



平等機會委員會  
EQUAL OPPORTUNITIES COMMISSION

# 防止職場性騷擾

Preventing **Sexual Harassment** in the Workplace

中小企僱主小錦囊 **Tips for SMEs**



# 引言

## Introduction

僱主和僱員都不希望工作間發生性騷擾事件；但是，在過去三年，平等機會委員會（平機會）平均每年收到約150宗有關性騷擾的投訴當中，超過75%涉及僱傭範疇的性騷擾。

《性別歧視條例》規定，僱員作出的性騷擾行為，即使僱主並不知情，仍有可能要負上轉承責任。因此，僱主有必要正視及防止職場性騷擾。

近年，經修訂的《性別歧視條例》進一步擴大性騷擾條文的保障範圍。2014年加入保障貨品、設施或服務提供者免遭顧客性騷擾的條文；2020年的修訂則禁止共同工作場所使用者之間的性騷擾。

平機會相信訂立合適的對策防止性騷擾遠勝於事後補救。因此，制訂《防止職場性騷擾中小企僱主小錦囊》，協助僱主和從業員防止性騷擾在工作間發生。

2021年修訂

本小冊子內容只作參考用途，不可視為法律意見。  
如有個案垂詢，可聯絡平機會或另行諮詢法律意見。

Sexual harassment is something no employer or employee ever wants to see in the workplace. Having said that, the Equal Opportunities Commission (EOC) received an average of around 150 complaints related to sexual harassment annually in the past three years, and over 75% were related to employment.

Under the Sex Discrimination Ordinance (SDO), employers may be held vicariously liable even if they have no knowledge about their employees' acts of sexual harassment. Employers therefore should seriously address and stop the problem in the workplace.

In recent years, the SDO has been amended to further expand the scope of protection against sexual harassment. Provisions to protect providers of goods, facilities or services against sexual harassment by customers were added in 2014, while amendments were made to outlaw sexual harassment between workplace participants in common workplaces in 2020.

The EOC believes that formulating appropriate measures against sexual harassment in advance is always better than giving remedies. This booklet is therefore produced to help employers and practitioners prevent workplace sexual harassment.

Revised in 2021

This booklet is provided for reference purpose only and should not be construed as legal advice. For specific enquiries, please contact the EOC for assistance or seek independent legal advice.

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# 漠視僱員性騷擾 僱主隨時上身？

## Are employers liable for turning a blind eye to employees' sexual harassment complaints?

### 「B 訴皇上皇集團有限公司」案

(編號：DCE09/2010)

前酒樓女收銀員遭點心師傅性騷擾。原告人是酒樓收銀員，遭點心師傅觸碰她的胸部，並對她講一些關於性的言論，她多次向上司投訴卻不獲處理。僱主及後更因她掌摑這點心師傅而將她解僱。原告人透過平機會入稟區域法院，控告僱主「皇上皇集團」違反《性別歧視條例》。

法庭裁定這點心師傅的行為構成性騷擾，而「皇上皇集團」沒有採取合理可行的措施，防止工作間發生性騷擾，法庭裁定「皇上皇」敗訴，須向原告人支付8萬元感情損害賠償及支付堂費，成為香港首宗僱主為僱員性騷擾負上「轉承責任」的個案。

### B v King of the King Group Limited

(DCEO 9/2010)

The Plaintiff was a female cashier at a restaurant who was sexually harassed by a dim sum cook. She complained to her supervisor several times in vain about the dim sum cook for touching her chest and making sexual remarks on her. She was eventually dismissed by her employer as a result of her slapping the dim sum cook. The Plaintiff brought legal proceedings at the District Court through the EOC against her employer, King of the King Group Limited (King of King), for contravening the SDO.

The court ruled that the cook's acts amounted to sexual harassment, and that King of King had not taken reasonably practicable steps to prevent workplace sexual harassment, thus ordered King of King to pay the Plaintiff damages for injury to feelings in the sum of HK\$80,000, as well as costs. This was the first case in Hong Kong where the employer was held vicariously liable for the acts of its employee.

