



Women in the Law

> Know your rights

Discrimination and sexual harassment are against the law. It is also against the law for you to be victimised for speaking up about these inappropriate behaviours, or for helping someone else to make a complaint.

What is sexual harassment?

Sexual harassment is unwelcome behaviour of a sexual nature, and it can be physical, spoken or written. It's when someone does something that makes you feel offended, humiliated or intimidated.

Sexual harassment can include:

- comments about your private life or the way you look
- suggestive behaviour, like leering and staring
- brushing up against you, touching, fondling or hugging
- suggestive comments or jokes
- displaying offensive screen savers, photos, calendars or other objects
- someone continually asking you to go out with them
- being hassled for sex
- sexually explicit emails, text messages or posts on social networking sites.

Sexual harassment is covered in the workplace when it happens at work, at work-related events, between people sharing the same workplace, or between colleagues outside of work.

What is discrimination?

Discrimination is treating, or proposing to treat, someone unfavourably or bullying them because of a personal characteristic protected by the law, such as sex, race, age or disability. Discrimination is against the law when it happens in an area of public life, like employment.

For a full list of protected characteristics and areas of public life, see

humanrightscommission.vic.gov.au/discrimination.

While all 18 characteristics protected under Victoria's equal opportunity laws can apply to women, some forms of discrimination tend to affect women more than men, or specifically apply to women.

What is discrimination in employment?

The law covers all stages of employment, including recruitment, returning to work after injury or illness, dismissal and retrenchment. It applies to employers of all sizes, and covers all types of workers – including full-time, part-time and casual employees, agents and contract workers, probationers, trainees and apprentices.

It's also against the law for recruitment companies to discriminate against you for having a personal characteristic protected by the law. It's against the law to advertise a job in a discriminatory way, for example, advertising for someone to join a 'dynamic, young team'.

Sex discrimination

In Victoria, it is against the law to discriminate against someone because of their sex. In a workplace this might include comments about a woman looks, her abilities, or stereotyped requests like asking female employees to get coffee or take minutes when male staff are not asked to do the same tasks. It might be about the type of work allocated being less interesting or challenging or topic specific. Sex discrimination can also be about equal pay, access to equal terms and conditions including training, promotion and other opportunities.

Example: Martha, a fourth year lawyer, works in a male-dominated practice group. She discovers that a networking function with clients was recently organised by her supervising partner, which Martha was not invited to. When Martha asks about this she is told that the event was held at a golf course and that it was “pretty blokey”. Martha’s supervising partner explains that Martha wasn’t invited because he didn’t want her to feel uncomfortable as the only woman.

Parental and carer status, and family responsibilities

In Victoria it is against the law to discriminate against someone because of their actual or assumed parental or carer status, or family responsibilities. Parental status includes being a biological parent, step-parent, foster parent, adoptive parent or guardian.

Example: A weekend retreat is being organised at Jasmine’s law firm. Jasmine has an 8 month-old baby and is unable to attend the retreat due to her parental responsibilities, which she explains to her supervising partner. At Jasmine’s next performance review, her failure to attend the retreat is used as an example of her lack of commitment to the firm.

Carer status refers to someone who has total or significant responsibility for the care and support of another person. The person needing care may be a child, a partner, a parent, a relative or a friend. Carer status does not apply to people who are paid to provide care and attention.

Example: At a job interview, Sofia mentions that she spends a lot of time looking after her mother who has Alzheimer’s disease. The interviewer ends the interview saying, “I’m sorry, we need someone who can hit the ground running and isn’t going to need time off for family responsibilities”.

Employers must seriously consider any request for flexible work arrangements from staff members who have family responsibilities, that is, children or people who depend on them for care. Employers do not have to agree automatically to all requests from employees for changes to work arrangements, but they must not unreasonably refuse a request.

Examples of flexible work arrangements include working part time, job sharing, working from home, or starting and finishing earlier or later.

Pregnancy and breastfeeding

In Victoria it is against the law to discriminate against a woman because she is pregnant or might become pregnant, or because she is breastfeeding a child or expressing milk.

Example: April is a senior associate in her early 30s and has worked for a number of years with a particular client. Most of her billable hours are spent on an ongoing litigation matter for this client. Shortly after April gets married, work for the client that April would typically do is allocated to another senior associate, adversely affecting April’s billable hours. April discovers that the work was reallocated because the supervising partner suspects she is going to start a family soon and will be unable to commit to the matter in the long term.

