



Bullying, Discrimination & Workplace Sexual Harassment:

Drivers of Unsafe Workplace Behaviours and Power Dynamics

Workplace training by Working Women's Centre SA

Participant Resource Pack

Community Legal Centres South Australia:

Big CPD Day Out

Workplace Sexual Harassment: Snapshot

Workplace sexual harassment continues to be unacceptably common in Australian workplaces. The following infographics are from the Australian Human Rights Commission report, *Time for respect: Fifth national survey sexual harassment workplaces*.

What is sexual harassment?

Sexual harassment means any unwelcome conduct of a sexual nature, where it is reasonable to expect that the other person would be offended, afraid or humiliated.

A person can be sexually harassed by another person of the same or a different gender.

Remember:

- Sexual harassment is determined from the point of view of the *person feeling harassed*.
- It does not matter how the behaviour was intended - *what matters is its effect on the other person*.

What does sexual harassment look like?



Sexual harassment can be:

- unwelcome touching or kissing
- commenting on a person's appearance
- comments, jokes or name-calling
- leering or staring
- sexual pictures, objects, emails, text messages or literature
- direct or implied propositions, or requests for dates
- asking about a person's sexual history or sexual activities.

Who perpetrates and experiences sexual harassment?

Who the harassers are

Over half (56%) of people's most recent experience of workplace sexual harassment was carried out by an individual harasser and 1 in 5 (19%) were carried out by multiple harassers.

Most harassers are men. Overall, **77%** of people sexually harassed at work were harassed by a man.

Of those who experienced workplace sexual harassment in the last 5 years:



91% of women and **55%** of men were harassed by men.

9% of women and **44%** of men were harassed by women.¹



In the last 5 years

some people experienced workplace sexual harassment at rates **disproportionate** to the total population (33%):



47%

of people aged between 15–17* and



46%

of people aged between 18–29.



46%

of people who identified as gay, lesbian, bisexual, pansexual, queer, asexual, aromantic, undecided, not sure, questioning or other.



70%

of people with an intersex variation.



56%

of Aboriginal and Torres Strait Islander people.



48%

of people with disability.

Key findings:

- Most sexual harassment in Australian workplaces is carried out by men.
- Half of incidents are repeated and of those, half are ongoing for more than one year.
- Reporting remains low with only 18% of sexual harassment incidents reported.
- Only a third of Australian workers think their organisation is doing enough.

Unsafe workplace behaviours

Bullying:

Bullying at work occurs when:

- a person or a group of people behaves unreasonably towards a worker or a group of workers at work AND
- this happens more than once AND
- this creates a risk to health and safety.

It includes behaviours such as:

- being aggressive or intimidating
- using abusive or offensive language
- mocking or humiliating someone
- holding 'initiation ceremonies'

Depending on the situation, bullying can also include behaviour and actions such as:

- teasing or playing jokes
- leaving some workers out of work-related events
- giving someone too much or too little work
- giving someone work above or below their skill level
- not giving someone information that they need to do their job

Bullying at work can have a serious impact on a person's health and affect their ability to do their job. It can also have a negative impact on a workplace. Bullying can contribute to low morale and reduced productivity.



Fair Work
Commission

Discrimination:

Discrimination occurs when a person, or a group of people, is treated less favourably than another person or group because of their background or certain personal characteristics. This is known as 'direct discrimination'.

It is also discrimination when a rule or policy applies to everyone but has the effect of disadvantaging some people because of a personal characteristic they share. This is known as 'indirect discrimination'.

Discrimination is against the law in South Australia when it:

- Is based on a particular personal characteristic or grounds specified in the Equal Opportunity Act
- Happens in an area of public life, and
- Causes loss or humiliation
- Is sexual harassment
- Is treating people unfairly because they are whistleblowers

The grounds specified in the Equal Opportunity Act:

- | | |
|--|-------------------------|
| • Age | Sex |
| • Gender identity | Sexual orientation |
| • Intersex status | Race |
| • Disability | Marital status |
| • Identity of spouse or domestic partner | Pregnancy |
| • Association with a child | Caring responsibilities |
| • Religious dress | Assistance animals |
| • Therapeutic animals | Domestic abuse |

Discrimination laws also cover sexual harassment and victimisation.