## 小錦囊 TIPS

每位員工都要為自己所作出的違法性騷擾行為負上個人責任。

僱主無論是知悉或同意與否，亦有機會需要為其僱員在受僱用中的性騷擾行為，負上轉承責任。情況就類似員工為公司執行職務時，因失誤侵害了他人的權利或導致顧客損失，僱主主要為員工的失誤負上責任。

除非僱主能證明已採取「合理可行的措施」防止工作間的性騷擾作為免責辯護，才有機會獲法庭豁免責任。因此，僱主應採取積極的措施防止職場性騷擾。

Every employee will be held personally liable for his/her illegal acts of sexual harassment.

**Employers may be held vicariously liable for their employees' act of sexual harassment in the course of employment, whether or not it was done with the employer's knowledge or approval.** This is similar to a situation where an employee is authorised by his/her employer to perform their duties. When the employee infringes other people's rights or causes losses to a customer by mistake in the course of employment, the employer will be responsible for the employee's wrongdoing.

The court will consider exempting employers from their liability **only if they could bring up a defence that reasonably practicable steps have been taken to prevent workplace sexual harassment.** Employers, therefore, should take proactive preventive measures against workplace sexual harassment.



# 甚麼是性騷擾？

## What is sexual harassment?

### 針對個別人士

任何人向別人提出不受歡迎的性要求或獲取性方面好處的要求，或向別人作出其他不受歡迎並涉及性的行徑。一名合理的第三者在顧及所有情況後，應會預期作出這行為會使對方感到冒犯、侮辱或威嚇，這種行為便構成性騷擾。

### With specific targets

Any person making an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person; or engages in other unwelcome conduct of a sexual nature in relation to that other person. A reasonable third party after taking into account of all the circumstances should expect that such behaviour will make the other person feel offended, humiliated or intimidated.

### 營造在性方面具敵意的環境 — 不一定有特定對象

任何人自行或聯同其他人作出與性相關的行為，該行為不一定針對某一個人，但會對他人造成一個具敵意或威嚇性的環境。

### Creating a sexually hostile work environment — may not involve any specific targets

Any person, alone or together with other persons, engaging in unwelcome conduct of a sexual nature which does not aim at anybody in particular, but will create a hostile or intimidating environment to others at the scene.

# 工作間性騷擾的例子

## Examples of sexual harassment in workplace

不受歡迎的身體接觸

Unwelcome physical contact

盯著或色迷迷的看著別人或其身體部位

Staring or leering at a person or parts of his/her body

在茶水間講色情笑話或討論性生活

Telling sexual jokes or talking about one's own sex life in pantry

展示使人反感或色情的資料，如展示裸露照片於電腦屏幕

Displaying pornography, e.g. showing porn photos on computer screen

發出涉及性並使人反感的電子訊息／圖片／影片（手機短訊、信件、電郵等）

Send out offensive sexual electronic messages / pictures / videos (e.g. mobile phone messages, letters, emails, etc.)

以金錢或其他利益作條件，提出性要求

Quid pro quo sexual harassment

性侵犯或強迫性行為

Sexual assault or sexual coercion



## 誤解

**1** 新入職的男辦公室助理聲稱被女同事性騷擾。一個女孩子怎可能會對男士作出性騷擾呢？

**2** 我們在茶水間講黃色笑話時，女同事在場但沒有阻止。她應該知道這是同事之間說笑，調劑緊張的工作，怎麼可能是我們性騷擾她呢？

**3** 我只不過掃一掃女同事的手臂，稱讚她性感及皮膚白滑，只是一次不會構成性騷擾吧！

**4** 我只是在自己電腦桌面上放了一張裸女照，工作到太累時用來提一提神，我不是要給女同事看的。

## 澄清

**1** 在法例的定義下，性騷擾行為並沒有性別之分。女性亦可以對男性作出性騷擾。同性之間亦會發生。行為是否構成性騷擾，與涉事者的性別完全無關。

**2** 如有關行為對當事人造成一個在性方面有敵意或具威嚇性的工作環境，便可構成性騷擾。行為是否蓄意或含有騷擾的意圖與性騷擾的定義無關。

**3** 帶有性意味的身體接觸，即使不是接觸對方的私處，都可能構成性騷擾。單一事件亦有可能構成性騷擾。

**4** 如預期到其他同事經過你的座位時，會看到你的電腦桌面上的裸照，這已經可能構成工作間的性騷擾。



# Myths and Facts of sexual harassment

## MYTHS

**1** A newly recruited male office assistant claimed that he has been sexually harassed by a female colleague. How can a woman sexually harass a man?

