

my work rights quiz

What do you know about sexual harassment and discrimination?

Could you tell if it happened to you?

What would you do?

Take the **my work rights** quiz online at www.myworkrights.com.au or read through this document.

If you don't have time to take the quiz right now, you could always read the information for women on the Victorian Equal Opportunity and Human Rights Commission website:

www.humanrightscommission.vic.gov.au/index.php?option=com_k2&view=item&layout=item&id=1451&Itemid=587.

Contact us

If you have any questions about sexual harassment, discrimination or victimisation you can call the Commission's Enquiry Line for a free and confidential chat on 1300 292 153 or email enquiries@veohrc.vic.gov.au.

Follow [@myworkrights](https://twitter.com/myworkrights) on twitter or like facebook.com/myworkrights for information and news about your rights at work.

1. Sexual harassment

'Fakebook' photo and comment

A young woman has posted a photograph on her wall of herself dancing at a party. There is a comment underneath it from Dennis Trotter, left at 10.43pm yesterday.

"Looking good gorgeous! lucky me having such a sexy PA! can't wait to see more.... at the staff party????"

Is this OK? Yes / No / Not sure

Response

No, it's not OK. It's sexual harassment, and sexual harassment at work is against the law.

Research shows that one in five women experience workplace sexual harassment in their lifetime.

When is it sexual harassment?

Sexual harassment is unwelcome behaviour of a sexual nature, and it can be physical, spoken or written. It's when someone does something that makes you feel offended, humiliated or intimidated.

Sexual harassment can include:

- comments about your private life or the way you look
- suggestive behaviour, like leering and staring
- brushing up against you, touching, fondling or hugging
- suggestive comments or jokes
- displaying offensive screen savers, photos, calendars or other objects
- someone continually asking you to go out with them
- being hassled for sex
- sexually explicit emails, text messages or posts on social networking sites.

When isn't it sexual harassment?

Sexual harassment has nothing to do with genuinely mutual attraction or private, consenting friendships, sexual or otherwise.

What does the law say?

The law protects all types of workers from sexual harassment – from full-time, part-time, casual and temporary workers, to trainees, apprentices or those on probation. Volunteers are also protected.

Sexual harassment can involve employees, managers, contractors, agents, clients, customers and other people visiting your workplace.

Sexual harassment can happen:

- at work
- at work-related events
- between people sharing the same workplace
- between work colleagues outside the workplace.

Some types of sexual harassment can also be a criminal offence. These include indecent exposure, stalking and sexual assault, as well as obscene or threatening phone calls, letters, emails, text messages and posts on social networking sites.

Contact us

If you want to find out more about sexual harassment you can call the Commission's Enquiry Line for a free and confidential chat on 1300 292 153 or email enquiries@veohrc.vic.gov.au.

2. Sex

Internal email

From: penny@imaginary.com.au

To: manager@imaginary.com.au

Subject: Application for Supervisor position

Dear Brian

Please find attached my application for the supervisor position currently being advertised internally.

As you'll see in my CV, I performed a similar role in my last job, where I supervised three staff members.

I've been with Imaginary.com for a year now and I'm ready for a new challenge with the company.

I look forward to hearing from you

Penny

Att: CV, Cover letter

Reply:

From: manager@imaginary.com.au

To: penny@imaginary.com.au

Subject: Re: Application for Supervisor role

Hi Penny

Thanks for your email. Unfortunately I don't think this role is for you. We don't usually put girls in the workshop, the guys just give them a hard time.

Something front of house might come up soon so we can keep you in mind for that.

Thanks

Brian

Is this OK? Yes / No / Not sure

Response

No, it's not OK.

Penny is being treated unfavourably because she is a woman, which is sex discrimination.

Some managers and employers still have old fashioned assumptions about the sort of work women and men are capable – or not capable – of doing.

But in Victoria, it is against the law to discriminate against you at work because of your sex.

What is sex discrimination?

Sex discrimination means treating you unfavourably because of your sex. It can include:

- not hiring a woman because the boss thinks she won't fit into a traditionally male workplace
- offering women and men different rates of pay or benefits for the same job

- not promoting a woman to a more senior position because it's assumed the other staff won't respect her authority
- dividing up work tasks based on whether staff are male or female
- insisting women wear different clothing at work to men, for example, short skirts
- not considering women for a particular role.

Although men may experience discrimination because of their sex, women are more likely to experience sex discrimination – largely due to traditional stereotypes that still exist. It's also because women are more likely to care for children or other family members, and because they may become pregnant or need to breastfeed a child.

What does the law say?