Equal Opportunity SA

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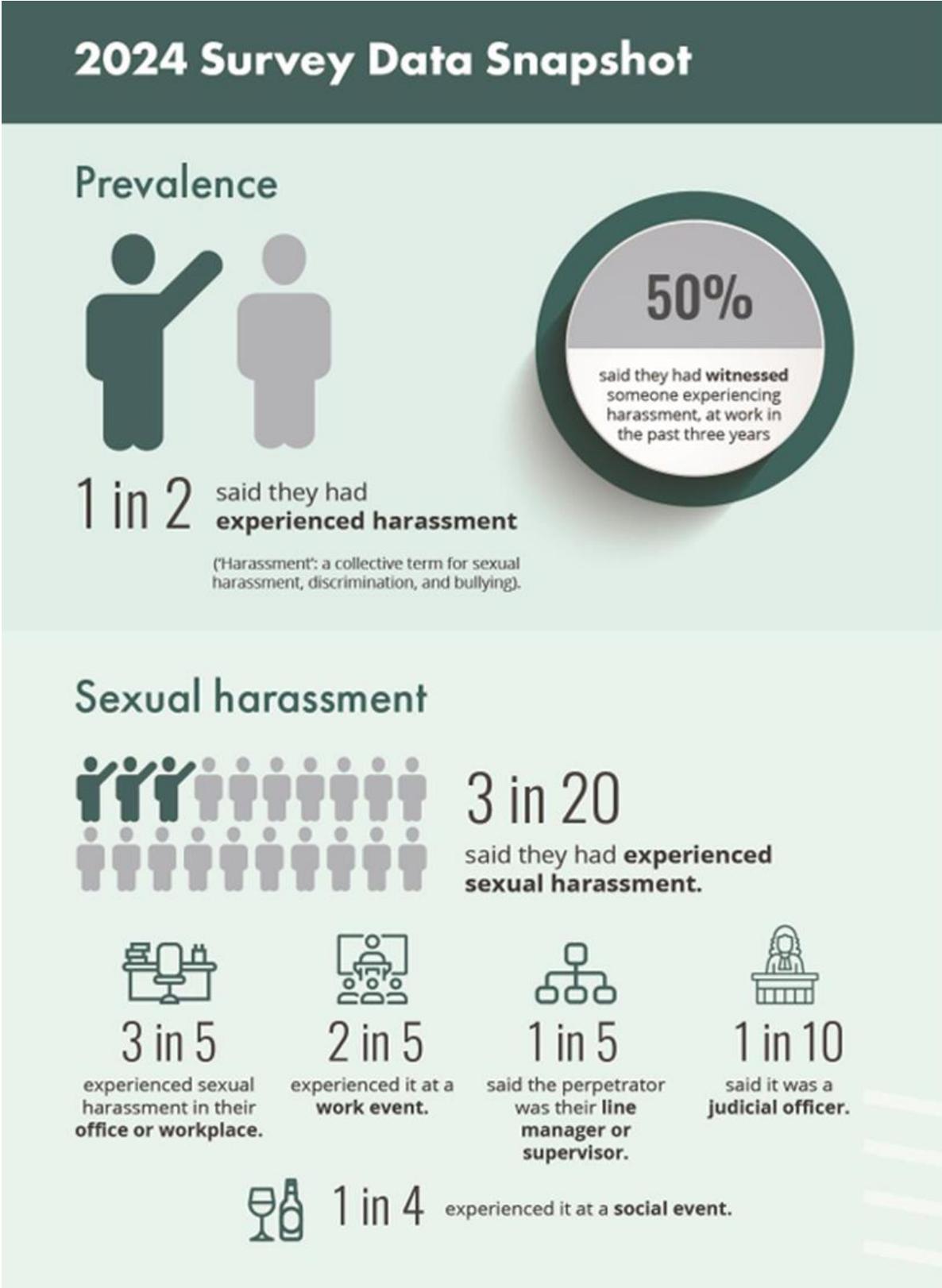
Mutual attraction or friendship with consent is not sexual harassment.



