

# Can I File a Human Rights Complaint for Workplace Sexual Harassment?

*\*This guide consists of legal information ONLY; information shared in this guide is NOT considered legal advice.*



## What is the Ontario *Human Rights Code* (the “Code”)?

The Ontario *Human Rights Code* states that all workers have a right to be free from sexual harassment in Ontario workplaces. The *Code* defines workplace sexual harassment as a **course of vexatious conduct or comments related to sex, sexual orientation, gender identity and/ or gender expression** where the actions, comments and behaviours are known or should be known as unwelcome.

Under the *Code*, you can file an application with the Human Rights Tribunal of Ontario if you believe you experienced workplace sexual harassment. You will need to show that the harassment is related to your employment and is connected to a prohibited ground of discrimination, such as sex, sexual orientation, gender identity, gender expression, and /or reprisal.



The *Code* does not apply to every Ontario worker and to federally regulated workplaces such as banking, telecommunications, railways crossing provincial and international borders, air transportation; radio and television broadcasting; mining, and ports, or First Nation band councils. Federally regulated workplaces are covered by the Canadian *Human Rights Act*. See **Can I File a Human Rights Complaint for Workplace Sexual Harassment? (FEDERAL)** for more information on federal employers.

# What is Workplace Sexual Harassment Under the *Code*?

Workplace sexual harassment can include multiple unwanted sexualized incidents perpetrated by one or more harassers. It can also be one serious incident of sexual harassment that causes an individual distress, harm, and trauma.

Sexual harassment at work can include many types of actions and behaviours:



## Physical Sexual Harassment:

- Demanding hugs from co-workers
- Inappropriate touching
- Standing in someone's personal space to intimidate physically or sexually
- Blocking someone's way on purpose



## Visual Sexual Harassment:

- Leering or staring inappropriately
- Sharing sexual images without consent, in-person or online
- Sharing sexual text messages without consent



## Poisoned work environment:

- Toxic or poisoned work environments that condone different forms of sexual harassment and do not support workers who come forward with their experiences are also a form of workplace sexual harassment that is recognized under the *Code*



## Verbal Sexual Harassment:

- Sexual jokes or comments
- Making fun about someone's gender identity, gender expression, and/or sexual orientation
- Talking about other people's sex lives or talking about your own sex life in the workplace
- Intrusive questions about gender identity, sexuality, sexual/dating preferences or sexual experience



## Other Forms of Harassment:

- Reprisal
- Online sexual harassment
- Asking for sexual favours for rewards or benefits at work



Workplace sexual harassment includes many unwanted sexualized actions and behaviours that can occur at the same time at work or even outside of workplaces such as trainings, office parties, work events and social media.

Gender-based harassment (e.g. discriminating a co-worker because of their gender identity and gender expression) is also a form of workplace sexual harassment. Sexual harassment may come from a boss, a co-worker, someone who you manage, or even a client or customer.

## What is Reprisal?

Under the *Human Rights Code*, reprisal is defined as **consequences or punishment for complaining about human rights violations**. Reprisal can include an increase in workplace sexual harassment and/or threats of harm and violence. See **What is the *Human Rights Code* under Ontario's Human Rights System?**

## Common Examples of Workplace Sexual Harassment

**Example 1:** A transgender worker is angry and overwhelmed when asked by their colleague about their gender confirmation surgery and what gendered washroom they use.



**Example 2:** Women-identifying servers at a restaurant are inappropriately touched by an assistant manager. They don't know if they can complain to the owner.

**Example 3:** A Black female senior software engineer at a tech start-up is uncomfortable and sad after she overhears sexualized and racist comments about her body and personality from the junior engineers she manages at work.

**Example 4:** A male construction worker is uncomfortable with the rape jokes his boss and co-workers say when someone makes a mistake at the job.

**Example 5:** A female HVAC apprentice is overwhelmed with how close her boss/mentor stands while training her and the sexual flirting. She is worried that if she tells him to stop, he will fire her.



**Example 6:** A gender queer worker is misgendered at work by their boss and receives inappropriate sexualized images from a male co-worker in the private Zoom chat during meetings and text messages after work.

**Example 7:** A worker in a wheelchair is asked inappropriate questions about her sex life and touched without her consent by most of her co-workers.

## How Much Time Do I Have to File a Human Rights Application?



You have **one year**, from the date of the last incident of workplace sexual harassment, to file a human rights application at the Human Rights Tribunal of Ontario (HRTO).

