NDAs, or 'hush agreements' as they're sometimes referred) more public. For example, if you have a serial sexual harasser at a senior level, and they are supported by the series of NDAs to sweep issues under the carpet, then the behaviour can go on unabated for years. It can in fact move from one organisation to the next as the harasser changes roles.

PART 7: THE DEBATE MOVING FORWARDS

Different Resolution Training for Mediators and Leaders

There's certainly evidence that training leaders and mediators more deeply in the topic, the impact of harassment, and the methodology behind interviewing or investigating, can have a very positive impact on an organisation's ability to reduce and eliminate sexual harassment. Clumsy processes, low levels of capability and a lack of confidential speak-up process or hotline often lead to exacerbating already harmful effects of harassment.

Good training, good processes, and access to confidentiality are all important components of a strong culture with zero tolerance for sexual harassment.

Need more help?

Need further information and support?

Firstly, you should join our mwah. community!

Subscribe now for our free weekly newsletter for more mwah. articles and supports.

We also have a variety of membership options that enable you to tap into our suite of resources and information.

mwah. support and more detailed information

In relation to sexual harassment, inappropriate behaviour and bystander behaviour we have:

The simple mwah. Sexual Harassment Policy Template

<http://mwah.live/knowledgebase/sexual-harassment/>

Sexual harassment Management : <https://mwah.live/knowledge/sexual-harassment-management>

Bullying Investigation Questionnaire Template: <https://mwah.live/knowledge/bullying-investigation-questionnaire-template>

Blog post: A call to bystanders – it's time to stand up together: <https://mwah.live/blog/silence-of-bystanders>

Additional support and information

Australian Human Rights Commission – Respect@work: Sexual Harassment national Inquiry Report (2020): https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020?mc_cid=1065707e3c&mc_eid=%5bUNIQID%5d&_ga=2.16594934.1970118669.1595980740-1901227363.1595815993

More detail about sexual harassment provided by the Australian Human Rights Commission <https://www.humanrights.gov.au/our-work/sex-discrimination/guides/sexual-harassment>

What is sexual harassment?

A short video from Know the Line (The Australian Human Rights Commission) – 1 minute, 40 seconds

<https://www.youtube.com/watch?v=AaC1DvMOqYY>

Know the Line (The Australian Human Rights Commission)

Great resources for businesses and employees for understanding and preventing sexual harassment in their workplaces through education and awareness

<https://knowtheline.humanrights.gov.au/>

Ending Workplace Sexual Harassment – a resource for small, medium and large employers

<http://www.humanrights.gov.au/our-work/sex-discrimination/publications/ending-workplace-sexual-harassment-resource-small-medium>

Need support?

1800 Respect –National Sexual Assault, Domestic Family Violence Counselling Service

<https://www.1800respect.org.au>

Need to make a complaint about sexual harassment?

National – The Australian Human Rights Commission. <https://www.humanrights.gov.au>

ACT – ACT Human Rights Commission. <http://hrc.act.gov.au>

NSW – NSW Anti-Discrimination Board. <http://www.antidiscrimination.justice.nsw.gov.au>

QLD – Anti-Discrimination Commission QLD. <http://www.adcq.qld.gov.au>

WA – WA Equal Opportunity Commission. <http://www.eoc.wa.gov.au/>

NT – NT Anti-Discrimination Commission. <http://www.adc.nt.gov.au>

TAS –Tasmanian Office of the Anti-Discrimination Commission. <http://equalopportunity.tas.gov.au>

SA- SA Equal Opportunity Commission. <http://www.eoc.sa.gov.au>

VIC – Victorian Equal Opportunity and Human Rights Commission.

<http://www.humanrightscommission.vic.gov.au>

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