

# Using evidence to improve workplace sexual harassment prevention and response

## Guidance for employers

December 2023

This guide will assist employers to develop an evidence-informed approach to the safe collection of sexual harassment prevalence information.

It offers tips for business leaders, Human Resources leaders, Diversity and Inclusion leaders, compliance and safety leaders, and data teams on how to use this evidence to prevent and respond to sexual harassment in their workplace.

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# 1. Introduction

With the positive duty under the *Sex Discrimination Act*,<sup>1</sup> employers are expected to take proactive measures to prevent and respond to workplace sexual harassment. This includes tackling the underlying causes of gender inequality and power imbalance.<sup>2</sup>

The collection and analysis of sexual harassment prevalence information enables employers to identify trends and risks and to tailor their responses, enabling organisations to manage risks and measure performance. Some employers may also use this information to report to regulators, as the recommendations of Respect@Work inquiry are implemented, such as the Workplace Gender Equality Agency, the Australian Human Rights Commission and Safe Work Australia. Aside from fulfilling legal obligations, reporting sexual harassment prevalence information is also beneficial for business, in terms of:

- Employee wellbeing: Safer workplaces lead to increased employee satisfaction and retention. Employees who feel safe and respected are more likely to remain engaged and productive.
- Risk mitigation: Identifying and addressing workplace sexual harassment reduces health and safety, legal and reputation risks. The potential costs of litigation, compensation and damage to an organisation's reputation outweigh the costs of prevention and intervention.

Workplace sexual harassment is preventable,<sup>3</sup> and as organisations implement prevention measures, it is likely more people will feel safe to disclose the risks and experiences of sexual harassment. An organisation with a speak-up culture is a safer workplace.<sup>4</sup>

Workplace sexual harassment is common, pervasive and occurs in every Australian industry,<sup>5</sup> although it is more prevalent in some workplace settings, for example, industries and workplace settings that:

- are male-dominated
- involve a high level of contact with third parties
- are hierarchical in structure
- are isolated or remote.<sup>6</sup>

Some employees are at greater risk of sexual harassment.<sup>7</sup> Unfortunately, it remains relatively hidden in individual organisations, with national prevalence surveys indicating far more people experience workplace sexual harassment than report it to their employer or others.<sup>8</sup>

This guide helps employers to collect and analyse information on the prevalence of sexual harassment in their workplace to improve the safety of employees. It explains:

- what information will help employers to understand the prevalence of sexual harassment in their workplace
- practical considerations for information collection and reporting
- tips for how to interpret and analyse the information.

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<sup>1</sup> Australian Human Rights Commission (2023), *The Positive Duty under the Sex Discrimination Act*

<sup>2</sup> Respect@Work (n.d.), *For organisations*

<sup>3</sup> Ibid.

<sup>4</sup> Walsh, N (2021), *How to encourage employees to speak up when they see wrongdoing*

<sup>5</sup> Respect@Work (n.d.), *Nature and prevalence of workplace sexual harassment*

<sup>6</sup> Australian Human Rights Commission (2020), *Respect@Work: Sexual Harassment National Inquiry Report*

<sup>7</sup> Safe Work Australia (n.d.), *Overview*

<sup>8</sup> Australian Human Rights Commission, *Respect@Work*

Through collecting and analysing information on the prevalence of sexual harassment in the workplace, employers can take informed, effective action to prevent and respond to it.

## 2. Sexual harassment: What it is, who it affects

### What is sexual harassment?

Sexual harassment is 'any unwanted or unwelcome sexual behaviour where a reasonable person would have anticipated the possibility that the person harassed would feel offended, humiliated or intimidated'.<sup>9</sup>

Sexual harassment can also occur in a sexually charged or 'hostile' work environment, even if the conduct is not directed at a specific person.<sup>10</sup>

Examples of sexual harassment include:

- inappropriate physical contact
- intrusive questions about a person's private life or physical appearance
- sharing or threatening to share intimate images or film without consent
- unwelcome touching, hugging, cornering or kissing
- repeated or inappropriate invitations to go out on dates
- sexually suggestive comments or jokes that offend
- requests or pressure for sex or other sexual acts
- sexually explicit pictures, posters or gifts
- actual or attempted rape or sexual assault
- being followed, watched or someone loitering
- sexually explicit comments made in person or in writing, or indecent messages (SMS, social media), phone calls or emails – including the use of emojis with sexual connotations
- sexual gestures, indecent exposure or inappropriate display of the body
- unwelcome conduct of a sexual nature that occurs online or via some form of technology – including on virtual meetings
- inappropriate staring or leering
- repeated or inappropriate advances on email or other online social technologies.<sup>11</sup>

