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Sexual harassment in the workplace

A guide for employees

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Introduction

Sexual harassment in the workplace is indicative of a lack of respect. It infringes a person's dignity, demotivates the victim and can even make them ill. Although various statutory regulations require employers to ensure it does not occur in their company, sexual or sexist harassment can still take place. This brochure shows what employees can do in such cases and deals specifically with:

- what constitutes sexual harassment and the different forms it can take,
- the possible consequences of sexual harassment,
- what victims of sexual harassment can do if they or their colleagues are subjected to it,
- what the legal basis is.

Relevant authorities

- The cantonal labour inspectorate can help provide answers.
- The State Secretariat for Economic Affairs (SECO) is responsible for government employees and federal enterprises.

Please note: This brochure is not designed to cover legislation in detail. If in doubt, please refer to the specific legislation.



What is sexual harassment?

The term sexual harassment in the workplace covers any unwanted sexual or gender-based behaviour (sexual harassment) that violates an individual's dignity.

Harassment can take place during working hours or outside of them, for example at company events, business trips and other work-related activities. Perpetrators can be other employees, people working for partner firms or company clients.

Sexual harassment comes in the form of words, gestures or deeds. Specific examples are:

- lewd or suggestive remarks about an employee's outward appearance,
- sexist comments or jokes about employees' sexual characteristics and behaviour, sexual orientation or gender identity or expression,
- showing, displaying or sharing of pornographic or sexist content in the workplace,
- employees receiving unwanted invitations with explicit intent or unwanted emails, texts or social media messages or calls with derogatory or obscene jokes, banter, pictures, videos with sexual or sexist content,
- unwelcome physical contact,



- stalking at or outside of work,
- sexual advances involving the promise of job benefits or the threat of adverse consequences,
- romantic relationships which exist in the workplace but which can degenerate into sexual harassment,
- sexual assault, coercion or rape.

When is it sexual harassment?

There is a simple rule to help decide whether observed conduct is harmless flirtation, a budding relationship between work colleagues or sexual harassment: What is important is not the intention of the perpetrator but how their behaviour is perceived by the other party, i.e. is the behaviour welcome or not?

What is sexism?

Sexism is defined as any gender-based discrimination. It is sexist to ridicule a person or expose them to lewd remarks due to their outward appearance, their sexual orientation, gender identity or expression.

What lies behind sexual harassment?

Sexual harassment has nothing to do with eroticism or sexual attraction – it is a demonstration of power. The sexual route is taken as people are especially sensitive with regard to their sexuality. An environment where inappropriate behaviour is tolerated, where there is little intervention against derogatory or hurtful remarks or an overall lenient approach towards harassing behaviour can encourage sexual harassment in the workplace.

What is the difference between flirting and sexual harassment?

Flirting

- is mutual
- boosts self-esteem and confidence
- is welcomed by both parties
- makes people feel good about themselves
- is enjoyable
- brightens up the working day
- respects personal boundaries

Sexual harassment

- is one-sided
- is humiliating and insulting
- is unwanted by one party
- undermines self-esteem
- is annoying
- creates a toxic work environment
- does not respect personal boundaries

Consequences for victims

Sexual harassment can be damaging to victims in many ways and have the following effects:

- Work is no longer enjoyable.
- Trust in colleagues is lost.
- Concentration and performance decline.
- Professional skills and opportunities are not exploited to their full potential.
- Private life is affected.
- Feelings of shame and guilt arise.
- There is a noticeable effect on physical and mental health.
- This may involve headaches, insomnia, back pain, stomach complaints, depression, feelings of disgust, fear, rage, etc.
- The person can lose their job.

Facts and figures

Sexual harassment in the workplace can affect everyone, regardless of their gender, age, civil status, physical appearance, education or professional position. A representative study¹ carried out in 2024 found that 44% of the women interviewed had experienced sexual harassment at some point in their working life. Among men this percentage was 17%.

In the 12 months preceding the study, around a third of respondents (30.3%) had been affected by sexual harassment; 34.5% of women and 26.5% of men. These results highlight how common this phenomenon is, affecting many women and many men and taking place in many companies.

Age has a particular influence among women. In the previous twelve months alone, a third of young women aged between 16 and 25 experienced sexual harassment in the workplace.

¹ Liechti L., & Iseli S. (2024): Study on sexual harassment in the workplace [commissioned by the Federal Office for Gender Equality FOGE and the State Secretariat for Economic Affairs SECO]. Bern: Büro BASS.

