



The Challenges Continue...  
SEXUAL HARASSMENT IN THE AUSTRALIAN WORKPLACE

FOR  
GENERAL  
EXHIBITION

She didn't want  
to be a hero...  
one day they  
pushed her  
too far

PRESENTING

Sexual Harassment

DON'T TAKE IT

ISBN 0 642 26991 2

20 Years On: The Challenges Continue...Sexual Harassment in the Australian Workplace

Publication date: March 2004

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STANDING UP FOR HERSELF

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IF THIS IS YOU DON'T TAKE IT  YELL OUT

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# Foreword



Sexual harassment is unlawful and has been for 20 years. However, it is a perennial issue, deeply embedded in many Australian workplace cultures. Recognising this, over the last 20 years the Human Rights and Equal Opportunity Commission ("HREOC") has regularly focussed its public education programs on the issue of sexual harassment. Two decades after the introduction of the *Sex Discrimination Act 1984* (Cth) (the "SDA") it seemed timely to me that we review our knowledge and management of sexual harassment. This review examines the way in which HREOC manages complaints, updates the *Sexual Harassment: A Code of Practice* ("Code of Practice") (which was first developed in 1996) and examines experiences of sexual harassment in the community.

The review began with *A Bad Business: Review of sexual harassment in employment complaints 2002* ("A Bad Business"), an analysis of the sexual harassment in employment complaints finalised by HREOC in 2002.

*A Bad Business* provided excellent information about the nature of complaints to HREOC but it did not, and could not, provide information about the general

incidence and nature of sexual harassment in the Australian community and its impact on victims, perpetrators, employers and other workplace participants.

To address these issues, HREOC commissioned the Gallup Organization to undertake a telephone survey, Australia's first national survey of sexual harassment in the general community.

The purpose of the telephone survey and associated research was to provide a robust quantitative analysis of the incidence and nature of sexual harassment in the Australian community. Further, by comparing the results of the telephone survey with the findings of *A Bad Business*, it might be possible to identify where the SDA, the Code of Practice, HREOC's education materials or its complaints protocols might be improved to better address the sexual harassment experience of Australians. It might also prove useful to employers, employer organisations and unions in updating their sexual harassment codes and procedures. A tall order!

The telephone survey has good news and bad. It has confirmed that the incidence of sexual harassment in Australia is broadly comparable with that of other like countries. Eighteen per cent of all respondents in the telephone survey had been harassed at work (28 per cent of women, seven per cent of men). This figure is comparable to the New Zealand experience (15 per cent) but a little lower than an Australian TMP Worldwide survey and earlier United States surveys which suggested that as many as 44 per cent of women were sexually harassed at work.<sup>1</sup>

<sup>1</sup> These are discussed at 2.2.2

Overall, the telephone survey found 28 per cent of adult Australians had experienced sexual harassment at some time in public life; 41 per cent of all women and 14 per cent of all men.

Most sexual harassment in the survey involved men harassing women, but significantly, 21 per cent of identified harassers were female – mostly harassing male victims.

This gender breakdown is not reflected in complaints to HREOC, such as those reviewed in *A Bad Business*, suggesting that male targets are more unwilling to address sexual harassment and that men might need to be made more aware of their rights to protection from sexual harassment.

The telephone survey has also identified co-workers as the most likely harassers with employers or supervisors making up another third. Again, this is broadly in line with *A Bad Business*, although harassment by co-workers may be more likely to be ignored by targets or dealt with successfully within the workplace.

None of this should come as a surprise, but it was important that it be quantitatively confirmed.

The telephone survey also has good news; it confirms that other workers who witness harassment are overwhelmingly likely to take an active role in addressing it, including confronting the harasser. Far from being a “boys’ club” workforce that condones sexual harassment, Australians are prepared to do the right thing by their fellow workers, which should further encourage employers to implement sexual harassment prevention and reporting policies.

Finally, the telephone survey confirms that in the majority of sexual harassment cases, action is taken against the harasser by management when a complaint is made, but that sadly, 68 per cent of the targets of workplace sexual harassment do not formally complain, often because they believed there would be no management support. Employers would do well to examine their workplace environments and ensure that sexual harassment complaints procedures are implemented and seen to be implemented by staff.

While *A Bad Business* published by HREOC in 2003 should have provided some useful guidance to employers and managers, the telephone survey is even more useful in assisting in the prevention of sexual harassment and in the development of appropriate policies. The revised Code of Practice should also be a useful tool for employers and managers. The telephone survey will also be informative in any reviews of legislative, policy or procedural efforts to deal with sexual harassment.



Pru Goward

Sex Discrimination Commissioner

Human Rights and Equal Opportunity Commission

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## *Executive Summary*

The Human Rights and Equal Opportunity Commission ("HREOC") is an independent statutory authority established under the *Human Rights and Equal Opportunity Commission Act 1986* (Cth). It has a variety of functions and powers to promote and protect the human rights of all people in Australia. HREOC administers the *Sex Discrimination Act 1984* (Cth) ("SDA"). Sexual harassment is a legally recognised form of sex discrimination. Sexual harassment in certain areas of public life is unlawful under the SDA.

In 2003, HREOC undertook a review of the sexual harassment in employment complaints finalised by HREOC in 2002. That review, entitled *A Bad Business: Review of sexual harassment in employment complaints 2002 ("A Bad Business")* highlighted the continuing challenges that sexual harassment presents, particularly for women in paid employment.

A national telephone survey conducted for HREOC by the Gallup Organization confirmed this finding. This is the first such comprehensive national survey of sexual harassment undertaken in Australia, with 1,006 interviewees randomly selected from the Australian adult population.

The survey found that 41 per cent of Australian women aged between 18 and 64 years and 14 per cent of men have experienced sexual harassment. Two-thirds of this sexual harassment occurs in the workplace, with 28 per cent of Australian women and seven per cent of Australian men having experienced sexual harassment at work.

The survey indicates that 14 per cent of Australians have witnessed incidences of sexual harassment in the workplace in the five years prior to the conduct of the survey. The vast majority of these witnesses elected to take some action in relation to the incident, from talking and offering advice to the target of the harassment, to confronting the harasser.

Over half of the sexual harassment experienced in the workplace involved physical forms of sexually harassing conduct, including unwelcome touching, hugging, cornering, kissing or unnecessary familiarity. However, non-physical types of sexual harassment were most frequently experienced, such as suggestive comments or jokes, staring or leering, sexually explicit emails or SMS messages, and sexually explicit pictures of posters.

Workplace sexual harassment is rarely a one-off incident. Half of the experiences continued for up to six months, suggesting that workplace sexual harassment may have a significant impact on an employee's productivity.

A significant proportion of the sexual harassment experienced in the workplace is perceived as serious in nature with half of the interviewees to the survey rating the experience as very or extremely offensive.

As the general incidence rate indicates, sexual harassment in the workplace predominantly affects women. The greatest prevalence of sexual harassment in the workplace occurs among women under the age of 45. Seven in ten cases of sexual harassment involves men harassing women.

Almost half of the harassers were co-workers of the target, with over a third of harassers a person in authority in the workplace in relation to the target. Of those harassed by someone in authority the harasser was more likely to be male than female. Female harassers appear more likely to harass co-workers than those in authority.

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Less than one third of the sexual harassment experienced is formally reported to either employers or external agencies, such as HREOC. Of the sexual harassment reported, most is reported to the target's manager or supervisor or employer/boss. Only one per cent of workplace sexual harassment is reported to anti-discrimination agencies such as HREOC.

The reasons for not reporting the sexual harassment predominantly fall into three categories:

- a lack of faith in the formal complaints mechanism;
- a belief that the experience was not serious enough to warrant reporting; and
- the target dealing with the problem themselves.

At the same time, of those who did formally report the sexual harassment experienced in the workplace, just under half were either satisfied or very satisfied with the formal complaints mechanism, and in most cases action was taken against the harasser. This suggests that employers may need to do more to promote the use of their formal grievance procedures to overcome employees' reluctance to formally complain.

Nevertheless, a significant minority of formal complaints were perceived to be handled badly, suggesting that some employers may need to review and improve their grievance procedures.

Moreover, the results of the telephone survey suggest that the effectiveness of current employer policies to prevent and eliminate sexual harassment in the workplace may vary considerably. Employers may also need to review the effectiveness of their prevention policies in light of the survey's results. The persistent nature of sexual harassment in employment, despite 20 years of legislation making such conduct unlawful, requires on-going monitoring and vigilance in order to reduce its incidence. The findings of the telephone survey and *A Bad Business* suggest that employers, employer associations, unions, and anti-discrimination agencies such as HREOC must continue to focus on educating workplace participants of their rights and responsibilities, taking action to prevent sexual harassment, and dealing effectively and comprehensively with sexual harassment when it does occur. The challenges continue.

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# Key Findings

## Key Findings of the National Telephone Survey

The Human Rights and Equal Opportunity Commission ("HREOC") commissioned the Gallup Organization to conduct a national household telephone survey on the incidence and nature of sexual harassment experienced in the Australian community.

### *The incidence of sexual harassment experienced in the community*

- 28 per cent of interviewees to the telephone survey stated that they have personally experienced sexual harassment at some time in an area of public life.
- 41 per cent of women and 14 per cent of men stated that they have personally experienced sexual harassment at some time in an area of public life.

### *The incidence of sexual harassment experienced in the workplace*

- 18 per cent of interviewees to the telephone survey stated that they have personally experienced sexual harassment in the workplace at some time.
- 28 per cent of women and 7 per cent of men stated that they have personally experienced sexual harassment in the workplace at some time.

### *The incidence of workplace sexual harassment experienced in the last five years*

- 11 per cent of interviewees to the telephone survey stated that they have personally experienced sexual harassment in the workplace in the last five years.
- 15 per cent of women and 6 per cent of men stated that they have personally experienced sexual harassment in the workplace in the last five years.

### *The incidence of witnessing sexual harassment in the workplace in the last five years*

- 14 per cent of interviewees to the telephone survey stated that they have witnessed sexual harassment in the workplace in the last five years.
- 87 per cent of those witnesses of sexual harassment in the workplace in the last five years took some sort of action when the sexual harassment occurred.

### *Nature of sexual harassment in the workplace in the last five years*

- 94 per cent of the sexual harassment experienced involved "crude or offensive behaviour".
  - 85 per cent of the sexual harassment experienced involved "unwanted sexual attention".
  - 43 per cent of the sexual harassment experienced involved "sexist behaviours".
  - 20 per cent of the sexual harassment experienced involved "sexual assault".
  - 19 per cent of the sexual harassment experienced involved "sexual coercion".
  - 62 per cent of the sexual harassment experienced included physical harassment.
-



*Duration of the sexual harassment in the workplace in the last five years*

- 15 per cent of interviewees to the telephone survey who experienced workplace sexual harassment in the last five years stated that it was a one-off incident.
- 50 per cent stated that it continued for up to six months.

*Seriousness of the sexual harassment in the workplace in the last five years*

- On average, interviewees to the telephone survey who experienced workplace sexual harassment felt more offended than intimidated by the sexual harassment experienced.
- 40 per cent of interviewees rated the sexual harassment experienced as very or extremely intimidating.
- 50 per cent of interviewees rated the sexual harassment experienced as very or extremely offensive.
- On average, female interviewees rated the sexual harassment experienced as more offensive and intimidating than male interviewees.

*Characteristics of the target of sexual harassment in the workplace in the last five years*

- 72 per cent of the targets of harassment in the telephone survey were women; 28 per cent were men.
- The greatest prevalence of sexual harassment in the workplace occurs among women younger than 45 years of age.
- 70 per cent of the sexual harassment experienced by interviewees to the telephone survey involved men sexually harassing women.
- 19 per cent of the sexual harassment experienced by interviewees to the telephone survey involved women sexually harassing men.
- Nine per cent of the sexual harassment experienced by interviewees to the telephone survey involved men sexually harassing men.
- Two per cent of the sexual harassment experienced by interviewees to the telephone survey involved women sexually harassing women.
- 70 per cent of the targets of workplace sexual harassment were working full time and 30 per cent part time.
- Employees who have been at a workplace for less than 12 months appear to be more likely to experience sexual harassment.

*Characteristics of the workplace harasser in the last five years*

- 79 per cent of the harassers identified by interviewees to the telephone survey were men; 21 per cent were women.
  - The age of the harasser estimated by the target of the sexual harassment in the telephone survey was predominantly over 30 years of age.
  - 35 per cent of interviewees who experienced workplace sexual harassment stated that the harasser was a "boss or employer", "supervisor or manager", or a person in a more senior position.
  - 48 per cent of interviewees who experienced workplace sexual harassment stated that the harasser was a "co-worker".
  - 16 per cent of interviewees who experienced workplace sexual harassment stated that the harasser was a "client or customer" or "others associated with the workplace".
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*Characteristics of the workplace where the sexual harassment occurred in the last five years*

- Sexual harassment is prevalent across all employer sizes and is widely spread across industries.

*Reported sexual harassment in the last five years*

- Less than one third (or 32 per cent) of interviewees to the telephone survey who experienced sexual harassment in the workplace stated that they made a formal report or complaint about the sexual harassment.
- Female targets of sexual harassment were more likely than male targets to formally report the sexual harassment experienced.
- Of those interviewees who did report the sexual harassment, the majority reported it to their "manager or supervisor at work" or "boss or employer".
- Only one per cent of interviewees to the telephone survey who experienced sexual harassment in the workplace stated that they made a complaint of sexual harassment to either HREOC or to a State or Territory anti-discrimination agency.

*Reasons for not reporting sexual harassment experienced in the last five years*

- 31 per cent of the 132 interviewees to the telephone survey who did not report the sexual harassment experienced stated that they "did not think that the harassment was serious enough" to warrant reporting.
  - 26 per cent stated that they "took care of the problem myself".
  - Almost half of the 132 interviewees to the telephone survey who did not report the sexual harassment experienced expressed a lack of faith in the grievance process as one of the reasons for not reporting it.
-

## Chapter 1: HREOC's research on sexual harassment

### 1.1 Introduction

The Human Rights and Equal Opportunity Commission ("HREOC") is an independent statutory authority established under the *Human Rights and Equal Opportunity Commission Act 1986* (Cth). It has a variety of functions and powers to promote and protect the human rights of all people in Australia. HREOC administers the *Sex Discrimination Act 1984* (Cth) ("SDA"). Sexual harassment is a legally recognised form of sex discrimination. Sexual harassment in certain areas of public life, including employment, education, the provision of goods and services, and the administration of Commonwealth programs is unlawful under the SDA.

Sexual harassment is unwelcome sexual conduct which makes a person feel offended, humiliated and/or intimidated where that reaction is reasonable in the circumstances. It is not sexual interaction, flirtation, attraction or friendship which is invited, mutual, consensual or reciprocated.<sup>2</sup>

Sexual harassment is a perennial issue that presents a barrier to women's full participation in the workplace and to the realisation of gender equality. Since the introduction of the SDA HREOC has regularly undertaken work on the issue and will no doubt continue to do so.

This paper, along with *A Bad Business: Review of sexual harassment in employment complaints 2002*,<sup>3</sup> the updated *Sexual Harassment in the Workplace: A Code of Practice for Employers*,<sup>4</sup> and related public awareness material is the latest installment of HREOC's ongoing work on this issue.

<sup>2</sup> See Human Rights and Equal Opportunity Commission *Sexual Harassment in the Workplace: A Code of Practice for Employers* HREOC Sydney 2004, p10.

<sup>3</sup> Human Rights and Equal Opportunity Commission *A Bad Business: Review of sexual harassment in employment complaints 2002* HREOC Sydney 2003.

<sup>4</sup> Human Rights and Equal Opportunity Commission *Sexual Harassment in the Workplace: A Code of Practice for Employers* HREOC Sydney 2004.

<sup>5</sup> Human Rights and Equal Opportunity Commission *A Bad Business: Review of sexual harassment in employment complaints 2002* HREOC Sydney 2003. *A Bad Business* was launched on 12 November 2003 by the Sex Discrimination Commissioner and is available from HREOC's website at [www.humanrights.gov.au/sex\\_discrimination/bad\\_business/index.html](http://www.humanrights.gov.au/sex_discrimination/bad_business/index.html).

<sup>6</sup> See Human Rights and Equal Opportunity Commission *A Bad Business: Review of sexual harassment in employment complaints 2002* HREOC Sydney 2003, p7.

## 1.2 Complaints of sexual harassment in employment

In 2003 HREOC undertook a review of the sexual harassment in employment complaints finalised by HREOC in 2002. That review, entitled *A Bad Business: Review of sexual harassment in employment complaints 2002*<sup>5</sup> (*'A Bad Business'*), highlighted the continuing problem, particularly for women in paid employment, of sexual harassment.

The key findings of *A Bad Business* included that reported sexual harassment in the workplace was predominantly by men against women and involved multiple forms of harassing behaviour. Moreover, complainants of sexual harassment were more likely to be relative newcomers to the workplace and to be in a subordinate position to their alleged harassers. Reported sexual harassment was found to be an issue for all forms of business, and represented a significant cost to employers in terms of staff turnover – only seven per cent of complainants were still known to be actively working for the organisation where the alleged sexual harassment occurred at the time the complaint was made to HREOC.<sup>6</sup>

These findings reinforced the need for HREOC to continue to undertake public education and research on the issue of sexual harassment. The data presented in *A Bad Business* do not show who is experiencing, but not reporting, sexual harassment to HREOC. This includes sexual harassment that is resolved between individuals and within organisations, as well as sexual harassment that is continuing unchecked and unreported. In order to obtain this information and to understand the extent and nature of the problem in Australia, a national household telephone survey on the incidence and nature of sexual harassment was commissioned.

## 1.3 National telephone survey

In July 2003 HREOC commissioned the Gallup Organization to undertake a national telephone survey on the incidence and nature of sexual harassment in the Australian community. This is the first such national survey conducted in Australia to provide both an incidence rate of sexual harassment generally and insight into the nature of sexual harassment experienced in Australian workplaces within the last five years.

### 1.3.1 Purpose of the national telephone survey

The objective of this research was to provide a robust quantitative analysis of the incidence and nature of sexual harassment in the Australian community to accompany HREOC's *A Bad Business* publication reviewing the nature of reported sexual harassment in employment. The telephone survey assessed:

- the incidence of sexual harassment among Australians aged between 18 and 64 years;
- the experience of sexual harassment in the workplace, including:
  - the type and duration of sexual harassment experienced;
  - the characteristics and demographics of the victim and the harasser;
  - the characteristics and demographics of the workplace;
  - reporting behaviour and experience; and
- what people do when they observe or witness others being sexually harassed in the workplace.

### 1.3.2 Design, methodology and limitations of the telephone survey

Information regarding the design, methodology and limitations of the telephone survey is contained in Appendix A. A copy of the telephone survey questionnaire is attached at Appendix B.

A random national population sample was conducted of 1,006 persons between the ages of 18 and 64 years across Australia. One hundred and fourteen in-depth interviews were obtained from the general population sample of those who had been sexually harassed in the workplace in the past five years. Eighty-six additional in-depth interviews were conducted to boost the total sample size of these interviewees from the 114 obtained in the general population sample to 200 in total.

As the findings of the telephone survey are based on differing sample sizes, the reliability of the data varies. We can be statistically confident of findings based on the total population samples. For statistics based on the sub-sample of 200 interviewees who experienced sexual harassment in the last five years, we are still able to draw conclusions that are relatively statistically sound. Of course, the smaller the sub-sample size, the less reliable the data become. The sample sizes and the associated margin of error are provided in the footnotes for each population. For further information see Appendix A.

While a telephone survey is a relatively efficient method of interviewing a large sample population, particularly where the topic of the survey may be a sensitive issue for many people, it does have some limitations. Some of these are discussed in Appendix A.

### 1.4 Comparing the data from the telephone survey and *A Bad Business*

One of the main functions of HREOC is to investigate and conciliate complaints of discrimination in certain areas of public life including employment, education, and the provision of goods and services.<sup>7</sup> Sexual harassment is one of the most common forms of sex discrimination which HREOC routinely deals with. HREOC is also charged with fulfilling the objects of the SDA, in particular the object to eliminate, so far as possible, discrimination involving sexual harassment in the workplace, in educational institutions, and other areas of public activity.<sup>8</sup>

The findings of *A Bad Business* indicated that sexual harassment continues to be a problem for both the individuals harassed and the organisations where they are employed, almost 20 years after the introduction of the SDA.<sup>9</sup> These findings are limited to complaints to HREOC and necessarily provide only a limited perspective on the nature of sexual harassment experienced more broadly. As referred to above at 1.3.1, this research was undertaken to provide a robust quantitative analysis of the incidence and nature of sexual harassment experienced by the Australian community, particularly in workplaces.

