



National Commission  
for the Promotion  
of Equality for  
Men And Women

Kummissjoni Nazzjonali  
ghall-Promozzjoni  
ta' l-Ugwaljanza  
ghall-Irgiel u n-Nisa

# National Commission for the Promotion of Equality

## Sexual Harassment

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# Harassment

## Harassment

Behaviour with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment

*(Directive 2000/78)*

## Sexual Harassment

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# Sexual Harassment

## Legislation (1)

It is essentially defined as “**unwelcome sexual conduct**” and is unlawful under:

- Cap. 456- Equality for Men and Women Act
  - Cap. 452- Employment and Industrial Relations Act
  - Article 251A of the Criminal Code
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- Sexual harassment arises if the sexual conduct in question is **unwelcome**
  - Whether the behaviour is unwelcome is **subjective** and will depend on the particular person against whom it is directed

**Sexual harassment can constitute a criminal offence**

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## Legislation (2)

### Victimisation

It is unlawful to treat someone unfavourably because s/he filed a complaint

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# Sexual Harassment

## Legislation (3)

All employers / management / service providers have a **legal duty** to protect their employees / clients from sexual harassment





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# Sexual Harassment

## Sexual Harassment may involve

- Unwelcome physical contact
- Staring or leering
- Suggestive comments or jokes
- Unwanted invitations to go out on dates or requests for sexual interaction
- Intrusive questions about an employee's private life or body
- Unnecessary familiarity
- Insults or taunts based on one's sex
- Sexually explicit emails or SMS messages





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# Sexual Harassment

## Consent

Consent is the voluntary, ongoing and affirmative agreement to the sexual behaviour in question.

Submission or passivity does not constitute consent.

Consent cannot:

- be assumed. Silence should not be interpreted as consent.
  - be given by someone who is unconscious.
  - be obtained through threats or coercion.
  - be obtained if the perpetrator abuses a position of trust, power, or authority.
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# Sexual Harassment

## Statistics - Malta

- Three in four female respondents experience sexual harassment at the workplace
- Only 17% of female respondents never witnessed or experienced harassment
- 32% of male and female respondents partially blamed the victim for being sexually harassed due to their behaviour or the way they were dressed.

Research study by the Women's Rights Foundation and Men Against Violence, 2018



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# Sexual Harassment

## Power and Control

- In many sexual harassment cases there is a power play - the perpetrator is saying: I will do what I want whether it is disturbing you or not
- The motivation often stems from the perpetrator's need for dominance and control
- Unequal power relations between women / men in society and stereotypical ideas of masculinity / femininity are conducive to sexual harassment.



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# Sexual Harassment

## Under-reporting

Sexual harassment is under-reported. Reasons given for not reporting include:

- fear that relationships at work would be negatively affected
  - fear that the report would not be believed or taken seriously
  - embarrassment
  - fear of a negative impact on employment and career
  - fear of consequences in their private life
  - lack of public discussion on sexual harassment
  - high societal tolerance of such violence.
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# Sexual Harassment

## Organisational Culture (1)

The most effective way of preventing and addressing sexual harassment is by building a respectful and responsive environment.

- The pervasive fear of retaliation is addressed by creating a culture of accountability through clear and consistently applied processes and policies, including
  - a safe, known and accessible reporting system
  - prompt and thorough workplace investigation
  - proportional punishments for those found to have committed harassment.



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## Organisational Culture (2)

- Leadership plays an enormous role – if it publicly conveys the seriousness of sexual harassment, including leading by example, employees take harassment more seriously as well. Messaging also requires action to engender a feeling of fairness amongst workers
- Workplaces, that handle harassment well, generally acknowledge their inability to prevent all misconduct



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# Sexual Harassment

## Bystander Intervention (1)

- Interrupt the behaviour (when it happens in your presence) - intervention may be direct and obvious, such as stating directly to the offending person that the behaviour is unacceptable
- Also use body language to show disapproval - refuse to join in when derogatory, degrading and abusive attitudes or behaviour are being displayed
- Publicly support a victimized person - help someone who has been the target of harmful and inappropriate sexual behaviour, and/or prevent further injury or offence. Everyone can experience sexual harassment.



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# Sexual Harassment

## Bystander Intervention (2)

- Talk privately with the person who acted inappropriately - give clear feedback and express your opinion calmly and privately
- Talk privately with the person who is the target of the perpetrator - express your opinion calmly and offer your support
- Ask for help directly or indirectly - make sure that something is done, while acknowledging that you might not have the skill or capacity to handle it





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It is in the interest of both employers and employees that the workplace is free of sexual harassment for all to feel **safe** and **included** in the work environment

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# THANK YOU

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