

## 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

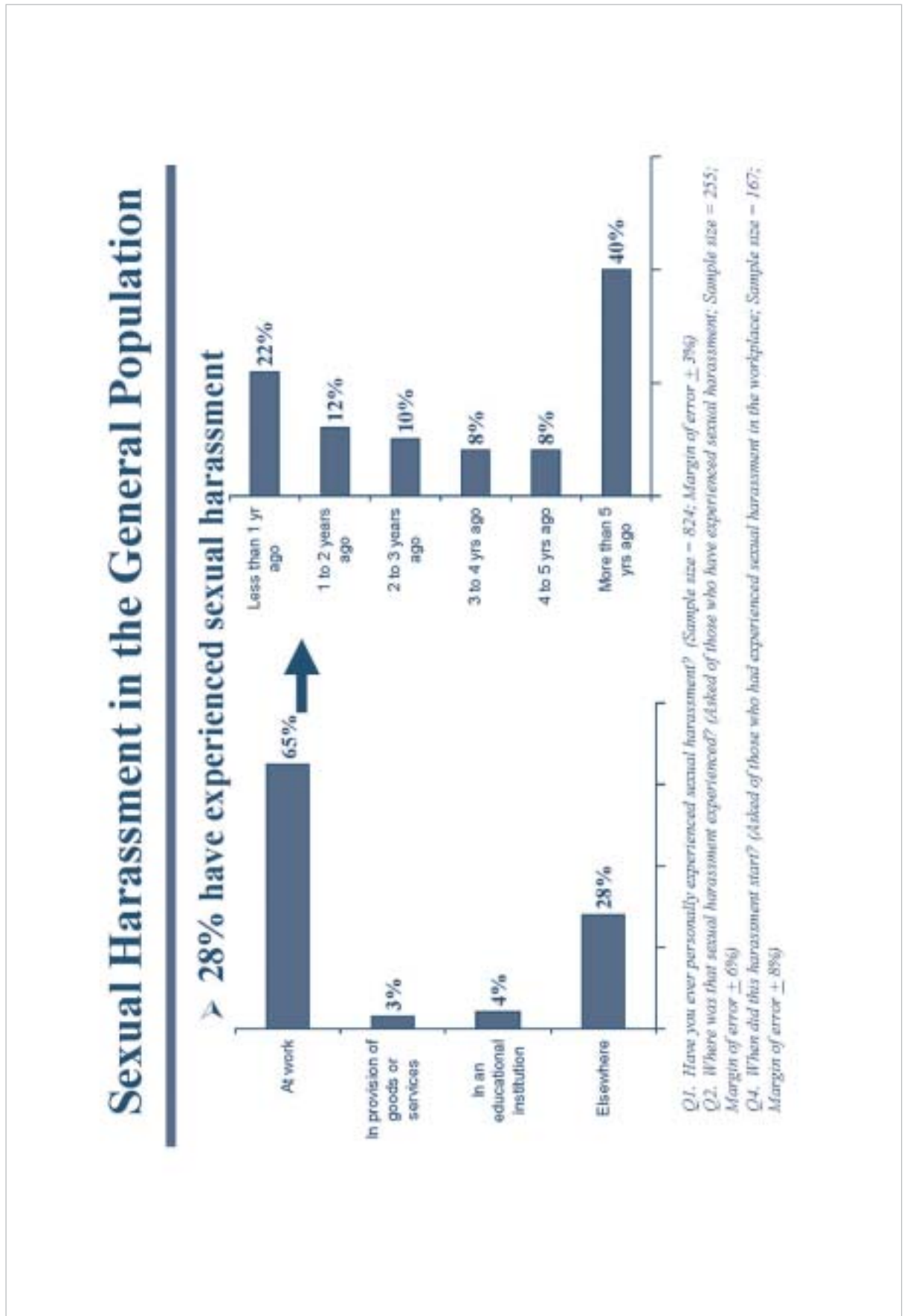
Twenty-eight per cent of interviewees between the ages of 18 and 64 years said they had personally experienced sexual harassment. Breaking this down by gender, a total of 41 per cent of women and 14 per cent of men stated that they had ever experienced sexual harassment.