Comparing the results of *A Bad Business* with the findings of the telephone survey provides the opportunity to consider how reported and non-reported sexual harassment differ and how that may affect an individual's decision to formally report the sexual harassment to their employer or an external agency. Comparing the data provides an insight for employers as to how grievance procedures and workplace policies to prevent sexual harassment are perceived by employees who experience sexual harassment.

<sup>7</sup> See Human Rights and Equal Opportunity Commission *A Bad Business: Review of sexual harassment in employment complaints 2002* HREOC Sydney 2003, pp14-16 for an overview of HREOC's complaints handling function.

<sup>8</sup> Section 3 of the SDA provides:

The objects of this Act are:

- (a) to give effect to certain provisions of the Convention on the Elimination of All Forms of Discrimination Against Women; and
- (b) to eliminate, so far as is possible, discrimination against persons on the ground of sex, marital status, pregnancy or potential pregnancy in the areas of work, accommodation, education, the provision of goods, facilities and services, the disposal of land, the activities of clubs and the administration of Commonwealth laws and programs; and
- (ba) to eliminate, so far as possible, discrimination involving dismissal of employees on the ground of family responsibilities; and
- (c) to eliminate, so far as is possible, discrimination involving sexual harassment in the workplace, in educational institutions and in other areas of public activity; and
- (d) to promote recognition and acceptance within the community of the principle of the equality of men and women.

<sup>9</sup> 2004 marks the 20th anniversary of the SDA.

<sup>10</sup> See Human Rights and Equal Opportunity Commission *A Bad Business: Review of sexual harassment in employment complaints 2002* HREOC Sydney 2003, p15.

Limitations with the comparison are discussed in Appendix A.

## 1.5 About this paper

Chapter 2 provides an overview of some of the main findings of the national telephone survey, including the incidence of sexual harassment in the community, and the nature and severity of sexual harassment experienced in the workplace in the five years prior to the survey.

Chapter 3 compares the results of *A Bad Business* with the findings of the telephone survey in relation to the characteristics of the sexual harassment experienced, the characteristics of the target of the sexual harassment, the characteristics of the harasser, and the characteristics of the workplace where the sexual harassment occurred.

Chapter 4 examines the results of the telephone survey and *A Bad Business* in relation to who reports sexual harassment, to whom it is reported, and management of complaints. It also provides a number of findings as to why targets of sexual harassment do not report it.

The concluding chapter provides a short overview of the public policy framework which governs sexual harassment in Australia and examines some of the implications of the findings of both the national telephone survey and *A Bad Business* for the nature of any public policy changes which might enable an improved response to sexual harassment.

### 1.5.1 A note about language

In the analysis of the telephone survey, the person surveyed is referred to as the "interviewee" and those interviewees who have personally experienced sexual harassment are referred to as "targets" of harassment. The person who did the harassing is referred to as the "harasser" in the telephone survey. While the term "harasser" is used to refer to the perpetrator of the sexual harassment, we are not drawing any conclusions as to whether sexual harassment would be proven in law.

In *A Bad Business*, the person harassed is referred to as the "complainant" and the person who allegedly harassed is referred to as the "respondent" (to the complaint).<sup>10</sup>

## Chapter 2: Incidence and experience of sexual harassment

### 2.1 Introduction

This chapter provides an overview of some of the main findings of the national telephone survey on the incidence and nature of sexual harassment. Section 2.2 discusses the incidence rate of the experience of sexual harassment in the community generally, and more particularly the incidence rate of sexual harassment in the workplace experienced in the five years prior to conducting the survey. These findings are then compared to other studies on the incidence of sexual harassment conducted in Australia and overseas. The incidence rate of the witnessing of sexual harassment in the workplace in the five years prior to the survey is also presented.

Also discussed in this chapter are the findings of the telephone survey in relation to the nature and severity of sexual harassment experienced in the workplace by interviewees in the five years prior to the survey.

### 2.2 Sexual harassment in the general population

#### 2.2.1 Incidence of sexual harassment experienced

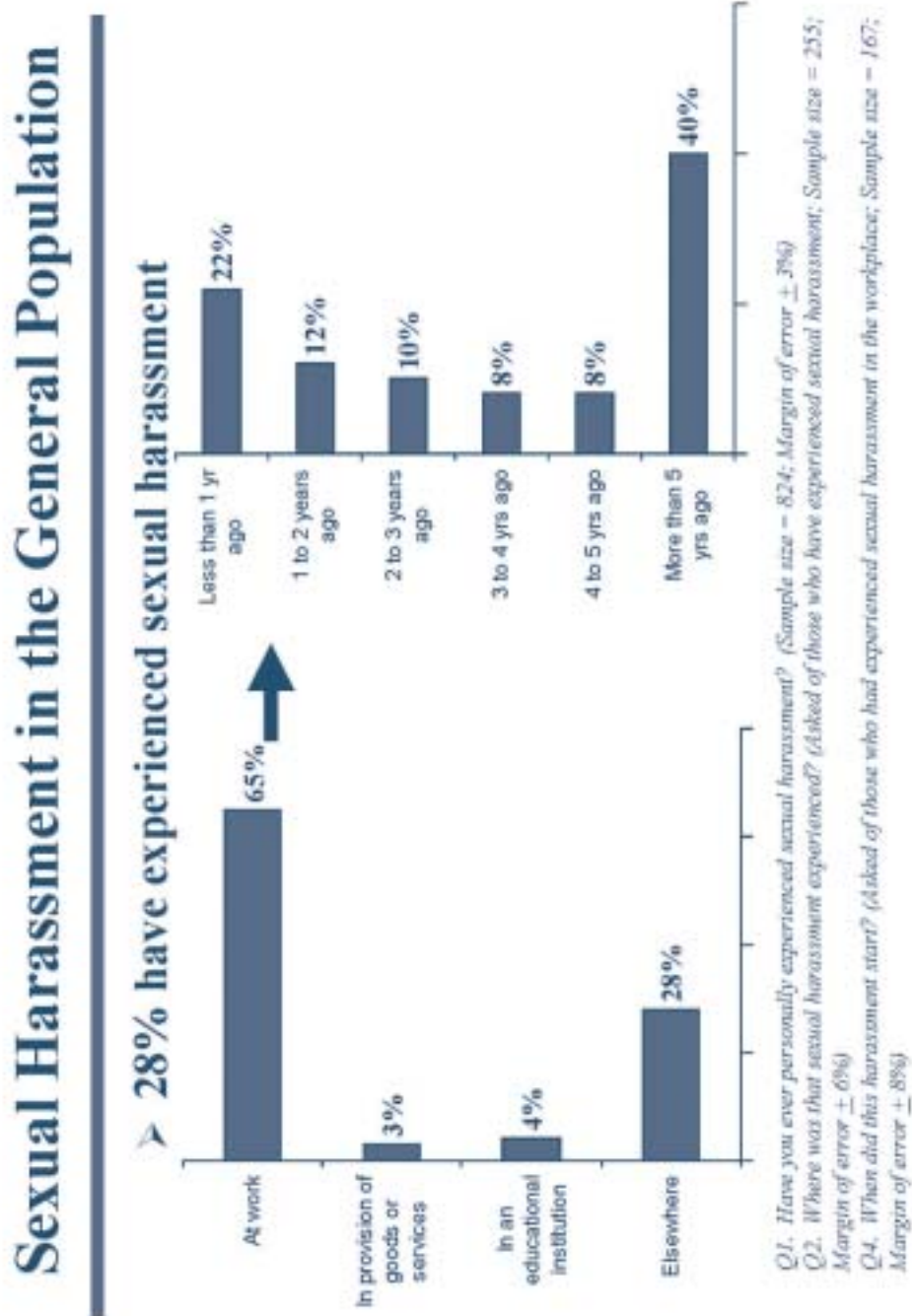
Twenty-eight per cent of interviewees between the ages of 18 and 64 years said they had personally experienced sexual harassment. Breaking this down by gender, a total of 41 per cent of women and 14 per cent of men stated that they had ever experienced sexual harassment.

Figure 2.1 shows that approximately two-thirds (65 per cent) of interviewees who experienced sexual harassment had experienced it in the workplace. This translates to 18 per cent of all interviewees aged between 18 and 64 years of age stating that they had experienced sexual harassment in the workplace (and of those, 22 per cent say it happened in the last year). Again, breaking this down by gender we find that 28 per cent of women and seven per cent of men had experienced sexual harassment in the workplace at some time. A total of 11 per cent of interviewees aged between 18 and 64 years report that they have experienced sexual harassment in the workplace in the last five years.

Of the 28 per cent of the Australian population aged between 18 and 64 years who experienced sexual harassment, three per cent experienced it in the provision of goods or services, four per cent experienced sexual harassment in an educational institution, and 28 per cent indicated that the sexual harassment had occurred elsewhere.<sup>11</sup>

<sup>11</sup> "Elsewhere" included at bars/pubs, at people's houses, at parties. Sexual harassment in these situations may not constitute unlawful sexual harassment under the SDA because the SDA only prohibits sexual harassment occurring in certain areas of public life, including employment, educational institutions, and the provision of goods, services, and accommodation.

Figure 2.1





### 2.2.2 Comparison with other surveys

These statistics are comparable with other surveys on sexual harassment in Australia and overseas. A survey of 5,000 people by TMP Worldwide conducted around March 2002 found that one in three (or 33 per cent) of Australian women and 11 per cent of Australian men had been victims of sexual harassment in the workplace over the three months prior to the survey.<sup>12</sup> Another survey of employer-subscribers to the newsletter *Discrimination Alert* in December 1997 found that 42 per cent of respondents had experienced a sexual harassment complaint in the past 12 months, with a number having experienced more than one complaint.<sup>13</sup> A poll conducted by the *Sydney Morning Herald* on 14 November 2003 found that 45 per cent of the 2,141 respondents to the poll had been sexually harassed at work.<sup>14</sup>

A national survey of 1,000 people aged 18 years and over commissioned by the New Zealand Human Rights Commission in August 2002 found that 22 per cent of New Zealanders had ever experienced sexual harassment. Broken down by gender, 31 per cent of women and 13 per cent of men had experienced sexual harassment. Of those who experienced sexual harassment, 67 per cent had experienced it at work. This translates to just under 15 per cent of all New Zealand respondents aged 18 years and over and just under 22 per cent of all adult female New Zealand respondents stating that they had ever experienced sexual harassment in the workplace,<sup>15</sup> which is just slightly less than the 18 per cent of adult Australian interviewees and 28 per cent of adult Australian women who have ever experienced sexual harassment in the workplace.

Earlier research conducted in the United States of America provides similar findings. A telephone survey conducted by Louis Harris and Associates and released on 28 March 1994 found that of the 782 workers polled, 31 per cent of female workers and seven per cent of male workers claimed to have been harassed at work.<sup>16</sup> A survey undertaken in Los Angeles indicated in 1995 that 44 per cent of women stated that they had experienced sexual harassment at work.<sup>17</sup>

### 2.2.3 Incidence of witnessing sexual harassment

Figure 2.2 shows that a total of 14 per cent of interviewees between the ages of 18 and 64 years say they have witnessed sexual harassment in the workplace in the past five years. Of these, the majority (87 per cent) say they took some sort of action when it occurred:

- 76 per cent talked or listened to the victim;
- 67 per cent offered advice to the victim;
- 45 per cent confronted the harasser;
- 32 per cent reported the incidence to their employer; and
- 15 per cent took some other type of action.

The fact that the majority of witnesses to workplace sexual harassment chose to take some action, whether that be assisting the target of the sexual harassment, confronting the harasser, or reporting the incident to their employer, demonstrates that most employees who perceive certain conduct as sexual harassment are highly likely to take some action about it.

Employers would be well advised to provide training to a greater range of employees to give them the skills to effectively deal with the sexual harassment they observe in the

<sup>12</sup> TMP Worldwide, Undated media release "Sexual Harassment on the Rise", March 2002.

<sup>13</sup> "40% suffer harassment" 53 *Discrimination Alert* 9 December 1997, p1.

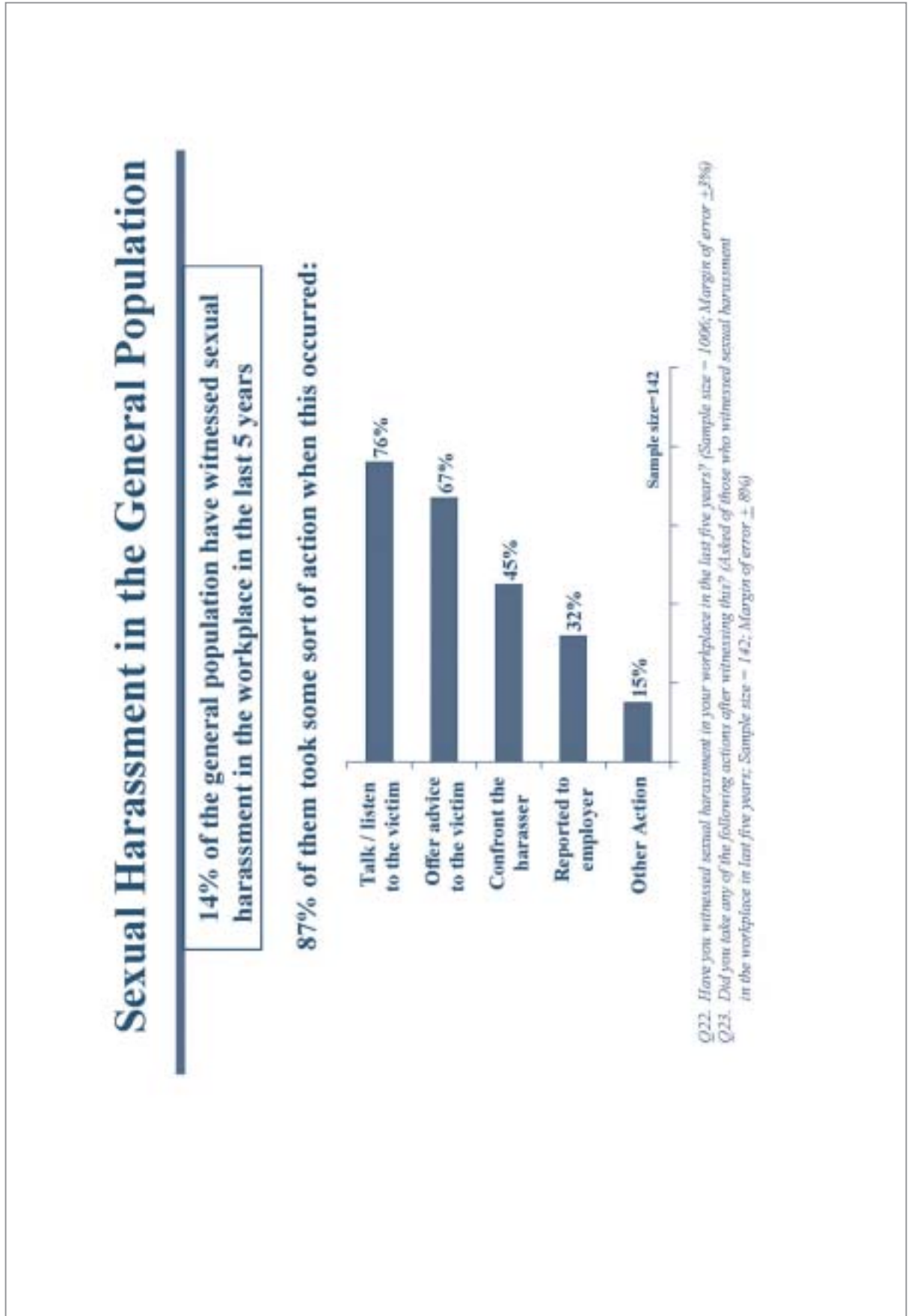
<sup>14</sup> <http://smh.com.au/polls/national/results.html> As a self-report, positive responses are likely to be high.

<sup>15</sup> Human Rights Commission of New Zealand "One in three women sexually harassed survey shows" <http://www.hrc.co.nz/index.php?p=13856>

<sup>16</sup> Capstone Communications "Statistics on Sexual Harassment" Louis Harris & Associates Telephone Poll 28 March 1994 [www.capstn.com/stats.htm](http://www.capstn.com/stats.htm)

<sup>17</sup> G Wyatt & M Reiderle "The prevalence and context of sexual harassment among African American and White American women" (1995) 10(3) *Journal of Interpersonal Violence* 309.

Figure 2.2



workplace.<sup>18</sup>

The sample sizes are too small to definitively show the gender breakdown of the action taken by witnesses of sexual harassment in the workplace. However the data indicate a tendency for women witnesses to be more likely to talk or listen to the target of harassment or to offer advice to the target than male witnesses.

## 2.3 Sexual harassment in the workplace

### 2.3.1 Nature of the sexual harassment

The telephone survey asked interviewees to indicate which of 13 descriptions of common sexually harassing behaviours described the sexual harassment they experienced.<sup>19</sup>

Importantly, interviewees to the telephone survey who experienced sexual harassment in the workplace in the last five years selected an average of five different descriptions of harassing behaviour (out of a possible 13) to describe the sexual harassment experienced.

These 13 descriptions of sexual harassment were aggregated into physical and non-physical sexual harassment. Physical sexual harassment was defined as including those interviewees who described the sexual harassment as:

- sexually explicit physical contact;
- actual or attempted rape or assault;
- unwelcome touching, hugging, cornering or kissing; or
- unnecessary familiarity such as deliberately brushing up against you.

Non-physical sexual harassment was defined exclusively as those interviewees to the survey who did not experience the physical forms of sexual harassment outlined above.

Table 2.1 shows the incidence rate of each type of sexual harassment and the average number of descriptions of the sexual harassment indicated by interviewees subjected to each particular type of harassment.

Table 2.1

Type of sexual harassment	Incidence of type of sexual harassment experienced (%) <sup>20</sup>	Average number of descriptions of sexual harassment experienced
Including physical sexual harassment <sup>21</sup>	62	6.2
Exclusively non-physical sexual harassment <sup>22</sup>	38	3.8

These data indicate that most sexual harassment experienced in the workplace in the past five years involved elements of physical sexual harassment. Moreover, those interviewees who were subjected to sexual harassment which included physical sexual harassment were more likely to be subjected to a range of other sexually harassing

<sup>18</sup> Human Rights and Equal Opportunity Commission *Sexual Harassment in the Workplace: A Code of Practice for Employers* HREOC Sydney 2004, p26.

<sup>19</sup> These categories of sexually harassing behaviour included "suggestive comments or jokes", "staring or leering", "sexually explicit emails or SMS messages", "sexually explicit pictures or posters", "intrusive questions about your private life or body", "unnecessary familiarity, eg. deliberately brushing up against you", "unwelcome touching, hugging, cornering or kissing", "unwanted invitations to go out on dates", "insults or taunts based on your sex", "sexually explicit physical contact", "actual or attempted rape or assault", "requests or pressure for sex", and "other". The "other" category included the following descriptions: "calls outside work", "in the leering part he was also stimulating himself at the same time", "kept showing her cleavage/wearing a low-cut top", and "turning up at your home".

<sup>20</sup> Based on a sample size of 200, with a margin of error of plus or minus 7 percentage points at the 95 per cent confidence level.

<sup>21</sup> Based on a sample size of 125, with a margin of error of plus or minus 9 percentage points at the 95 per cent confidence level.

<sup>22</sup> Based on a sample size of 75, with a margin of error of plus or minus 11 percentage points at the 95 per cent confidence level.

<sup>23</sup> Based on a sample size of 75, with a margin of error of plus or minus 11 percentage points at the 95 per cent confidence level.

<sup>24</sup> Based on a sample size of 125 with a margin of error of plus or minus 9 percentage points at the 95 per cent confidence level.

<sup>25</sup> Based on a sample size of 125 with a margin of error of plus or minus 9 percentage points at the 95 per cent confidence level.

<sup>26</sup> Based on a sample size of 75 with a margin of error of plus or minus 11 percentage points at the 95 per cent confidence level.

behaviour than were interviewees who experienced exclusively non-physical harassment. This may indicate that physical sexual harassment does not seem to happen on its own, it either occurs with or progresses after other forms of sexual harassment. It seems that physical forms of harassing behaviour tend to occur together. For example, an interviewee who states that she/he was subjected to “unnecessary familiarity such as brushing up against you” is also very likely to say that she/he was subjected to “unwelcome touching, hugging, cornering or kissing”.

