

# Further contacts

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## **Womensport and Recreation NSW**

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## **NSW Anti-Discrimination Board**

Level 4, 181 Lawson Street  
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Tel: (02) 9318 5444

## **Human Rights and Equal Opportunity Commission (HREOC)**

Level 8, Piccadilly Tower  
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SYDNEY NSW 2000  
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Charge free: 1800 021 199



# NSW GUIDELINES FOR ATHLETES & SPORTS OFFICIALS IN DEFINING SEXUAL HARASSMENT

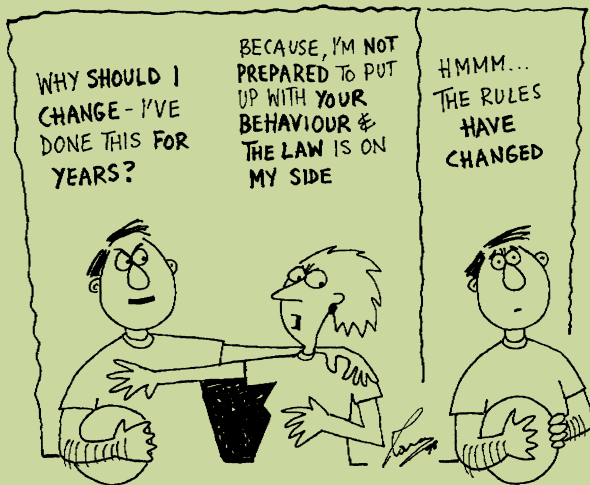
Adapted from Anti-Harassment in Sport Guidelines for Athletes, Australian Sports Commission



# What is sexual harassment?

Sport plays a major part in the lives of many Australians who are often participants or spectators. For many people sport is a source of local enjoyment and national pride. For some however, the sporting experience is marred by the presence of sexual harassment which creates an environment neither welcoming nor enjoyable.

These guidelines have been developed to make sure that athletes and sports officials understand their rights and responsibilities and the consequences of sexual harassment.



The cost of sexual harassment is high. For an athlete it may result in a loss of self esteem, reduced performance or ultimately, force someone to leave the sport they love. For an organisation, it could mean loss of productivity and reputation. It may also represent legal liability and monetary costs.

## THE LAW

Quite simply, sexual harassment is unlawful. It is covered by the *Commonwealth Sex Discrimination Act 1984*. And with recent amendments, the *NSW Anti-Discrimination Act 1977* now includes discrimination on the grounds of sexual harassment in sport.

## WHO IS INVOLVED?

Anyone participating in, or administering sporting activities can be involved. This includes athletes, coaches, sporting officials and administrators .

Sexual harassment is mostly perpetrated by men against women. Sometimes men are sexually harassed by women or other men, and sometimes women are sexually harassed by other women. It can occur between any of the people involved in sport or its administration.

Sexual harassment is behaviour that has a sexual element, that is unwelcome. It is behaviour that can be reasonably expected in the circumstances in which it occurs to offend, humiliate or intimidate the person or group to whom it is directed.

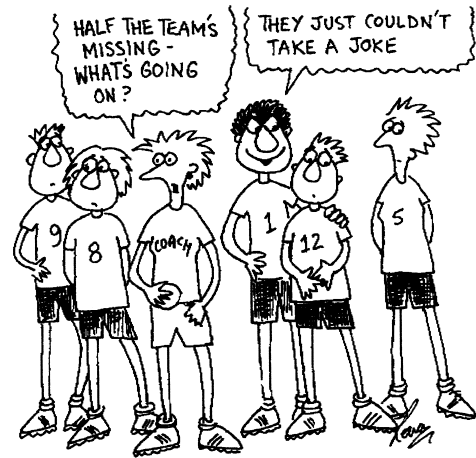
The key word is **unwelcome**. If the behaviour leads to feelings of embarrassment, humiliation, offence or intimidation, then it constitutes sexual harassment and must stop.

Sexual harassment usually occurs in situations where there is an imbalance of power or authority between individuals, or simply when a hostile environment is created.

## SEXUAL HARASSMENT INCLUDES:

- uninvited touching, massaging, kissing, embracing
- derogatory or demeaning jokes and comments of a sexual nature
- propositions, promises or threats in return for sexual favours
- non verbal behaviour such as whistling, sexual staring and leering
- displays of sexually explicit or offensive material (for example posters, graffiti)
- sex-based insults, taunting, name-calling, innuendoes
- persistent or intrusive questions about an individual's personal life
- repeated requests to go out, especially after prior refusal
- offering sexual favours
- engaging in behaviour which is sexually embarrassing, humiliating or intimidating
- offensive communications (letters, faxes, e-mail messages, screen savers etc.)
- physical assault

**Sexual harassment does not include a relationship of a sexual nature based on mutual attraction, friendship and respect providing the interaction is consensual, welcome and reciprocated.**



## EFFECTS OF SEXUAL HARASSMENT

Sexual harassment can be devastating for people and organisations. It may:

- interfere with and affect an individual's health
- reduce productivity and effectiveness
- reduce job and sporting opportunities
- undermine self-esteem
- diminish work, academic and athletic performance
- create significant family and personal problems
- result in a complete withdrawal from sport and social activities
- create a hostile or unpleasant environment
- create low morale in a team or organisation
- diminish the reputation of the sport, team and organisation in the community
- lead to disciplinary action or dismissal of the offender if the complaint is upheld
- entail costs and unwanted publicity for the organisation involved

# What can you do if you are being sexually harassed?

**Y**ou have rights and responsibilities if you are being harassed. Sometimes it may seem difficult to stop sexual harassment if an imbalance of power exists between individuals. Some people may be particularly vulnerable to abuse where youth and loyalty make it hard to report unwelcome or offensive behaviour. Whatever the situation you should exercise your rights.