Marital status

In Victoria it is against the law to discriminate against someone because of their actual or assumed marital status.

Marital status refers to whether or not someone is single, married, divorced, widowed, separated or a domestic partner. The term ‘domestic partner’ covers all couples, irrespective of sex and sexual orientation.

Sexual orientation

Whether you are homosexual, lesbian, bisexual or heterosexual you have the same rights under the Equal Opportunity Act 2010. That means it is against the law for someone to discriminate against you because of your sexual orientation.

Example: Ellen, a junior lawyer at a major law firm, confides in one of her colleagues that she is a lesbian. When Ellen later applies to join the firm's mixed-sex soccer team, she is told by her colleague that there is a 'shortage of real female players' and that she should 'make room for one of the straight chicks'. Ellen persists but is later told that there is not enough room on the firm's team for her to participate.

Gender identity

Gender identity is about people of one sex identifying as a member of the other sex, or people of indeterminate sex identifying as a member of a particular sex. People can do this by living, or seeking to live, as a member of a particular sex, or assuming characteristics of a particular sex. This could be through their dress, a name change or medication intervention, such as hormone therapy or surgery.

Example: Meredith identifies as female. Her colleagues continually refer to her directly as 'Sir' and she repeatedly overhears comments from colleagues about herself using male pronouns such as 'he' and 'him'. Meredith has politely asked people to address her appropriately but most make no effort to use suitable pronouns.

What is victimisation?

Victimisation is subjecting or threatening to subject someone to a detriment because they have asserted their rights under equal opportunity law even if they have not made a complaint to the Commission, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, sexual harassment or victimisation.

Example: Caroline complained to HR that her supervisor was contacting her after hours a lot and had now started to ask her out. She had been invited to 'work drinks' but when she arrived he was the only person there. Caroline decided not to pursue the matter but then found she was excluded from meetings, given matters to handle at short notice requiring her to work back a lot and that other staff started to avoid being seen with her and talking to her.

How should I respond to sexual harassment and discrimination?

Every person needs to make their own choices about how to respond to serious issues in the workplace, but it's important to know that there are a range of services and agencies that can advise, support and help you make informed decisions about what to do next.

Even if you don't want to make a complaint, we can help.

If you have any questions about sexual harassment, discrimination or victimisation you can call the Commission's Enquiry Line for a free and confidential chat on 1300 292 153 or email enquiries@veohrc.vic.gov.au.

We won't act on what you tell us unless you ask us to.

How do I make a complaint to the Commission?

If you think you have been discriminated against, sexually harassed or victimised, contact us and talk about your concerns. We can send you information about the complaint process and if we can't help you we will try to refer you to someone who can. You can make a complaint to us by sending a letter or email or filling in our online complaint form.

It does not cost anything and you do not need a lawyer to make a complaint to us.

The Commission will try to help you resolve your complaint, but we do not advocate for you or for the person or organisation you are complaining about.

When you lodge a complaint we will contact you to talk about your complaint and we may ask you for more information. We may talk to you about trying to resolve the complaint through conciliation and what kind of outcome you want. Complaints can be resolved in many different ways, for example by an apology, a change in policy, staff training or payment of compensation.

Generally, the Commission will contact the person or organisation you are complaining about, give them a copy of your complaint and ask for their comments. We will let you know what they have said in response to your complaint. We will also make sure that you are not victimised or disadvantaged because you have made the complaint.

In many cases we will help you and the person or organisation you are complaining about try to find a way to resolve the complaint by conciliation. Conciliation can take place in a face-to-face meeting, by telephone conference or by contact through the conciliator.

In some cases we may decide we can not deal with your complaint. If this happens we will contact you and explain why.



**Victorian Equal Opportunity
& Human Rights Commission**

Victorian Equal Opportunity and Human Rights Commission

Level 3, 204 Lygon St, Carlton Victoria 3053

Enquiry Line 1300 292 153

Fax 1300 891 858

TTY 1300 289 621

Interpreters 1300 152 494

Email enquiries@veohrc.vic.gov.au

Web humanrightscommission.vic.gov.au

Online complaint form:

humanrightscommission.vic.gov.au/complaints

DISCLAIMER: This information is intended as a guide only. It is not a substitute for legal advice.

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