Legal bases

A number of laws, such as the Gender Equality Act (GEA), the Employment Act (EmpA), the Swiss Code of Obligations (CO), the Swiss Criminal Code (SCC) – govern the protection of employees from sexual harassment in the workplace either expressly or as part of the overall protection of mental and physical well-being.



Article 4 GEA

«Any harassing behaviour of a sexual nature or other behaviour related to the person's gender that adversely affects the dignity of women or men in the workplace is discriminatory. Such behaviour includes in particular threats, the promise of advantages, the use of coercion and the exertion of pressure in order to obtain favours of a sexual nature.»

Article 5 paragraph 3 GEA

«In the case of discrimination through sexual harassment, the court or the administrative authority may also award the person concerned compensation, unless the employer proves that it took measures that have been proven in practice to be necessary and adequate to prevent sexual harassment and which it could reasonably have been expected to take. The compensation must be fixed by taking all the circumstances into account and is calculated on the basis of the average Swiss salary.»

Article 6 paragraph 1 EmpA / Article 2 EmpA Ordinance 3

«Employers are obliged to take all the measures required to protect the health of their employees that experience has shown to be necessary, that may be used in accordance with the state of the art, and which are appropriate to the conditions in the workplace. They must also take all the measures required to protect the personal integrity of their employees.»

Article 328 paragraph 1 CO²

«In particular, the employer must ensure that employees are not sexually harassed and that any victim of sexual harassment suffers no further adverse consequences.»

Meeting the deadlines

Some protection standards may be invoked both during and after the period of employment, but the deadlines, which are governed by the cantonal conciliation boards, must be met. The address can be found on the website for sexual harassment in the workplace at www.ebg.admin.ch/en/sexual-harassment-in-the-workplace.

Art. 198 Swiss Criminal Code

«Any person who causes offence by performing a sexual act in the presence of another who does not expect it, any person who sexually harasses another physically or through the use of indecent language shall on complaint be liable to a fine.»

² Employment relationships under public law, however, are governed by the respective employment laws and ordinances.

The right to defend oneself

Employers have a legal duty to ensure the work environment is harassment-free. Employees, regardless of their job or how long they have been working in the company, have the right to defend themselves and seek help should a situation arise which makes them feel uncomfortable or which feels inappropriate. Employees should be aware that victims are not responsible for what has happened to them. It is legitimate to have negative feelings when sexual harassment has taken place, and victims have the right to talk about it and be heard whenever they wish and at their own pace.

What can victims do?

There are various options open to victims:

Direct intervention

Victims can try to stop the perpetrator immediately. It should be made clear that this behaviour is unwelcome, will not be tolerated and that instead the perpetrator should behave correctly.



Early intervention prevents a situation from becoming entrenched

Victims must make it very clear when saying «stop.» A clear «stop» can be a strong deterrent.

Of course it is completely normal for victims to be scared, to feel out of their depth or to be worried about possible consequences. If affected employees are unable or unwilling to react immediately, they still have the same right to defend themselves against the behaviour and can report the incident later. Should the harassing behaviour continue, employees have the right to make an official complaint.

Note:

Keeping a record of events

Several steps may be necessary to end the harassment. It is therefore important to write down what has taken place (who the perpetrator[s] are, when and where harassment occurred and what happened). It is also worth recording what was done to counter the harassment and whether there were any witnesses to the incident and whether they are prepared to make a statement.

Write an email or letter

If victims are afraid to confront the perpetrator directly or have been unsuccessful in doing so, they can try appealing to them in writing by stating what has upset them and asking the perpetrator to refrain from such behaviour in future. It is wise to keep a copy of the letter or email.

Involving colleagues

Victims should talk to other colleagues in the workplace about what has happened. The victim may not be alone in being harassed and affected colleagues can join forces. This implies a certain amount of trust as colleagues are not bound to secrecy and in principle can share this information with others.

Asking for help

Victims should not hesitate to seek help or to find out who is responsible for dealing with cases of sexual harassment in the company. Many companies have a contact person for victims of sexual harassment. Employees can approach them as a first port of call to discuss their situation and what can be done next. The contact person can also provide psychological support. Contact persons are not allowed to take further action in the company without the victim's consent. N.B.: Superiors and HR staff cannot be contact persons as they are duty-bound to take direct action against the harassment and/or to report it to management. If there is no contact person in a company, victims can seek help from an external specialist, trade union, employee association, cantonal labour inspectorate or anonymously at the information and advice website: www.belaestigt.ch/i-need-advice.