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<sup>9</sup> Australian Human Rights Commission (n.d.), [Sexual Harassment](#)

<sup>10</sup> Australian Human Rights Commission (2023), [Guidelines for complying with the Positive Duty under the Sex Discrimination Act 1984 \(Cth\)](#)

<sup>11</sup> Respect@Work (2022), [What is sexual harassment?](#)

## Who does workplace sexual harassment affect?

The *Time for Respect: Fifth national survey on sexual harassment in Australian workplaces* provides insights into who experiences sexual harassment in the workplace, who the respondents are, the nature and impact of sexual harassment and the workplaces where it occurs, across industries and organisation size. It shows that some people experience workplace sexual harassment at disproportionately higher rates:

- women
- young people (aged 15–29)
- people who identify as gay, lesbian, bisexual, pansexual, queer, asexual, aromantic, undecided, not sure, questioning or other or an intersex variation
- Aboriginal and Torres Strait Islander people
- people with disability.

The majority of harassers are:

- men
- aged 40 or over
- a peer or co-worker of the person harassed, with a third of those more senior, a third at the same or lower level and a third a client, customer or associated with the workplace in another way.<sup>12</sup>

## 3. Collecting evidence on sexual harassment in your workplace

To understand the prevalence of sexual harassment in your workplace, you will need information from a range of sources. Formal complaints will not provide the complete picture. Because so few people report sexual harassment relative to its prevalence, your workplace data also should be compared with external data which is gathered anonymously (see section 5). Table 1 outlines data sources that can be drawn on to build a picture of workplace sexual harassment prevalence, as well as key additional information to collect for analysis.

**Table 1: Workplace data useful for sexual harassment prevalence analysis**

<b>Potential data sources<sup>13</sup></b>	→ Formal complaints: A formal sexual harassment complaint involves making an internal report or complaint to a designated person in the workplace or to an external agency, such as a regulatory body or a union. Employers may record formal
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<sup>12</sup> Australian Human Rights Commission (2022), *Time for respect: Fifth national survey on sexual harassment in Australian workplaces*

<sup>13</sup> Definitions and examples drawn from Australian Human Rights Commission, *Time for respect* and Respect@Work, *Reporting avenues*

complaints in a range of systems, including in a Human Resources Information System or secure spreadsheet.

- Informal reports: Employees experiencing sexual harassment may disclose to their peers or other trusted colleagues to seek advice or support. Some employers use a system in which any employee who is not the complainant can record a disclosure, along with whether the complainant wishes to remain anonymous or to seek a formal investigation.
- Whistleblower reports: Employers with whistleblower complaints mechanisms may receive notification of sexual harassment incidents, including anonymously.
- Anonymous disclosures: Employees may want to disclose experiences of sexual harassment anonymously, fearing victimisation or re-traumatisation from an investigation. Anonymous disclosures may be collected through a range of mechanisms, such as installing a secure physical mailbox in the workplace to collect paper-based reports, digital technology, or via existing whistleblower channels or employee surveys.
- Safety incidents: Sexual harassment is a psychosocial hazard that must be eliminated or minimised so far as is reasonably practicable under work health and safety laws. Data sources and available information that inform risk management processes include consultation with workers, observation, and formal and informal reports and complaints, incidents or grievances. Employers should keep records of WHS risk management processes for assessing and controlling the risks of sexual harassment at work.
- Employee surveys: Employee surveys such as those used to measure experience or engagement may include questions related to sexual harassment.
- Employee consultation: Consultation with employees can yield useful information regarding workplace sexual harassment, for example concerns that employees might have about sexual harassment risks and processes for responding to complaints. You should also consult with employees on policies relating to disclosures and ensuring processes are clear, understood and meet the needs of employees.