The fact that interviewees who experienced exclusively non-physical sexual harassment selected, on average, fewer descriptions to illustrate the sexual harassment experienced than those interviewees who experienced sexual harassment which included physical sexual harassment may indicate that non-physical forms of sexual harassment overlay physical forms of sexual harassment.

Since the telephone survey did not ask interviewees about the progression of harassing conduct this inference is more speculative than evidence driven. The notion of progression or escalation of harassing conduct warrants further research and analysis.

Interviewees who experienced physical forms of sexual harassment were more likely to make a formal report or complaint about the sexual harassment than interviewees who experienced exclusively non-physical sexual harassment. Only one in four of the interviewees who were subjected to exclusively non-physical sexual harassment reported the harassment,<sup>23</sup> compared with 37 per cent of those who experienced physical forms of sexual harassment.<sup>24</sup>

Interviewees who were subjected to sexual harassment which included physical sexual harassment also reported that the harassment tended to continue for a longer period of time than targets of exclusively non-physical sexual harassment. Table 2.2 shows that this is particularly the case where the sexual harassment continued for more than one year. Again this may suggest a pattern of progression from non-physical to physical sexual harassment occurring over time. It is also true that progression from non-physical to physical sexual harassment could occur quickly in some cases and more slowly in others.

Table 2.2

Length of sexual harassment	Interviewees who experienced sexual harassment which included physical sexual harassment (%) <sup>25</sup>	Interviewees who experienced exclusively non-physical sexual harassment (%) <sup>26</sup>
One off	11	21
Less than 1 month	10	12
1 to 3 months	28	29
4 to 6 months	12	7
7 to 12 months	11	7
More than one year	24	16
Ongoing/sporadic	3	7

Table 2.3 shows that of those harassers in superior workplace positions to interviewees, the boss or employer harasser is significantly more likely to engage in physical sexual harassment rather than non-physical. Co-worker harassers are more likely to engage in non-physical sexual harassment than physical sexual harassment.

Table 2.3

Harasser's relationship to interviewee	Interviewees who experienced physical sexual harassment (%) <sup>27</sup>	Interviewees who experienced only non-physical sexual harassment (%) <sup>28</sup>
Supervisor/manager	12	16
Boss/employer	26	10
Co-worker	44	56
Co-worker (more senior)	1	3
Client/customer	13	6
Others in workplace	4	9

Another characteristic of the physical versus non-physical sexual harassment analysis is related to the gender of the harasser. Table 2.4 shows that male harassers are more likely to subject women to sexual harassment which includes physical sexual harassment but less likely to subject men to sexual harassment which includes physical harassment. Where the harasser is a female there is no difference between the two types of sexual harassment.

Table 2.4

Gender of Harasser/Victim	Interviewees who experienced physical sexual harassment (%) <sup>29</sup>	Interviewees who experienced non-physical sexual harassment (%) <sup>30</sup>
Male to Female sexual harassment	72	66
Female to Male sexual harassment	19	19
Male to Male sexual harassment	7	13
Female to Female sexual harassment	2	2

### 2.3.2 Severity of the sexual harassment

To fall within the legislative definition of sexual harassment under the SDA, the behaviour must be such that a reasonable person would anticipate that the person targeted would feel offended, humiliated or intimidated by the conduct.<sup>31</sup>

In an attempt to measure the seriousness or severity of the sexual harassment experienced by interviewees to the telephone survey, those who had experienced sexual

<sup>27</sup> Based on a sample size of 125 with a margin of error of plus or minus 9 percentage points at the 95 per cent confidence level.

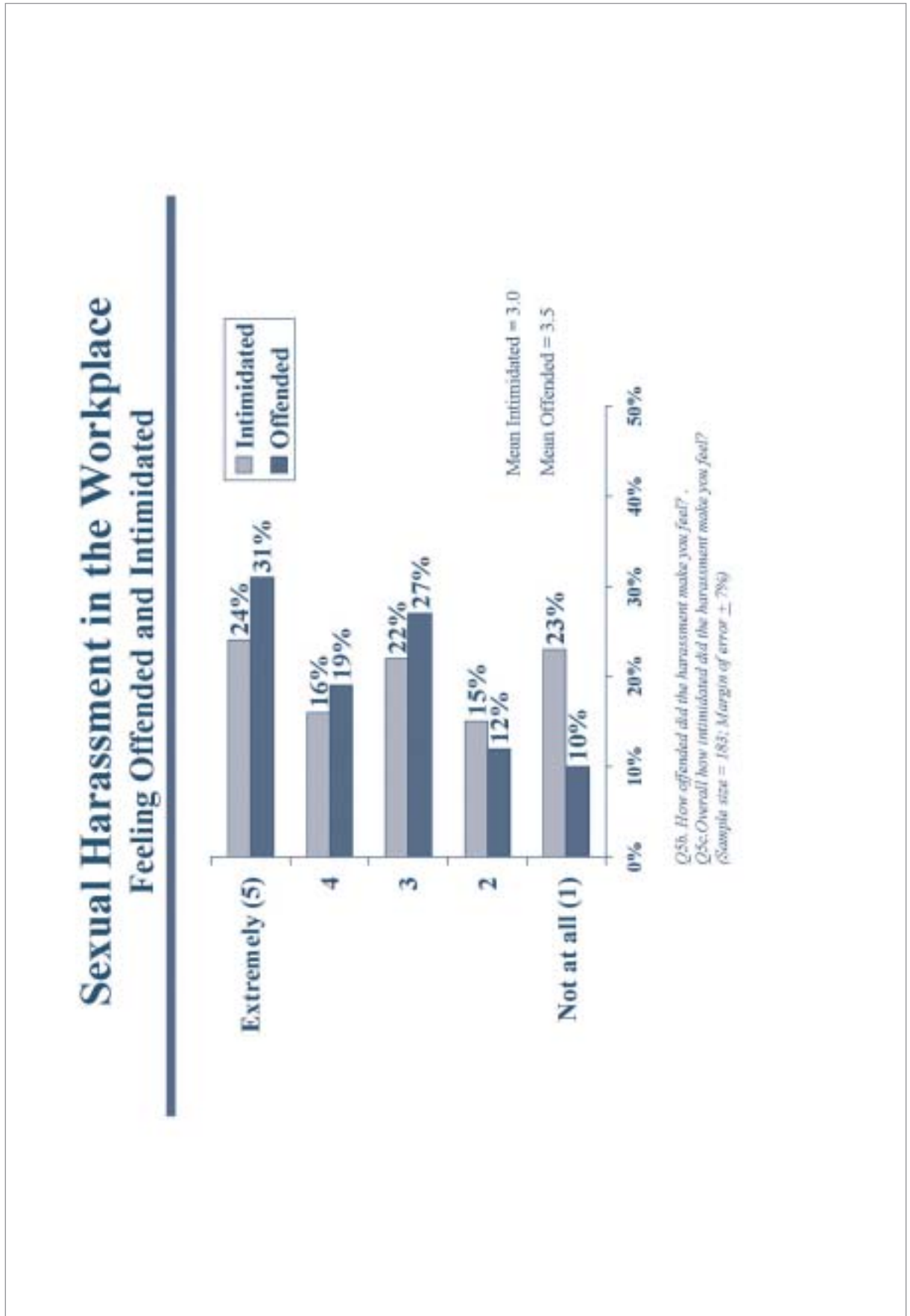
<sup>28</sup> Based on a sample size of 75 with a margin of error of plus or minus 11 percentage points at the 95 per cent confidence level.

<sup>29</sup> Based on a sample size of 125 with a margin of error of plus or minus 9 percentage points at the 95 per cent confidence level.

<sup>30</sup> Based on a sample size of 75 with a margin of error of plus or minus 11 percentage points at the 95 per cent confidence level.

<sup>31</sup> See section 28A of the SDA.

Figure 2.3



harassment at work in the past five years were asked to rate on a five-point scale how offended and how intimidated the sexual harassment made them feel (one being not offended or intimidated at all and five being extremely offended or intimidated).<sup>32</sup> Figure 2.3 shows that on average, interviewees felt more offended than intimidated by the sexual harassment experienced.<sup>33</sup> Half of the interviewees stated that the sexual harassment made them feel very or extremely offended, while 2 in 5 interviewees reported that the sexual harassment made them feel very or extremely intimidated. Only 10 per cent of interviewees did not feel at all offended by the sexual harassment, compared with 23 per cent not feeling at all intimidated.

The fact that the experience of sexual harassment made interviewees feel on average more offended than intimidated may indicate that sexual harassment is also perceived as an affront to a person's professionalism or as inappropriate workplace behaviour.

Women of all ages who had experienced sexual harassment at work in the past five years were more likely to have felt more offended and more intimidated by the harassment than male interviewees. Female targets on average rated the offensiveness of the sexual harassment experienced as 3.7. Male targets on average rated the offensiveness of the sexual harassment experienced as 3.0. Female targets of sexual harassment on average rated the harassment experienced as 3.3 on the intimidation scale, compared with male targets who on average rated the sexual harassment experienced as 2.5. This may suggest that the sexual harassment suffered is different in kind for men and women or that similar experiences are perceived differently by men and women, however the sample size for male interviewees (31) is too small for further analysis or to draw firm conclusions. Further research on the nature and impact of sexual harassment on men is needed.

## Reporting the harassment

A positive relationship between interviewees feeling offended and intimidated and the probability of reporting the sexual harassment was found. Feeling more offended or intimidated increases the probability of formally reporting the sexual harassment, and reporting the harassment immediately or the next business day. Of those interviewees who rated the offensiveness of the sexual harassment they experienced as between one and three, only 19 per cent formally reported the harassment.<sup>34</sup> In contrast, of those interviewees who rated the offensiveness of the sexual harassment they experienced as between 4 and 5, 45 per cent formally reported the harassment.<sup>35</sup>

Of the interviewees who rated the sexual harassment they experienced as between 1 and 3 on the intimidation scale, 22 per cent reported the harassment.<sup>36</sup> Of those who rated the sexual harassment as between 4 and 5 on the intimidation scale, 46 per cent formally reported the harassment.<sup>37</sup> The severity of the sexual harassment, so far as it can be measured by the offensiveness and intimidation scales, does impact on the likelihood of reporting the harassment.

This suggests that if an employee reports sexual harassment in the workplace, it is likely to be serious. The seriousness of the sexual harassment needs to be taken into account by employers when dealing with the complaint.

<sup>32</sup> While the "reasonable person" test in the SDA is an objective test, the rating of the offensiveness or intimidation of the sexual harassment experienced by interviewees is a useful tool to measure the severity of the harassment. See Human Rights and Equal Opportunity Commission *Sexual Harassment in the Workplace: A Code of Practice for Employers* HREOC Sydney 2004, p13 for information about the objective test under the SDA.

<sup>33</sup> The average rating for how offended was 3.5; for how intimidated the average rating was 3.0

<sup>34</sup> Based on a sample size of 91. Margin of error plus or minus 12 per cent.

<sup>35</sup> Based on a sample size of 88. Margin of error plus or minus 12 per cent.

<sup>36</sup> Based on a sample size of 109 and a margin of error of plus or minus 12 per cent.

<sup>37</sup> Based on a sample size of 72 and a margin of error of plus or minus 12 per cent.

<sup>38</sup> Note that there were individual instances in which exclusively non-physical sexual harassment was rated as extremely offensive and extremely intimidating.

### **Type of harassment**

On average, interviewees to the telephone survey felt more offended and more intimidated by physical forms of sexual harassment than non-physical. In terms of offensiveness, non-physical forms of sexual harassment were given an average rating of 3.2 while physical forms of sexual harassment were rated 3.7. On the intimidation scale, non-physical sexual harassment was given an average rating of 2.8 compared with an average rating of 3.2 for physical forms of sexual harassment. In so far as the offensiveness and intimidation scales measure the severity of sexual harassment, it suggests that the experience of physical sexual harassment is more severe than non-physical.<sup>38</sup>

### **Prevalence of sexual harassment in some workplaces**

Of the 11 per cent of Australians between the ages of 18 and 64 years who reported that they have experienced sexual harassment in the workplace in the past five years, 58 per cent say it has happened to someone else in the same place of work. Of these, 33 per cent say sexual harassment is common in their workplace, 37 per cent say it has occurred sometimes, 19 per cent say it is rare in their workplace, and 11 per cent say it is very rare.

This finding may suggest that in those workplaces where sexual harassment is occurring, it is more likely to be happening to more than one employee.



## Chapter 3: A detailed analysis of the nature of sexual harassment

### 3.1 Introduction

This Chapter compares the results of HREOC's review of sexual harassment in employment complaints reported in *A Bad Business* with the findings of the telephone survey on the incidence and nature of sexual harassment in the workplace in relation to:

- characteristics of the sexual harassment;
- characteristics of the target of the sexual harassment;
- characteristics of the harasser; and
- characteristics of the workplace where the sexual harassment occurred.

### 3.2 Characteristics of the sexual harassment

#### 3.2.1 Type of sexual harassment

Most sexual harassment experienced in the workplace in the last five years involved physical types of sexual harassment, as did a bare majority of the sexual harassment complaints in *A Bad Business*.<sup>39</sup> Table 3.1 shows that of the 200 interviewees to the telephone survey who experienced sexual harassment, 38 per cent (or 75 interviewees) identified the behaviour they experienced as involving types of exclusively non-physical sexual harassment. Of the 152 complainants of sexual harassment in *A Bad Business*, 49 per cent (or 75 complainants) described the behaviour complained of as involving types of exclusively non-physical sexual harassment. The findings of the telephone survey in particular support earlier studies which found that most formal sexual harassment complaints involved elements of physical sexual harassment.<sup>40</sup>

A possible explanation for only a bare majority of complainants in *A Bad Business* complaining of sexual harassment which included physical sexual harassment is that the legislative amendment to the definition of sexual harassment in the SDA enacted in 1992 may have facilitated complaints of non-physical sexual harassment.<sup>41</sup> Other possible explanations may be that targets of physical sexual harassment are reporting it to other organisations, such as the police, or that workplaces are not taking exclusively non-physical sexual harassment as seriously as physical harassment, so workplace complaints are proceeding directly to HREOC.

<sup>39</sup> The telephone survey asked interviewees to indicate which of 13 descriptions of common sexually harassing behaviour best described the sexual harassment they experienced. The sexual harassment complained of in *A Bad Business* was categorised into six types of sexual harassment which were developed during the analysis of the complaint files. Two of these categories were collapsed in the final analysis, leaving five types of sexual harassment. To simplify comparisons between the two sets of data, these 13 descriptions and five categorisations were aggregated. The first aggregation was into physical and non-physical sexual harassment.

<sup>40</sup> J Morgan Interim Report on Examination of All Sexual Harassment in Employment Cases Closed in 1991 and 1992 (unpublished paper on the Victorian jurisdiction).

<sup>41</sup> The sexual harassment provisions of the SDA were amended in 1992 expressly to include oral and written statements of a sexual nature. The current section 28A of the SDA states:

(1) For the purposes of this Division, a person sexually harasses another person (*the person harassed*) if: (a) the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or

(b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed;

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated or intimidated.

(2) In this section:

*conduct of a sexual nature* includes making a statement of a sexual nature to a person, or in the presence of a person, whether the statement is made orally or in writing.

Table 3.1

Type of sexual harassment	Telephone Survey (% interviewees who experienced)	Type of sexual harassment	<i>A Bad Business</i> (% complainants who experienced)
<p>Including physical sexual harassment<sup>42</sup></p> <p>Includes:</p> <ul style="list-style-type: none"> <li>- Sexually explicit physical contact</li> <li>- Actual or attempted rape or assault</li> <li>- Unwelcome touching, hugging, cornering, kissing</li> <li>- Unnecessary familiarity eg. "deliberately brushing up against you"</li> </ul>	62	<p>Including physical sexual harassment<sup>43</sup></p> <p>Includes:<sup>44</sup></p> <ul style="list-style-type: none"> <li>- Unwelcome physical intimacy, eg. touching thigh while travelling in a car, brushing up against you, unwanted hugs</li> <li>- Sexual physical behaviour eg. kissing, touching breasts, buttocks, alleged sexual assault</li> </ul>	51
<p>Exclusively non-physical sexual harassment<sup>45</sup></p> <p>Includes:</p> <ul style="list-style-type: none"> <li>- Staring or leering</li> <li>- Suggestive comments or jokes</li> <li>- Sexually explicit postures or pictures</li> <li>- Unwanted invitations to go on dates</li> <li>- Requests or pressure for sex</li> <li>- Intrusive questions about your private life or body</li> <li>- Insults or taunts based on your sex</li> <li>- Sexually explicit emails or SMS messages</li> </ul>	38	<p>Exclusively non-physical sexual harassment<sup>46</sup></p> <p>Includes:<sup>47</sup></p> <ul style="list-style-type: none"> <li>- Lewd suggestive comments, innuendo, display of offensive material</li> <li>- Propositioning</li> <li>- General bullying behaviour<sup>48</sup></li> </ul>	49

<sup>42</sup> Includes interviewees to the telephone survey who may also have experienced non-physical sexual harassment.

<sup>43</sup> Includes complainants to HREOC who may also have experienced non-physical sexual harassment.

<sup>44</sup> These subgroups are derived from the analysis of the complaints data in *A Bad Business*. See Human Rights and Equal Opportunity Commission *A Bad Business: Review of sexual harassment in employment complaints 2002* HREOC Sydney 2003, p17.

<sup>45</sup> Includes interviewees to the telephone survey who experienced non-physical sexual harassment only.

<sup>46</sup> Includes complainants to the Commission who experienced non-physical sexual harassment only.

<sup>47</sup> These subgroups are derived from the analysis of the complaints data in *A Bad Business*. See Human Rights and Equal Opportunity Commission *A Bad Business: Review of sexual harassment in employment complaints 2002* HREOC Sydney 2003, p17

<sup>48</sup> There were no incidences in the data analysed in *A Bad Business* where this behaviour was experienced independent of at least one other form of either physical or non-physical sexual harassment.

Table 3.2 displays a second aggregation of the types of sexual harassment which sought to combine similar kinds of harassing behaviours. It should be noted that the categories identified in the telephone survey do not always correspond directly to those identified in *A Bad Business*. The first type of aggregated behaviours from the telephone survey labelled "Crude or offensive behaviour" corresponds to the "Lewd suggestive comments, innuendo, display of offensive material" category in *A Bad Business*. In both sets of data, this aggregation of sexually harassing behaviours was experienced by the vast majority of the targets of sexual harassment in the telephone survey (94 per cent) and by the majority of the complainants in *A Bad Business* (71 per cent).

Table 3.2.

Type of sexual harassment <sup>49</sup>	Telephone Survey (% of 200 interviewees who experienced this type of sexual harassment) <sup>50</sup>	Type of sexual harassment	<i>A Bad Business</i> Data (% of 152 complainants who experienced this type of sexual harassment) <sup>51</sup>
Crude/offensive behaviour <sup>52</sup>	94	Lewd suggestive comments, innuendo, display of offensive material	71
Unwanted sexual attention <sup>53</sup>	85	Unwelcome physical intimacy	37
Sexist behaviours <sup>54</sup>	43		
Sexual assault <sup>55</sup>	20	Sexual physical behaviour	23
Sexual coercion <sup>56</sup>	19	Propositioning	36
Other	2	General bullying behaviour	30

The "General bullying" category in *A Bad Business* has no correlation with the descriptions of sexual harassment used in the telephone survey. The reason for this was that the definition of sexual harassment given to interviewees of the telephone survey was strictly limited to the legislative definition of sexual harassment under the SDA. The primary object of the telephone survey was to measure the incidence of sexual harassment in the Australian population. It was considered that any reference to behaviours outside the legislative definition of sexual harassment would taint the measurement of the incidence of sexual harassment. Therefore, a description of behaviours that would constitute bullying as commonly understood was not included in the telephone survey. The distinctions between the types of bullying behaviours that may constitute sexual harassment were considered to be too difficult to explain in the context of a telephone survey.

However, the behaviour complained of in 30 per cent of the complaints analysed in *A Bad Business* involved behaviours that would commonly be understood as bullying. This

<sup>49</sup> See 2.3.1 for further discussion on the categorisation of the types of sexual harassment reported in the telephone survey.

<sup>50</sup> Totals are greater than 100 per cent because of multiple forms of sexual harassment experienced.

<sup>51</sup> Totals are greater than 100 per cent because of multiple forms of sexual harassment experienced.

<sup>52</sup> Includes the following descriptions of sexually harassing behaviour: "suggestive comments or jokes", "staring or leering", "sexually explicit emails or SMS messages", "sexually explicit pictures or posters".