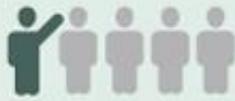
Equal Opportunity SA

2024 Review of Harassment in the South Australian Legal Profession

Report by Equal Opportunity SA to the Attorney General December 2024



Discrimination



1 in 5

said they had **experienced discrimination.**



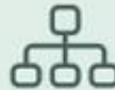
4 in 5

experienced discrimination in their **office or workplace.**



1 in 10

experienced it during a **legal proceeding.**



1 in 2

said the perpetrator was their **line manager or supervisor.**



1 in 10

said it was a **judicial officer.**

Bullying



2 in 5

said they had **experienced bullying.**



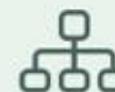
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2 in 5

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1 in 5

said it was a **judicial officer.**

Reporting

Most did not report the harassment they experienced or witnessed, **but in the future:**



say they would make an official report **in their workplace.**

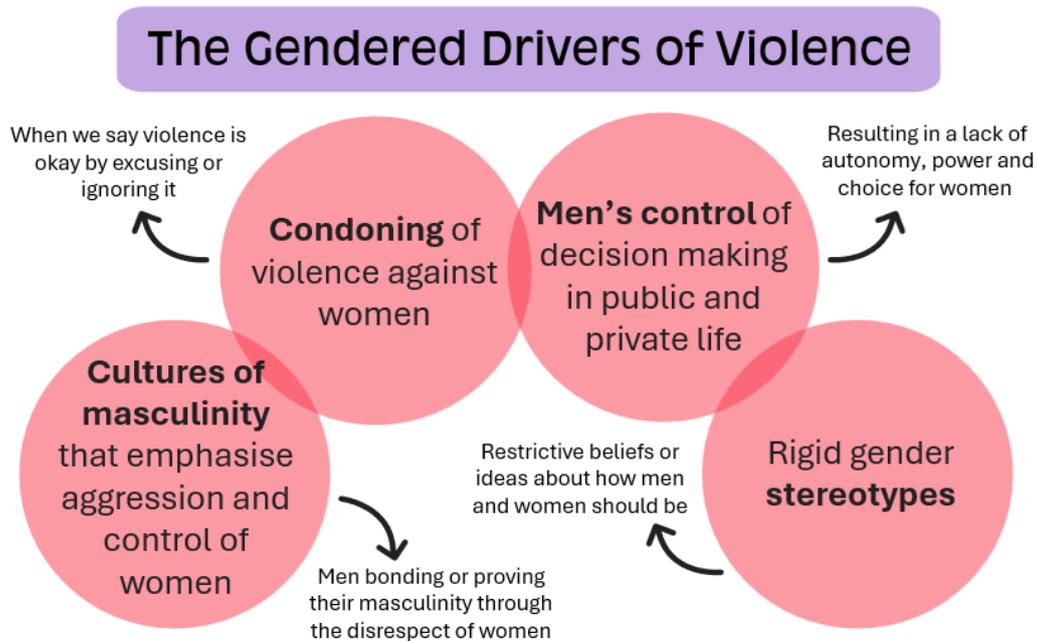


say they would make an official report to an **external organisation.**

All figures in this snapshot are based on the percentages in the tables that follow. These percentages have been rounded up or down.

Why does sexual harassment happen?

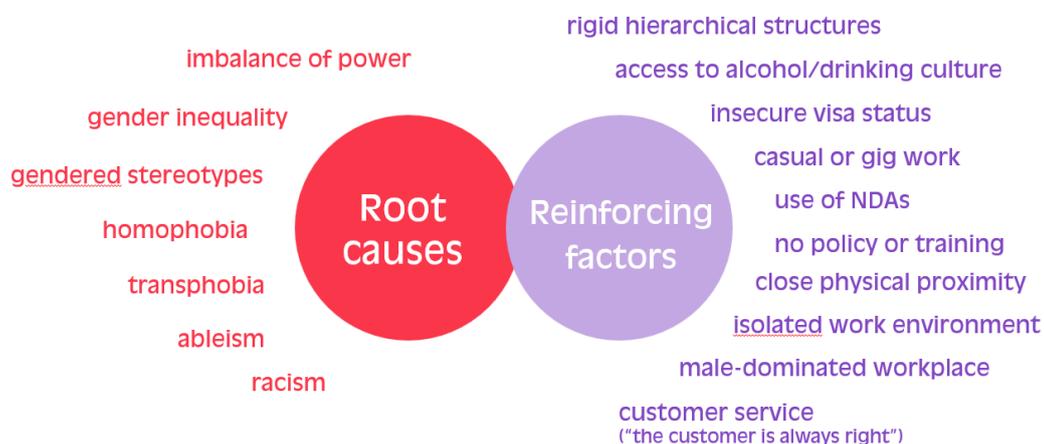
Sexual harassment is rooted in gendered stereotypes and power inequalities. There are four gendered drivers that create a social environment where gendered violence and harassment can be commonplace. The factors that drive sexual harassment are the same factors that drive domestic and family violence, and other forms of violence against women and marginalised genders.