## Key information to collect

Where safe and appropriate, you may want to collect information on:

- gender (including non-binary)
- demographics, such as cultural and linguistic diversity; age; disability status; LGBTQIA+ status; Aboriginal and/or Torres Strait Islander status
  - Consider doing an intersectional analysis to understand how overlapping attributes affect the likelihood of experiencing workplace sexual harassment
- complainant and respondent employment characteristics, such as:
  - occupational category
  - employment level, e.g. member of governing body/executive management, manager/non-manager, graduate/apprentice
  - employment status, i.e., full-time, part-time, casual
  - whether they are non-employees, i.e., contractors, consultants, volunteers, interns, customers, clients, patients, students, members of the public
  - professional relationship to each other, for example if they are peers, or if one is a manager of the other
- complaint outcomes for both complainant and respondent, such as settlements and the use of non-disclosure agreements, as well as resolution time frames
- mid- to long-term outcomes, such as promotions, transfers and voluntary resignations and other career impacts.

It is helpful to collect workplace information and analyse it from various perspectives to identify risks and trends, noting that small sample sizes will require careful handling to meet privacy and confidentiality considerations (see section 4).

## Recording reports of sexual harassment

An employer in the mining industry defined sexual harassment as a significant health and safety risk in its workplaces. Following training and awareness-raising, the organisation implemented a requirement for managers and leaders to enter *any* serious conduct issues raised directly with them into a confidential reporting tool, including anonymously if requested. The reporting rate of sexual harassment increased, as expected, with the focus on safe reporting and leadership reporting providing a more accurate picture of sexual harassment at work.<sup>14</sup>

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<sup>14</sup> BHP (2023), [Sexual harassment](#)

## 4. How evidence helps improve your prevention and response

It is important to create and maintain a workplace culture where it's not only safe to disclose, but also clear that there is zero tolerance for sexual harassment. This will help to improve the quality of the information you collect, which will improve the insights you gain for prevention and response.

The Respect@Work inquiry<sup>15</sup> and national prevalence surveys<sup>16</sup> make clear that few employers know the full extent of sexual harassment in their workplace. Not only is there a reluctance from employees to report, there are community misconceptions that some forms of sexual harassment are 'flattering' and not serious.<sup>17</sup>

Workplace sexual harassment is preventable, including by taking action to improve gender equality, safety, respect and inclusion in the workplace. The Australian Human Rights Commission has issued guidelines to prevent and respond to workplace sexual harassment and to comply with the positive duty. It sets out four guiding principles and seven standards.<sup>18</sup>

The crucial role of workplace sexual harassment prevalence data collection and analysis is evident within a number of standards in the following ways:

- Leadership: Data capturing the nature and extent of sexual harassment in an organisation informs measures developed by leaders to eliminate (as far as possible) this conduct. Leaders can also then review relevant data to assess how effective these measures are. These actions are aligned with the outcome that senior leaders are responsible for developing, recording, communicating and implementing appropriate measures for preventing and responding to workplace sexual harassment, and regularly review their effectiveness.
- Risk management: Organisations consider industry-specific risks related to sexual harassment and monitor industry trends in workplace sexual harassment prevalence. Organisations collect and use relevant data for risk assessment purposes. These actions are aligned with the outcome that organisations take a risk-based approach to workplace sexual harassment prevention and response.
- Reporting and response: Reviews of reporting processes consider data such as the outcomes of complaints (for individuals and the larger organisation). This action is aligned with the outcome that organisations ensure that appropriate options are in place for reporting and responding to workplace sexual harassment and are communicated to relevant audiences.
- Monitoring, evaluation and transparency: Organisations collect data on leadership (including power imbalances), culture (including the demographic make-up of the workplace), knowledge and understanding of sexual harassment (including training and education), risks specific to certain industries and workplaces, and support, reporting and response options. Data capturing the nature and extent of workplace sexual prevalence is shared with leaders to inform prevention and response efforts. These actions are aligned with the following outcomes:
  - organisations collect appropriate data to understand the nature and extent of sexual harassment in their workplace
  - organisations use this data to assess and improve workplace culture and develop prevention and response measures for workplace sexual harassment

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<sup>15</sup> Australian Human Rights Commission, *Respect@Work*

<sup>16</sup> Australian Human Rights Commission, *Time for respect*

<sup>17</sup> Australia's National Research Organisation for Women's Safety (2021), *Attitudes Matter: The 2021 National Community Attitudes towards Violence against Women Survey (NCAS)*

<sup>18</sup> The four principles are consultation, gender equality, intersectionality, and person-centred and trauma-informed. The standards are leadership, knowledge, culture, risk management, support, reporting and response, and monitoring, evaluation and transparency. See *Guidelines for complying with the Positive Duty*



- organisations are transparent about the nature and extent of sexual harassment in their workplace and actions taken as a result.<sup>19</sup>

The Respect@Work Council's *Good Practice Indicators Framework for Preventing and Responding to Workplace Sexual Harassment* describes these standards and how they may be measured.<sup>20</sup>

As organisations implement these measures, it is likely more people will feel safe to disclose the risks and experiences of sexual harassment.

