

# **Sex Based Discrimination and Harassment Your Rights and Responsibilities at Macquarie University**

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## **Sex Based Discrimination**

Equality between men and women is a principle that lies at the heart of a fair and productive society. It is also the key goal of the Sex Discrimination Act 1984, which aims to eliminate discrimination and sexual harassment and promote greater equality in all aspects of the Australian community.

In NSW many types of sex discrimination are against the law.

## **What is Sex Based Discrimination?**

- where you are harassed or treated unfairly because of your sex
- where you are sexually harassed
- where you are treated unfairly or harassed because you are pregnant or you are breastfeeding
- where a rule or policy that applies to everyone in fact disadvantages your sex more than the opposite sex, and it's not reasonable
- where you are treated unfairly or harassed because of the sex of any of your relatives, friends or associates

## **Sex Based discrimination is against the law**

- in employment
- when you apply, or are studying in any State education institution (in private educational institutions, sexual harassment is against the law but sex discrimination is not against the law)
- when you get, or try to get, most types of goods or services
- when you rent, or try to rent, accommodation
- when you try to enter, join or get services from a registered club

## **What is sexual harassment?**

Sexual harassment is a type of sex discrimination. Sexual harassment is unwelcome, unsolicited and unwanted sexual behaviour that offends, humiliates, embarrasses, intimidates or otherwise causes distress. Sexual harassment is illegal under State and Commonwealth anti-discrimination legislation.

## **What sort of behaviours could be sexual harassment?**

- suggestive behaviour
- staring, leering or gesturing in a sexual way
- sexual or smutty jokes or innuendo
- sexual propositions, continually inviting a person to go out, phoning, or asking for sexual favours
- sexual or physical contact including touching, brushing, patting, slapping, kissing or pinching
- sexual comments, insults or teasing
- intrusive questions about a person's private life including marital status, sexual activity, sexual preference, morality or physical appearance
- sexually explicit or offensive material that is displayed in a public place or placed in a person's work area or personal belongings
- coerced sexual activity and sexual assault

**“But I didn’t mean anything by it”...**

**“Oh it’s Political Correctness gone too far”..**

Whether or not offence was intended is an issue, but not the issue. Harassment is about the impact the behaviour has and how the person who is targeted (or feels offended or targeted) perceives the behaviour. If behaviour is unwelcome, then it is potentially harassment and should stop.

Macquarie University has a diverse work and study environment. It is perhaps the first time in Australia’s history when there are three generations in the workplace simultaneously. Staff and students come from a range of cultural and linguistic backgrounds; both domestic and international. What one person may consider ‘normal’ or ‘usual’ or ‘humorous’ is not necessarily a shared understanding. Where an individual or group is the brunt of someone’s ‘joke’, it ceases to be a joke. Such behaviour becomes harassment when it is unwelcome and causes offence or distress.

### **Is it my fault that I was harassed?**

People who feel harassed can sometimes blame themselves or question whether they have in some way invited the harassment. Self doubt can be unhelpful and it is more important that the harassing behaviours are addressed as soon as possible. The sooner harassment is dealt with, the better for all concerned.

There are times where behaviours which are perceived as harassment have been born from ignorance, misunderstanding or miscommunication. Experience shows that with goodwill, these incidences can be resolved quickly with an apology and a change of behaviour.

Where harassment is intentional and/or ongoing, it is understandable that the targeted person, who is usually in a position of lesser power may feel unable to object or do anything to stop the behaviour. Reasons for non-action can include: feeling threatened, fear of victimisation, or fear that their study, livelihood or career is at risk if they complain. They may be simply too upset or shocked to act.

### **Victimisation**

Victimisation at Macquarie is taken very seriously. It is against the law to be discriminated against or harassed on the basis of having made or intending to make a complaint, or on the basis of having helped someone else make a complaint of discrimination, harassment or vilification covered under the NSW Anti-Discrimination Act 1977. This includes people who have agreed to be witnesses in relation to your complaint.

### **Everyone’s Right to a Safe Work Environment**

Most people want to work in a friendly, relaxed environment, but friendly work relationships have to be based on mutual respect and consideration. It is important for staff and students to recognise the difference between personal and professional boundaries. Everyone has a right to work in a safe and non-hostile environment.

