

Sexual Harassment

1999

1. General Principles

- 1.1 The Australian Medical Association considers that everyone is entitled to live and work in an environment free from embarrassment, discomfort, intimidation or humiliation arising from sexual harassment.
- 1.2 Doctors in the workplace need to be aware of their ethical and legal responsibilities.
- 1.3 Sexual harassment is defined as any unwelcome sexual advance, request for sexual favours, or any other form of unsolicited or unwelcome sexual conduct. This does and can occur in any setting. The perpetrator may not be aware of the impact of such behaviour.
- 1.4 Examples of Sexual Harassment:

Regardless of any innocent intent, the following examples, which may also be criminal offences, constitute sexual harassment when they are offensive.

- the public display of pornography (especially where it is directed at particular individuals), ranging from mildly erotic, through to material that is sexually explicit
- ongoing use of humour based on sexual innuendoes
- intrusive inquiries into a person's private life, or reference to their sexuality or physical appearance
- persistent requests for social contact despite repeated rebuttal.
- persistent staring at or leering at a person or at parts of their body
- acts of debasement.
- sexually offensive telephone calls
- requests for, or expectations of, sexual activity under threat, or in exchange for favours or promises of preferential treatment
- offensive electronic communication
- deliberate and unnecessary physical contact, such as patting, pinching, fondling, or deliberate brushing against another's body, attempts at kissing
- sexual violence, such as sexual assault and forced attempts at sexual intercourse.

2. The effects of sexual harassment

The effects of sexual harassment on an individual can be severe and long lasting and can include:

- anger, embarrassment, intimidation, humiliation, distress, anxiety, depression, fear and ill health

- a perceived threat to personal safety
- interference with an individual's productivity and work performance, possibly inducing lack of motivation, absenteeism, needless transfers, or resignations, any of which may lead to improper decisions affecting the individual's (and others') employment or career prospects
- disruption of family and other relationships

3. The law and sexual harassment in the workplace

3.1 Sexual harassment in employment is unlawful in the following circumstances:

- When an employee is applying for a job.
- During the course of employment
- Dismissal from employment. ¹

Unwelcome activity of a sexual nature in the workplace is classified as sexual harassment under the law. Sexual conduct is unwelcome when the conduct is not invited or solicited by the employee and the employee regards the conduct as undesirable or offensive. Unwelcome sexual conduct occurs when:

- acceptance or rejection of the conduct is used to make employment decisions (hiring, promotion, work assignments, pay increases) that affect the person claiming harassment
- the conduct has the purpose or effect of unreasonably interfering with the victim's job performance; or
- the conduct creates an intimidating, hostile or offensive work environment. ²

3.2 Employers are responsible for ensuring that their employees are aware of the organisation's informal and formal mechanisms for dealing with sexual harassment.

4. Sexual Harassment in Education

4.1 Students may feel vulnerable when seeking assistance and guidance. The student/teacher relationship is unequal, and breaches of this relationship can cause psychological damage to students. Teachers must not abuse their authority by exploiting students.

4.2 Supervisors, faculty members, trainees and students should be made aware of their teaching institution's sexual harassment policies and should become familiar with the established ways of dealing with both perpetrators and victims.

4.3 Educational institutions are responsible for ensuring that their trainees and students are aware of the institution's informal and formal mechanisms for dealing with sexual harassment and that programs regarding sexual harassment issues are made available as part of each educational institution's curriculum.

5. Role of Medical Practitioners

5.1 Many of the behaviours which lead to sexual harassment arise from societal attitudes toward sexual behaviour. There is a need for medical practitioners to ensure that their attitudes are free from sexual biases which might adversely affect their professional relationships.

6. Responding to Harassment

6.1 Dealing with harassment can include the following options:

- discussing the situation in confidence with a senior colleague or supervisor
- making it clear that such behaviour is offensive and unacceptable
- taking prompt action against the sexual harassment. Ignoring such behaviours may be interpreted as tacit consent.
- making a formal or informal complaint to the appropriate authority.
- lodging formal complaints of sexual harassment with the relevant Anti-Discrimination Authority in Australian States and Territories or with the Commonwealth Human Rights and Equal Opportunity Commission.

Whatever action an individual decides to take, they should be assured that grievances relating to sexual harassment will be dealt with sensitively, promptly, impartially, and in accordance with the principles of natural justice.

^{1.} 1997 CCH Australia Limited, Australian & New Zealand Equal Opportunity Law & Practice, 58-555 p 47,501

^{2.} 1997 CCH Australia Limited, Australian & New Zealand Equal Opportunity Law & Practice, 58-565 p 47,504