A culture that encourages reporting is a key indicator of progress, as it sets expectations of behaviour and instils trust and confidence that reports will be taken seriously and that there are consequences for sexual harassment.

Employers should consider a range of ways to encourage and remove barriers to disclosure. Respect@Work has developed a range of relevant resources on their [organisational culture](#) and [support](#) webpages.

## Multiple pathways to disclosure

An employer in the university sector developed two pathways for disclosures of sexual misconduct, in addition to formal reports. These are two online forms:

- The first requests help for victims who consent to being identified. It can be lodged by the person who experienced sexual assault or sexual harassment, someone supporting them, a staff member or a direct witness.
- The second enables a deidentified disclosure, where the complainant does not want contact from the university or does not give consent to provide identifying information, or where someone is aware that a sexual assault or sexual harassment has occurred and wants to inform the university for the purposes of collecting information.

This multiple-pathway approach can assist employers to capture additional information about potential risks that need to be managed.

## 5. Practical considerations

Employers are at different stages of collecting, analysing and reporting sexual harassment prevalence information. Your organisation's approach should be tailored for your workplace and reflect your approach to prevent and appropriately respond to sexual harassment in the workplace. Some practical considerations are listed below.

### Prevention and response

#### Person-centred responses

Employees impacted by sexual harassment will react and feel differently about whether and how they wish to disclose or report the incident and how it should be handled. This may also change over time.

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<sup>19</sup> Australian Human Rights Commission, *Guidelines for complying with the Positive Duty*

<sup>20</sup> Respect@Work (2022), *Good practice indicators framework for preventing and responding to workplace sexual harassment*

A person-centred approach involves offering a range of support that enables the person raising concerns to feel heard, believed and supported to recover and heal, including before they make a disclosure, afterwards and during any formal processes.<sup>21</sup> However, it does not mean they solely decide on how the employer responds. The employer needs to meet their legal responsibilities to provide a safe workplace for all employees. The employer also needs to investigate with impartiality of process, but can do so with regular consultation and communication with the affected person, as appropriate.

Person-centred responses require employers to prioritise support and protection for people affected by sexual harassment. You should ensure that there are clear, trauma-informed procedures for providing assistance, such as counselling or legal support, for those who report harassment. Processes that are trauma-informed prioritise safety and empowerment and recognise that trauma may affect a person's ability to recall information. One aspect of a trauma-informed process is to minimise the number of times a person is required to recount their experience. Respect@Work has developed tips on trauma-informed grievance handling.<sup>22</sup>

Organisations should appreciate that in some instances, people affected by sexual harassment will not want to make a formal complaint. Yet, the onus is on employers to make the workplace safe. In many cases, this will require a flexible and tailored approach to ensure that the employee's wishes are considered and respected while balancing the employer's obligations related to workplace safety and workplace relations.<sup>23</sup>

It is important that you ensure employees are made aware of how information will be handled and of potential outcomes when they raise safety concerns or disclose incidents. In some circumstances, you may need to consider seeking permission from the person disclosing to collect their information for the purpose of tracking prevalence in the organisation.

## Training and awareness

Understanding the risks and prevalence of sexual harassment in your workplace requires everyone to be clear on what it is, how to prevent it and what to do if it happens.

Respect@Work recommends that training and education:

- are delivered in multiple ways on an ongoing basis
- include a mix of formal and informal learning
- include case studies and context relevant to your organisation
- cover the options for reporting and potential outcomes
- include guidance for bystanders.<sup>24</sup>

Formal training is recommended for all employees, led by instructors with relevant skills and expertise. However, some smaller organisations may achieve awareness-raising and education through other means – for example, through regular and open conversations in one-on-one meetings, team meetings or with a larger audience.

