

# PREVENTING SEXUAL HARASSMENT

## THE LAW

- Federal Sex Discrimination Act 1984
- Criminal law for sexual assault
- Workplace health and safety laws: duty to provide a healthy workplace
- Workplace includes training courses, conferences, work functions, field trips
- Employer must show it took 'all reasonable steps' to prevent harassment



## WHAT IS SEXUAL HARASSMENT?

Unwelcome conduct of a sexual nature that a reasonable person would expect to offend, humiliate or intimidate

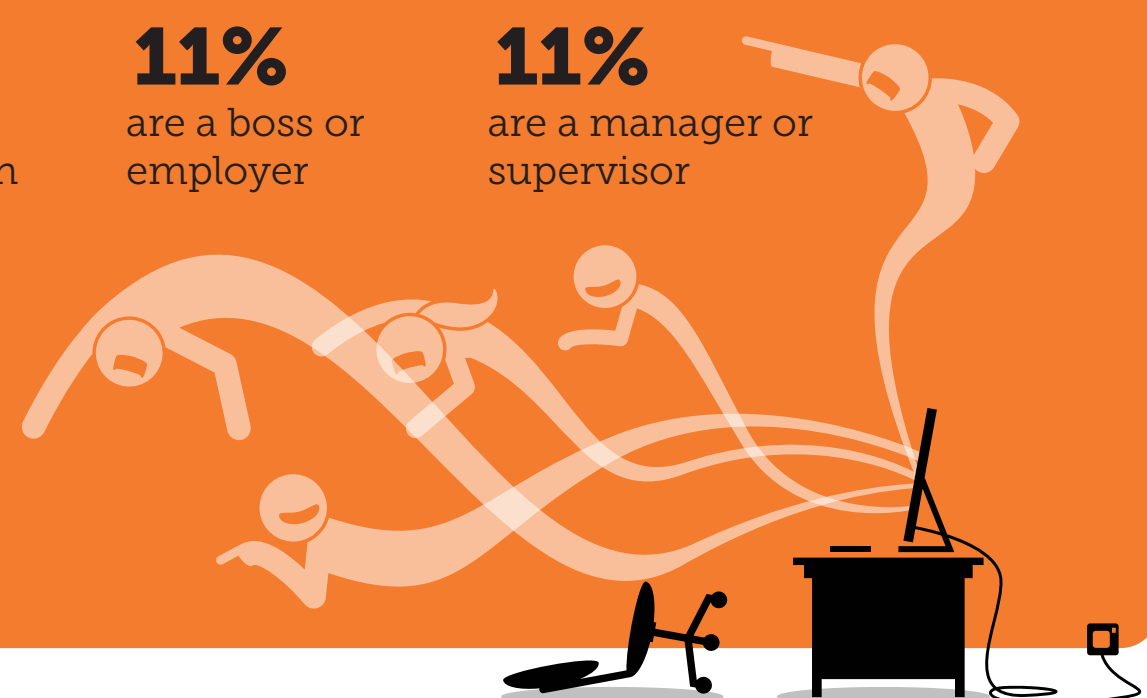
A 'reasonable person' may be different an individual's own beliefs or values

Victimising a person making, or proposing to make, a complaint is illegal

## ILLEGAL ACTIONS

- unwelcome touching
- staring or leering
- suggestive comments or jokes
- sexually explicit pictures or posters
- unwanted invitations to go out on dates
- requests for sex
- intrusive questions about a person's private life or body
- unnecessary familiarity, such as deliberately brushing up against a person
- insults or taunts based on sex
- sexually explicit physical contact
- sexually explicit emails or text messages

## HARASSERS IN DETAIL



## EXAMPLES OF EMPLOYER PAYOUTS FOR SEXUAL HARASSMENT

**\$1.3.m** Female construction worker – highly offensive language, rape threats, employer did not respond to her complaints  
(Mathews v Winslow Constructors (Vic) Pty Ltd [2015] VSC 728)

**\$332,280** Female postal worker – persistently sexually harassed at work and then sacked when she resisted  
(Collins v Smith (Human Rights) [2015] VCAT 1992)

**\$156,051** Male cleaner – sexual prank, victimised after making complaint  
(Green v State of Queensland, Brooker and Keating [2017] QCAT 008)



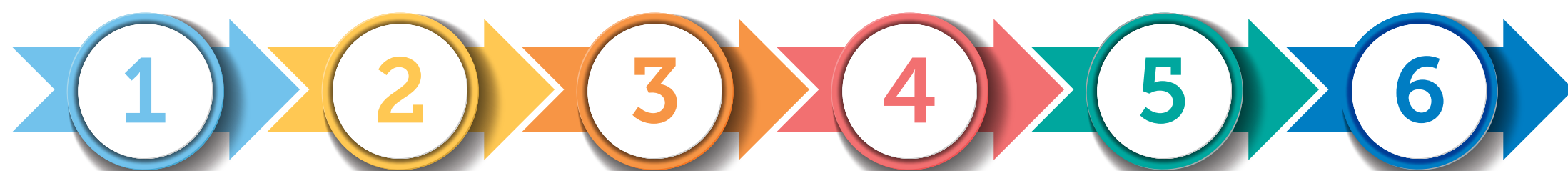
## REPORTING SEXUAL HARASSMENT



## MOST COMMON BEHAVIOURS

- 55%** sexually suggestive comments or offensive jokes
- 50%** intrusive questions
- 31%** inappropriate staring or leering

## 6 STEPS TO PREVENT SEXUAL HARASSMENT



**STEP ONE**  
Get high-level support for your strategy

**STEP TWO**  
Write and implement a sexual harassment policy

- Consult with staff and relevant unions
- Regularly distribute and promote the policy
- Provide at induction to new staff
- Translate into relevant community languages if required
- Discuss and reinforce at staff meetings
- Review regularly

**STEP THREE**  
Provide regular training and information to all staff

**STEP FOUR**  
Encourage appropriate conduct by supervisors

- Include accountability mechanisms in position descriptions
- Ensure selection criteria for supervisors include a demonstrated understanding of, and ability to deal with, discrimination and harassment issues

**STEP FIVE**  
Create a positive workplace environment

- Remove offensive, explicit or pornographic calendars, literature, posters etc
- Prohibit inappropriate use of e-mail, screen savers and the internet
- Conduct workplace audits

**STEP SIX**  
Promote gender equality



## 7 POLICY ESSENTIALS

Your policy should:

1. State sexual harassment is against the law
2. Refer to the appropriate legislation
3. Define the unlawful conduct
4. Clarify sexual harassment will not be tolerated
5. Provide mechanisms to discipline harassers
6. Provide formal/ informal complaint mechanisms
7. Clarify an employer can be held vicariously liable



## STORIES OF SEXUAL HARASSMENT

- Woman on a work visa did not report sexual harassment after her employer threatened to report her for breaching visa restrictions
- Woman asked to wear a bikini while fruit picking for a bonus
- Immigrant hospital cleaner resigned after harassment from colleagues and patients for 8 years
- Victoria Policewomen describe daily harassment as a "continuum of compromise": so normalised they lost sense of when they should object