<sup>53</sup> Includes the following descriptions of sexually harassing behaviour: "intrusive questions about your private life", "unnecessary familiarity eg deliberately brushing up against you", "unwelcome touching, hugging, cornering or kissing", "unwanted invitations to go out on dates". That is, includes both physical and non-physical behaviour, while "Unwelcome Physical Intimacy" from *A Bad Business* includes only physical behaviour.

<sup>54</sup> Includes the following description of sexually harassing behaviour: "insults or taunts based on your sex". This category does not have a direct correlation with data from *A Bad Business*. Behaviour of this type would probably lie in the "Lewd suggestive comments, innuendo, display of offensive material" category in *A Bad Business*.

<sup>55</sup> Includes the following descriptions of sexually harassing behaviour: "sexually explicit physical contact", "actual or attempted rape or assault". Note that the "Sexual Physical Behaviour" category in *A Bad Business* includes kissing and touching.

<sup>56</sup> Includes the following description of sexually harassing behaviour: "requests or pressure for sex". However, the description "Unwanted Invitations to Go On Dates" within the "Unwanted Sexual Attention" aggregation in the telephone survey data would also correspond to the "Propositioning" category in *A Bad Business*, such that the difference between the two may be less significant.

<sup>57</sup> Section 94 of the SDA prohibits acts of victimisation against a person where that person has made or proposes to make a complaint under the SDA. The victimisation provisions do not extend to acts of victimisation against a person where that person makes a workplace or internal complaint to their employer.

<sup>58</sup> Based on a sample size of 136.

type of behaviour was often a repercussion of the complainant's refusal of the alleged harasser's advance or a consequence of the complainant making a workplace complaint about other types of sexual harassment experienced. While probably not constituting sexual harassment in isolation, this category of behaviour, when taken in conjunction with the other types of sexual conduct complained of, formed a significant part of the course of discriminatory behaviour described in almost one third of complaints analysed in *A Bad Business*.<sup>57</sup>

### 3.2.2 Duration of sexual harassment

Fifty-five per cent of targets of sexual harassment in the telephone survey indicated that the sexual harassment they experienced occurred for up to six months, compared with 52 per cent of complainants in *A Bad Business*. Thirty per cent of targets stated that the sexual harassment experienced occurred for more than six months, compared with 39 per cent of complainants. Just over one in five complainants and targets of sexual harassment in each of the *A Bad Business* data and the telephone survey data indicated that the sexual harassment they experienced continued for more than 12 months.

The sexual harassment experienced by both targets of sexual harassment in the telephone survey and by complainants in *A Bad Business* was rarely a one-off experience.

Table 3.3

Duration of sexual harassment	Telephone Survey (%)	<i>A Bad Business</i> Data (%) <sup>58</sup>
A one off	15	18
Less than 1 month	11	12
1-3 months	29	21
4-6 months	10	11
7 to 12 months	9	17
More than 12 months	21	22
Ongoing or sporadic	5	-

There is very little difference in the duration of the sexual harassment between the telephone survey data and the analysis of complaints in *A Bad Business* suggesting that the duration of the sexual harassment has minimal impact on a harassed person's decision to make a formal complaint of sexual harassment.

Nevertheless, the fact that both sets of data show that more than two thirds of the sexual harassment experienced in the workplace occurs for a period of months or even years indicates the serious and significant impact that sexual harassment has on the productivity of a workplace over a lengthy period of time.

## 3.3 Characteristics of the target of sexual harassment

### 3.3.1 Age of target of sexual harassment

Female targets of sexual harassment in the workplace in the last five years were most

frequently within the 35 to 44 years age range, while complainants of sexual harassment in employment in *A Bad Business* were most frequently within the 25 to 34 years age group.<sup>59</sup> Collapsing these two age groupings we find that 47 per cent of the female targets of sexual harassment recorded in the telephone survey were aged between 25 and 44 years compared with 56 per cent of sexual harassment complainants in *A Bad Business*.

Table 3.4

Age of target at time of survey (years)	Telephone Survey (%) <sup>60</sup>	Age of target at time of sexual harassment (years)	<i>A Bad Business</i> Data(%) <sup>61</sup>
<b>Females</b>		<b>Females</b>	
		15-17	12
18-24	10	18-24	20
25-34	21	25-34	33
35-44	26	35-44	23
45-54	11	45-54	6
55-64	4	55-64	3
<b>Males</b>		<b>Males</b>	
18-24	4	18-24	1
25-34	9	25-34	1
35-44	8	35-44	0
45-54	8	45-54	0
55-64	0	55-64	0

These findings challenge a number of studies on the characteristics of targets of sexual harassment conducted throughout the 1980s in the US<sup>62</sup> where targets of sexual harassment were found to be predominantly younger (single) women. It should be kept in mind that interviewees to the telephone survey were limited to individuals over the age of 18 years (to avoid issues of gaining a parent's consent to a minor responding to the survey) and that the survey did not record the marital status of interviewees. There are also numerous reports suggesting that young people are particularly vulnerable to sexual harassment and bullying in the workplace.<sup>63</sup>

The New Zealand survey on the incidence of sexual harassment (see 2.2.2) found that it was more common for younger women to suffer sexual harassment, with 37 per cent of women in the 18 to 29 years age bracket reporting having experienced sexual harassment.<sup>64</sup>

Certainly, younger and "mid-career" women are more likely to complain of sexual harassment to HREOC than their representation in the Australian labour force would suggest.<sup>65</sup>

Male targets of sexual harassment in employment were quite evenly spread across the age brackets of 25 to 34 years (9 interviewees), 35 to 44 years and 45 to 54 years (both 8 interviewees each in the telephone survey). Of the two male complainants of sexual harassment in *A Bad Business* for which age was discernable one was in the 18 to 24 years bracket and the other in the 25 to 34 years bracket.

<sup>59</sup> However, note the small sample size of 66.

<sup>60</sup> Sample size of 200 with a margin of error of plus or minus seven percentage points at the 95 per cent confidence level.

<sup>61</sup> Based on a sample size of 66.

<sup>62</sup> T C Fain & D L Anderton "Sexual harassment: Organizational context and diffuse status" (1987) 17 *Sex Roles* 291-311; B A Gutek *Sex and the Workplace* Jossey-Bass San Francisco, 1985; US Merit Systems Protection Board *Sexual harassment in the federal workplace: Is it a problem?* Office of Merit Systems Review and Studies/Government Printing Office Washington DC, 1981; US Merit Systems Protection Board *Sexual harassment in the federal government: An update* Office of Merit Systems Review and Studies/Government Printing Office Washington DC, 1988.

<sup>63</sup> David Potter "Teen girls report work harassment" *The Courier Mail* 28 August 2003 <http://www.couriermail.news.com.au/printpage/0,5942,7082815,0,0.html>; Susie O'Brien "Young workers abused" *Herald Sun* 14 April 2002 p12.

<sup>64</sup> Omnibus survey conducted by NFO CM Research for the New Zealand Human Rights Commission. See Human Rights Commission of New Zealand *One in three women sexually harassed survey shows* <http://www.hrc.co.nz/index.php?p=13856>

<sup>65</sup> See Human Rights and Equal Opportunity Commission *A Bad Business: Review of sexual harassment in employment complaints 2002* HREOC Sydney 2003, p19.

<sup>66</sup> Based on a sample size of 200 with a margin of error of plus or minus 7 per cent at the 95 per cent confidence level.

<sup>67</sup> Based on a sample size of 152 unless indicated otherwise.

<sup>68</sup> This is borne out by the telephone survey. Men rated the sexual harassment they experienced in the workplace in the last five years as less offensive and as less intimidating than women targets of sexual harassment, and were less likely to formally report the harassment (see 2.3.2).

### 3.3.2 Sex of target of sexual harassment

It is generally recognised that the experience of sexual harassment is highly gendered. Most incidences of sexual harassment involve men harassing women. The data from both the telephone survey and *A Bad Business* clearly bear this out.

Nevertheless, Table 3.5 shows that male targets of sexual harassment are significantly under-represented in HREOC's complaints population in *A Bad Business* when compared to the proportion of male targets of sexual harassment identified in the telephone survey.

Table 3.5

Targets of sexual harassment	Telephone Survey (%) <sup>66</sup>	<i>A Bad Business</i> Data (%) <sup>67</sup>
Female	72	95
Male	28	5

A possible explanation for the under-representation of male complainants of sexual harassment may involve stereotypical notions of male power and sexuality and how these relate to community understandings of sexual harassment. Sexual harassment is commonly understood by reference to heterosexual desire and power, where men are encouraged to pursue women for romantic or sexual relationships. Sexual harassment is then interpreted as an over-stepping of the boundaries of appropriate behaviour in the workplace in what would be otherwise acceptable behaviour in another context. Some men may not be threatened by the sexual overtures of women, so that while they identify such behaviour in the workplace as sexual harassment, they fail to make a formal complaint because they are less affected by it than women<sup>68</sup> or they feel a complaint would not be treated seriously.

### 3.3.3 Gender of harasser and target

Eighty-nine per cent of the sexual harassment investigated by both the telephone survey and *A Bad Business* involved sexual harassment by the opposite sex to the target. Comparison of the data indicates that very little of the sexual harassment perpetrated on men (by both male and female harassers) is reported to agencies such as HREOC for investigation and conciliation perhaps for the reasons discussed above at 3.3.2.

Table 3.6

Gender of harasser and target	Telephone Survey (%)	<i>A Bad Business</i> Data (%)
Male to female sexual harassment	70	86
Female to male sexual harassment	19	3
Male to male sexual harassment	9	1
Female to female sexual harassment	2	2
Male and female to female sexual harassment		7
Male and female to male sexual harassment		1

### 3.3.4 Ethnicity of target of sexual harassment

A major disadvantage of a telephone survey as a research tool is that it favours interviewees with good English language skills. Individuals with little or limited English speaking and comprehension skills are unlikely to participate in a telephone survey.

At the same time, a complaints system requiring complaints to be in writing may also have an inhibiting effect on individuals from a non-English speaking background from reporting their experiences of sexual harassment. While HREOC attempts to address these issues by providing advice and assistance to complainants in formulating a written complaint, the proportion of complainants of sexual harassment in employment who speak a language other than English at home is under-represented in relation to the proportion of individuals in the wider Australian community who speak a language other than English at home.<sup>69</sup>

For these reasons, the statistics in Table 3.7 on the ethnicity of targets of sexual harassment should be approached with caution and should not be read as suggesting that individuals from non-English speaking backgrounds are less likely to be subjected to sexual harassment.

Table 3.7

Main language spoken at home of target	Telephone Survey (%)	<i>A Bad Business</i> Data (%)	Australian Population (%) <sup>70</sup>
English	97	90	84

### 3.3.5 Occupation of target of sexual harassment

Occupational segregation by gender remains significant in the Australian work force. Within the following occupational groupings the number of men and women employed is most disproportionate: tradespersons and related workers; advanced clerical and service workers; intermediate clerical, sales and service workers; and elementary clerical, sales and service workers.<sup>71</sup>

Targets of sexual harassment from the telephone survey<sup>72</sup> were most likely to be clerical workers (24 per cent of targets) or professional workers (22 per cent of targets). Complainants of sexual harassment in *A Bad Business* were most likely to be intermediate (30 per cent of complainants) or elementary clerical, sales or service workers (17 per cent of complainants).

<sup>69</sup> In 2001, 16 per cent of the Australian population spoke a language other than English at home: *2001 Census of Population and Housing in ABS 1301.0 Year Book Australia 2003*, pp145-146. See also Human Rights and Equal Opportunity Commission *A Bad Business: Review of sexual harassment in employment complaints 2002* HREOC Sydney 2003, p21.

<sup>70</sup> *2001 Census of Population and Housing in ABS 1301.0 Year Book Australia 2003*, pp145-146.

<sup>71</sup> *Labour Force Australia June 2002 in ABS 1301.0 Year Book Australia 2003 2003*, p164.

<sup>72</sup> The occupations of the interviewees to the telephone survey were recorded by a slightly different classification system to the Australian Standard of Classification of Occupations ("ASCO") used in *A Bad Business*. As a result, a direct comparison between the telephone survey data and the data from *A Bad Business* is not always possible. Both sets of data are compared to the most recently available Australian Bureau of Statistics data of employed persons in Australia by occupation (using the ASCO).

Table 3.8

Occupation of target	Telephone Survey (%) <sup>73</sup>	Australian Standard Classification of Occupations (ASCO)	Employed persons by ASCO occupation (%) <sup>74</sup>	<i>A Bad Business</i> Data (%) <sup>75</sup>
Manager, executive or official	8	Managers & Administrators	7.8	4
Professional worker	22	Professionals	18.5	7
		Associate Professionals	11.8	10
Skilled tradesman	6	Tradespersons & related workers	12.8	3
Clerical or office worker	24	Advanced clerical & service workers	4.3	7
Sales worker	15	Intermediate clerical, sales & service workers	17.1	30
Service worker	9	Intermediate production & transport workers	8.6	7
		Elementary clerical, sales & service workers	9.8	17
Unskilled labourer/ elementary professions	4	Labourers & related workers	9.2	9
Semi-skilled worker	3			
Business owner	3			
Manufacturer's representative	1			
Technology professional	1			
Unknown				6

<sup>73</sup> Based on a sample size of 200 with a margin of error of plus or minus seven percentage points at the 95 per cent confidence level.

<sup>74</sup> *Labour Force Australia June 2002* (6203.0) in ABS 1301.0 *Year Book Australia 2003* 2003, p163.

<sup>75</sup> Based on sample size of 146 complainants.



The data provided in Table 3.8 suggest that professional workers who are targets of sexual harassment are less likely to report it than others. Twenty-two per cent of the interviewees to the telephone survey who experienced sexual harassment classified themselves as professional workers, while only seven per cent of complainants were described thus. Professional women may be reluctant to report sexual harassment perhaps due to concerns about the adverse effect of a complaint on their reputation or career.

Studies have found that women in occupations in which the number of women is disproportionate to the number of men tend to be sexually harassed more than women in gender-balanced occupations.<sup>76</sup>

The finding that sexual harassment is most prevalent in the clerical, sales and services occupations, all of which are female-dominated, supports these studies. While workers in these occupations constitute almost 36 per cent of employed persons in Australia, 54 per cent of complainants in *A Bad Business* and 48 per cent of the targets of sexual harassment in the telephone survey were employed in these occupations. Because these occupations are predominantly female, it is difficult to ascertain whether the prevalence of sexual harassment is due to the sex-ratio of the occupation, or the numerical dominance of women, given that women are more likely to be harassed than men. Also occupation is not a useful indicator of the sex-ratio of the workplace, which may also be a significant factor in predicting the incidence of sexual harassment.

### 3.3.6 Employment status of target of sexual harassment

The limitations of the complaints data in *A Bad Business*, based on self-reporting, make a direct comparison with the telephone survey data difficult. Of the complainants who stated their employment status as "Casual" or "Fixed-term contract" it was not able to be discerned whether they were employed on a full time or part time capacity. For these reasons only the telephone survey data is examined in this section. The telephone survey only asked those 30 per cent of interviewees who were part time workers whether they were permanent, casual or temporary employees.

Table 3.9

Employment status of target	Telephone Survey (%) <sup>77</sup>
Full time	70
Part time	30
Of part timers: <sup>78</sup>	
- Permanent	48
- Casual	42
- Temporary	10

The proportion of interviewees who experienced sexual harassment in the workplace in the last five years in the telephone survey working full and part time approximates the proportion in the Australian population. In 2001-02, 72 per cent of employed persons in Australia worked on a full time basis (more than 35 hours per week) while 28 per cent worked part time.<sup>79</sup> The proportion of female interviewees who experienced sexual harassment and worked part time (34 per cent) is not significantly different to the

<sup>76</sup> J E Gruber & L Bjorn "Blue-collar blues: The sexual harassment of women autoworkers" (1982) 9 *Work and Occupations* 271; US Merit Systems Protection Board *Sexual harassment in the federal workplace: Is it a problem?* Office of Merit Systems Review and Studies/Government Printing Office Washington DC 1981; US Merit Systems Protection Board *Sexual harassment in the federal government: An update* Office of Merit Systems Review and Studies/Government Printing Office, Washington DC 1988; KR Yount "Ladies, flirts and tomboys: Strategies for managing sexual harassment in an underground coal mine" (1991) 19 *Journal of Contemporary Ethnography* 396; BA Gutek & B Morasch "Sex-ratios, sex-role spillover, and sexual harassment of women at work" (1982) 38 *Journal of Social Issues* 55.

<sup>77</sup> Sample size of 200 with a margin of error of plus or minus seven percentage points at the 95 per cent confidence level.

<sup>78</sup> Sample size of 63 with a margin of error of plus or minus 12 percentage points

<sup>79</sup> ABS 1301.0 *Year Book Australia 2003* 2003, p162.

<sup>80</sup> Human Rights Commission of New Zealand "One in three women sexually harassed survey shows"  
<http://www.hrc.co.nz/index.php?p=13856>

<sup>81</sup> Based on sample size of 200, with a margin of error of plus or minus 7 percentage points at the 95 per cent confidence level.

<sup>82</sup> Sample size of 121.

<sup>83</sup> ABS 6254.0 *Career Experience, Australia 2003*, p3.

proportion of employed women in Australia working part time (45 per cent).

This result does not support the New Zealand survey on sexual harassment's finding that part time women workers are more susceptible to sexual harassment than women workers generally (see 2.2.2).<sup>80</sup> The New Zealand survey found that 37 per cent of women who work less than 20 hours per week had experienced sexual harassment compared with 22 per cent of all women who experienced sexual harassment at work.

### 3.3.7 Length of employment of target

Table 3.10

Length of employment of target at time of sexual harassment	Telephone Survey (%) <sup>81</sup>	Length of employment of complainant at time sexual harassment commenced	<i>A Bad Business</i> Data (%) <sup>82</sup>
		Immediately	13
		Less than 1 month	9
Less than 3 months	19	1-2 months	20
		3-4 months	9
		5-7 months	13
3-12 months	25	8-12 months	7
More than 12 months but less than 3 years	24	13-24 months	11
3 or more years	32	25 months or more	17

Table 3.10 shows that complainants of sexual harassment in *A Bad Business* were twice as likely as targets of sexual harassment in the telephone survey to report that the harassment commenced within the first three months of their employment (42 per cent compared with 19 per cent). Almost three-quarters (71 per cent) of sexual harassment complainants in *A Bad Business* reported that the sexual harassment commenced within the first 12 months' of their employment, compared with 44 per cent of the targets of sexual harassment in the telephone survey. This difference warrants further research, although it may be that an employee harassed early in their tenure of employment is more likely to report the sexual harassment externally because she or he may feel not as supported in the workplace.

Twenty-three per cent of employees in the Australian labour force in November 2002 had been with their current employer for less than 12 months.<sup>83</sup> Complainants of sexual harassment in *A Bad Business* are over-represented in this category by as much as three times the general population, and targets of sexual harassment in the telephone survey almost double this proportion.

The data in *A Bad Business* suggest that "new-starters" are particularly susceptible to sexual harassment, whereas the telephone survey suggests that the experience of workplace sexual harassment is more evenly spread across the range of the period of employment.

Employers should ensure that new staff members are provided with adequate information and advice about the employer's policies and grievance procedures at the commencement of their employment.

### 3.4 Characteristics of the harasser

#### 3.4.1 Sex of harasser

It is generally recognised that sexual harassers are predominantly men. Both the telephone survey and the complaints data in *A Bad Business* in Table 3.11 support this finding. Very few complaints in *A Bad Business* relate to incidents of sexual harassment by female harassers. The complaints data in *A Bad Business* also included incidents of sexual harassment by men and women. These situations tended to cross over into workplace bullying, albeit with a sexual component.<sup>84</sup>

Again, the discussion in section 3.3.2 as to the possible reasons for the apparent reluctance of male victims of sexual harassment to report it may explain the disparity in the incidence of female harassers in *A Bad Business* and the telephone survey results.

Table 3.11

Sex of harasser	Telephone Survey (%)	<i>A Bad Business</i> Data (%)
Male	79	88
Female	21	5
Male and female		7

#### 3.4.2 Age of harasser

The age of the harasser estimated by the target of the sexual harassment in the telephone survey was predominantly over 30 years, whereas the age of the harasser estimated by the complainant in *A Bad Business* was more evenly spread across age groups. Care needs to be exercised here though, as only very few of the complaint files analysed in *A Bad Business* contained an indication of the harasser's age.<sup>85</sup>

Table 3.12 indicates that almost seven in ten (68 per cent) of all harassers in the telephone survey data were men aged over 30 years. Almost six in ten (57 per cent) of all targets of sexual harassment in the telephone survey were women aged between 18 and 44 years. This suggests that generally harassers tend to be older than their victims. This age difference was particularly stark in *A Bad Business*<sup>86</sup> but note the very small sample size.