It is important to train organisational leaders, people managers, contact officers and Human Resources personnel to respond to reports of and queries about sexual harassment appropriately so that employees feel safe to report. Key concepts include the need to ensure confidentiality and using a trauma-informed, person-centred approach.<sup>25</sup>

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<sup>21</sup> There are nine elements of a person-centred approach to addressing sexual harassment. See Respect@Work, [Person-centred approaches to workplace sexual harassment](#)

<sup>22</sup> Respect@Work (n.d.), [Trauma informed grievance handling: Tips sheet](#)

<sup>23</sup> For information on individual and organisation rights and responsibilities related to sexual harassment in the workplace, see Respect@Work, [Rights and responsibilities](#)

<sup>24</sup> Respect@Work (n.d.), [Good practice education strategy](#)

<sup>25</sup> Respect@Work (n.d.), [Education and training](#)

# Information management

## Confidentiality and privacy

Employees and employers alike are understandably concerned to ensure that any incidents of sexual harassment are treated confidentially, and that the privacy of those involved is protected, not only as part of the workplace response, but also in data collection and reporting.

This means organisations should ensure that the data is anonymised and secure. Consider how the information is handled in production of internal and external reporting, and whether demographic, job category or other information may lead to unintentional identification of the complainant or respondent. Data must be 'gender disaggregated and deidentified' to further ensure confidentiality.<sup>26</sup>

Failure to ensure confidentiality and privacy in the handling of workplace sexual harassment disclosures can result in negative consequences for individuals and for the workplace, which has a responsibility to prevent victimisation.

## Systems and technology

Employers have reported they use a range of systems to collect workplace and employee information, and information about the prevalence of sexual harassment may be stored in multiple systems and require manual collation and analysis. It is important to ensure the information is stored securely and in line with data protection and privacy regulations.

Examples of how employers have maintained confidentiality and privacy include:

- having a password-protected spreadsheet or system to which access is limited
- deidentifying information in internal reporting, particularly if demographic or role information could lead to inadvertent identification of the complainant or respondent
- being transparent with the person making the report about what information is collected, the purpose and who the information will be available to.

## Third parties

Under workplace health and safety laws, a worker is anyone who carries out work in any capacity for your business. This includes employees, contractors, subcontractors, outworkers, apprentices and trainees, work experience students and volunteers who carry out work. Third parties in the workplace may also experience or perpetrate sexual harassment, such as customers, clients, patients or members of the public.<sup>27</sup> This means that you will need to consider communication arrangements for those workers to disclose sexual harassment, and how you may collect and report this prevalence information. For example, you may want a contractual arrangement with other employers that enables information sharing or requires training on sexual harassment prevention and response.

## 6. Interpreting prevalence information

When interpreting prevalence information for your organisation, it is important to analyse it in the context of your industry/sector prevalence rates and the drivers of sexual harassment (see 'Underlying cause of sexual harassment', below).

You should use your evidence to inform a relevant risk management approach to preventing workplace sexual harassment and other unlawful conduct and providing a safe workplace.

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<sup>26</sup> Respect@Work, *Good practice indicators framework*

<sup>27</sup> Safe Work Australia (2021), *Preventing workplace sexual harassment: National guidance material*

Note that it is widely recognised that formal complaints do not represent the full picture of sexual harassment in a workplace.<sup>28</sup> Formal complaints are likely to be under-reported initially and may increase where there is a positive workplace safety culture.<sup>29</sup>

## Complaints and disclosures

### Demographic and workforce data

When reviewing sexual harassment prevalence information, consider additional information about the complainants and respondents, including:

- the seniority, business area and location of the employees involved
- the relationship between complainant and respondent
- demographic information particularly aligned with the employees most vulnerable to sexual harassment such as age, Aboriginal and Torres Strait Islander status, disability status and LGBTQ+ status.

This additional information can help you to understand sexual harassment risks specific to your organisation. However, you must be careful to ensure that collection and reporting of this information does not inadvertently identify the employees involved.

### Trend analysis

When conducting trend analysis, include data relating to workplace health and safety incidents and themes over time.

Consider mid- to long-term outcomes for affected employees, such as promotions, transfers, voluntary resignations and other career impacts.

Insights from trend analysis should inform risk controls, mitigants and response plans.

### Resolution

When analysing resolution, consider:

- whether the complaints were formal or made through an informal mechanism
- whether investigations included internal or external mechanisms
- sources of complaints (i.e. the person who experienced sexual harassment, a witness or bystander, a support person)
- outcomes for complainants, bystanders and witnesses as well as respondents
- any payouts or non-disclosure/confidentiality agreements
- time to report and time to resolve.<sup>30</sup>

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<sup>28</sup> Australian Human Rights Commission, [Respect@Work](#)

<sup>29</sup> Ibid.

