



Harassment in the Workplace

Being harassed at work because you are gay or lesbian can be a very unpleasant and distressing experience. You have the right to be free from harassment in the workplace.

Examples of workplace harassment include:

- Making demeaning, belittling or abusive comments, or otherwise 'putting you down' because you are gay or lesbian.
- Jokes (including practical jokes) or taunts based on your sexuality.
- Ignoring, isolating or segregating you because you are gay or lesbian.
- Displaying and circulating homophobic material such as posters, cards, graffiti, email, letters, videos, cartoons, and screensavers.

"It started with a colleague asking me if I had a husband. When I told him that I wasn't married he spread rumours around the office that I was a lesbian. Soon after that I stopped being invited to team lunches. Everyone would make jokes behind my back. I felt so uncomfortable I didn't want to go to work anymore." Maria, 45, Coogee.



Discrimination

It is against the law in New South Wales to discriminate against, vilify, harass or victimise you in most workplaces because you are gay, lesbian or because of your HIV/AIDS status. To discriminate against someone means to treat them unfairly or badly because they belong to a particular group.

Under the current NSW law, private schools, religious organisations, and businesses that employ less than five people are exempt from the law so employers are able to discriminate on the basis of sexuality.



Here are some tips on dealing with harassment at work

- Being harassed can be a very stressful experience. You may need to draw support from close family and friends. For more information on how to look after yourself see the 'Finding help and support' fact sheet.
- Remember that your safety is important. If you are in fear of your safety you should always contact the Police. In an emergency call 000 otherwise call (02) 9281 0000 for the Police Switchboard.
- Find a support person you can talk to at your workplace. This might be a colleague, your manager or someone else you can trust.
- Check whether your employer has an internal grievance process. Formal grievance procedures now exist for over 80% of employees in Australian workplaces. If you are making a grievance you should be able to tell them:
 - what it is that you are unhappy about
 - why you are unhappy about it
 - what you would like to happen
 - what you intend to do if you are unsatisfied with the outcome.
- Don't contact someone when you're angry or tearful because it's often difficult to think clearly and actually say what you want to. If you are very angry, try talking it through with a friend first. Speaking calmly but firmly will get you the best results.

LIVING FREE FROM FEAR

STOPPING HOMOPHOBIC HARASSMENT



- Many workplace unions have policies on bullying and harassment in the workplace. If you are the member of a union they may be able to provide you with advice and assistance. Your union representative may be able to support you when you are making a grievance complaint at your workplace. You can find out how to contact your union through the NSW Labor Council on (02) 9264 1691 or <http://www.labor.org.au>
- Keep a record of all incidents of harassment. For more information on this see our fact sheet on 'Keeping an Harassment Diary'.
- If you cannot resolve the problem in the workplace itself you may be able to complain to the NSW Anti-Discrimination Board (ADB). The ADB will investigate the complaint confidentially and impartially. The ADB will try to conciliate the complaint if the investigation reveals that the law may have been broken. This means trying to help the employee and the employer reach a private and confidential settlement.

An agreed settlement might take the form of:

- o financial compensation
- o appropriate action taken against the harasser/s
- o the development of appropriate anti-harassment procedures and policies
- o management and/or staff training programs to help ensure that the same thing does not happen again.

If the complaint cannot be settled the person who complained may choose to take their complaint to the NSW Administrative Decisions Tribunal.

The time limit for making a complaint to the Anti Discrimination Board is six months from the date of the discrimination or harassment. To contact the Anti Discrimination Board go to www.lawlink.nsw.gov.au/adb or phone (02) 92685555 or 1800 670 812 (outside Sydney only).

- You may be able to make a complaint of discrimination in employment on the grounds of sexuality to the Human Rights and Equal Opportunity Commission (HREOC). HREOC will investigate a complaint and try to conciliate between the parties. The time limit for making a complaint to HREOC is 12 months after the discrimination or harassment occurred. To contact HREOC go to www.hreoc.gov.au or phone 1300 656 419.
- You may be able to make a report to Workcover that your employer is not fulfilling their responsibilities to maintain a safe workplace. To contact Workcover go to www.workcover.nsw.gov.au or phone 131050.

If you are dismissed, threatened with dismissal or forced to resign

If you are dismissed, threatened with dismissal or forced to resign because you are gay or lesbian, or because you have made complaints about harassment, you may be able to make a claim for unfair dismissal or unlawful termination.

Depending upon your salary, whether you are a casual or permanent worker, and whether your job is covered by a NSW or Federal award, your claim may be made to either the NSW Industrial Relations Commission or the Australian Industrial Relations Commission. You may also have grounds for a discrimination complaint. You should get legal advice about what is the best option. See the 'Legal Information' fact sheet for further information.