<sup>84</sup> See Human Rights and Equal Opportunity Commission *A Bad Business: Review of sexual harassment in employment complaints 2002* HREOC Sydney 2003, pp17-18.

<sup>85</sup> See Human Rights and Equal Opportunity Commission *A Bad Business: Review of sexual harassment in employment complaints 2002* HREOC Sydney 2003, p19.

<sup>86</sup> See Human Rights and Equal Opportunity Commission *A Bad Business: Review of sexual harassment in employment complaints 2002* HREOC Sydney 2003, pp19-21.

<sup>87</sup> Sample size of 200 with a margin of error of plus or minus seven percentage points at the 95 per cent confidence level.

<sup>88</sup> Sample of only 21 harassers where age was stated.

<sup>89</sup> Sexual harassment "...is dominance eroticized." See C MacKinnon *Sexual Harassment of Working Women* Yale University Press New Haven 1979, p162.

<sup>90</sup> See C MacKinnon *Feminism Unmodified* Harvard University Press Cambridge MA 1987, p107.

<sup>91</sup> K Bursik "Perceptions of sexual harassment in an academic context" (1992) 27 *Sex Roles* 401-412; L F Fitzgerald & L M Weitzman "Men who harass: Speculation and data" in M Paludi (ed) *Ivory Power: Sexual Harassment on Campus* SUNY Press Albany 1990; B A Gutek et al "Interpreting socio-sexual behaviour in a work setting" (1983) 22 *Journal of Vocational Behaviour* 30-48; J B Pryor "The layperson's understanding of sexual harassment" (1985) 13 *Sex Roles* 273-286; US Merit Systems Protection Board *Sexual harassment in the federal workplace: Is it a problem?* Office of Merit Systems Review and Studies/Government Printing Office Washington DC 1981.

<sup>92</sup> Of the 79 interviewees who were employed by small employers, 30 per cent were harassed by co-workers; of the 48 interviewees who were employed by medium-sized employers, 54 per cent were harassed by co-workers; of the 73 interviewees who were employed by large employers, 64 per cent were harassed by co-workers. Note the small sample sizes affects the reliability of these statistics, with a margin of error of plus or minus 12 percentage points.

Table 3.12

Age of harasser (years)	Telephone Survey (%) <sup>87</sup>	<i>A Bad Business</i> Data (%) <sup>88</sup>
Male		
15-20	2	5
21-30	9	19
31-40	21	24
41-50	30	14
51-64	15	24
65 +	2	10
Female		
15-20	2	0
21-30	6	0
31-40	8	0
41-50	5	5
51-64	2	0
65+	0	0

### 3.4.3 Harasser's relationship to target

The two sets of data indicate an interesting difference in the power relationships between harassers and their targets. Sexual harassment is often explained as a strategy used predominantly by men to exercise power over (subordinate) women in the workplace.<sup>89</sup> While this power differential is most obvious when a woman is harassed by her boss, manager or supervisor, power is not always linear or hierarchal, but is sometimes diffuse. Co-workers can also exercise personal power over each other, in terms of competing for work or advancement in the workplace.<sup>90</sup>

US studies suggest that the source of the sexual harassment affects the severity of the harassment experienced by the target, with conduct by a person in a position of authority being more apt to be perceived as sexual harassment than that by a peer or subordinate.<sup>91</sup> The telephone survey results do not necessarily support this notion, with just under half (48 per cent) of the harassers being identified as co-workers of the targets in Table 3.13. By contrast 61 per cent of the harassers in *A Bad Business* were in positions of authority over the complainants (compared with 34 per cent being co-workers).

Sexual harassment by a co-worker was more likely to occur in large employers than medium sized or small employers.<sup>92</sup>

Table 3.13

Relationship of harasser to target	Telephone Survey (%)	<i>A Bad Business</i> Data (%)
Co-worker	48	34
Supervisor/manager	13	39
Boss/employer	20	22
Client/customer	10	4
Co-worker more senior position	2	
Others associated with workplace <sup>93</sup>	6	2

Of the 35 per cent of interviewees to the telephone survey who were harassed by a person in authority, the person in authority was more likely to be male than female.<sup>94</sup>

Where a formal authoritative relationship does not exist between the harasser and the target, this gender characteristic is not as pronounced. Forty-eight per cent of interviewees identified their harassers as co-workers (35 per cent of interviewees identified co-worker harassers as men and 14 per cent as women). This suggests that female harassers may be more likely to harass those in similar situations to themselves rather than those in more or less powerful workplace positions.

Despite the facts that men are usually in positions of greater authority in the workplace than women, and that harassers are predominantly men, this finding suggests that there is a definite gender/power dimension to sexual harassment in the workplace, whereby men in positions of authority tend to harass women in subordinate positions.

The telephone survey also suggests that if the harasser is described as the "boss or employer" the target of the sexual harassment is less likely to make a formal complaint or report than if the harasser is described otherwise.

Almost one third of the interviewees who worked for a small employer (less than 25 employees) were sexually harassed by the "employer or boss", compared with only eight per cent of interviewees who worked for large employers (more than 100 employees), and 18 per cent of interviewees who worked for medium sized employers (26 to 100 employees).

Ten per cent of interviewees to the telephone survey stated that they were harassed by a customer or client compared with four per cent of complainants in *A Bad Business*. The relationship between an employee and a client or customer is one that may not fall under the provisions of the SDA<sup>95</sup> so that a person who is being sexually harassed may not have an avenue of redress directly against the alleged harasser. Instead, an employee who has been sexually harassed by a client or customer may in some circumstances construe a complaint of direct or indirect sex discrimination for which employers are directly liable if made out.<sup>96</sup>

This more circuitous path to a remedy for sexual harassment inflicted by a customer on an employee may make obtaining a legal remedy under the SDA more difficult than an employee harassed by a co-worker, for example. As more women move into sales and service representative roles (or consultancy roles) where they deal directly with customers or clients often at the customer's or client's workplace, this type of sexual harassment may increase in prevalence.

<sup>93</sup> These individuals included couriers, cleaners and delivery persons. Similar comments apply as to customers or clients.

<sup>94</sup> 32 per cent of interviewees indicated that the person in authority was male while 3 per cent indicated that the person in authority was female. Rounding of percentages affects total.

<sup>95</sup> Section 28B of the SDA provides:

- (1) It is unlawful for a person to sexually harass:
  - (a) an employee of the person; or
  - (b) a person who is seeking to become an employee of the person.
- (2) It is unlawful for an employee to sexually harass a fellow employee or a person who is seeking employment with the same employer.
- (3) It is unlawful for a person to sexually harass:
  - (a) a commission agent or contract worker of the person; or
  - (b) a person who is seeking to become a commission agent or contract worker of the person.
- (4) It is unlawful for a commission agent or contract worker to sexually harass a fellow commission agent or fellow contract worker.
- (5) It is unlawful for a partner in a partnership to sexually harass another partner, or a person who is seeking to become a partner, in the same partnership.
- (6) It is unlawful for a workplace participant to sexually harass another workplace participant at a place that is a workplace of both of those persons.

(7) In this section:

"place" includes a ship, aircraft or vehicle.

"workplace" means a place at which a workplace participant works or otherwise carries out functions in connection with being a workplace participant.

"workplace participant" means any of the following:

- (a) an employer or employee;
- (b) a commission agent or contract worker;
- (c) a partner in a partnership.

See Human Rights and Equal Opportunity Commission *Sexual Harassment in the Workplace: A Code of Practice for Employers* HREOC Sydney 2004, p18.

<sup>96</sup> Sexual harassment is a legally recognised form of sex discrimination: *O'Callaghan v Loder* (1984) EOC 92-023; *Aldridge v Booth* (1988) 80 ALR 1; *Hall & Ors v A & A Sheiban Pty Ltd & Ors* (1989) EOC 92-250; *Elliott v Nanda & Commonwealth of Australia* [2001] FCA 418.

<sup>97</sup> The States' occupational health and safety laws require employers to provide safe working environments for their employees. This includes providing a sexual harassment-free workplace. See Human Rights and Equal Opportunity Commission *Sexual Harassment in the Workplace: A Code of Practice for Employers* HREOC Sydney 2004, p49.

<sup>98</sup> Although the difference could be due to the classification of small business as less than 25 employees.

<sup>99</sup> Based on sample size of 200 with a margin of error of plus or minus seven percentage points at the 95 per cent confidence level.

<sup>100</sup> *Small Business in Australia 2001* (1321.0) in ABS 1301.0 *Year Book Australia 2003* 2003, p412. Note that *Small Business in Australia* is a biennial publication, with the next edition featuring 2003 data due for release in 2004.

Sexual harassment of an employee by a client or customer of the employer often presents a difficult situation for employers to resolve. Employers are faced with a tension between their legal duty to provide a sexual harassment-free workplace for their employees<sup>97</sup> and their commercial imperative to maintain harmonious relationships with their clients. In addition, employers generally have little control over the behaviour of customers or clients, particularly where there is no ongoing relationship with that customer or client.

The range of strategies for dealing with sexual harassment in the workplace used by most employers is generally not appropriate or applicable to cases where the harasser is a client or customer. An employer cannot discipline or counsel a client or customer. Resolving employee complaints of sexual harassment by clients or customers will require employers to develop creative responses.

### 3.5 Characteristics of the workplace where the sexual harassment occurred

#### 3.5.1 Employer size

Table 3.14 shows that while the complaints data in *A Bad Business* showed a slight tendency for sexual harassment complaints to emanate from small employers (less than 25 employees),<sup>98</sup> the telephone survey results indicate that sexual harassment is prevalent across all employer sizes, mirroring the proportion of employed persons in the community employed by small, medium and large business entities.

Both sets of data suggest that sexual harassment is an issue for all employers, regardless of size.

Table 3.14

Size of employer	Proportion of Telephone Survey interviewees who experienced sexual harassment by size of employer (%) <sup>99</sup>	Proportion of <i>A Bad Business</i> complainants by size of employer (%)	Size of employer in ABS	ABS Proportion of employed persons by size of employer (%) <sup>100</sup>
Small (less than 25 employees)	38	44	Small (1 to 19 employees)	38
Medium-sized (26 to 100 employees)	25	19	Medium (20 to 99 employees)	23
Large (more than 100 employees)	37	36	Large (more than 100 employees)	38

Table 3.15 shows the proportion of interviewees to the telephone survey by the size of their employer who were aware of sexual harassment happening to someone else in the same workplace.

Interviewees who knew of sexual harassment happening to someone else at their workplace, were more likely to be employed by large employers (43 per cent). However the proportion of interviewees in the telephone survey who stated that they knew of sexual harassment happening to someone else in their small workplace is greater than those employed by medium-sized employers. This may be because employees tend to know each other and have closer working relationships in a smaller workplace.

Table 3.15

Size of employer	Aware of sexual harassment happening to someone else	
	Yes <sup>101</sup>	No <sup>102</sup>
Small (less than 25 employees)	36	44
Medium (26-100 employees)	22	30
Large (more than 100 employees)	43	27

### 3.5.2 Industry

Table 3.16 shows that targets of sexual harassment were most likely to be employed in the retail trade (16 per cent), health and community services (12 per cent) and education (10 per cent) industries. Complainants of sexual harassment in *A Bad Business* were most likely employed in the property and business services (14 per cent), retail trade (13 per cent) and accommodation, cafes and restaurants (12 per cent) industries.

Table 3.16

Australian and New Zealand Standard Industrial Classification (ANZIC)	Telephone Survey (%) <sup>103</sup>	<i>A Bad Business</i> Data (%)	Contribution to Total Employment (%) <sup>104</sup>
Retail trade	16	13	14.8
Health and community services	12	4	10
Education	10	2	6.9
Accommodation, cafes and restaurants	8	12	5.1
Government administration and defence	7	6	4.1
Finance and insurance	7	3	3.9
Communication services	6	6	2.1
Personal and other services	6	3	3.9
Construction	5	5	7.3
Manufacturing	5	11	12.3
Agriculture, forestry and fishing	4	1	4.7
Cultural and recreational services	4	4	2.5
Transport and storage	3	7	4.6
Property and business services	2	14	11.7
Mining	2	<1	0.9
Wholesale trade	2	7	4.7
Electricity, gas and water storage	1	0	0.7
Other/Unknown	0	4	0
Total	100	100	100

<sup>101</sup> Sample size of 108 with a margin of error of plus or minus 11 per cent at the 95 per cent confidence level.

<sup>102</sup> Sample size of 75 with a margin of error of plus or minus 11 per cent at the 95 per cent confidence level.

<sup>103</sup> Based on a sample size of 200 with a margin of error of plus or minus 7 percentage points at the 95 per cent confidence level.

<sup>104</sup> ABS 1301.0 *Year Book Australia 2003* 2003, p406.

It should be noted that the SDA does not cover State instrumentalities, such as public schools and hospitals, perhaps largely explaining the under-representation of the education and health and community services industries in *A Bad Business*.

These findings suggest that the experience of sexual harassment is widely spread across industries.



## Chapter 4: Reporting sexual harassment in employment

### 4.1 Introduction

Almost one in three targets of sexual harassment in Australian workplaces in the last five years formally reported it either to employers or to external agencies, the majority reporting it to their manager, supervisor or employer. Very few targets reported the sexual harassment to external agencies.

This chapter examines the results of the national telephone survey concerning who reports sexual harassment, to whom it is reported and how reports of harassment are dealt with.

Secondly, external complaints are analysed, including the outcomes of the complaints of sexual harassment to HREOC analysed in *A Bad Business*.

Finally the telephone survey provides a number of interesting findings as to why targets of sexual harassment do not make a formal complaint. These are informative for employers wishing to improve their grievance procedures.

### 4.2 Formal complaints<sup>105</sup>

Almost one third of interviewees (32 per cent or 68 interviewees) to the telephone survey who experienced sexual harassment in the workplace in the last five years formally reported it either to their employer or to an external agency.<sup>106</sup> In contrast, over three quarters (78 per cent) of complainants of sexual harassment to HREOC in *A Bad Business* reported the incident to their employer prior to lodging a complaint with HREOC. Notably, almost all (99 per cent) of those complainants expressed dissatisfaction with their employer's complaint handling process, hence presumably accounting for their decision to lodge a complaint with HREOC.

Female targets of sexual harassment in the telephone survey were more likely to formally report the harassment than male targets. While 72 per cent of the 200 targets of sexual harassment were female and 28 per cent male, of those 68 targets of sexual harassment who made a formal complaint from the telephone survey, 84 per cent were female and 16 per cent were male.

Findings from the telephone survey suggest that there is a relationship between the likelihood of reporting the sexual harassment and the severity of the harassment, and between the probability of reporting the sexual harassment and the power relationship of harasser and target. The greater the severity of the sexual harassment (as measured in the telephone survey by rating the sexual harassment experienced on a scale of one (not at all offended or intimidated) to five (extremely offended or intimidated) the greater the probability of the sexual harassment being reported. For example, of those who rated the offensiveness of the sexual harassment as a four or five, 45 per cent reported the harassment. Of those who rated the offensiveness of the sexual harassment as one, two or three, only 19 per cent reported the harassment. A similar finding was apparent with the intimidation rating. See 2.3.2 for further discussion.

The telephone survey found that where the power differential in the relationship between the harasser and the target of the sexual harassment is greatest (that is, the harasser is described as "employer or boss") the less likely that the target would report the

<sup>105</sup> The incidence of informal reporting was not collected. Question 7 of the Sexual Harassment Telephone Survey Questionnaire (see Appendix B) asked interviewees "Did you formally report or make a complaint about the harassment to anyone?" It would be expected that the incidence of informal reporting would be higher than the incidence of formal reporting.

<sup>106</sup> Five of the 68 interviewees to the telephone survey reported the sexual harassment to an external agency (for example, a union or employee representative, the police, HREOC or a State or Territory anti-discrimination agency – see Table 4.3). However, because the targets of sexual harassment in the telephone survey may have reported the harassment to more than one reportee and due to the small number of interviewees involved, it is not possible to divide the interviewees into those who made exclusively workplace complaints or those who made exclusively external complaints for the purposes of this analysis.

<sup>107</sup> Sample size of 64 with margin of error of plus or minus 12 percentage points at the 95 per cent confidence level. Target may have reported sexual harassment to more than one reportee so total percentage will not total 100.

<sup>108</sup> Based on sample size of 109. Target may have reported sexual harassment to more than one reportee so total percentage will not total 100.

harassment. The telephone survey also found that where the harasser is described as “employer or boss” the workplace where the harassment occurred is more likely to be small (less than 25 employees) than medium (26 to 100 employees) or large (more than 100 employees).

These findings are to be expected. One would expect that more serious sexual harassment would be more likely to be reported. It is also understandable that there is a reluctance to make a complaint of sexual harassment when the boss is the harasser. Many targets of sexual harassment in this situation, particularly those employed in small businesses, may feel that they have no-one to report the harassment to.

#### 4.2.1 Reportees

Targets of sexual harassment were most likely to formally report the harassment to a manager or supervisor at work, followed by the target’s employer or boss, in both the telephone survey and the complaints data in *A Bad Business*. Clearly, employees expect that individuals in managerial or more senior roles within an organisation will be able to deal with reports of sexual harassment.

Table 4.1 provides an overview of the data from both the telephone survey and *A Bad Business* in relation to the person to whom targets of sexual harassment make workplace complaints.

Table 4.1

Sexual harassment reported to:	Telephone Survey (%) <sup>107</sup>	<i>A Bad Business</i> Data (%) <sup>108</sup>
Manager/supervisor at work	53	35
Employer/boss	34	28
Human Resources Manager or equivalent	14	14
Equity Officer/Sexual Harassment Contact Officer/ Harassment Contact Officer	11	4
Co-worker	25	3
Alleged harasser	16	8

One in four interviewees to the telephone survey who reported the sexual harassment did so to a co-worker. This suggests that some targets of sexual harassment seek support and assistance from colleagues as well as from those in more senior positions within the workplace. It also may suggest recognition of shared responsibility for dealing with incidences of sexual harassment in the workplace.

#### 4.2.2 Outcome of complaint

The statistics in the following section must be used cautiously as the sample sizes of the telephone survey data and the complaints data in *A Bad Business* in relation to this aspect are both small.

Table 4.2 provides an overview of the outcomes of reported sexual harassment from the telephone survey and the outcomes of the workplace complaints from HREOC’s review of sexual harassment complaints in *A Bad Business*. Totals of each column in Table 4.2 may add to more than 100 because interviewees may have given more than one response.

Table 4.2

Results of formal complaint <sup>109</sup>	Telephone Survey (%) <sup>110</sup>	Results of workplace complaint process <sup>111</sup>	<i>A Bad Business</i> Data (%) <sup>112</sup>
Harasser was dealt with	59		
Includes:			
- Harasser was transferred or changed shifts	7	Harasser was transferred	18
- Harasser resigned	3	Harasser resigned	12
- Harasser dismissed	17	Harasser dismissed	6
- Harasser disciplined	28	Harasser was demoted	9
		Harasser's salary increment delayed	3
		Harasser's probation period extended	3
		Harasser received counselling	15
		Harasser undertook training	3
- Harasser formally warned	1	Harasser received a written warning or a final written warning	18
- Harasser spoken to	3	Harasser received an oral warning	12
Negative impact on target	16		
Includes:			
- Target was disciplined	8	Target transferred <sup>113</sup>	2
- Target transferred or changed shifts	3	Target changed shifts <sup>114</sup>	1
- Target resigned	4	Target resigned <sup>115</sup>	45
- Target dismissed	16	Target dismissed <sup>116</sup>	19
Harasser apologised	10	Information not collected	
Employer apologised for allowing the harassment	7	Information not collected	
Employer made changes to the workplace to prevent sexual harassment in the future	13	Information not collected	
Employer provided target with a reference	1	Information not collected	
Nothing was done	13	Workplace complaint ignored <sup>117</sup>	24
Harassment stopped	3		

<sup>109</sup> Includes outcomes from both workplace complaints and complaints to external agencies.

<sup>110</sup> Sample size of 68 with margin of error of plus or minus 12 percentage points at the 95 per cent confidence level.

<sup>111</sup> Excludes the outcomes of the HREOC complaint process.

<sup>112</sup> Sample size of 33 unless indicated otherwise.

