



# Workplace harassment

Harassment is a known workplace risk and managing this risk must be a standard part of every productions approach to effective management of health and safety.





## Section 5

### Workplace harassment

Harassment is a known workplace risk and managing this risk must be a standard part of every productions approach to effective management of health and safety.

Everyone involved in the screen industry is responsible for creating an environment where individuals are treated with respect and dignity. The people in charge of productions have a duty to ensure you feel safe to raise your concerns about harassment. If you see or experience harassment – you need to speak up. It might be scary, but it is one way we will stop harassment infiltrating our productions.

**He taonga haumaru tō reo,  
whakamahia: Your voice is a  
powerful safety tool,  
speak up – use it.**

ScreenSafe is working with other committed groups and individuals to put in place clear guidelines and suggested processes for productions to follow to minimise harassment on productions. In the meantime, below is some key information you should know about harassment.



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## Section 5 Workplace harassment

### Introduction

Harassment at any stage of production can have serious effects on the health and safety, and the overall performance, of cast and crew.

Harassment is unacceptable both morally and legally – workers are protected from both racial and sexual harassment under the Human Rights Act 1993 and Employment Relations Act 2000. Other relevant legislation includes the Health and Safety at Work Act 2015 and the New Zealand Bill of Rights Act 1990.

### Find out more

#### Definitions

What we need to know about workplace harassment

Why can productions do?

Where do I find help?

#### Definitions

**Harassment**<sup>1</sup> is unwanted and unwarranted behaviour that a person finds offensive, intimidating or humiliating and is repeated, or significant enough as a single incident, to have a detrimental effect upon a person's dignity, safety and well-being.

**Racial harassment**<sup>2</sup> is uninvited behaviour, language (written or spoken), or visual material that humiliates, offends or intimidates someone because of their race, colour, or ethnic or national origin.

#### Sexual harassment<sup>3</sup> is

- directly or indirectly asking for sex, sexual contact or other sexual activity, with a promise (it can be implied) of better treatment in their work, or a threat (it can be implied) either of worse treatment or about current or future job security by
  - subjecting (either directly or indirectly) the worker to behaviour that they don't want or is offensive to them (even if they don't let the harasser know this) and which either is so significant or repeated that it has a negative effect on their work, job performance or job satisfaction:
    - by using (in writing or speaking) sexual language, or
    - by using sexual visual material (eg pictures, diagrams, photos, videos, etc), or
    - through sexual physical behaviour.

1. State Services Commission, 'Creating a Positive Work Environment - Respect and Safety in the Public Service Workplace' <http://www.ssc.govt.nz/node/7821>

2. The Human Rights Act 1993, <http://www.legislation.govt.nz/act/public/1993/0082/latest/DLM304212.html>. The Employment Relations Act 2000, <http://www.legislation.govt.nz/act/public/2000/0024/latest/DLM58317.html>

3. The Human Rights Act 1993, <http://www.legislation.govt.nz/act/public/1993/0082/latest/DLM304212.html>. The Employment Relations Act 2000, <http://www.legislation.govt.nz/act/public/2000/0024/latest/DLM58317.html>



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### What we need to know about workplace harassment

#### What is harassment?

"...unwanted and unwarranted behaviour that a person finds offensive, intimidating or humiliating and is repeated, or significant enough as a single incident, to have a detrimental effect upon a person's dignity, safety and well-being".

**Hodyn Olsen** Workplace trainer

While workers are protected from sexual and racial harassment in the workplace under the Employment Relations Act 2000 and the Human Rights Act 1993, other forms of harassment<sup>4</sup> are not included in specific legislation. However, you can help protect your workers by including other forms of harassment in your workplace policies and/or contracts and protecting them under the Health and Safety at Work Act.



Harassment<sup>5</sup> can be a one-off occurrence or repeated and ranges from behaviour that causes slight embarrassment through to criminal acts including:

- a generally "hostile" work atmosphere of repeated put-downs, offensive stereotypes, malicious rumours, or fear tactics such as threatening or bullying;
- a general work atmosphere of repeated jokes, teasing, flirting, leering or sleazy "fun";
- an isolated but significant incident, such as a violent attack or sexual assault; or
- comments or behaviour that express hostility, contempt or ridicule for people because of race, age, gender, sexuality or beliefs.

The person doing the harassment doesn't have to be intending to harass for the behaviour to be harassment, it depends on how the person the behaviour impacts is affected by the behaviour.

4. Such as comments or behaviour that express hostility, contempt or ridicule, repeated put-downs for people of a certain age, body shape, gender identity etc; or a general work atmosphere of repeated jokes, teasing, or 'fun' at someone else's expense because of a characteristic they have.