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.

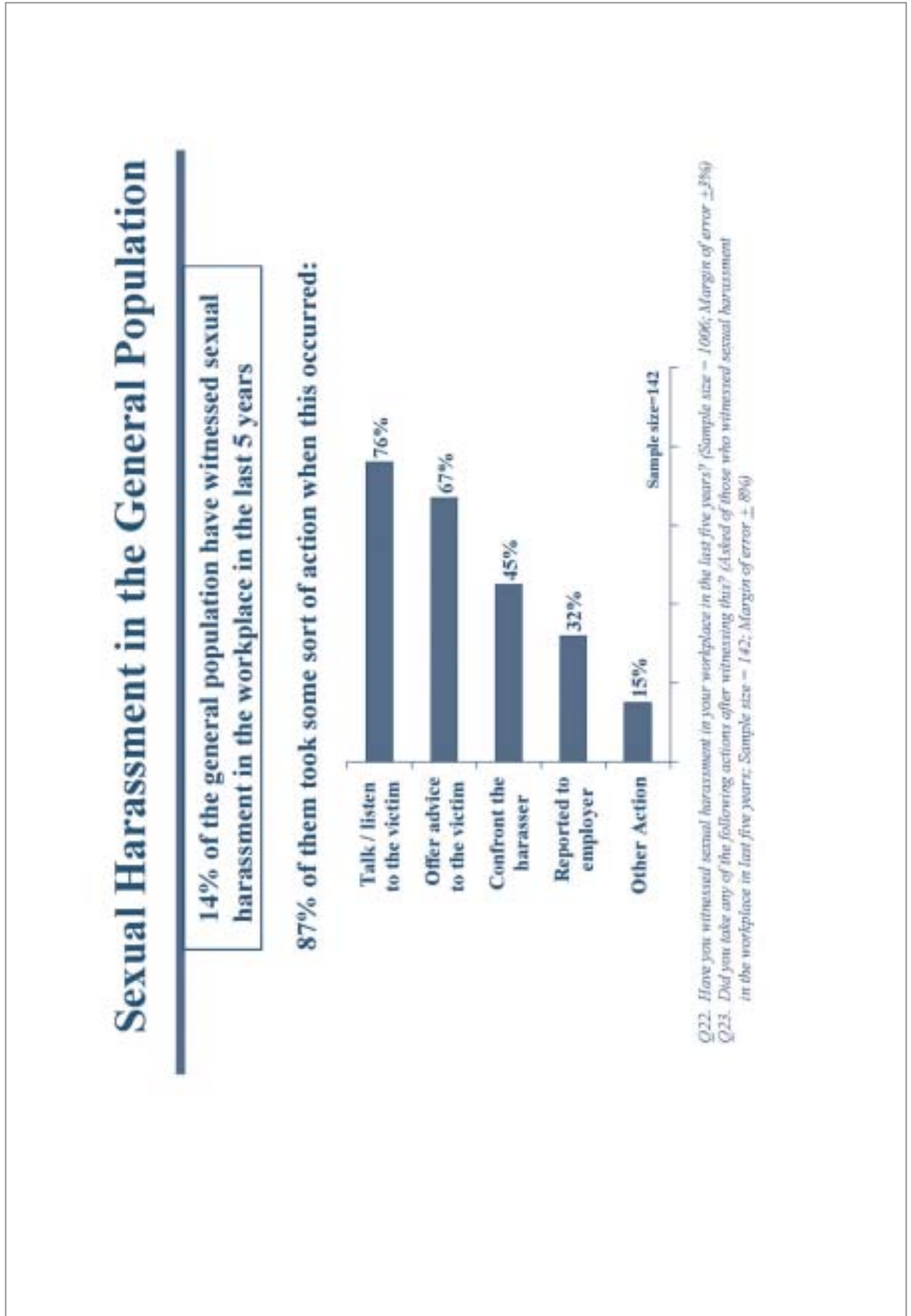
<sup>14</sup> <http://smh.com.au/polls/national/results.html> As a self-report, positive responses are likely to be high.