There are many misconceptions about what causes sexual harassment and violence.

- Root causes are the underlying context or power inequality that drive our beliefs and behaviours.
- Reinforcing factors are environments or situations that increase the risk of harassment happening.

Causes VS Reinforcing Factors



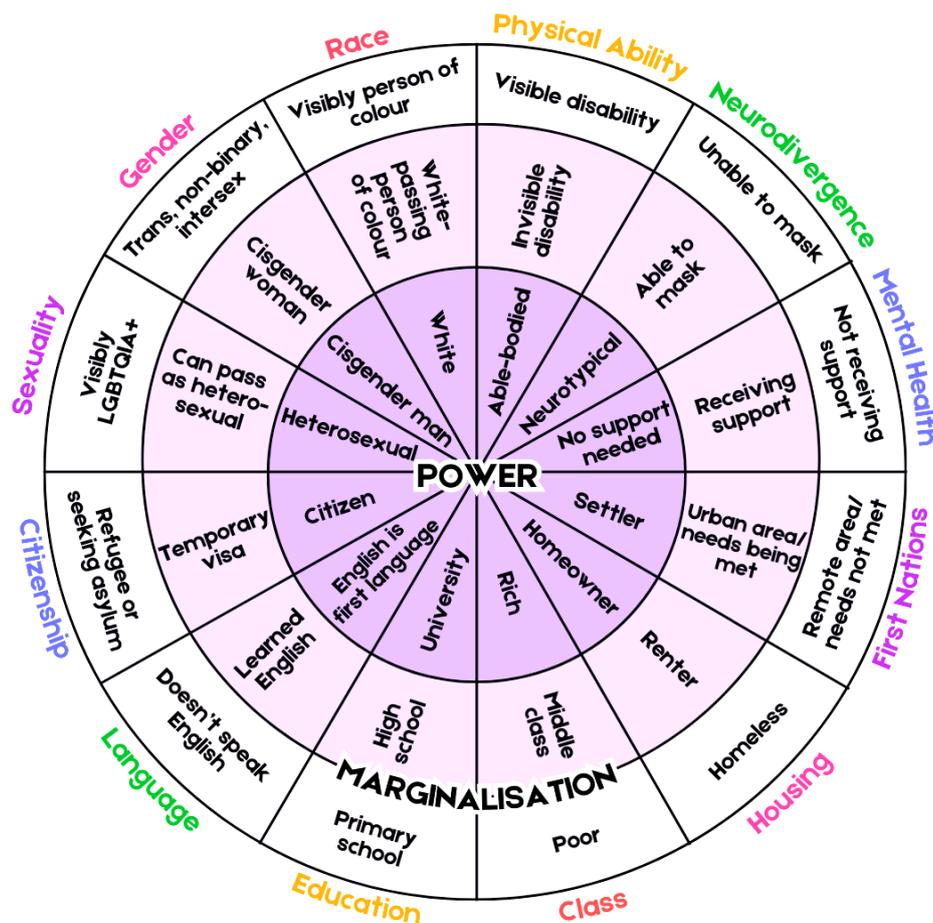
Inequality and Sexual Harassment

Gender inequality is when men are valued more than women, and have more power, resources and opportunities.

Public life in Australia is still marked by gender inequality. In our legal and political systems, and in workplaces and the community, men continue to hold the majority of power and influence. Gender inequality also persists in the private domain, for example, at home and in relationships.

Gender isn't the only power imbalance we need to consider. People who are marginalised and have less power in society are more likely to become targets of discrimination, bullying and workplace sexual harassment by those who exploit their position of power.

Remember: Sexual harassment is most often about gaining or *maintaining power and control*, rather than uncontrollable sexual desires or urges.



Speaking from Experience: What needs to change to address workplace sexual harassment

Speaking from Experience is a 2025 report by the Australian Human Rights Commission, highlighting the voices of those with lived experience of workplace sexual harassment. This report takes an intersectional view of workplace sexual harassment, and how it interacts with other forms of discrimination and oppression, highlighting the power imbalances of harassers and their targets.

Speaking from Experience tells people’s stories directly, and makes 11 recommendations to end sexual harassment, informed by victim-survivors and experts. The recommendations are grouped in the following themes:

- Reduce barriers to information
- Reduce barriers to safety
- Reduce barriers to victim-survivors being heard
- Reduce barriers to workers accessing support after being harassed
- Reduce barriers to justice and accountability

Diya

My manager keeps rostering me alone late at night. He stares and touches me when I go near him. I feel sick, but I need this job. I'm scared and don't know what to do.