Legal action as a last resort

If the person or office in charge within the company fails to take action or if an employee prefers an external solution, there are a number of options available. When taking the legal route, victims should obtain advice from specialists such as gender equality offices and advice centres, the relevant trade union or employee association or from a legal professional.

The following list shows the options available:

- Suspend work on the grounds of unacceptable working conditions (Article 324 Swiss Code of Obligations).
- File a complaint against the company with the conciliation board, the courts or the administrative authority. Complaints can be filed on the following grounds:
 - application for the harassing behaviour to be prohibited, stopped and/or confirmed (Art. 5 para. 1 GEA),
 - claim for compensation for up to six months average Swiss salary for failure to comply with duty of care (Art. 5 para. 3 GEA),
 - claim for damages for financial loss and pain and suffering (Art. 5 para. 5 GEA and Art. 41 ff. CO).
- Individuals who are dismissed for filing a complaint within the company or for approaching the conciliation board can challenge dismissal before the end of the period of notice and demand temporary reinstatement or alternatively go to court to claim compensation of up to six months' salary within 180 days after the end of their employment (Article 10 GEA and Article 336a CO).
- Resign under Article 337 CO (immediate termination of employment for good cause). In this case the employer is required to pay the total salary due had the resignation taken place within the usual period of notice.
- Report the employer to the cantonal labour inspectorate so that it can investigate the company.

- Take civil proceedings against the perpetrator by submitting a complaint with a request for the behaviour to cease or for the illegal nature of the sexual harassment to be recorded and claim compensation in monetary or other forms (Art. 28 ff. SCC and Art. 49 ff. CO).
- Take disciplinary proceedings against the perpetrator under the provisions of public employment law.
- Take criminal proceedings against the perpetrator.

Challenges facing victims

Reacting is not always easy

It takes courage to defend one's rights, and it is not always well-received. People who report sexual harassment cannot always rely on support. The incident may be trivialised or met with disbelief. In certain cases, the victim may even be blamed for what happened, put under pressure or intimidated. **Such reactions cannot be tolerated.**

At the same time, however, victims are also expected to take a firm stand against unacceptable behaviour and not to tolerate it, which is unreasonable for them, particularly given the power imbalances and relationships of dependency that often exist. Yet if they complain, their reaction is regarded as disproportionate, or they are described as prudish, inhibited individuals with no sense of humour. In addition to the harassment itself, victims may be bullied, ostracised and treated with hostility.

Nevertheless, victims must stand up for themselves and if they feel unable to do so alone, they can get help. Experience shows that harassment is more likely to stop if victims have the courage to react. Active opposition will help victims regain their self-esteem and shake off the humiliating role of victim.

Support

How to support harassed colleagues



What can colleagues do if they witness sexual harassment at work? They can help the victim in the following ways:

- Not joining in the laughter if someone makes a sexist joke or comment.
- Talking to the victim when sexual harassment is suspected.
- Encouraging the victim to take action to defend themselves.
- Going with the victim to talk to a contact person in the company or an external advice centre.

- Not doing anything against the victim's will.
- If possible, making superiors aware of the sexualised work environment.
- Where possible, agreeing to be a witness.
- Arguing in favour of adopting measures to prevent sexual harassment in the company.

Protection against dismissal

The Gender Equality Act specifies that people lodging a complaint and witnesses are protected against dismissal throughout the entire procedure (within the company and before a court) and for up to six months after completion of the procedure.

Useful addresses

Advice and information centres

- Advice and information website
www.belaestigt.ch/i-need-advice
- Advice centres for women experiencing violence
- Advice centres for migrant women
- Trade unions and professional associations
- Cantonal and municipal offices for gender equality
www.equality.ch
- Cantonal labour inspectorates www.iva-ch.ch
- Cantonal conciliation boards under the Gender Equality Act
www.sks-coc.ch

You will find additional information and proven tools on the following website:

www.ebg.admin.ch/en/sexual-harassment-in-the-workplace

SECO | Labour Directorate

Working Conditions – *Health protection in the workplace*

3003 Bern

info.ab@seco.admin.ch | www.seco.admin.ch

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