<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.

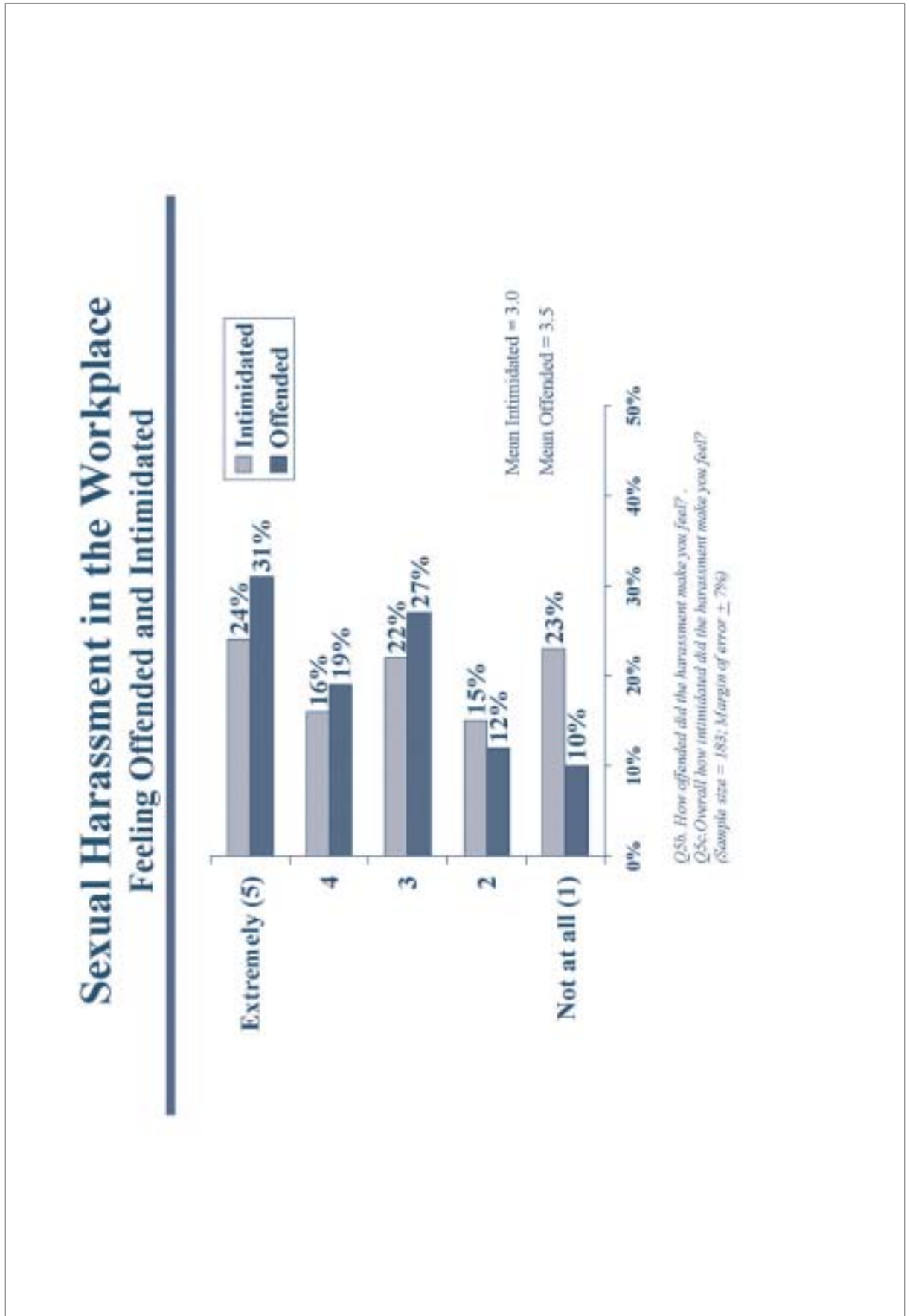
<sup>28</sup> Based on a sample size of 75 with a margin of error of plus or minus 11 percentage points at the 95 per cent confidence level.

<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.