University

- Studies Early Childhood Education
- Lives on campus
- Attends all classes for her visa requirements

"I want to study and make a future"

Money

- Uncle paid initial visa/fees
- Diya covers rent and living costs
- Sends money home

"Australia is so expensive"

The local pub

- Works casually a few nights, cash in hand
- No breakroom, finishes after 12am

"It was so hard to find a job. I need the money"

Immigration Department

- Regularly contacts Immigration
- Strict visa conditions
- Overwhelmed with information, still unsettled

"I'm scared about my visa... this is all too much"

Family & friends

- No family in Australia
- Videocalls mum and sister, but hides struggles from them
- Made one friend at uni

"I feel so lonely sometimes"

Services

- No access to welfare (Centrelink)
- Pays for 'Overseas Student Health Cover' (OSHC)
- High out-of-pocket medical fees

"I don't have access to government stuff. My Aussie classmates are so lucky"

Scan the QR code to learn from case studies of people with diverse lived experience, read about what victim-survivors consider helpful and unhelpful behaviours, and understand the recommendations for change.



AHRC: Speaking From Experience Report 2025

Understanding Workplace Barriers and Safety:

- Workplace barriers affect some people more than others, including visa restrictions, limited education, caring responsibilities, and disability.
- Contributors shared that safety and wellbeing should be prioritised before any process begins.
- People who experience multiple forms of discrimination such as gender, race, or disability face greater barriers and harm.

Cultural Safety and Inclusive Practice

- Cultural safety means creating environments free from racism and bias where First Nations people feel respected, understood, and safe to express who they are.
- When workplaces recognise the cultural roles and community connections of First Nations staff, wellbeing and trust improve.
- The principles of cultural safety apply to all workers, including those with religious or community obligations.
- Safety is not only the absence of threat but the presence of connection as a protective factor.

Culturally Responsive and Trauma Informed Support

- Contributors emphasised the need for timely, affordable, and culturally responsive psychological support.
- Casual workers, migrant visa holders, and people with disabilities face the greatest access barriers.
- Standard EAP services are often unsuitable for neurodivergent or disabled workers who need affirming and trauma informed care.

Access to Policies, Processes and Support

- Clear and accessible policies help workers understand their rights and options for reporting workplace sexual harassment.
- Workers need clear communication about internal and external pathways and support services.
- Policies must be accessible for everyone, including people with language, literacy, disability, or cultural barriers.

Intersectionality

Attitudes, systems and structures in society and workplaces can interact to create inequality and discrimination for particular groups of people. These include sexism, racism, homophobia, transphobia, ableism, class stigma, among others.

“Intersectionality” is a framework for understanding how systems of inequality can create additional barriers to social and economic wellbeing.

“I am proud of Gungayun’mirr [help giving work].”

(First Nations community worker and artist)

“I migrated to Australia by myself. I’m really strong because I was alone without my family.”

(culturally and racially marginalised social worker)

“I’m grateful that I’m brave enough to use my experience for the greater good.”

(LGBTQ+ worker)

“[I’m proud of] my ability to use my voice. When I see injustice, I speak up about it.”

(young hospitality worker and student)

“I’m proud of speaking up for my safety even when I met with disapproval.”

(young healthcare worker)

“I’m proud to be a voice to my trans sisters, their voices have been silenced for a long time.”

(trans refugee community advocate)

“I’m from Indonesia. I still volunteer in my 70s. I’m a volunteer of more than 30 years, I’m proud of still doing community services for everybody who needs help.”

(culturally and racially marginalised volunteer)

“I’m proud to be a mum. So having two girls to deal with as teenagers. I am proud of finding community, and in that community finding a source of resilience and support.”

(Pacific Islander community worker)

“I’m proud that I didn’t give up.”

(neurodivergent office worker)

“I [came] from Afghanistan in 2020 ... I’m proud for living in Australia, which is a peaceful environment ... I am doing uni and I’m really proud of myself.”

(young refugee student and casual fast-food worker)

“I’m proud of my mother and my grandmother and all of the women in my life who made sure that my experience was better than theirs.”

(culturally and racially marginalised community worker)

Speaking from Experience: What needs to change to address workplace sexual harassment

AHRC: Speaking From Experience



Let's talk about confidentiality: NDA use in sexual harassment settlements since the Respect@Work Report

Important findings from the Report

Strict NDAs remain the default resolution mechanism in sexual harassment settlements.