<sup>113</sup> Based on a sample size of 128 – employment status of target at time of making complaint to HREOC.

<sup>114</sup> Based on a sample size of 128 – employment status of target at time of making complaint to HREOC.

<sup>115</sup> Based on a sample size of 128 – employment status of target at time of making complaint to HREOC.

<sup>116</sup> Based on a sample size of 128 – employment status of target at time of making complaint to HREOC.

<sup>117</sup> Sample size of 67.

<sup>118</sup> Question 9 of the telephone survey asked interviewees who made a formal complaint of sexual harassment the following question: "What were the results to either yourself or the harasser as an outcome of your complaint?"

Almost three in five interviewees who formally complained of sexual harassment stated that the harasser was dealt with. This indicates that in the majority of cases where the sexual harassment was reported, the complaint was probably substantiated, and the sexual harassment reported was likely to be quite serious warranting some form of disciplinary action of the harasser (with up to 20 per cent removed from their employment). This finding also suggests that many employers take their responsibility to respond to formal complaints seriously.

There are significant differences in the outcomes of complaints for alleged sexual harassers between the telephone survey data and data from *A Bad Business*. While these differences are interesting, it may be difficult to interpret them definitively. The following discussion cannot be used to draw any firm conclusions.

In *A Bad Business*, alleged harassers were more than twice as likely transferred to another department in the same organisation or work site than harassers in the telephone survey. Also the alleged harasser was much more likely to have received an oral or a written warning as a consequence of the complainant's formal workplace complaint than harassers in the telephone survey.

Alleged harassers in *A Bad Business* were four times more likely to resign as a consequence of a workplace complaint than harassers in the telephone survey but almost three times less likely to be dismissed than harassers in the telephone survey. This may mean that complainants of sexual harassment felt less vindicated by a workplace grievance process which permitted the alleged harasser to resign from employment (with their reputation intact) instead of being dismissed, with all the implications of termination at the behest of the employer on the alleged harasser's chances for future employment.

The most striking difference between the two sets of data is the proportion of complainants or targets of sexual harassment who resigned. This is despite methodology differences which prevent direct comparison between the 45 per cent of complainants who had resigned from their job at the time of making their external complaint to HREOC in *A Bad Business* and the four per cent of the targets of sexual harassment who resigned as a consequence of making a formal complaint of sexual harassment in the telephone survey.<sup>118</sup> The fact that a complainant in *A Bad Business* resigned cannot be causally linked to the act of making either a workplace report or an external complaint of the sexual harassment to HREOC because some of the complainants who had resigned at the time of making an external complaint to HREOC had not made a workplace complaint or had resigned from their job prior to lodging a complaint with HREOC. It may be that the complainant resigned as a consequence of the harassment or that this was only one of a number of reasons for dissatisfaction with the workplace. Targets of sexual harassment who resign or are dismissed may be more likely to make external complaints to agencies such as HREOC. The telephone survey did not record whether those targets of sexual harassment, who did not formally report the harassment, resigned or remained in the workplace where the harassment occurred.

Both the complaints data in *A Bad Business* and the telephone survey data revealed that a significant minority of complainants and targets of sexual harassment had their workplace complaints either ignored or not actioned. Such non-action suggests a high degree of organisational tolerance of sexual harassment, which may also produce a 'chilling effect' – if other workers' complaints are ignored, targets of harassment may be less likely to report incidents of sexual harassment they themselves have experienced.

One US study suggests a link between reports of sexual harassment on the job and perceptions of an organisation's tolerance for sexual harassment of its employees.<sup>119</sup> The study concludes that strategies to reduce or eliminate sexual harassment in an organisation include:

- establishing and communicating the likelihood of negative outcomes for harassers of engaging in sexually harassing behaviours;
- establishing procedures that minimise the risks of reporting sexual harassment for targets of harassment, such as retaliation; and
- establishing procedures that ensure complainants will be taken seriously.<sup>120</sup>

### 4.2.3 Time period between sexual harassment and workplace reporting

Of the 68 interviewees who formally reported the sexual harassment in the telephone survey, 31 per cent made a workplace complaint either immediately, or the same or next working day after the sexual harassment occurred. Forty per cent of the 86 complainants of sexual harassment in employment reviewed by HREOC in *A Bad Business* (for which the information was available) reported the harassment immediately.

Almost three-quarters of complainants in *A Bad Business* reported the sexual harassment within three months of its initial occurrence, compared with 81 per cent of the targets of sexual harassment who reported the harassment from the telephone survey.

It is apparent that where targets of sexual harassment choose to report the harassment, the majority tend to do so within a fairly short period of the initial conduct occurring.

### 4.2.4 Finalisation of formal complaint

Of the 68 interviewees<sup>121</sup> who formally reported the sexual harassment in the telephone survey, the majority stated that their complaint was finalised either between the boss and themselves or their employer and themselves.<sup>122</sup> This indicates the usefulness of effectively dealing with workplace complaints.

A significant minority reported finalising the complaint via an external mechanism. For example, five per cent reported finalising the complaint with their unions' involvement; five per cent with the involvement of HREOC or a State/Territory anti-discrimination agency; five per cent with their legal representative or lawyer's involvement; and four per cent reported finalising their complaint in court.<sup>123</sup> A further three per cent reported that their complaint was finalised by the alleged harasser leaving the workplace, and another three per cent stated that their complaint was resolved between the employer and the alleged harasser.

Fifteen per cent reported that their complaint had not yet been finalised.<sup>124</sup>

While most complaints of workplace sexual harassment are finalised internally, a significant minority require the assistance of an external adviser or body. Due to the small sample size, few conclusions can be drawn from these data.

Resolution of sexual harassment workplace complaints can be time-consuming and therefore disruptive in the workplace, not only for the target, the alleged harasser and other workplace participants, but also for those whose task it is to investigate and resolve

<sup>119</sup> CL Hulin et al "Organizational influences on sexual harassment" in M Stockdale (ed) *Sexual Harassment in the Workplace: Perspectives, Frontiers and Response Strategies* Sage Publications Thousand Oaks 1996, 127-150.

<sup>120</sup> CL Hulin et al "Organizational influences on sexual harassment" in M Stockdale (ed) *Sexual Harassment in the Workplace: Perspectives, Frontiers and Response Strategies* Sage Publications Thousand Oaks 1996, 127-150.

<sup>121</sup> Margin of error of plus or minus 12 per cent at the 95 per cent confidence level.

<sup>122</sup> Forty-four per cent finalised the complaint between the boss and themselves; 27 per cent finalised the complaint between the employer and themselves.

<sup>123</sup> Information as to which court was not collected. Jurisdiction to deal with sexual harassment claims rests with the Federal Magistrates Court or the Federal Court for terminated complaints made to HREOC; State and Territory anti-discrimination tribunals and Administrative Tribunals, or industrial courts such as the Australian Industrial Relations Commission and its States' counterparts.

<sup>124</sup> Note however, that what was meant by "finalised" was not defined in the telephone survey.

<sup>125</sup> Human Rights and Equal Opportunity Commission *A Bad Business: Review of sexual harassment in employment complaints 2002* HREOC Sydney 2003, p32. For all complaints to HREOC in 2001-2002, 88 per cent of matters were finalised within 12 months from the date of receipt and the average time from receipt to finalisation was seven months. Human Rights and Equal Opportunity Commission *Annual Report 2001-2002* HREOC Sydney 2002, p40.

<sup>126</sup> Complaints on the ground of sexual harassment increased from 142 complaints in 1999-2000 to 167 complaints in 2000-2001 to 195 complaints in 2001-2002. Human Rights and Equal Opportunity Commission *Annual Report 1999-2000* HREOC Sydney 2000, p57; Human Rights and Equal Opportunity Commission *Annual Report 2000-2001* HREOC Sydney 2001, p73 and Human Rights and Equal Opportunity Commission *Annual Report 2001-2002* HREOC Sydney 2002, p73. Complaints decreased in 2002-2003 to 172. Human Rights and Equal Opportunity Commission *Annual Report 2002-2003* HREOC Sydney 2003, p77. The next most recent increase in the number of complaints on the ground of sexual harassment was between 1993-1994 and 1994-1995. Human Rights and Equal Opportunity Commission *Annual Report 1993-1994* Commonwealth of Australia Canberra 1994, p80 and Human Rights and Equal Opportunity Commission *Annual Report 1994-1995* Commonwealth of Australia Canberra 1995, p151. The decrease in the number of complaints on the ground of sexual harassment between 1994-1995 and 1999-2000, and between 2001-2002 and 2002-2003 corresponds to a decrease in the total number of complaints received under the Sex Discrimination Act during these periods.

<sup>127</sup> Human Rights and Equal Opportunity Commission *Annual Report 2002-2003* HREOC Sydney 2003, p77.

<sup>128</sup> Sample size of 200. Target may have reported sexual harassment to more than one reportee.

<sup>129</sup> Based on sample size of 109. Target may have reported sexual harassment to more than one reportee.

complaints.

The telephone survey did not ask interviewees how long their complaints took to resolve. Significantly in HREOC's review of sexual harassment complaints in *A Bad Business*, the average time taken from receipt of the complaint by HREOC to finalisation (whether settled via a conciliation conference chaired by HREOC or privately between the parties, terminated by HREOC, or withdrawn by the complainant) was 7.6 months.<sup>125</sup>

#### 4.2.5 Satisfaction with process of dealing with sexual harassment

When asked to rate their satisfaction with the process of dealing with a complaint of sexual harassment on a scale of one (not at all satisfied) to five (very satisfied) Figure 4.1 shows that almost half (46 per cent) of the 68 interviewees to the telephone survey who reported the sexual harassment rated their satisfaction in the four or five range. This indicates that some employers' grievance procedures are highly effective.

On the other hand, as Figure 4.1 also shows, 38 per cent of interviewees were not satisfied with the process of dealing with the sexual harassment, with one in five interviewees (22 per cent) being not at all satisfied with the process. The average satisfaction rating was 3.1.

#### 4.3 External complaints

The telephone survey confirms the widely held view that complaints of sexual harassment to anti-discrimination agencies such as HREOC constitute a tiny proportion of the sexual harassment in employment that is experienced in the community. Of the 200 interviewees who had experienced sexual harassment in the workplace within the last five years, only three interviewees (or 1.5 per cent) made a complaint to either HREOC or a State/Territory anti-discrimination agency. As a proportion of the 68 interviewees who reported the harassment, five per cent made a complaint to either HREOC or a State/Territory anti-discrimination agency.

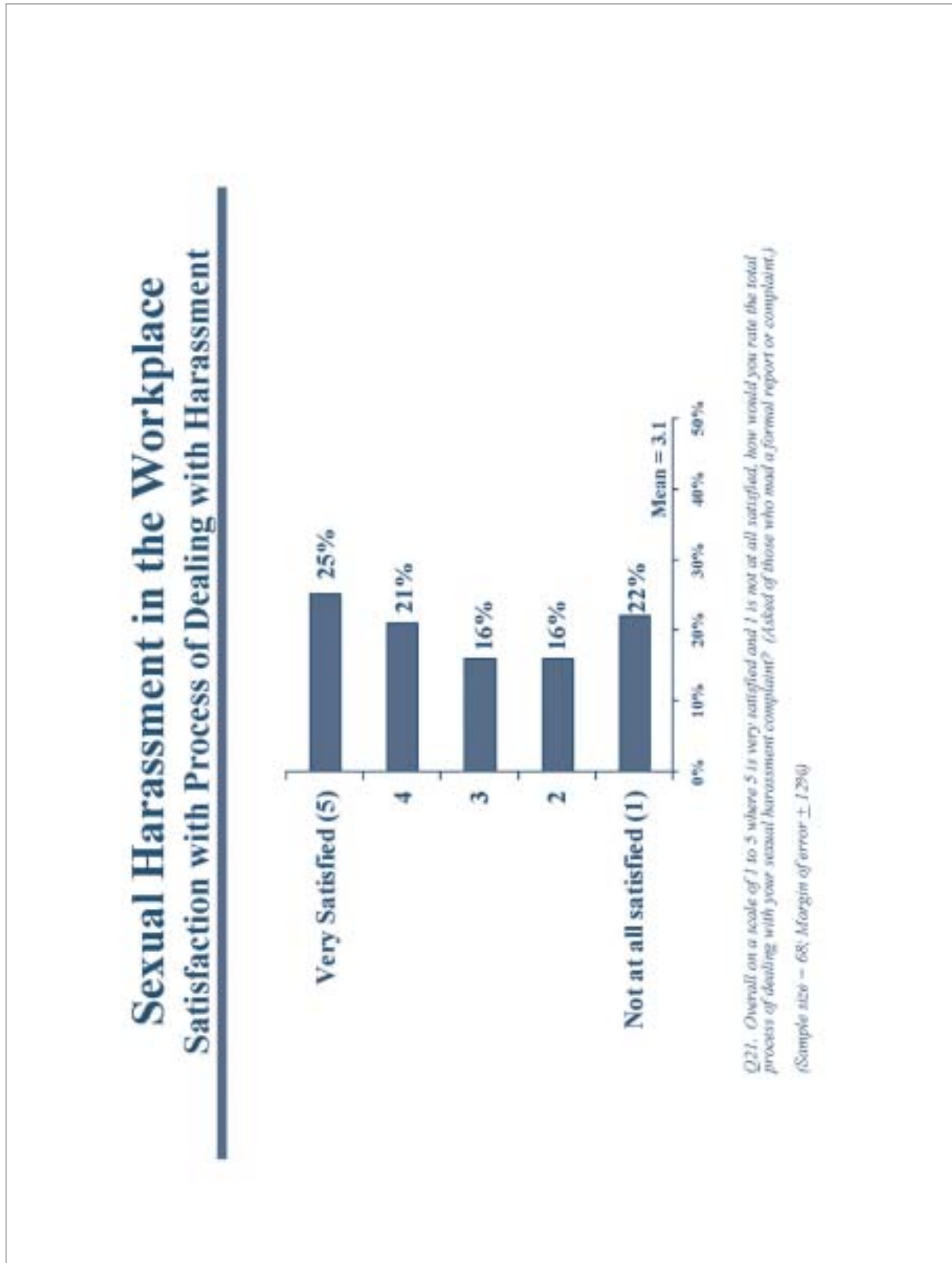
Sexual harassment in employment complaints received by HREOC under the SDA have increased over the period July 1999 to June 2002.<sup>126</sup> In addition, complaints of sexual harassment as a proportion of all discrimination complaints made under the SDA remain significant, at 27 per cent.<sup>127</sup>

As Table 4.3 shows, complaints to other external agencies, such as union or employee representatives and the police were also rare.

Table 4.3

Sexual harassment reported to	Telephone Survey (%) <sup>128</sup>	<i>A Bad Business</i> Data (%) <sup>129</sup>
Union or employee representative	1.5	8 (includes police)
Police	1.5	
HREOC or State or Territory anti-discrimination agency	1.5	100

Figure 4.1



<sup>130</sup> Sample size of 132 with a margin of error of plus or minus 9 per cent at the 95 per cent confidence level. Total does not equal 100 per cent as interviewees may have had multiple reasons for not reporting the sexual harassment experienced.

These data indicate that the number of sexual harassment in employment complaints made to anti-discrimination agencies each year represents only a small fraction of the number of people who experience sexual harassment in the workplace.

As such, complaint statistics, while informative on many levels, cannot and should not be used as some sort of proxy to estimate the incidence or nature of sexual harassment occurring in the community.

#### 4.4 Reasons for not reporting sexual harassment

Of the 200 interviewees to the telephone survey who experienced sexual harassment in the workplace within the last five years, 68 per cent did not formally report the harassment. Table 4.4 provides an overview for the reasons given for not formally reporting the sexual harassment. Interviewees may have given more than one reason for not reporting sexual harassment, so totals will equal more than 100.

Table 4.4

Reasons given for not formally reporting sexual harassment experienced	Telephone Survey Interviewees who did NOT formally report sexual harassment (%) <sup>130</sup>
Lack of faith in complaint process	42
Includes	
- Difficulties with complaints procedure	26
- Easier to just keep quiet	19
- Complaint process too difficult	4
- Complaint process too embarrassing	4
- Did not know who to report it to	2
- Did not know how to handle the situation	1
- Did not trust the people I could complain to	1
Negative impact on target	16
Includes	
- Afraid of getting fired	5
- Damage to my reputation	2
- People would treat me as the wrong-doer	2
- Did not think that I would be believed	2
- Thought people would think that I was overreacting	1
- Too scared or frightened	3
- Would have negative impact at work	2
Did not think that harassment was serious enough	31
Took care of problem myself	26
Did not think that anything would be done/would not change things	13
Harasser too senior	6
Did not want to hurt the person who bothered me	3
Sexual harassment is accepted in my workplace	1
Moved to another place of work	1
Harasser was already being dealt with	1



Many interviewees indicated in their reasons for not making a complaint of sexual harassment that they did not have faith in the grievance procedure. This lack of faith included a concern that the procedure itself was too difficult (26 per cent), or a concern that no positive outcome would be achieved (13 per cent), or that the procedure would impact negatively on the target in some way (16 per cent), either directly (getting fired or damaging the target's reputation) or indirectly (the way his or her co-workers would treat the target after a complaint was made).

This may mean that a number of employees who have experienced sexual harassment fail to formally report the harassment because of the negative perceptions they hold about their workplace grievance procedures. A greater awareness and understanding of these negative perceptions would assist employers in refining and marketing their grievance procedures to better meet employee expectations and effectively resolve complaints of sexual harassment in the workplace.

Almost a third of interviewees did not think that the sexual harassment was serious enough to warrant reporting. This suggests that there is a certain tolerance level for some incidences of workplace sexual harassment. This tolerance level is not standard and may vary significantly, depending on such variables as the target's perception of the severity of the sexual harassment (for example how much harm was caused by the harassment, or how offended or intimidated the harassment made the target feel), and the organisational tolerance or workplace culture in which the sexual harassment occurs. For example, in some workplaces sexual banter and teasing is prevalent to the extent that it is normalised within the environment despite the fact that it may constitute unlawful sexual harassment.

More than one in four interviewees stated as a reason for not reporting the sexual harassment that they "took care of the problem themselves". This may suggest that some sexual harassment targets may implement a confrontational strategy for dealing with harassment. While this strategy may be effective on an interpersonal level as between the individual harasser and the target, it reinforces the understanding of sexual harassment as conflict between individuals rather than a form of structural and systemic gender discrimination.

Another possible explanation is that targets of sexual harassment who "took care of the problem themselves" may have implemented an avoidance strategy, whereby they deliberately chose to stay out of the path of their harasser.

<sup>131</sup> HREOC's publication *Sexual Harassment: A Code of Practices* has also been revised to assist employers and unions deal with sexual harassment in the workplace: Human Rights and Equal Opportunity Commission *Sexual Harassment in the Workplace: A Code of Practice for Employers* HREOC Sydney 2004.

<sup>132</sup> Section 106 of the SDA provides:

(1) Subject to subsection (2), where an employee or agent of a person does, in connection with the employment of the employee or with the duties of the agent as an agent:

(a) an act that would, if it were done by the person, be unlawful under Division 1 or 2 of Part II (whether or not the act done by the employee or agent is unlawful under Division 1 or 2 of Part II); or

(b) an act that is unlawful under Division 3 of Part II;

this Act applies in relation to that person as if that person had also done the act.

(2) Subsection (1) does not apply in relation to an act of a kind referred to in paragraph (1)(a) or (b) done by an employee or agent of a person if it is established that the person took all reasonable steps to prevent the employee or agent from doing acts of the kind referred to in that paragraph.

See also Human Rights and Equal Opportunity Commission *Sexual Harassment in the Workplace: A Code of Practice for Employers* HREOC Sydney 2004, p24.

<sup>133</sup> This framework is discussed in more detail in the *Sexual Harassment in the Workplace: A Code of Practice for Employers* p50.

## Chapter 5: Sexual Harassment and Public Policy

### 5.1 Introduction

Sexual harassment is unlawful under the SDA and complaints of sexual harassment are managed by HREOC under the *Human Rights and Equal Opportunity Commission Act 1986* (Cth) ("HREOCA"). This Chapter provides a short overview of the public policy framework which governs sexual harassment and examines some of the implications of the survey results for public policy, particularly in comparison with the findings from *A Bad Business*.<sup>131</sup>

### 5.2 Public Policy Framework

Sexual harassment is managed in a public policy framework which extends beyond the SDA. It is legally recognised as both a form of sex discrimination and an infringement of the rights of those in paid work. Broadly, the framework for government action provides individual redress and includes preventive and educative functions involving a number of agencies, including the courts. Government regulation does not extend specifically to requiring all private business to adopt policies for the prevention or redress of sexual harassment. Rather, the vicarious liability provisions of the SDA,<sup>132</sup> as interpreted by the courts, require employers large and small to take all reasonable steps to prevent sexual harassment occurring in the workplace in order to avoid liability for sexual harassment committed by their employees and agents. State occupational health and safety and workers compensation regulation, and federal, State and Territory industrial or workplace relations systems may also apply to cases of sexual harassment in the workplace. The federal *Equal Opportunity for Women in the Workplace Act 1999* ("the *Equal Opportunity for Women in the Workplace Act*") also assists in regulating employer responses to sexual harassment.