It doesn't matter whether you are a full-time, part-time, casual or temporary worker, a trainee, apprentice or on probation – Victorian law still protects you from sex discrimination. You are also protected by the law if you are discriminated against when you apply for a job.

In some cases there might be an exception. Contact us to find out more.

Contact us

If you want to find out more about sex discrimination you can call the Commission's Enquiry Line for a free and confidential chat on 1300 292 153 or email enquiries@veohrc.vic.gov.au.

3. Employment activity and political or industrial activity

Graphic novel

Pane 1

Girl working in a café – Terri.

Terri knocks on manager's office door. She is holding her payslip: "Um Sharon, can I please have a word?"

Pane 2

Manager's office

Terri asks the manager a question: "I don't think I was paid my penalty rates for working late night shifts last weekend. Can you please check for me?"

Sharon replies: "OK". Thought bubble: "How does she know about penalty rates?"

Pane 3

Later...

Close up of manager at her desk with pen in hand. Sharon's thought bubble: "I don't want Terri making any more trouble. I'll give her shifts to someone who won't ask questions."

Pane 4

Later still...

Close up of work roster with Terri's name crossed out against shifts and Terri looking upset.

Is this OK? Yes / No / Not sure

Response

No, it's not OK.

Terri is being treated unfavourably because she asked about her work entitlements.

In Victoria it is against the law for employers to treat you unfavourably because you make reasonable requests or raise concerns about your work entitlements or rights.

This is known as discrimination on the basis of employment activity.

What is employment activity?

You have the right to ask about your job entitlements – things like rates of pay, annual leave and workplace safety – as long as it is in a reasonable manner. That means asking at an appropriate time, not asking for something that is unrealistic or over the top, and not being violent or threatening.

When you do want to make a request you might want to first check your contract or payslip in case the information is there. If that doesn't help, you might want to put your request in writing so you can make sure it is clear.

What does the law say?

If you make a reasonable request about your employment entitlements, your boss can't treat you unfavourably or penalise you because of your request, for example by:

- cutting your hours or regular overtime

- denying you annual leave
- transferring you to undesirable duties
- not granting you a promotion
- not providing you with access to services and training in the workplace
- sacking you.

It is also against the law for your boss to treat you unfavourably because of your political views or activities, or because you belong to a union.

In some cases there might be an exception. Contact us to find out more.

Contact us

If you want to find out more about discrimination because of employment activity you can call the Commission's Enquiry Line for a free and confidential chat on 1300 292 153 or email enquiries@veohrc.vic.gov.au.

4. Age

Telephone conversation

A young woman calls an office about a job they are advertising

HR Manager (Officious): Good morning, human resources, can I help you?

Susie (A little nervous): Hi, good morning. My name is Susie and I'm calling about the reception job you have advertised.

HR Manager (Condescending): Sure darling, what did you want to know?

Susie (Warming up and sounding more confident): Your ad asks for a mature, experienced worker and I wanted to know exactly what you meant by that. I'm 21 but I've worked as a receptionist before so I have plenty of experience.

HR Manager: Right, well the manager wants someone who is mature, maybe like someone coming back to work now that the kids are at school. Someone who can work on their own and knows how to handle themselves.

Susie: Oh, OK. Well, like I said I've got lots of experience and–

HR Manager (Cutting her off): Look, I'm sorry love, but I think you're a little bit too young for the job.

Susie (Dejected): Oh, right... Well, thanks anyway.

HR Manager (Cheery): Alrighty, have a good day now.

Is this OK? Yes / No / Not sure

Response

No, it's not OK.

Susie is being treated unfavourably because of her age, which is age discrimination.

In Victoria it is against the law to discriminate against you at work because of how old you are – or even how old someone else thinks you are.

What does the law say?

Discrimination can happen to people of any age, and the law covers all types of workers, including full-time, part-time, casual or temporary workers, trainees, apprentices and those on probation.

It's not just employers either. It's against the law for recruitment companies to discriminate against you because of your age.

It is also against the law to advertise a job in a discriminatory way, such as advertising for someone to join a 'dynamic, young team'. Who says you have to be young to be dynamic?

Contact us

In some cases there might be an exception. If you want to find out more about age discrimination you can call the Commission's Enquiry Line for a free and confidential chat on 1300 292 153 or email enquiries@veohrc.vic.gov.au.

5. Physical features

Trendy Café recruitment policy

Trendy Café employees must fit the Trendy Cafe 'look'. Successful job applicants must weigh less than 60kgs and be taller than 170cm.

Is this OK? Yes / No / Not sure

Response

No, it's not OK.