30% of applicant solicitors & 50% of respondent solicitors say they have never advised a client that the NDA term is an optional one.

86% of applicant solicitors report that they have never reached a sexual harassment settlement where confidentiality was not requested by the respondent (solicitor or unrepresented) in the negotiations.

50% of applicant solicitors say that when pushed for an NDA to be a term in the settlement, only 50% say that they request a higher damages settlement.

69% of applicant solicitors and 79% of respondent solicitors say they have never reached a sexual harassment settlement without strict confidentiality terms, being close to three quarters of the profession.

Over a quarter of **all** sexual harassment practitioners have not **read** the Respect@Work NDA Guidelines.

Guidance for practitioners advising on NDAs

1. Is a confidentiality clause necessary in the matter, and if so, why?
2. Has the complainant requested a confidentiality clause?
3. Has the complainant had an opportunity to understand what a confidentiality clause is and its implications and alternatives?
4. Is a confidentiality clause necessary to protect the identity of some or all parties involved (eg witnesses)?

Instead of a blanket confidentiality clause, consider the following options:

Option 1. No confidentiality clause.

Option 2. Confidentiality clause prescribing certain matters as confidential and otherwise allowing broader disclosure.

Option 3. Confidentiality clause with certain permitted exceptions.

If Option 1 is chosen, the complainant should be made aware that disclosing matters relating to their complaint may give rise to other legal risks, such as defamation risks, where matters are disclosed that may harm the perpetrator/s or another person’s reputation.

If Option 2 or Option 3 is chosen, the parties will need to discuss and agree on the scope of the confidentiality clause, including what matters can be disclosed and what matters are confidential.

NDA resources for legal practitioners

1. Australian Human Rights Commission – Respect@Work Guidelines
 - <https://humanrights.gov.au/our-work/sex-discrimination/publications/use-confidentiality-clauses-resolution-wsh-complaints>
2. Let’s Talk About Confidentiality Report – Model Clauses
 - <https://rlc.org.au/sites/default/files/2024-03/Model%20confidentiality%20clauses.pdf>
3. Victorian Legal Services Board + Commissioner – Advice for Lawyers
 - <https://lsbc.vic.gov.au/lawyers/practising-law/sexual-harassment/advice-lawyers-using-confidentiality-clauses-resolve>

Let’s Talk About Confidentiality Report



Supports & Services

Organisation	Contact details	What they do
Working Women's Centre SA	(08) 8410 6499 www.wwcsa.org.au	Free and confidential help for workplace issues for women, including sexual harassment.
Equal Opportunity SA	(08) 7322 7070 www.equalopportunity.sa.gov.au	Advice and assistance in resolving workplace sexual harassment complaints.
Australian Human Rights Commission	1300 656 419 https://humanrights.gov.au/our-work/sex-discrimination/positive-duty-sex-discrimination-act	AHRC investigates complaints about discrimination and human rights breaches.
Fair Work Commission	www.fwc.gov.au/issues-we-help/sexual-harassment-work	Advice and assistance in resolving workplace sexual harassment complaints.
ReturnToWorkSA	13 18 55 info@rtwsa.com	ReturnToWorkSA is responsible for providing work injury insurance-external site and regulating-external site the South Australian Return to Work scheme.
Safework SA	1300 365 255 www.safework.sa.gov.au	South Australia's workplace health and safety regulator
Mental Health Triage Service	13 14 65	SA statewide 24/7 phone service for assistance in a mental health emergency.
1800 RESPECT	1800 737 732 www.1800respect.org.au	National information and counselling service for domestic, family and sexual violence.

Organisation	Contact details	What they do
Yarrow Place	1800 817421 www.wchn.sa.gov.au/our-network/yarrow-place	Free and confidential service for people who have experienced sexual assault.
13YARN	13 92 76 www.13yarn.org.au	24/7 confidential and non-judgemental service for Aboriginal and Torres Strait Islander people to find support for a range of crises.
Beyond Blue	1300 22 4636 www.beyondblue.org.au/mental-health/work	24/7 mental health counselling service, including workplace mental health impacts.
QLife	1800 184 527 www.qlife.org.au	Free phone & online counselling service for LGBTQIA+ people, 3pm-midnight.
Men's Line Australia	1300 789 978 www.mensline.org.au	Free phone and on-line counselling for men around relationships, separation, and mental health.