

Sexual Harassment in the Workplace

Every individual 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 sex discrimination.

Sexual harassment is any unwelcome behaviour, comment, gesture, or contact of a sexual nature that is known or ought to reasonably be known to cause offense or humiliation. It makes the receiver feel uncomfortable and can be coercive or subtle.

Lack of intention is not a defence to sexual harassment. What matters is the impact of the behaviour on the person experiencing the harassment.



Although sexual harassment happens to people of all genders, it happens more often to women. It happens to people of all social and economic classes and ethnic groups. It can happen to people at any level of an organization and within all jobs and professions.

Sexual harassment in a workplace is not limited to co-workers. Harassment can also occur with individuals not directly employed by an organization, such as, contractors, consultants, and even customers.

Sexual harassment is an abuse of power and is often used as a way of controlling or intimidating someone.

Some Examples of Sexual Harassment:

- touching people in unwanted ways;
- telling sexist jokes;
- making unwanted remarks and/or jokes about a person's sex, sexuality, gender identity, or expression;
- showing or sending pornography, sexual pictures, or cartoons;
- commenting on someone's physique;
- engaging in sexual solicitation and advances (including repeated unwanted invitations for dinner, drinks, or dates);
- questioning or commenting on a person's sex life or sexual relationships;
- staring inappropriately or making sexually suggestive looks;
- bragging about sexual attributes or activities; and
- behaving in a way which might, on reasonable grounds, be perceived by a person as placing a condition of a sexual nature on the terms of employment, including hiring, firing, setting shift schedules and providing opportunities for training or promotion.

In more extreme cases, sexual harassment is also 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 behaviour can also be a crime. In such cases, you should contact your local police service. You may also contact PEI Victim Services at: Charlottetown (902) 368-4582 or Summerside (902) 888-8218.



PRINCE EDWARD ISLAND
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COMMISSION

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DE L'ÎLE-DU-PRINCE-ÉDOUARD



Responsibilities of Employers.

Employers are required to:

- provide a safe working environment for all staff and customers that is free from harassment;
- take proactive 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 includes information on how to report harassment (and to whom) and other statements as required by the PEI *Employment Standards Act*;
- make employees aware of the contents of the Sexual Harassment Policy;
- take allegations of harassment seriously;
- investigate allegations of harassment promptly and, as much as possible, confidentially;
- take necessary corrective action against harasser(s) and the workplace culture; and
- support the person(s) being harassed and ensure there is no retaliation against the person who complained.

A person does not have to object to the harassment when it happens for there to be a violation. The person being harassed may be in a vulnerable situation or afraid to speak out due to the power imbalance that often exists between a harasser and the person being harassed. Since the person may be worried about retaliation if they object, the person may go along with the unwelcome actions. In these cases, sexual harassment is still against the law and an employer may be held liable for the actions of its employees or customers.

Responsibilities of Employees.

Employees who experience or observe co-workers being subjected to sexual harassment should:

- check in with the co-worker to determine if the behavior is unwanted, and offer support;
- tell the harasser that the behaviour is unwelcome, if it is safe to do so;
- report the harassment to the person specified in the Sexual Harassment Policy, or to another supervisor if that person is involved or fails to investigate;
- keep notes on the harassment and on the actions taken following the complaint (who, what, when, where, names of witnesses);
- participate in any investigation of the alleged sexual harassment; and/or
- contact the union for assistance, if the workplace is unionized.

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

- Complaints of sexual harassment can be made 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 may be made at the same time as internal or union complaints/investigations.

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.

PEI Human Rights Commission
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Charlottetown PE C1A 7N8
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