5. State Services Commission, 'Creating a Positive Work Environment - Respect and Safety in the Public Service Workplace' <http://www.ssc.govt.nz/node/7821>



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### Racial harassment<sup>6</sup>

Racial harassment is when someone uses language (written or verbal), visual material or physical behaviour that directly or indirectly:

- expresses hostility against, or brings the employee into contempt or ridicule, because of the race, colour, or ethnic or national origins of the worker; and
- is hurtful or offensive to the worker; and
- is so significant or repeated that it has a negative effect on a person's work, job performance or job satisfaction.

#### RACIAL HARASSMENT CAN INCLUDE:

- making offensive remarks about a person's race;
- mimicking the way a person speaks;
- making jokes about a person's race;
- calling people by racist names; and
- deliberately pronouncing people's names wrongly.

### Sexual harassment<sup>7</sup>

A worker is sexually harassed if someone at work:

- asks for sex, sexual contact or other sexual activity, with a:
  - promise (it can be implied) of better treatment in their work, or
  - a threat (it can be implied) either of worse treatment or about current or future job security;
- subjects (either directly or indirectly) the worker to behaviour that they don't want or is offensive to them (even if they don't let the harasser know this) and which either is so significant or repeated that it has a negative effect on their work, job performance or job satisfaction:
  - by using (in writing or speaking) sexual language, or
  - by using sexual visual material (eg pictures, diagrams, photos, videos, etc), or
  - through sexual physical behaviour.

Whether a behaviour was sexual harassment is viewed objectively, considering whether the conduct was unwelcome or offensive, from the perspective of the complainant.

6. Employment New Zealand, 'Bullying, Harassment and Discrimination', Ministry of Business, Innovation & Employment.  
<https://www.employment.govt.nz/resolving-problems/types-of-problems/bullying-harassment-and-discrimination/harassment/>

7. Employment New Zealand, 'Bullying, Harassment and Discrimination', Ministry of Business, Innovation & Employment.  
<https://www.employment.govt.nz/resolving-problems/types-of-problems/bullying-harassment-and-discrimination/harassment/>

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**Sexual harassment can happen to  
and by someone of any sex.  
It can be subtle or more obvious.**

Sexual harassment can include:

- personally sexually offensive comments;
- sexual or smutty jokes;
- unwanted comments or teasing about a person's sexual activities or private life;
- offensive hand or body gestures;
- physical contact such as patting, pinching or touching;
- provocative posters with a sexual connotation;
- persistent and unwelcome social invitations (or telephone calls or emails) from workmates at work or at home;
- hints or promises of preferential treatment in exchange for sex;
- threats of differential treatment if sexual activity is not offered; or
- sexual assault and rape.

Find out more from the [NZ Human Rights Commission](#).

**Advice for workers** – this WorkSafe quick guide provides advice for workers in terms of sexual harassment.

**Advice for businesses** – this WorkSafe quick guide provides advice for businesses on preventing and responding to sexual harassment in the workplace.

**Examples of sexual harassment at work.**

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### Other forms of harassment<sup>8</sup>

Other forms of harassment can include:

- comments or behaviour that express hostility, contempt or ridicule, repeated put-downs for people of a certain age, body shape, gender identity etc; or
- a general work atmosphere of repeated jokes, teasing, or ‘fun’ at someone else’s expense because of a characteristic they have.

### What is not harassment? <sup>9</sup>

Harassment is **not** considered to be:

- friendly banter, light-hearted exchanges, mutually acceptable jokes and compliments;
- friendships, sexual or otherwise, where both people consent to the relationship;
- issuing reasonable instructions and expecting them to be carried out;
- warning or disciplining someone in line with organisation policy;
- insisting on high standards of performance in terms of quality, safety and team cooperation; legitimate criticisms about work performance (not expressed in a hostile, harassing manner);
- giving negative feedback, including in a performance appraisal, and requiring justified performance improvement;
- assertively expressing opinions that are different from others;
- free and frank discussion about issues or concerns in the workplace, without personal insults; and
- targeted affirmative action policies, parental leave provisions, or reasonable accommodation and provision of work aids for staff with disabilities, etc.



8. Employment New Zealand, ‘Bullying, Harassment and Discrimination’, Ministry of Business, Innovation & Employment. <https://www.employment.govt.nz/resolving-problems/types-of-problems/bullying-harassment-and-discrimination/harassment/>

9. State Services Commission, <http://www.ssc.govt.nz/node/7821>

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### What can productions do?

Firstly, productions can outline and enforce a zero-tolerance policy on all forms of harassment and provide a safe process for workers to report harassment that they either experience or observe.