The café's recruitment policy discriminates against job applicants who do not meet the café's particular 'look'.

Jobs should be given to people based on their ability to do the job, not because of how they look.

What does the law say?

In Victoria it is against the law to discriminate against you because of your physical features – including height, weight, size or other bodily characteristics.

There are a few situations where it is OK to discriminate against a person because of the way they look, such as dramatic, artistic, photographic or modelling work. In that case, it may be OK to offer the job to someone with the right physical features (including 'looks').

Contact us

If you want to find out more about discrimination because of physical features you can call the Commission's Enquiry Line for a free and confidential chat on 1300 292 153 or email enquiries@veohrc.vic.gov.au.

6. Pregnancy and parental and carer status

Letter from employer

Madeup Company
24 John St
Smithstown VIC 3555

Jane Smith
32 James St
Smithstown Vic 3555
1 July 2011

Dear Jane

Thank you for letting us know that you intend to return to work from maternity leave on 1 September this year.

As discussed, your previous role as team leader of the Accounts Section has been discontinued because you were on maternity leave. However, we'd be delighted to offer you a position as a Payroll Clerk.

I'm sure you will understand that, as this role involves less responsibility, we cannot continue to pay you \$60,000 per annum. However, we thought this role would suit you now that you have parental responsibilities.

Currently, salaries for clerks are around \$45,000 but, given your long service with us before you had the baby, we'd be happy to pay you \$48,000.

I look forward to you confirming your return to work on 1 September.

Sincerely

Harold Madeup

Is this OK? Yes / No / Not sure

Response

No, it's not OK.

When Jane comes back from leave her boss should give Jane her old job back. If her job doesn't exist anymore, she should be offered an available position which she is qualified for nearest in pay and status to her previous role.

It is against the law to discriminate against you at work because you are pregnant or might get pregnant, have taken parental leave, need to breastfeed or express milk, or because you have children or other people who depend upon you for care.

What does the law say about pregnancy?

In Victoria it is against the law to discriminate against you at work because you are pregnant or might become pregnant, or because you are breastfeeding or expressing milk.

For example, it's against the law for an employer to pass you over for a job because they think you might get pregnant and have to take maternity leave, if you are the best person for the position.

When coming back from parental leave, you also have the right to return to your previous role. If that doesn't exist any more your employer should offer you an available position that you are qualified for nearest in pay and status to the job you had before you went on leave.

What does the law say about being a parent or carer?

It is also against the law to discriminate against you at work because you have children or need to care for someone.

Employers must seriously consider any request for flexible work arrangements from workers who have children or people who depend on them for care – they can't just say no on the spot.

Working part time, job sharing, working from home, or starting and finishing earlier or later are all examples of flexible work arrangements.

Employers can only refuse such a request on reasonable business grounds.

Contact us

In some cases there might be an exception. If you want to find out more about discrimination because of pregnancy, breastfeeding, and parental or carer status, you can call the Commission's Enquiry Line for a free and confidential chat on 1300 292 153 or email enquiries@veohrc.vic.gov.au.

7. Race and religion

Video

A young woman in a hijab speaks to camera

“So, I went for this job as a waitress, right, and the guy interviewing me seemed fine at first. He asked me heaps of questions about where I’d worked before, and whether I’d be OK with doing an early shift or two every week.

“I thought it was all going really well, but then he was like ‘you know you’ll have to take that fabric thing off your head. It’s not really very hygienic’. I just laughed and said ‘well, at least you won’t have to worry about my hair in the food’.

“Then he said ‘no, really, I don’t think my customers want to be served by someone who’s a Muslim.’ I tried to explain that I can’t just take my hijab on and off for work, but he got really cross and said ‘oh well, I guess you just don’t want the job that much if you’re not willing to do as I ask’.”

Is this OK? Yes / No / Not sure

Response

No, it’s not OK.

Tara is being treated unfavourably because of her religion.

In Victoria it is against the law to discriminate against you at work because of your religion or your race.

What does the law say about discrimination because of religion?

It is against the law for someone to treat you unfavourably at work because of your religious beliefs or activities, or because they think you are of a particular religion.

As long as your religious beliefs and activities aren’t against the law, you have the right to believe and practise your religion – or to choose not to have a religion at all.

What does the law say about race discrimination?

Not only is it against the law to be discriminated against at work because of your race, it’s also against the law to be discriminated against because someone thinks you are of a particular race.

Race includes colour, descent, nationality, ancestry, ethnic background or a characteristic usually associated with a particular race.

What is vilification?

It is also against Victorian law to vilify a person or group of people because of their race or religion.