The HRTO has a strict limitation period that requires all applications of human rights violations to be filed within one year of the last incident of harassment and/or discrimination. For details about limitation periods at the HRTO visit: <https://www.hrtlsc.on.ca/en/how-guides/limitation-periods>

# Awards and Remedies I May Receive in a Human Rights Case\*

*\*Remedies and awards are determined on a case-by-case basis at the Human Rights Tribunal of Ontario. General information about remedies shared in this guide should not be considered legal advice.*

- 1. General Damages:** Financial compensation awarded to you for injuries to your dignity, feelings, and self-respect because of the harassment and discrimination. General damages are awarded when there is a breach in the *Code* and the applicant experienced a personal impact from that breach.
- 2. Special Damages:** Financial awards for any money you lost or are forced to spend (such as income loss due to termination, therapy costs, other medical costs) because of the harassment and discrimination. This type of remedy is meant to put you back in the financial position you would have been in if the harassment and discrimination did not occur.
- 3. Non-monetary Remedies:** The HRTO can order remedies that will put you back in the position you would have been in if the discrimination did not occur in the first place.
- 4. Public Interest Remedies (PIRs):** Public Interest Remedies (PIRs): The HRTO can order remedies or measures to ensure respondents and other people comply with the *Code*. Public interest remedies are intended to impact more people than just the person filing the human rights application and person(s) or organization(s) responding to the application. The intent behind this type of remedy is to prevent similar harassment and discrimination from happening in the future.

Examples of public interest remedies may include:

- Ordering workplace sexual harassment training for the harasser, employer and other staff
- Ordering the employer to create a sexual harassment policy or update reporting processes
- Ordering human rights training for the harasser, employer and other staff
- Ordering the employer to post Ontario Human Rights Code cards throughout the workplace

Visit the Human Rights Legal Support Centre website for details about the types of awards and remedies available for harassment and discrimination at the HRTO: <https://hrlsc.on.ca/how-to-guides/completing-and-filing-an-hrto-application/additional-informationsection-10-the-remedy/>

# Should I File a Workplace Complaint with My Employer Before Filing a Human Rights Application?

You have the legal option to report workplace sexual harassment to your employer directly if it is safe to do so. Your employer is legally required to investigate complaints of workplace sexual harassment. Remember these tips when reporting at work:



**1. Recognize and Acknowledge:** Recognize the sexual harassment (e.g., touches, gestures, comments etc.) and acknowledge how it makes you feel. Tell your harasser(s) to stop the sexualized actions and behaviours if you feel safe to do so.



**2. Document Everything:** Document *every single incident* of workplace sexual harassment, including incidents that happened to you and to other people. For every incident, document important details like:

- a. Who is the harasser(s)?
- b. When the harassment happened? (date and time)
- c. What happened? (Be clear about the sexual harassment)
- d. Where the sexual harassment happened?
- e. The impact the sexual harassment had on you and your work.

You can also screenshot and save text messages, social media messages, images, and emails as evidence that you can include in both a workplace sexual harassment complaint and a human rights application. Keep the evidence in a safe place outside of work.



**3. Review your Workplace's Sexual Harassment Policy:** Every workplace in Ontario with more than 5 employees is legally required to have a workplace harassment policy that outlines how workers can file complaints of harassment to their employer.



**4. Choose Who You Tell Your Workplace Complaint To:** You should file a complaint of workplace sexual harassment in writing to the human resources department or someone in charge in the workplace so that the complaint can be investigated.



**5. Ask for Safety Measures and Accommodations:** You can ask your employer for safety accommodations if you are worried that the harasser will retaliate or reprise against you after you submitted your complaint and the investigation is underway.



**6. Learn More About Other Options:** Find out more about other legal options and community support resources that can help you address your experience. Filing a workplace sexual harassment complaint at work is only one option. If your harasser is your boss or you do not have a human resources department or position, you can still make a complaint. More than one legal option can apply, depending on your situation.

## What Resources Can I Use to Help with a Workplace Sexual Harassment Complaint?

1. Contact the **Human Rights Legal Support Centre (HRLSC)** for free, confidential legal advice, information and resources about all your options for *Code*-related workplace sexual harassment.  
**Tel:** (416) 597-4900  
**Toll Free:** 1-866-625-5179 (Press "4" for Indigenous Services)  
**TTY:** (416) 597-4903  
**TTY Toll Free:** 1-866 612-8627  
<https://www.hrlsc.on.ca>
2. Go to our How-to Guide to understand how to [complete and file a human rights application](#) at the HRTO.
3. Visit the **Ontario Human Rights Commission** website for legal information about workplace sexual harassment: <https://www.ohrc.on.ca/en>
4. Find your community legal clinic for further support on the **Legal Aid Ontario** website: <https://www.legalaid.on.ca/legal-clinics/>



Read more about other legal options you can use to address workplace sexual harassment with these helpful info sheets:

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**Can I File a Complaint for Workplace Sexual Harassment under the Occupational Health and Safety Act?**

**Can I File a Complaint for Workplace Sexual Harassment under the Occupational Health and Safety Act?**

**Can I File a WSIB Claim for Workplace Sexual Harassment?**

**Can I Report Workplace Sexual Harassment to Police?**

HR|SC | Human Rights Legal Support Centre

CA|JP | Centre d'assistance juridique  
en matière de droits de la personne