#### 5.2.1 Individual redress

While the SDA makes sexual harassment unlawful, HREOCA provides a complaints mechanism for the resolution of individual complaints of sexual harassment. Accordingly HREOC investigates and may attempt to conciliate disputes between complainants and respondents. Conciliated agreements may include agreement on financial compensation, the provision of appropriate references and reinstatement. HREOC is required to deal with complaints without determining whether or not sexual harassment occurred or publicly identifying the parties. The role of conciliator is as a neutral facilitator of discussions to resolve the complaint between the parties.

HREOC may terminate complaints on a number of grounds, including that there is no reasonable prospect of agreement between the parties. Complainants may then choose to pursue the complaint by making an application for hearing and determination before either the Federal Magistrates Court (the "FMC") or the Federal Court of Australia. These courts make enforceable decisions, award damages and publish judgments, in which the details, including the identity of the parties, are generally made public. Parties may appeal against decisions of the FMC to the Federal Court, or, against decisions of the Federal Court to the Full Court of the Federal Court.<sup>133</sup>

Each State and Territory has complementary anti-discrimination legislation.

### 5.2.2 Preventative Regulation

In addition to court judgments dealing with each case, the jurisprudence that develops from each judgment also contributes to clarification and understanding of the nature of sexual harassment. Clarification and understanding of the SDA assists employees, employers, unions and others to better understand the circumstances in which conduct may be deemed to be unlawful sexual harassment. This jurisprudence also assists in the development of policies which would be useful to prevent sexual harassment.

The vicarious liability that may be incurred is an incentive for employers to draft and implement appropriate protocols for the management of sexual harassment complaints. The SDA's vicarious liability provisions require employers of whatever size to take all reasonable steps to prevent sexual harassment. In practice, this means that employers must, for example, implement preventative sexual harassment policies and grievance procedures and effectively communicate these policies and procedures to staff. Depending on the size of the organisation, they may also need to undertake regular sexual harassment education for staff and managers, and train contact officers.<sup>134</sup>

The duty to prevent sexual harassment is reinforced by decisions in industrial and workplace relations jurisdictions that may permit employers to use a wide range of disciplinary measures including dismissal of those who have sexually harassed others in the workplace.<sup>135</sup>

In addition, the *Equal Opportunity for Women in the Workplace Act* operates in parallel with the SDA by placing an emphasis on analysis of, and remedies for, the structural discrimination women experience in employment, including sexual harassment. The *Equal Opportunity for Women in the Workplace Act* requires employers with greater than one hundred employees to examine, and if necessary, alter organisational and institutional practices through the development of an equal opportunity for women in the workplace program and by reporting annually to the Equal Opportunity for Women in the Workplace Agency ("EOWA") on the program's effectiveness.<sup>136</sup> Equal opportunity programs are expected to address seven "employment matters", one of which is "arrangements for dealing with sex-based harassment",<sup>137</sup> including sexual harassment.

### 5.2.3 Education

As part of the SDA, HREOC is able "to undertake research and educational programs, and other programs, on behalf of the Commonwealth for the purpose of promoting the objects" of the SDA.<sup>138</sup> These objects include to "to eliminate, so far as is possible, discrimination involving sexual harassment in the workplace, in educational institutions and in other areas of public activity",<sup>139</sup> and to "promote recognition and acceptance within the community of the principle of the equality of men and women".<sup>140</sup> HREOC is also enabled to "promote an understanding and acceptance of, and compliance with..." the SDA.<sup>141</sup> These broad educational functions enable HREOC to conduct research and to promote its results and conclusions. On-going education cannot be under-estimated as a public policy tool for the elimination of sexual harassment or the reduction in its incidence. This may be as simple as providing information about the nature of sexual harassment and legal developments in the area or engaging in more complex public debates around

<sup>134</sup> See Human Rights and Equal Opportunity Commission *Sexual Harassment in the Workplace: A Code of Practice for Employers* HREOC Sydney 2004, p24.

<sup>135</sup> See *Thomas v Westpac Banking Corporation* (1995) EOC 92-742; *Graincorp v Markham* Unreported AIRC Melbourne 29 October 2002; *Mason v Boyne Smelters Ltd* Unreported AIRC Brisbane 20 August 1999. See also Human Rights and Equal Opportunity Commission *Sexual Harassment in the Workplace: A Code of Practice for Employers* HREOC Sydney 2004, p47.

<sup>136</sup> The reporting requirement may be waived for those employers which are consistently compliant with the legislation and which have taken all reasonably practicable measures to address equal opportunity issues.

<sup>137</sup> See [http://www.eowa.gov.au/Developing\\_a\\_Workplace\\_Program/What\\_is\\_a\\_Workplace\\_Program.asp](http://www.eowa.gov.au/Developing_a_Workplace_Program/What_is_a_Workplace_Program.asp) and [http://www.eowa.gov.au/Developing\\_a\\_Workplace\\_Program/Employment\\_Matter\\_Kits/Sex\\_Based\\_Harassment.asp](http://www.eowa.gov.au/Developing_a_Workplace_Program/Employment_Matter_Kits/Sex_Based_Harassment.asp)

<sup>138</sup> See section 48(1)(e) of the SDA.

<sup>139</sup> See section 3(c) of the SDA.

<sup>140</sup> See section 3(d) of the SDA.

<sup>141</sup> See section 48(1)(d) of the SDA.

<sup>142</sup> The development of a Sexual Harassment Youth Challenge program for secondary schools is an example of an important educational tool open to HREOC. HREOC conducted several education programs called Youth Challenges, for secondary school students on sexual harassment in 2003 and is planning several more for early 2004. These programs bring together approximately two to four secondary school students (at years 9–12) from a number of schools in different regions to work through a day's activities related to sexual harassment in schools. See <http://www.humanrights.gov.au/youthchallenge2/index.html> for more information.

<sup>143</sup> See Figure 2.1.

<sup>144</sup> See Figure 2.1.

<sup>145</sup> Calculation based on an incidence rate of 2.42 per cent for 2002–03 (11 per cent have experienced sexual harassment at work in the last five years, 22 per cent of those in the 12 months prior to the telephone survey) multiplied by the number of employees aged 15 to 64 years in Australia as at December 2003 (9,653,000). See ABS 6202.0 *Labour Force, Australia* December 2003.

<sup>146</sup> See Figure 4.1.

the cultural underpinnings of harassment and the public, organisational and personal interests in its elimination.<sup>142</sup>

Preventative policies within corporations and complaints processes have the capacity to reinforce one another in engendering cultural change. In combination with HREOC's public education role and engagement with sexual harassment cases and issues in the media, these may provide strong motivation for employers to regulate their own practices by implementing effective policies to eliminate and prevent sexual harassment.

### 5.3 The need for continued vigilance

The telephone survey clearly demonstrates that relatively few incidents (one per cent) of sexual harassment come to the attention of equal opportunity agencies including HREOC. Even fewer complaints are brought before the FMC or the Federal Court.

For the most part, incidents of sexual harassment are either not pursued or left unresolved. Overall, 68 per cent of those who had experienced sexual harassment in the telephone survey did not make a complaint, including a complaint in the workplace. For a number of obvious reasons not all those who experience sexual harassment will pursue it and complaining to an equal opportunity agency or taking a case to court are serious measures. While the telephone survey found 31 per cent of those who did not make a complaint said they considered it was not serious enough, and 26 per cent said they handled the matter themselves, 42 per cent indicated a lack of faith in the complaints process as a reason for non-reporting.

In addition to this, the telephone survey's finding of a general rate of incidence of sexual harassment in public life of 28 per cent (people aged between 18 and 64) demonstrates that a large number of people each year consider they have experienced sexual harassment.<sup>143</sup> Approximately two thirds of this harassment occurs in the workplace, meaning a significant number of people are denied the right to work without feeling intimidated, offended or humiliated.<sup>144</sup> After twenty years of legislation, an incidence rate of 18 per cent throughout the workforce (translating to an estimated 230,000 employees in 2002–03 experiencing sexual harassment at work)<sup>145</sup> suggests the need to closely examine existing regulation, the role of education and public awareness and workplace policies.

The telephone survey also explored formal reporting rates. It found that less than one in three targets of sexual harassment made a formal report or complaint, the majority of those interviewees reporting to their manager or supervisor. Of those complaints analysed in *A Bad Business*, where the information was available, 78 per cent had first reported the harassment to their manager or employer.

Although only a third of those interviewees who experienced sexual harassment had reported the incident, where they did so over half stated that the harasser was dealt with, and just under half were satisfied or very satisfied with the reporting process.<sup>146</sup> This implies that most employers can manage complaints well when approached.

The telephone survey produced a number of other results which have implications for the management and regulation of sexual harassment.

## 5.4 Implications for Public Policy

Results of the telephone survey and the findings from *A Bad Business* have specific implications for existing public policy responses to sexual harassment. Further, the results suggest that ongoing educational and prevention strategies are required to address sexual harassment. Employer groups, unions, employers and complaints handling agencies such as State and Territory equal opportunity agencies and HREOC all have a part to play in these ongoing activities.

### 5.4.1 Workplace Policies

Although many employers believe they have effective programs for sexual harassment management in place, the survey results suggest prevention policies (such as education and awareness programs) are not as well implemented as strong grievance procedures. Although the sample size of formal complaints of sexual harassment was small,<sup>147</sup> the survey results enable us to draw some tentative conclusions about the apparent contradiction between the lack of employee confidence in complaints processes and the relatively satisfactory outcomes for those who did make formal complaints.

Less than one in three interviewees who experienced sexual harassment in the workplace in the last five years formally reported it to their employer or to an external agency.<sup>148</sup> Of those interviewees who did not make a formal complaint, about half stated as reasons for not formally reporting the harassment a belief that (apparently) the complaint process was too difficult, too embarrassing, would not change anything, or would have a negative impact on the person harassed.<sup>149</sup>

Concerns about negative consequences were strong despite the telephone survey data which suggested that many employers manage formal complaints of workplace sexual harassment more than satisfactorily. For example of the 32 per cent of interviewees to the telephone survey who formally reported the sexual harassment, just under half rated their satisfaction with the process of dealing with the harassment as a four or five on a scale of one to five (where one equals "not at all satisfied" and five equals "extremely satisfied").<sup>150</sup>

In addition, 59 per cent of interviewees to the telephone survey who formally reported the sexual harassment stated that the outcome of the formal complaint involved the discipline or dismissal of the harasser, 13 per cent stated that the employer made changes to the workplace to prevent sexual harassment from occurring in the future, 17 per cent stated that the harasser and/or the employer apologised to the interviewee for the conduct, and three per cent stated that the harassment ceased. All these outcomes are positive for the target of the harassment.

Nevertheless, a significant minority of interviewees said that nothing was done as a consequence of their formal complaint (13 per cent) and 16 per cent stated that the outcome of their formal complaint was a negative consequence for them, including four per cent resigning and one per cent being dismissed. These findings suggest that, although many employers manage formal complaints adequately, there is significant room for improvement in the grievance procedures of some employers.

The results suggest that the effectiveness of prevention strategies in the workplace is not in keeping with the success of many employers' complaints procedures. This conclusion is borne out by the incidence rate of sexual harassment in companies required to have

<sup>147</sup> Sample size of 68 interviewees with a margin of error of plus or minus 12 per cent.

<sup>148</sup> See 4.1.

<sup>149</sup> See Table 4.4.

<sup>150</sup> See Figure 4.1.

<sup>151</sup> *Small Business in Australia 2001* (1321.0) in ABS 1301.0 Year Book Australia 2003 2003, p412.

<sup>152</sup> See Human Rights and Equal Opportunity Commission *Sexual Harassment in the Workplace: A Code of Practice for Employers* HREOC Sydney 2004, p33.

<sup>153</sup> Five per cent of formal complaints were finalised by legal representatives, five per cent by agencies such as HREOC and four per cent by the courts.

<sup>154</sup> Fourteen per cent of those interviewees who formally reported the harassment finalised their complaint by resorting to legal processes, translating to less than five per cent of all those who experience sexual harassment in the workplace.

sexual harassment policies under the *Equal Opportunity for Women in the Workplace Act*. This Act does not apply to organizations with fewer than one hundred employees. Thirty-seven per cent of the interviewees who experienced sexual harassment at work in the last five years worked for employers with more than one hundred employees. Yet these organisations also constituted 38 per cent of the workforce.<sup>151</sup> In other words, the incidence of sexual harassment in large companies is consistent with their overall contribution to the workforce. The operation of effective sexual harassment prevention policies might have been expected to reduce this incidence rate for large employers and it may be that large employers have effective grievance procedures for dealing with sexual harassment when it occurs in the workplace, but poor prevention strategies for stopping its occurrence in the first place. This is of particular concern to large employers, as the courts have interpreted the vicarious liability provisions of the SDA as requiring more of larger employers than smaller employers in satisfying the requirement to “take all reasonable steps” to prevent sexual harassment in the workplace.<sup>152</sup>

### Financial risk effects for employer policies

Of those interviewees to the telephone survey who formally reported the sexual harassment, fewer than one in six stated that their formal complaint was finalised by an external legal process involving a conciliated, negotiated or imposed outcome.<sup>153</sup>

Taking a purely financial cost benefit approach to sexual harassment, employers might calculate the overall risk of legal action to be sufficiently low<sup>154</sup> for it to be more cost effective for them not to focus on eliminating sexual harassment in their workplaces but instead to invest in strong grievance procedures and run the low risk of an imposed outcome, including the payment of a financial settlement and the costs of staff turnover.

Inadequate sexual harassment prevention and awareness programs might explain the apprehension of such a significant majority of those interviewees who did not formally complain: the belief that the matter was not serious enough (31 per cent), the process was difficult or embarrassing and it was easier to keep quiet (28 per cent) or that they did not think anything would be done (13 per cent) or that a formal complaint would have a negative impact on them (16 per cent). Again, the outcomes and satisfaction ratings of the formal complaints process of those interviewees who did formally report the harassment do not necessarily bear out these apprehensions.

Sexual harassment must be challenged if it is to be eliminated. Targets of sexual harassment must be assured that their complaint will be taken seriously and dealt with appropriately, or, as these survey results imply, they will not formally complain. Recognising that many targets of sexual harassment will not make a formal complaint, employers are encouraged to run strong prevention strategies and awareness campaigns in addition to providing strong complaints handling mechanisms.

Employers need to be mindful of the social and organisational costs of sexual harassment.

The nature of the relationship between workplace sexual harassment and staff turnover, particularly of the targets of harassment requires further research. One of the most striking findings in *A Bad Business* was the large number of complainants who had resigned from their employment, or were dismissed, or were absent from the workplace where the sexual harassment occurred. The telephone survey did not ask interviewees whether they were still employed with the same employer where the harassment occurred. Further research on

this topic would form an integral part of estimating the financial costs of sexual harassment for employers.

The telephone survey did find that two thirds of workplace sexual harassment continued for more than one month, and that one in five cases continued for more than 12 months. These findings suggest that another financial cost of sexual harassment may be loss of productivity over a significant period of time. Other financial costs of sexual harassment, including loss of staff morale for example, were not identified in the telephone survey. These other costs also need further investigation.

A high percentage (87 per cent) of those who witnessed sexual harassment in their workplaces took action when it occurred; ranging from comforting the victim to confronting the harasser.

Employers may be able to harness these supportive employee relationships in their workplace policies. It certainly does not suggest that other employees are inured to sexual harassment or unwilling to become involved in protecting their co-workers.

#### 5.4.2 Gender and sexual harassment

The telephone survey results show the overwhelming majority of the targets of sexual harassment were female, confirming understandings of the gendered nature of sexual harassment. However, men form a significant minority of targets of sexual harassment in the community. Twenty eight per cent of targets were male and two thirds of those complained of harassment by females. Few made an official complaint and even fewer complained to independent complaint handling agencies such as HREOC.<sup>155</sup>

It is also true that the telephone survey results showed that men tended to find the sexual harassment they experienced as less intimidating and offensive, and were less likely to make a formal complaint than women.<sup>156</sup>

Owing to the small sample size of male targets of sexual harassment it is difficult to draw firm conclusions about the reasons men under-report the sexual harassment they experience. Further research to explore this dynamic is required. An understanding of the male experience of sexual harassment is particularly important given the changing gender pattern of the workforce, with more women moving into management and supervisory roles.

Nevertheless, the fact remains that greater efforts need to be made to encourage men to complain of the sexual harassment they experience.

#### 5.4.3 Inept romance is no excuse for sexual harassment

The relationship of harassers with their targets suggests the harasser is exploiting the capacity to intimidate, offend or humiliate, by virtue of either their position or their relative age or sex. The results demonstrate that over a third of cases involve managers, supervisors, bosses or employers, that is, those in positions of power relative to the target. Conversely, those employees who are relatively new to the workplace are more likely to be harassed than those who had been with the employer for more than a year. There is also a significant difference in the personal profiles of harassers and their targets, with targets of harassment younger and female while harassers were predominantly older and male.

<sup>155</sup> Only five per cent of complainants of sexual harassment in *A Bad Business* were male. See Human Rights and Equal Opportunity Commission *A Bad Business: Review of sexual harassment in employment complaints 2002* HREOC Sydney 2003, p18.

<sup>156</sup> See 2.3.2.

<sup>157</sup> If the conduct in question meets the legislative definition of sexual harassment, there is no defence for the harasser in saying that the conduct was a clumsy attempt at romance.

The power relations inherent in sexual harassment cannot be explained away as merely mistaken or mishandled courtship.<sup>157</sup> With female workforce participation continuing to increase it is important that there be no misunderstanding about the nature of sexual harassment. Any misapprehension that sexual harassment only arises if the conduct is the result of inappropriate male courtship or mere flirtation will only ensure that supervisor harassment by women will go unchecked and, more significantly, that sexual harassment will be, more generally, indulged. Sexual harassment policies must be premised on the understanding that the behaviour is offensive, intimidating and humiliating and is not intended to court, woo or charm. Certainly the intention of the harasser to do so is irrelevant to a finding of sexual harassment. A greater awareness of this dynamic may mean sexual harassment in employment is taken more seriously by employers and managers.

#### **5.4.4. The progression of sexual harassment**

The telephone survey did find that targets of physical sexual harassment were more offended and intimidated than targets of exclusively non-physical harassment, suggesting that physical sexual harassment is perceived as more severe or serious than non-physical harassment. Moreover, the telephone survey suggests that sexually harassing conduct may progress across a spectrum of different behaviours beginning with verbal, non-physical sexual harassment but developing to include more direct physical sexual harassment. Further investigation of this phenomenon is needed. A greater understanding of how sexual harassment progresses may provide employers with the incentive to intervene earlier in episodes of less serious sexual harassment in order to stop more serious conduct from occurring.

#### **5.5 Conclusion**

A significant percentage of the community and in particular the workforce is affected by sexual harassment, despite twenty years of legislation making such conduct unlawful. Continued efforts to inform all workplace participants of their rights and responsibilities and of the economic costs of harassment, is necessary to reduce its incidence.

The survey's results also make clear that sophisticated awareness and prevention campaigns targeting the cultural and attitudinal causes of harassment are also required.

To assist employers to understand and meet their obligations under the various regulatory frameworks pertaining to sexual harassment in the workplace, HREOC has reviewed its guidelines for employers entitled *Sexual Harassment in the Workplace: A Code of Practice for Employers*.

Of course, HREOC and the State and Territory equal opportunity agencies also have a role in keeping sexual harassment in public consciousness. This paper is one part of the strategy to foster interest in, and discussion of, the prevalence and nature of workplace sexual harassment and strategies for reducing its incidence.



## Appendix A: Design, methodology and limitations of the telephone survey

### Design, methodology and analysis

A telephone survey questionnaire of eight to ten minutes duration was designed by HREOC in collaboration with the Gallup Organization. A copy is attached at Appendix B.