<sup>30</sup> Chief Executive Women (2023), [CEW Respect is everyone's business resource pack](#)

## Comparison with external surveys

The Australian Human Rights Commission has conducted five national surveys into the prevalence, nature and reporting of sexual harassment in Australian workplaces.<sup>31</sup> Findings from the most recent survey (2022) can be found in the section 'Who experiences workplace sexual harassment?' above.

The survey includes analysis of workplace sexual harassment by industry and shows there are some differences in who does the harassing, where it occurs, whether it was witnessed and whether it was reported. Similarly, the survey shows most workplace sexual harassment occurs in large organisations with 200 or more employees.

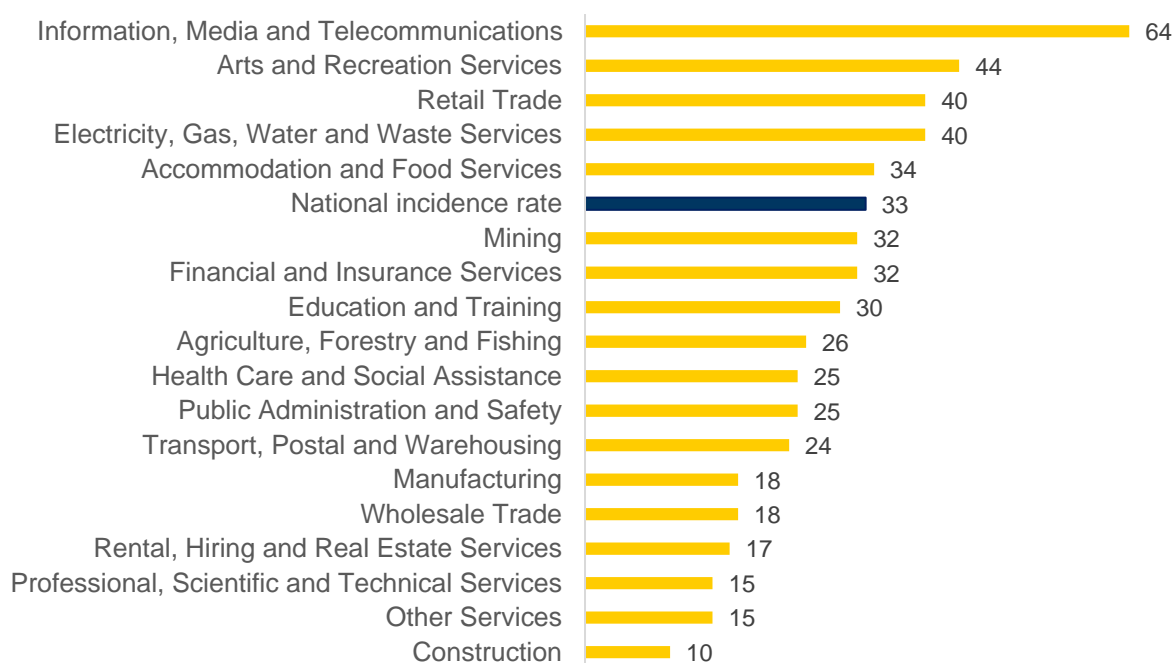
Surveys on workplace sexual harassment have also been conducted by unions, professional associations and state public sector organisations.<sup>32</sup>

It is instructive to compare your workplace's data with external surveys to benchmark, and contextualise it against potential risks and under-reporting rates, in addition to identifying areas for improvement. It is likely that the number of formal complaints is significantly lower than the prevalence in your industry according to external surveys.

### Industry-specific analysis

To understand sexual harassment in your organisation, you should consider industry-specific factors that may influence the prevalence of sexual harassment in your organisation. Industries with traditionally male-dominated environments or fly-in, fly-out working arrangements, for example, may pose different challenges and require tailored solutions.