Employment New Zealand outlines a general process for avoiding and dealing with bullying, harassment and discrimination.

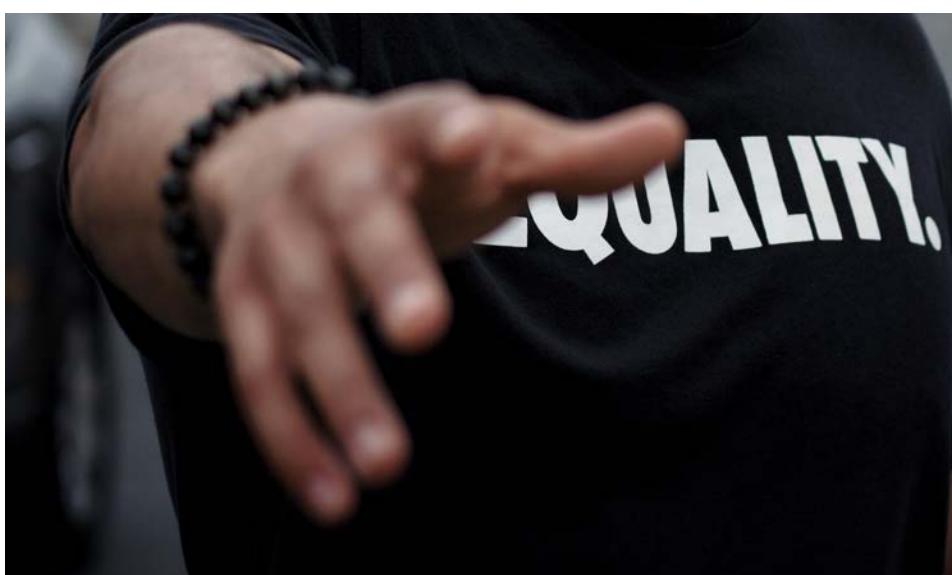
The State Services Commission also has a Prevention and Response to Sexual Harassment Policy Guideline that outlines ways to respond to sexual harassment.

### Workplace anti-harassment policy

An anti-harassment policy<sup>10</sup> should be developed to sit alongside your health and safety policy.

The policy should<sup>11</sup>:

- define harassment;
- state that harassment is not acceptable and that all workers expected to show respect to each other;
- outline expectations and responsibilities of all workers;
- provide clear guidance as to what behaviour is not acceptable
- state what will be done on the production to minimise the risk of harassment;
- outline procedures for reporting harassment risks; and
- outline procedures for managing harassment.



10. WorkSafe has developed an example of a policy regarding sexual harassment. <https://worksafe.govt.nz/topic-and-industry/sexual-harassment/sexual-harassment-example-policy/>

11. Employment New Zealand, 'Bullying, Harassment and Discrimination', Ministry of Business, Innovation & Employment. <https://www.employment.govt.nz/resolving-problems/types-of-problems/bullying-harassment-and-discrimination/general-process/>



## Where do I find help?

If you fear for your safety, contact the Police (dial 111) as soon as possible.

### Harassment at work: Advice for workers

If you can't resolve the problem with the production, you can take it further using two ways (you can't do both). If you want to raise a personal grievance under the Employment Relations Act 2000, you have 90 days to raise it. If you want to complain under the Human Rights Act 1993, you have 12 months after the incident to make their complaint to the [Human Rights Commission](#)<sup>12</sup>.



- The Human Rights Commission – <https://www.hrc.co.nz> / 0800 496 7877.
  - Read the [HRC guide](#) explaining how they deal with sexual harassment complaints – please note it should not be regarded as legal advice.
- Helplines such as Lifeline 0800 543 354, Samaritans 0800 726 666 and Healthline 0800 611 116 (for more information see: [www.mentalhealth.org.nz/get-help/in-crisis/helplines](http://www.mentalhealth.org.nz/get-help/in-crisis/helplines))
- Sexual Harm Helpline 24/7 – [www.safetotalk.nz](http://www.safetotalk.nz) / 0800 044 334 or text 4334
- National Rape Crisis – [www.rapecrisisnz.org.nz](http://www.rapecrisisnz.org.nz) / 0800 883 300
- Abuse Counselling Services – [www.abusecounselling.co.nz](http://www.abusecounselling.co.nz)
- Netsafe – online bullying, abuse and harassment – [www.netsafe.org.nz](http://www.netsafe.org.nz)



<sup>12</sup>. <https://www.employment.govt.nz/resolving-problems/types-of-problems/bullying-harassment-and-discrimination/harassment/>



**VISIT** [ScreenSafe.co.nz](http://ScreenSafe.co.nz)