### **Why should we avoid sexual harassment?**

Sexual harassment can be very damaging - to the individual, the workplace and to the university.

### **For Individuals**

- creates very high stress levels
- affects mental and physical health
- can affect work performance, lead to performance management, sick or stress related leave, even resignations in preference to a hostile work environment

### **For the Work Unit**

- disrupts working relationships and decreases staff morale if not dealt with swiftly
- divides work teams as people tend to take sides
- people are distracted and productivity and the quality of their work suffers

### **For the University**

- may result in absenteeism, low morale, and breakdown of communication and trust between staff and management,
- the loss of valuable staff
- industrial or legal action might be taken
- damage to the reputation of the university as an employer and education provider is very likely, regardless of the outcome
- it is expensive to resolve problems related to sexual harassment – costs may include sick leave, time taken to investigate complaints, recruiting and training replacement staff, preparation of legal cases and compensation.

### **What should I do if I have been sexually harassed?**

People can be reluctant to take action when they have been sexually harassed because they fear the consequences of making a complaint. This is understandable, however, experience shows that harassment doesn't stop if you ignore it. The process to follow at Macquarie is:

**Step 1** You have the right and also a responsibility to tell the person you feel is harassing you, that you find their behaviour offensive and that you want it to stop. Name their behaviour and be specific in your request. This should be sufficient to prevent further harassment.

*If this does not work, or you do not feel able to speak to them..*

**Step 2** Report the incident to your Manager. If you are unable to do this, contact the next level above – that is, your line manager's Manager. Put your concern in writing and be specific as to when and where the incidence/s happened, what was said (and if you have approached them directly)

The aim here is to try to resolve the issue at local level in the first instance. Managers / supervisors are responsible for ensuring the workplace is free from any form of harassment. This includes a responsibility to assist staff in dealing with sexual harassment matters.

*If this is not possible or proves unsatisfactory..*

**Step 3** Contact the Equity and Diversity Unit (if it is a staff / staff issue) OR The Office of the Dean of Students (if students are involved)

These two areas of the university are the initial points of contact. Staff will speak with you confidentially and informally, and discuss options. The aim will be to stop

the offensive behaviour and to promote the resumption of a harmonious work/study relationship. No action may be taken without your prior knowledge and permission.

Where a satisfactory resolution cannot be achieved informally, or the offensive behaviour continues, the matter can be lodged as a formal grievance and action taken as per the University Grievance Procedures and Enterprise Agreement.

### **Grievance Policy and Procedures**

Macquarie University has developed a Grievance Policy and Procedures to help resolve situations of harassment and discrimination in a way which protects the complainant from further harassment.

The Grievance Policy, Procedures and Guidelines are being reviewed in 2008 and the new policy will appear in Policy Central. At time of writing (September 2008) there is no Grievance Contact Officer Network at Macquarie although this item is being revisited within the Review.

### **External Organisations**

At any stage it is your right to obtain advice from any appropriate external organisation such as your union or the NSW Anti-Discrimination Board.

The NSW Anti-Discrimination Board provides a free advice service. If your complaint is covered by the anti-discrimination laws, they will try to help you and the other person reach a private settlement through conciliation.

### **Private Counselling**

Sometimes you may want someone to talk to who does not work in your area but who will understand work-related problems. Confidential counselling by independent professional counsellors is available free of charge to all University employees through the University Counselling and Health Unit.

### **USEFUL TELEPHONE NUMBERS:**

Manager, Equity and Diversity    Kate Wilson            (02) 9850 7471

Dean of Students                    Julian De Meyrick    (02) 9850 7464

Counselling and Health Unit    (02) 9850 7497 during office hours  
or go to Reception Area (\*no after-hours service)  
<http://www.sss.mq.edu.au/counselling/>

NSW Anti-Discrimination Board    (02) 9268 5555  
(02) 9268 5544 (Employers Advisory Service)  
<http://www.lawlink.nsw.gov.au/adb>

Human Rights and Equal Opportunity Commission    (02) 9284 9600  
Complaints: 1300 656 419  
<http://www.humanrights.gov.au>