## YOUR RIGHTS ARE TO:

- have the behaviour stopped
- find out what to do in the complaint procedure
- have the matter dealt with confidentially
- have your complaint investigated promptly in a sensitive and fair manner
- have access to a Contact Officer or support person, official, and/or president to provide advice and support in dealing with the complaint
- be accompanied by a responsible person on any occasion when a complaint is being discussed
- not be intimidated
- appeal against the findings or recommended action where there are concerns about procedure or possible bias
- to withdraw a complaint if you decide not to proceed



## YOUR RESPONSIBILITIES ARE TO:

- not encourage, allow or condone behaviour that makes you feel uncomfortable or compromised
- keep records of incident(s) if you wish to make a complaint including time, place and witnesses
- help have a complaint resolved quickly
- recognise that the person(s) about whom you complain has a right to a fair hearing
- put your complaint in writing if the complaint is of a serious nature
- not make untrue or unnecessary complaints against a person
- reveal your identity when you make a complaint if you wish action to be taken

## WHAT SHOULD YOU DO IF YOU ARE ACCUSED OF SEXUAL HARASSMENT?

You have rights and responsibilities if you are accused of sexual harassment. If this does occur you have the right to:

- be fully informed about the nature of the complaint
- be treated fairly and without bias
- seek counselling and advice on resolving the matter promptly
- have the matter dealt with confidentially

You also have certain responsibilities to:

- take immediate action to stop any unwelcome behaviour
- co-operate in having the complaint resolved quickly
- recognise you and the person(s) making the complaint have a right to a fair hearing
- not victimise the person(s) making the complaint

# Resolving a complaint

There are basic principles that will operate to ensure that everyone is treated equally and fairly: They are that:

- any grievance is dealt with seriously and fairly
- every effort is made to stop the behaviour as quickly as possible
- confidentiality for the complainant(s) and respondent(s) is respected
- procedural fairness is observed in the resolution process
- each party is protected from recrimination in the resolution process
- all parties may pursue advice or action from an external authority at any stage of the complaint procedure.



## IF A COMPLAINT IS MADE, THESE STEPS SHOULD BE FOLLOWED:

- Step 1** the complainant should ask the person to stop the behaviour (ensure accurate records of incidents, including time, date, place, witnesses etc, are documented)
- Step 2** if the behaviour continues, or if the complainant feels uncomfortable broaching the issue, the complainant should bring the matter to the attention of the Contact Officer (eg: executive director, manager or president)
- Step 3** obtain advice on procedures from the Contact Officer. The complaint may be resolved informally, for example with an apology

**Step 4** if there is no resolution and the complainant would like to proceed, the Contact Officer refers the complaint to a **Grievance Officer** or assistance is sought from an external agency

**Step 5** the Grievance Officer investigates and informs the person(s) complained about of the allegations

**Step 6** the Grievance Officer interviews both parties separately, confidentially and impartially. Both parties must have a chance to state their case, give an explanation and put forward their defence. All parties must be heard and relevant submissions considered

**Step 7** the Grievance Officer writes confidential records of the complaint process unless disclosure is necessary for further processes

**Step 8** the Grievance Officer attempts mediation/conciliation between the parties

**Step 9** the Grievance Officer achieves resolution and follows up to make sure there is no repetition of the behaviour

**Step 10** in cases of a serious allegation or dispute, the Grievance Officer refers the matter to the sports management for investigation and possible disciplinary action

**Step 11** if internal conciliation is unsuccessful or inappropriate, the complainant puts a written complaint to an external agency, for example, the NSW Anti-Discrimination Board. This can be done with the support of a Grievance Officer.

At any stage, it is the prerogative of the complainant to proceed with, or dissolve, a complaint



## POSSIBLE OUTCOMES OF THE COMPLAINTS RESOLUTION PROCESS:

- an apology is received and the matter is resolved with no further harassment
- the matter is discussed in the company of a Grievance Officer and referred to a member of the executive for action
- a mutually acceptable resolution is reached by executive action
- no resolution occurs and a mediator is appointed to resolve the complaint
- resolution is not achieved and the matter is formally referred in writing to the President, NSW Anti-Discrimination Board or the commissioner, Human Rights and Equal Opportunity Commission for investigation
- a complaint is referred for external investigation where compensation may be determined by a tribunal
- at any stage of the resolution process, the executive may take disciplinary action.

# Examples of sexual harassment in sport



*When a coach sexually intimidates an athlete. For example, unnecessarily and continually holding an athlete in the process of "explaining a correct technique"*



**When an athlete's selection on a team is dependent on him or her agreeing to an implied sexual proposition**



*When a team acceptance or initiation requires an athlete to perform demeaning physical acts of a sexual nature*



**When an employer demands sexual favours from an employee during the course of employment. This includes during normal working hours and at work-related activities such as training courses, conferences, field trips, work functions and office parties**



**When an athlete proposes sexual favours as a way of influencing any decision making**