A random national population sample was conducted of 1,006 persons between the ages of 18 and 64 years across Australia. This was a representative sample of the Australian population covering all age groups, income brackets, and geographical locations. In conducting the household telephone survey, a five-call design was used, meaning that each telephone number was called up to five times on different days at different times. Those interviewees who stated that they had experienced sexual harassment in the workplace in the five years prior to the survey were asked more in-depth questions about the nature of the sexual harassment experienced.

After collecting the initial 182 pilot interviews, the questionnaire was amended slightly. The question seeking a rate of incidence of sexual harassment was varied, removing the limitation to those who experienced sexual harassment in the past five years in the workplace. The question was asked "have you ever personally experienced sexual harassment?" This was done in order to compare more directly the results of this study with other studies conducted in Australia and New Zealand.<sup>158</sup> However, the collection of the more detailed information about the sexual harassment was still limited to those interviewees who had experienced sexual harassment in the workplace in the past five years.

In addition, questions asking these interviewees to rate their feelings of being offended and intimidated by the sexual harassment were added. These questions were added to provide an indicator of the interviewee's perception of the seriousness of the sexual harassment.

One hundred and fourteen in-depth interviews were obtained from the general population sample of those who had been sexually harassed in the workplace in the past five years. Eighty-six additional in-depth interviews were conducted to boost the total sample size of these interviewees from the 114 obtained in the general population sample to 200 in total.

Interviews were conducted over the telephone. Female interviewers were used because of the sensitivity of the topic. General population interviews were collected in July 2003; and additional booster interviews were collected in early August 2003.

Interviewees to the telephone survey were advised that the study was being conducted on the prevalence and impact of sexual harassment. The following definition of sexual harassment based on the legislative definition in section 28A of the SDA<sup>159</sup> was provided to all interviewees:

*Sexual harassment is an unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated, or intimidated, and where that reaction is reasonable in the circumstances.*

Where interviewees stated they had experienced sexual harassment in the workplace more than once, they were asked to base their responses to the questionnaire on the most recent experience.

As the findings from the telephone survey are based on differing sample and sub-sample sizes, the reliability of the data varies as follows:

- Total population sample of 1006 interviewees gives a margin of error of plus or minus three percentage points of the population parameter. For results based on this sample

<sup>158</sup> See 2.2.2 for comparison of the national telephone survey results with other research conducted in Australia and New Zealand.

<sup>159</sup> Section 28A provides (1) For the purposes of this Division, a person sexually harasses another person (the *person harassed*) if:

(a) the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or

(b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed; in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated or intimidated.

(2) In this section:

*conduct of a sexual nature* includes making a statement of a sexual nature to a person, or in the presence of a person, whether the statement is made orally or in writing.

<sup>160</sup> In other words, in theory, in 19 cases out of 20, the results from the larger sample sizes should differ by no more than three percentage points, in either direction, from what would have been obtained by interviewing all Australians aged between 18 and 64 years.

<sup>161</sup> This reduced total population sample results from the revision of questions after the first 182 pilot interviews were conducted.

<sup>162</sup> These will be noted in the footnotes for each population.

<sup>163</sup> See Human Rights and Equal Opportunity Commission *A Bad Business: Review of sexual harassment in employment complaints 2002* HREOC Sydney 2003, p11.

<sup>164</sup> See Appendix B.

size, we can say with 95 per cent confidence that the error attributable to sampling and other random effects could be three percentage points in either direction.<sup>160</sup>

- Total population sample of 824 interviewees<sup>161</sup> also gives a margin of error of plus or minus three per cent.
- Total harassed in workplace in past five years sample of 200 interviewees give a margin of error of plus or minus seven per cent. For results based on this sample size, we can say with 95 per cent confidence that the error attributable to sampling and other random effects could be seven percentage points in either direction.
- Percentages based on smaller sample sizes would have a larger margin of error.<sup>162</sup>

Therefore we can be statistically confident of findings based on the total population samples. For statistics based on the sub-sample of 200 interviewees who experienced sexual harassment in the workplace in the past five years, we are still able to draw conclusions that are relatively statistically sound. Of course, the smaller the sub-sample size, the less reliable the data become.

### **Limitations of the research**

While a telephone survey is a relatively efficient method of interviewing a large sample population, particularly where the topic of the survey may be a sensitive issue for many people, it does have some limitations. The following limitations are relevant to this research.

#### *Reaching individuals with limited English language skills*

A disadvantage of a telephone survey as a research tool is that it favours interviewees with good English language skills. Individuals with little or limited English speaking and comprehension skills are unlikely to participate in a telephone survey due to the difficulties of non face-to-face communication. This limitation is borne out by the fact that the proportion of individuals who speak a language other than English at home is significantly underrepresented in the telephone survey population when compared to the general population. See Chapter 3 for a comparison of the ethnicity of the target of sexual harassment in the telephone survey data and *A Bad Business* data.

#### *Sample size*

There is a relatively small proportion of the population which has experienced sexual harassment in the workplace in the last five years. That is, it is a low incidence population. This makes it difficult and expensive to find a systematic and representative sample of people who have the required experiences. While the sample size of 200 is still reasonably robust, sub-sampling of this group often means that we are analysing very small samples. This means that conclusions should be drawn from such sub-samples with caution. Where statistics based on small sample sizes are reported in this paper, the sample size and the margin of error are also provided.

#### *Limitations with the comparison of A Bad Business and the telephone survey*

Any comparison of the results of *A Bad Business* and the findings of the telephone survey is limited by the quality of the data. As detailed in *A Bad Business*,<sup>163</sup> the complaint files which formed the basis of the analysis in that paper varied in the amount of information that was collected, particularly in relation to the demographics of complainants and their alleged harassers, information about the employer and the effect of the sexual harassment.

A fundamental difference between the data from *A Bad Business* and the telephone survey is that the survey data are based on the interviewees' own perceptions of sexual harassment based on their own experiences and an oral statement of the legislative definition of sexual harassment read out to them at the beginning of the interview.<sup>164</sup> *A Bad Business* data are based on sexual harassment complaints formally assessed and

investigated by HREOC's specialist complaint officers as falling within the provisions of the SDA. So while the behaviour reported in the telephone survey is perceived as sexual harassment, it may well fall short of unlawful sexual harassment under the SDA.

Other limitations with comparing the data include the varying sample sizes. Due to the varying quality of the complaints data, the sample sizes in *A Bad Business* can vary significantly. Some of the sample sizes are very small, only permitting qualitative analysis. Thus, comparing the statistics from *A Bad Business* with those of the telephone survey is often difficult. The sample sizes are provided in the footnotes along with warnings as to the strength of any conclusions drawn from the comparison.

The timing of the collection of the two sets of data also presents limitations. The telephone survey results relate to sexual harassment experienced in the workplace in the five years prior to the conduct of the interview (July-August 2003). The findings of *A Bad Business* relate to complaints of sexual harassment finalised in 2002 by HREOC. The timing of the occurrence of the sexual harassment complained of may have occurred significantly earlier than 2002, depending on the duration of the sexual harassment complained of, and the time the complaint took to finalise.<sup>165</sup> It is evident that there may be significant timing discrepancies between the two sets of data.

Another limitation with the comparison is the differing demographic parameters of the respective population samples. For example, the age of interviewees to the telephone survey was limited to individuals between 18 and 64 years due to logistical issues in gaining parental consent for minors to participate in the survey and the fact that the majority of individuals have retired from the workforce by the age of 65 years.<sup>166</sup> Thus any comparison of the age of the targets of sexual harassment must be read with this limitation in mind.

A further limitation is that data from *A Bad Business* relates only to sexual harassment complaints made to HREOC, and does not include information about sexual harassment complaints made to the State and Territory anti-discrimination agencies. Thus, the comparison cannot purport to examine the differences between all reported and non-reported sexual harassment.

<sup>165</sup> See Human Rights and Equal Opportunity Commission *A Bad Business: Review of sexual harassment in employment complaints 2002* HREOC Sydney 2003, p32.

<sup>166</sup> The age of complainants in *A Bad Business* ranged from 15 to 58 years, while the age of alleged harassers ranged from 20 to 69 years. See Human Rights and Equal Opportunity Commission *A Bad Business: Review of sexual harassment in employment complaints 2002* HREOC Sydney 2003, p19.

## Appendix B: Sexual Harassment Telephone Survey Questionnaire

### Questionnaire – Screening for Incidence

Good morning, afternoon, evening my name is ..... from the Gallup Organization. We are conducting a social survey on behalf of the Federal Human Rights and Equal Opportunity Commission and would be grateful for a few minutes of your time.

S1. Firstly are you aged between 18 and 64? IF YES CONTINUE IF NO ASK FOR SOMEONE IN HH WHO IS IN THIS AGE GROUP

S2. Record Gender

Male 1 Female 2

*This is an important study of the prevalence and impact of sexual harassment. First I would like to read the definition of Sexual harassment. It is an unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated, and where that reaction is reasonable in the circumstances.*

Q1.\* Have you ever personally experienced sexual harassment?

Yes 1 Continue

No 2 Thank and terminate

Q2. Where was that sexual harassment experienced? READ LIST (IF PERSON STATES THEY HAD MULTIPLE EXPERIENCES ASK THEM ABOUT THE MOST RECENT EXPERIENCE)

At your work / in the workplace / in employment by co-workers,  
your employer, boss or supervisor 1

At your work by people other than those just mentioned 2

In the provision of goods or services for example as a customer 3 Go to Q22

In an educational institution (school, TAFE, university) 4 Go to Q22

Elsewhere - please specify 5 Go to Q22

Q3. Hold

Q4. When did this harassment start? READ LIST IF REQUIRED

Less than 1 year ago 1 continue

Between 1 to 2 years ago 2 continue

Between 2 to 3 years ago 3 continue

Between 3 to 4 years ago 4 continue

Between 4 to 5 years ago 5 continue

More than 5 years ago 6 Go to Q22

*If answer to Question 2 was Code 1 or 2 AND answer to Question 4 was Code 1, 2, 3, 4 or 5 continue. All other go to Q22.*

Q5a. Out of the following how would you describe the harassment? Please answer Yes or No to each one. RANDOMISE LIST ORDER AND NOTE APPROPRIATELY YES OR NO FOR EACH ACTION

NOTE FOR TABS PURPOSES ONLY		Yes	No	Most concerned
A. Unwanted sexual attention	Unwelcome touching, hugging, cornering or kissing	1	2	1
B. Crude/offensive behaviour	Staring or leering	1	2	2
C. Crude/offensive behaviour	Suggestive comments or jokes	1	2	3
D. Crude/offensive behaviour	Sexually explicit pictures or posters	1	2	4
E. Unwanted sexual attention	Unwanted invitations to go out on dates	1	2	5
F. Sexual coercion	Requests or pressure for sex	1	2	6
G. Unwanted sexual attention	Intrusive questions about your private life or body	1	2	7
H. Unwanted sexual attention	Unnecessary familiarity, such as deliberately brushing up against you	1	2	8
I. Sexist behaviours	Insults or taunts based on your sex	1	2	9
J. Crude/offensive behaviour	Sexually explicit emails or SMS messages	1	2	10
K. Sexual assault	Sexually explicit physical contact	1	2	11
L. Sexual assault	Actual or attempted rape or assault			
M.	Something Else (specify)			

Q5b.\* Overall how offended did the harassment make you feel? 1 means not offended at all and 5 means extremely offended.

Not offended at all		Extremely offended			Don't Know
1	2	3	4	5	6

Q5c.\* Overall how intimidated did the harassment make you feel? 1 means not intimidated at all and 5 means extremely intimidated.

Not intimidated at all		Extremely intimidated			Don't Know
1	2	3	4	5	6

Q5d.\* Do you know if this happened to anyone else in that same place of work?

Yes	1	Continue
No	2	Go to Q6

Q5e.\* Would you say that, in your workplace at that time, that this type of behaviour was very rare, rare, occurred sometimes or common?

Very rare	1
Rare	2
Occurred sometimes	3
Common	4

Q6. How long did the harassment go on for?

It was a one off	1
Less than 1 month	2
1 to 3 months	3
4 to 6 months	4
7 to 12 months	5
More than one year	6
Other, please specify	7

Q7. Did you formally report or make a complaint about the harassment to anyone?

If yes was it to READ LIST MULTIPLE RESPONSE

Manager/supervisor at work	01	Go to Q9
Employer/boss	02	Go to Q9
Human Resources manager or equivalent at work	03	Go to Q9
Equity Officer/Sexual Harassment Contact Officer/ Harassment Contact Officer	04	Go to Q9
Co-worker	05	Go to Q9
The person harassing you	06	Go to Q9
A union or employee representative	07	Go to Q9
A lawyer	08	Go to Q9
Federal Human Rights and Equal Opportunity Commission or to a state or territory anti-discrimination agency	10	Go to Q9
Other than the above, please specify	11	Go to Q9
Didn't report or make a complaint	12	Go to Q8

Q8. Why did you not report or make a complaint?

DO NOT READ LIST PROBE FULLY

Too scared/frightened	1
Easier to just keep quiet	2
Thought would not be believed	3
Person too senior	4
Process would be embarrassing	5
Process would be difficult	
Would not change things	6
People would treat me like I was the wrong doer	7
Afraid of getting fired	8
Don't trust the people I could complain to	9
My husband/partner told me not to do anything	10
Damage to my reputation	11
Didn't think it was serious enough	12
Didn't want to hurt the person who bothered me	13
Did not think anything would be done	14
Took care of problem myself	15
Other specify	16

ALL IN Q8 GO TO Q12

Q9. What were the results to either yourself or the harasser as an outcome of your complaint? PROBE FULLY MULTIPLE RESPONSE

The harasser was disciplined (specify if possible)	3
The harasser was transferred or changed shifts	4
The harasser resigned	5
The harasser was dismissed	6
The harasser apologised	7
The harasser paid you compensation (specify how much if possible)	8
Your employer apologised for allowing the harassment	9
Your employer paid you compensation for allowing the harassment (specify how much if possible)	10
Your employer made changes to the workplace to prevent sexual harassment in the future	11

Your employer provided you with a reference	12
You were disciplined (specify if possible)	13
You were transferred or changed shifts	14
You resigned	15
You were dismissed	16
Other (Specify)	

Q10. What was the time period between when the harassment began and when you reported it?

Immediately/same day/next working day	1
Less than 1 month	2
1 to 3 months	3
4 to 6 months	4
Other, please specify	5

Q11. How was your complaint finalised, that is was it finalised... READ LIST

Between your boss and yourself	1
Between your employer and yourself	2
With your union's involvement	3
With the involvement of the Federal Human Rights and Equal Opportunity Commission, or state or territory anti-discrimination agency	4
By your legal representative/lawyer	5
In Court	6
Other (specify)	7
Not finalised yet	8

Q12. Was the harasser male or female?

Male	1
Female	2

Q13. About how old was the harasser?

15 -20 years	1
21-30 years	2
31-40 years	3
41-50 years	4
51-64 years	5
64+	6

Q14. What was the harasser's relationship to you? READ LIST IF REQUIRED

Supervisor/manager	1
Boss/employer	2
Co-worker	3
Other, (specify)	4

Q15. Hold

Now I would like you to think specifically about your workplace when the sexual harassment took place

Q16. How many employees would there have been at your employer – in total not just at your workplace? (READ LIST)

Small (less than 25 employees)	1
Medium-sized (26 to 100 employees)	2
Large (more than 100 employees)	3

Q17a. At the time of the harassment were you working full-time or part-time?

Full-time	1
Part-time	2

Q17b. And was that as a (READ LIST) permanent, casual or temporary employee?

Permanent	1
Casual	2
Temporary	3

Q18. At the time of the harassment how long had you been working for this employer?

Less than 3 months	1
More than three months but less than 12 months	2
More than 12 months but less than 3 years	3
3 or more years	4

Q19. What was the industry you were working in at the time the harassment took place?

Agriculture, Forestry and Fishing	1
Mining	2
Manufacturing	3
Electricity, Gas and Water Supply	4
Construction	5
Wholesale Trade	6
Retail Trade	7
Accommodation, Cafes and Restaurants	8
Transport and Storage	9
Communication Services	10
Finance and Insurance	11
Property and Business Services	12
Government Administration and Defence	13
Education	14
Health and Community Services	15
Cultural and Recreational Services	16
Personal and other Services	17
If unsure write in	18



Q20. What was your occupation at the time the harassment occurred? (INTERVIEWER NOTE: CHECK CATEGORY BELOW WHICH BEST DESCRIBES RESPONDENT'S OCCUPATION) (If necessary, read 01-12)

<u>Professional Worker</u> --lawyer, doctor, scientist, teacher, engineer, nurse, accountant, investment banker, stock brokerage marketing, musician	1
<u>Manager, Executive or Official</u> --in a business, government agency, or other organisation	2
<u>Business Owner</u> --such as a store, factory, plumbing contractor, etc.	3
<u>Clerical or Office Worker</u> --in business, government agency, or other type of organisation--such as a typist, secretary, postal clerk, telephone operator, computer operator, data entry, bank clerk, etc.	4
<u>Sales worker</u> --clerk in a store, door-to-door salesperson, sales associate	5
<u>Manufacturer's Representative</u> - outside sales person, sales representative	6
<u>Service Worker</u> --policeman/woman, fireman, waiter or waitress, maid, nurse's aide, attendant, barber or beautician, fast-food	7
<u>Skilled Tradesman</u> --printer, baker, tailor, electrician, machinist, linesman, railroad engineer, plumber, or does mechanical work such as garage mechanic, carpenter, etc.	8
<u>Semi-skilled Worker</u> --operates a machine in a factory, is an assembly line worker in a factory, drives a truck, taxi cab, or bus, etc.	9
<u>Unskilled/Labourer/Elementary Occupations</u> --plumber's helper, construction labourer, longshoreman, sanitation worker, maintenance, housekeeping, or other physical work	10
<u>Technology Professional</u> – web designer, network administrator, systems engineer, programmer, systems analyst, Internet, IT	11
<u>Agriculture and Fishery Workers</u>	12
Home Duties	13
Retired/Pensioner	14
Student	15
Other (list)	16
Don't Know	17
Refused	18

ASK IF YES AT Q7 (ie CODES 1 to 11)

Q21. Overall on a scale of 1 to 5 where 5 is very satisfied and 1 is not at all satisfied, how would you rate the total process of dealing with your sexual harassment complaint?

Not at all satisfied		Very satisfied	Don't Know
1	2	3	4
		5	6

ASK ALL

Q22. Have you witnessed sexual harassment in your workplace in the last five years?

Yes	1	Continue
No	2	Go to Q27
Don't Know	3	Go to Q27

Q23. Did you take any of the following actions after witnessing this? (Ask each one and get a Yes/No response for each)

	Yes	No	Don't Know
Confront the harasser	1	2	3
Report the harassment to your employer	1	2	3
Talk/Listen to the victim	1	2	3
Offer advice to the victim	1	2	3
Take any other action (specify)	1	2	3
Take no action	1	2	3

Now just a few questions about your current situation...

Q24. What is the main language spoken at home?

English	1
Italian	2
Greek	3
Cantonese	4
Mandarin	5
Arabic	6
Vietnamese	7
Other (specify)	8

Q25. Are you of Aboriginal or Torres Strait Islander descent?

Yes	1
No	2

Q26. Are you currently employed?

Full-time	1
Part-time	2
Don't Know	3
Refused	4

Q27. What is your total annual HOUSEHOLD income from all sources before taxes? Is it over or under \$25,000?

(If "Under", ask:)	Is it over or under \$15,000?	1
(If "Over", ask:)	Is it over or under \$25,000?	2
(If "Over", ask:)	Is it over or under \$35,000?	3
(If "Over", ask:)	Is it over or under \$45,000?	4
(If "Over", ask:)	Is it over or under \$55,000?	5
(If "Over", ask:)	Is it over or under \$75,000?	6
(If "Over", ask:)	Is it over or under \$100,000?	7
(If "Over", ask:)	Is it over or under \$150,000?	8
(If "Over", ask:)	Is it over or under \$200,000?	9
Over \$200,000		10
Don't Know		11
Refused		12

Please could you tell me what age you are? (Code actual age)

99	Refused
----	---------

RECORD POSTCODE FROM PHONE FILE

\* Question added after pilot of 182 interviews.

# Acknowledgements

The Human Rights and Equal Opportunity Commission would like to thank the following people.

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*A tale of sex, power  
and torment...  
until the law  
caught up*

FOR  
GENERAL  
EXHIBITION

PRESENTING

*Sexual Harassment*

**Don't Do it**

FEATURING

THE CULPRIT  
GETTING THE MESSAGE

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IF THIS IS YOU IT'S HARASSMENT



**STOP**



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