

## *Executive Summary*

The Human Rights and Equal Opportunity Commission ("HREOC") is an independent statutory authority established under the *Human Rights and Equal Opportunity Commission Act 1986* (Cth). It has a variety of functions and powers to promote and protect the human rights of all people in Australia. HREOC administers the *Sex Discrimination Act 1984* (Cth) ("SDA"). Sexual harassment is a legally recognised form of sex discrimination. Sexual harassment in certain areas of public life is unlawful under the SDA.

In 2003, HREOC undertook a review of the sexual harassment in employment complaints finalised by HREOC in 2002. That review, entitled *A Bad Business: Review of sexual harassment in employment complaints 2002 ("A Bad Business")* highlighted the continuing challenges that sexual harassment presents, particularly for women in paid employment.

A national telephone survey conducted for HREOC by the Gallup Organization confirmed this finding. This is the first such comprehensive national survey of sexual harassment undertaken in Australia, with 1,006 interviewees randomly selected from the Australian adult population.

The survey found that 41 per cent of Australian women aged between 18 and 64 years and 14 per cent of men have experienced sexual harassment. Two-thirds of this sexual harassment occurs in the workplace, with 28 per cent of Australian women and seven per cent of Australian men having experienced sexual harassment at work.

The survey indicates that 14 per cent of Australians have witnessed incidences of sexual harassment in the workplace in the five years prior to the conduct of the survey. The vast majority of these witnesses elected to take some action in relation to the incident, from talking and offering advice to the target of the harassment, to confronting the harasser.

Over half of the sexual harassment experienced in the workplace involved physical forms of sexually harassing conduct, including unwelcome touching, hugging, cornering, kissing or unnecessary familiarity. However, non-physical types of sexual harassment were most frequently experienced, such as suggestive comments or jokes, staring or leering, sexually explicit emails or SMS messages, and sexually explicit pictures of posters.

Workplace sexual harassment is rarely a one-off incident. Half of the experiences continued for up to six months, suggesting that workplace sexual harassment may have a significant impact on an employee's productivity.

A significant proportion of the sexual harassment experienced in the workplace is perceived as serious in nature with half of the interviewees to the survey rating the experience as very or extremely offensive.

As the general incidence rate indicates, sexual harassment in the workplace predominantly affects women. The greatest prevalence of sexual harassment in the workplace occurs among women under the age of 45. Seven in ten cases of sexual harassment involves men harassing women.

Almost half of the harassers were co-workers of the target, with over a third of harassers a person in authority in the workplace in relation to the target. Of those harassed by someone in authority the harasser was more likely to be male than female. Female harassers appear more likely to harass co-workers than those in authority.

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Less than one third of the sexual harassment experienced is formally reported to either employers or external agencies, such as HREOC. Of the sexual harassment reported, most is reported to the target's manager or supervisor or employer/boss. Only one per cent of workplace sexual harassment is reported to anti-discrimination agencies such as HREOC.

The reasons for not reporting the sexual harassment predominantly fall into three categories:

- a lack of faith in the formal complaints mechanism;
- a belief that the experience was not serious enough to warrant reporting; and
- the target dealing with the problem themselves.

At the same time, of those who did formally report the sexual harassment experienced in the workplace, just under half were either satisfied or very satisfied with the formal complaints mechanism, and in most cases action was taken against the harasser. This suggests that employers may need to do more to promote the use of their formal grievance procedures to overcome employees' reluctance to formally complain.

Nevertheless, a significant minority of formal complaints were perceived to be handled badly, suggesting that some employers may need to review and improve their grievance procedures.

Moreover, the results of the telephone survey suggest that the effectiveness of current employer policies to prevent and eliminate sexual harassment in the workplace may vary considerably. Employers may also need to review the effectiveness of their prevention policies in light of the survey's results. The persistent nature of sexual harassment in employment, despite 20 years of legislation making such conduct unlawful, requires on-going monitoring and vigilance in order to reduce its incidence. The findings of the telephone survey and *A Bad Business* suggest that employers, employer associations, unions, and anti-discrimination agencies such as HREOC must continue to focus on educating workplace participants of their rights and responsibilities, taking action to prevent sexual harassment, and dealing effectively and comprehensively with sexual harassment when it does occur. The challenges continue.

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