Vilification is behaviour that encourages others to hate, seriously disrespect or abuse a person or group of people because of their race or religion.

The legal definition is conduct that “incites hatred, serious contempt, revulsion or severe ridicule”. And it’s not on.

Contact us

If you want to find out more about discrimination and vilification because of race or religion, you can call the Commission’s Enquiry Line for a free and confidential chat on 1300 292 153 or email enquiries@veohrc.vic.gov.au.

8. Sexual orientation, gender identity and lawful sexual activity

Voicemail

A female employee, Jen, calls her girlfriend, Sam.

First voice: You've called Sam. I can't speak to you at the moment, so leave me a message and I'll call you back [beep].

Second voice: Hi hon. Listen, the boss says you can't come to the end of year work party with me on Saturday. I don't know what that's about – everyone else is bringing partners. Some are even bringing their children. Do you think we should go anyway? Or give it a miss altogether? Call me back. Love you. Oh, and can you get bread on the way home? Thanks. Bye.

Is this OK? Yes / No / Not sure

Response

No, it's not OK.

By telling Jen that she can't bring her girlfriend to the work party, her boss is treating Jen unfavourably because she is gay.

In Victoria it is against the law to discriminate against you at work because of your sexual orientation, gender identity or lawful sexual activity – whether it's known or assumed.

What does the law say about sexual orientation?

Whether you are lesbian, gay, bisexual or heterosexual you have the same rights.

That means it is against the law for someone to discriminate against you at work because of your sexual orientation.

What does the law say about gender identity?

You also have the right to identify as a member of a particular gender without discrimination.

People can do this by the way they dress, a change of name and by medical intervention, which can include hormone therapy, counselling and surgery.

What is lawful sexual activity?

Sex between consenting adults is no-one's business but the people involved – as long as it's legal of course.

Our laws protect us all from discrimination on the basis of lawful sexual activity.

Contact us

If you want to find out more about discrimination because of sexual orientation, gender identity and lawful sexual activity, you can call the Commission's Enquiry Line for a free and confidential chat on 1300 292 153 or email

enquiries@veohrc.vic.gov.au.

9. Disability

Instant messaging

Two friends chat online.

Susan: Hey how did the job interview go???

Jane: Crap :(

Susan: Oh no! Y? U said they sounded really excited abt u on the phone....

Jane: As soon as they saw the wheelchair it was all over....they said some crap about how I'd find the "office environment physically challenging"

Susan: Bummer.....

Jane: I know the other girl who went for it and I've got heaps more experience

Susan: Don't worry u will get something good soon!!!!

Jane: Yeah hope so.....

Is this OK? Yes / No / Not sure

Response

No, it's not OK.

Jane was the best person for the job, but she was passed over because she's in a wheelchair – she is being treated unfavourably because of her disability.

In Victoria it is against the law to discriminate against you at work because you have – or might have – a disability.

What does the law say?

Disability includes physical, mental or intellectual conditions and may be short term, long term or permanent. The law protects people who have had a disability in the past and those who may have a disability in the future.

It doesn't matter whether you are a full-time, part-time, casual or temporary worker, a trainee, apprentice or on probation – Victorian law still protects you from disability discrimination. You are also protected by the law if you are discriminated against when you apply for a job.

In fact, if you are the best person for the job, not only is it against the law for the employer to discriminate against you because of your disability, they might also be obliged to make some adjustments so you can perform the job and work safely.

In some cases there might be an exception. Contact us to find out more.

Contact us

If you want to find out more about disability discrimination you can call the Commission's Enquiry Line for a free and confidential chat on 1300 292 153 or email enquiries@veohrc.vic.gov.au.

Victimisation

Retro image and caption

Image: Two women in a sixties-style office, one whispering to the other, who has a shocked expression.

Caption: After Betty complained about the homophobic comments in the office the whispers and stares just got worse.

Is this OK? Yes / No / Not sure

Response

No, it's not OK.

It sounds like Betty's coworkers are hassling her because she made a complaint about discrimination at work. That's victimisation. That's against the law.

You have the right to make a complaint about inappropriate behaviour – like the examples given in this quiz – and not to be victimised for doing so. That includes being bullied because you stood up for your equal opportunity rights.

What does the law say?

Victimisation is subjecting someone, or threatening to subject someone, to a detriment – that means disadvantaging them in some way – because they spoke up about their equal opportunity rights at work, made a complaint, or helped someone else make a complaint.

Victimisation is against the law. It includes your boss, manager, coworkers and anyone else in your workplace.

All complaints about discrimination and sexual harassment or racial and religious vilification should be taken seriously by your boss.