**Chart 1: Incidence of workplace sexual harassment by industry (%)**



Source: Australian Human Rights Commission (2022), [Time for respect: Fifth national survey on sexual harassment in Australian workplaces](#)

<sup>31</sup> Australian Human Rights Commission, [Time for respect](#)

<sup>32</sup> See, for example, National Tertiary Education Union, [New survey reveals shocking rise in sexual harassment at universities](#); ACTU, [Sexual harassment in Australian workplaces: Survey results](#); Victorian Legal Services Board & Commissioner, [Report on the sexual harassment study](#); Victorian Public Sector Commission, [Sexual harassment](#)

### Questions to ask: Benchmarking performance

- How does your organisation's prevalence data compare with external surveys for your industry or sector?
- What are the reasons respondents give for not reporting sexual harassment? How might your organisation address these?
- Are there higher risk factors in your industry or sector? These include:
  - low worker diversity
  - power imbalances
  - a workplace culture that supports or tolerates sexual and other types of harassment
  - alcohol and social duties as part of work
  - workers in locations where they can't get help and support
  - leaders who don't understand sexual harassment, its nature, drivers and impacts
  - working with clients, customers and members of the public.<sup>33</sup>

## Underlying cause of sexual harassment

"Workplace sexual harassment is caused by power imbalances. In Australian workplaces, the main power imbalance is gender inequality."<sup>34</sup> Therefore actions your workplace is undertaking to improve gender equality will help to make your workplace safer.

The WGEA Gender Strategy Toolkit<sup>35</sup> outlines 17 focus areas to achieve gender equality in your workplace and assist you to measure progress.

### Questions to ask: Where is gender inequality creating the most power imbalance?

- What is the gender composition of the workforce? Is it more gender-unequal in some business divisions?
- Are there incidents or complaints of other types of harassment or bullying?
- Is there adequate support for caring responsibilities and a mainstreaming of flexible work?
- Do you have policies, processes and support for gender pay equity, workforce composition, recruitment, selection, promotion, talent management and succession planning?
- Is there gender-balanced composition in casual, contract, short-term, task-based employees and independent contractors?

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<sup>33</sup> Safe Work Australia (n.d.), [Managing risks](#)

<sup>34</sup> Respect@Work (n.d.), [What causes workplace sexual harassment?](#)

<sup>35</sup> WGEA (2019), [Gender strategy toolkit](#)

Other forms of discrimination and disadvantage also create power imbalances in the workplace. This means that people who are 'perceived as less powerful based on factors such as race, disability, sexual orientation or personal circumstances, such as economic vulnerability, are more likely to be the target of sexual harassment.'<sup>36</sup>

Sexual harassment is also more common in some workplaces and industries, including:

- male-dominated industries
- workplaces with a masculine culture
- workplaces with a high level of contact with third parties, including customers, clients or patients
- workplaces that are isolated or remote
- workplaces that are organised according to a hierarchical structure.<sup>37</sup>

Similarly, workplaces with a poor culture, limited understanding of sexual harassment, misuse of alcohol, lack of accountability or lack of diversity are also at increased risk of sexual harassment.<sup>38</sup>

## 7. Better practice

The positive duty to prevent workplace sexual harassment means Australian employers need to take proactive steps to improve safety and respect for employees. Beyond meeting their positive duty, many employers are striving toward better practice in prevention of and response to workplace sexual harassment. Below are examples of better practice measures that organisations can draw on.

### Information from a wide range of sources

Better practice involves collecting information from as a wide range of sources as practicable. Experience and/or engagement surveys may provide insights into whether employees feel safe to speak up. Exit feedback may suggest areas of the business that are higher risk.<sup>39</sup> Surveys may also 'create a more robust and reliable measure of prevalence and high-risk work groups beyond actual complaints'.<sup>40</sup> In developing these surveys, consider questions about the behaviours employees may experience. This helps to educate employees about what sexual harassment is.

#### Consideration of additional evidence

Given employees are more likely to disclose their experience of workplace sexual harassment through an anonymous survey, your organisation may consider conducting your own anonymous survey or analysing informal reporting mechanisms. These additional sources of evidence can provide valuable insights into the prevalence of sexual harassment in your organisation.

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<sup>36</sup> Respect@Work, *What causes workplace sexual harassment?*

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

<sup>39</sup> Respect@Work (n.d.), *For organisations*

<sup>40</sup> Champions of Change Coalition (2021), *Disrupting the system: Preventing and responding to sexual harassment in the workplace*

## Employee survey

The Victorian Public Sector Commission's People Matters Survey (which is distributed to all public sector employees) includes a series of questions about employee experiences of negative behaviour, including sexual harassment, as well as how they feel about organisational culture, gender equality, diversity and inclusion.<sup>41</sup> The Commission for Gender Equality in the Public Sector requires information from the survey to be reported as part of its gender equality reporting regime and says it helps organisations better understand the problem of gender inequality in their workplace.<sup>42</sup>