Contact us

If you want to find out more about victimisation, you can call the Commission's Enquiry Line for a free and confidential chat on 1300 292 153 or email enquiries@veohrc.vic.gov.au.

Final quiz question

Have you, or has anyone you know, ever experienced sexual harassment, discrimination or victimisation at work?

Response

If you said yes, what did you (or they) do?

If you said no, what would you do if it happened to you?

People react in different ways when confronted with inappropriate behaviour in the workplace.

The important thing to remember is that you have options! The law is there to protect you and your rights at work.

Ignoring the behaviour is unlikely to make it stop. The person might even take it to mean you are OK with what they're doing – which is the last thing you want. And resigning from your job should be a last resort.

Discrimination and sexual harassment are against the law!

Bullying is a form of discrimination if it's happening because of a personal characteristic that is protected by the law.

It is also against the law for you to be victimised for speaking up about your equal opportunity rights, or for helping someone else to make a complaint.

Here are some options to consider if you or anyone you know is confronted with discrimination, sexual harassment or victimisation.

Try to manage it yourself

One effective way to take action against inappropriate behaviour is to firmly and calmly let the person know that you think the behaviour is inappropriate and that you are uncomfortable with it. You could say something like:

- "Touching me like that makes me very uncomfortable. Please don't touch me again. OK?"
- "I find jokes like that really offensive. Could you please save them for outside of work?"

At the very least, saying something stops the person from claiming later that they didn't know you were offended. It's important to know, though, that some people won't react well to being confronted, and may argue with you or otherwise make you feel more uncomfortable.

Make an internal complaint

Most workplaces have a complaints procedure that you could use to try to resolve your issue, informally or through a formal complaint. You may have received a copy of the procedure during your induction but HR or a manager can probably help you find it.

If your work has equal opportunity contact officers they will be able to advise you on your options.

Although it can be hard to speak up, if your workplace does have a procedure it probably takes sexual harassment, discrimination and victimisation seriously.

Make an external complaint

There are organisations out there that can help and support you to resolve problems in your workplace.

Whether it's sexual harassment, discrimination or victimisation, bullying or occupational health and safety issues, you have a right to speak up about your concerns.

To make a complaint, to get advice or to find out what happens when you make a complaint, contact:

- Victorian Equal Opportunity and Human Rights Commission www.humanrightscommission.vic.gov.au
- Fair Work Ombudsman www.fairwork.gov.au
- Victoria Legal Aid www.legalaid.vic.gov.au
- WorkSafe www.worksafe.vic.gov.au
- Your union www.vthc.org.au/why-be-in-a-trade-union/find-your-union/index.cfm
- Australian Human Rights Commission www.humanrights.gov.au.

Get information from the experts

Even if you don't want to make a complaint, we can provide you with information about the Commission and its services.

If you have any questions about sexual harassment, discrimination or victimisation you can call the Commission's Enquiry Line for a free and confidential chat on 1300 292 153 or email enquiries@veohrc.vic.gov.au.

We won't act on what you tell us unless you decide to lodge a formal complaint.

More information

If you want more information about any of the issues raised in our quiz, please contact us. You can also [download this brochure](#) this brochure for an overview of the law.

Thanks for taking the **my work rights** quiz. We hope you find it helpful. Remember, you have rights. Use them!

More information on your right to a safe, fair and discrimination-free workplace can be found at:

- Centre for Multicultural Youth www.cmy.net.au
- Gay and Lesbian Health Victoria www.glhv.org.au
- JobWatch www.jobwatch.org.au
- Office for Youth www.dhs.vic.gov.au/for-individuals/children,-families-and-young-people/young-people
- Office of Women's Policy www.dhs.vic.gov.au/for-individuals/women
- Women with Disabilities www.wdv.org.au
- Youth Affairs Council of Victoria www.yacvic.org.au
- YWCA www.ywca.org.au.

Feedback

We would like to hear from you about your experience with my work rights. Please email us with your thoughts: myworkrights@gmail.com.

Victorian Equal Opportunity and Human Rights Commission

Level 3, 204 Lygon St, Carlton Victoria 3053

Enquiry Line: 1300 292 153

Telephone: 1300 891 848

Fax: 1300 891 858

TTY: 1300 289 621

Interpreters: 1300 152 494

Email: enquiries@veohrc.vic.gov.au

Web: www.humanrightscommission.vic.gov.au

Online complaint form: www.humanrightscommission.vic.gov.au/complaints

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DISCLAIMER: This information is intended as a guide only. It is not a substitute for
legal advice.



Victorian Equal Opportunity
& Human Rights Commission



Department of
Human Services