## Alternative grievance and dispute resolution mechanisms

Better practice approaches to grievance and dispute resolution consider informal, person-centred grievance mechanisms which allow reporting of sexual harassment complaints without an obligation to make a formal complaint. These may encourage people to raise concerns without the fear of a formal investigation and, where possible, to choose the resolution that is most appropriate in their circumstances.<sup>43</sup> You should consider if and how you might collect and report this information, balancing the needs and wishes of affected employees and employer obligations, and acknowledging that reporting on incidents raised informally will be imperfect. For example, it may not be appropriate to seek consent to record information from a traumatised employee who does not wish to make a formal complaint about sexual harassment. However, this information may be an early indicator of an emerging problem, or it may be required for a formal investigation in line with the organisation's workplace health and safety obligations.

## Regular reporting

Most organisations have a regular internal reporting rhythm to monitor business performance and regulatory compliance, including workplace risks. Reporting on sexual harassment may be standalone or included in other reports such as those on workplace health and safety or non-financial risk.<sup>44</sup>

The *Good Practice Indicators Framework for Preventing and Responding to Workplace Sexual Harassment* describes a governance and measurement framework to prevent and respond to sexual harassment, including indicators that should be monitored by governing bodies and management.<sup>45</sup>

Regular reporting to governance bodies and management should include:

- risks, prevalence and nature of workplace sexual harassment
- organisational action taken to prevent and respond to workplace sexual harassment
- outcomes and effectiveness of processes to respond to reports of workplace sexual harassment, including consequences for perpetrators
- analysis of trends and data.

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<sup>41</sup> Victorian Public Sector Commission (2023), [Sexual harassment](#)

<sup>42</sup> Commission for Gender Equality in the Public Sector (2023), [Prepare for the employee experience survey 2023](#)

<sup>43</sup> Dobbin & Kalev (2020), [Why sexual harassment programs backfire](#)

<sup>44</sup> Respect@Work (n.d.), [Transparency](#)

<sup>45</sup> Respect@Work, [Good practice indicators framework](#)



## 8. Resources and tools

Respect@Work	<p>The <a href="#">Respect@Work website</a> brings together a comprehensive set of resources to support individuals and organisations to better understand, prevent and address workplace sexual harassment.</p> <p>The <a href="#">Good practice indicators framework for preventing and responding to workplace sexual harassment</a> contains intended outcomes and indicators of good practice for employers with respect to preventing and responding to sexual harassment.</p>
Safe Work Australia	The <a href="#">Preventing workplace sexual harassment</a> guide provides information for persons conducting a business or undertaking (PCBUs), such as employers, on preventing and responding to sexual harassment in the workplace, in line with work health and safety approaches.
Australian Human Rights Commission	The <a href="#">Time for Respect</a> report presents the findings of the fifth national survey on sexual harassment in Australian workplaces.
Workplace Gender Equality Agency	The <a href="#">Gender Equality Strategy Guide</a> equips you with the skills and resources to start and/or continue the change process towards greater gender equality in your organisation
Chief Executive Women	The <a href="#">Respect is Everyone's Business Resource Pack</a> has been designed to help equip leaders from all sectors and industries with the tools and confidence to appropriately prevent and respond to sexual harassment in the workplace
Champions of Change Coalition	<p>The report <a href="#">Disrupting the System: Preventing and responding to sexual harassment in the workplace</a> has been developed to provide insights, practical actions and resources that aim to disrupt the system on how sexual harassment is managed in the workplace.</p> <p>The resource <a href="#">Building confidence and trust in workplace responses to sexual harassment</a> outlines an approach for managing cases when they arise, providing clear and practical guidance to help foster much needed confidence and trust in organisational response systems.</p>

### Disclaimer

*The ideas and suggestions contained within this guide are used or adopted entirely at the discretion and own risk of employers. The Workplace Gender Equality Agency cannot accept any responsibility or liability for outcomes resulting from the use of this document, either directly or indirectly.*

*This resource **does not** provide specific guidance on how organisations and businesses can comply with other legislative obligations, including but not limited to:*

- *positive duty obligations under the Sex Discrimination Act 1984 (Cth)*
- *obligations under work health and safety laws*
- *obligations under workplace or industrial relations laws, such as the Fair Work Act 2009 (Cth)*
- *obligations under any state or territory anti-discrimination laws.*