**2** When we told sexual jokes in the pantry, a female colleague was there but she did not stop us. She was supposed to understand that that we were just making jokes, adding a little spice to office life. How could this be sexual harassment?

**3** I only brushed against a female colleague's arm and complimented her on her sexy look and fair skin. A single incident does not constitute sexual harassment, does it?

**4** I used a photo of a naked woman as my computer wallpaper to refresh myself when I get tired at work. I did not mean for it to be seen by my female colleagues.

## FACTS

**1** The definition of sexual harassment under the law does not distinguish between men and women. A woman may sexually harass a man. Sexual harassment may also occur between persons of the same sex. Gender is irrelevant as to whether an act amounts to sexual harassment.

**2** It is sexual harassment if the conduct in question creates a hostile or intimidating work environment for the other party. Intent is not a necessary element of sexual harassment under the law.

**3** Sexually suggestive physical contact, even without touching of one's private parts, may constitute sexual harassment. Even a single incident may constitute sexual harassment.

**4** If one can expect that other colleagues passing by your work station will be able to see the nude photo on your computer desktop, then it may constitute sexual harassment.

# 條例的保障範疇

## Protection under the SDO

性騷擾條文對特定公共範疇內的性騷擾行為作出規管，包括：

- **僱傭範疇**

例子：僱主性騷擾員工或求職者；同事之間的性騷擾

- **提供貨品、設施或服務**

例子：院舍護理員性騷擾院友；乘客性騷擾機艙服務員

- **處所的管理及處置**

例子：業主性騷擾租客

- **教育範疇**

例子：學生之間或師生之間的性騷擾

- **會社**

例子：會社管理人員性騷擾其會員

- **共同工作場所**

例子：百貨公司內受聘於不同專櫃僱員之間的性騷擾

The SDO covers sexual harassment acts that occur in specific public fields, including:

- **Employment**

e.g. sexual harassment by an employer against an employee or a job applicant, or between co-workers

- **Provision of goods, facilities or services**

e.g. sexual harassment by a care worker of a residential care home against a resident, sexual harassment by a passenger against a flight attendant

- **Management or disposal of premises**

e.g. sexual harassment by a landlord against a tenant

- **Education**

e.g. sexual harassment between students, or between teachers and students

- **Clubs**

e.g. sexual harassment by club management personnel against a member

- **Common workplace**

e.g. sexual harassment between consignment workers employed by different brands, who work in the same department store

# 最新修訂《性別歧視條例》： 共同工作場所內的性騷擾

## Latest amendments to the SDO: sexual harassment in common workplaces

2020年修訂的《性別歧視條例》，涵蓋範圍延伸至禁止共同工作場所內的性騷擾。條例保障工作場所的使用者免受在同一工作場所的其他使用者的性騷擾，即使他們之間沒有任何僱傭關係（如：受聘於不同公司或機構）。

The SDO was amended in 2020 to expand the protection against sexual harassment to common workplaces. It protects workplace participants from sexual harassment by another party in the same workplace, even if there is no employment relationship between them (e.g. employed by different organisations).

在條例下，場所使用者是指：

A workplace participant under the SDO means:

僱員

an employee

僱主

an employer

合約工作者

a contract worker

合約工作者的主事人

the principal of a contract worker

佣金經紀人

a commission agent

佣金經紀人的主事人

the principal of a commission agent

商號合夥人

a partner in a firm

實習人員

an intern

義工

a volunteer

## 例子：對寄售產品推銷員工的性騷擾

某大型超市裡有不同的寄售產品推銷員和市場推廣員，阿詩是A公司派遣到該超市的寄售產品推銷員，阿偉是B公司派遣到該超市工作的市場推廣臨時員工。在過去幾星期，阿詩和阿偉共同在該超市同一分店上班。期間阿偉多次評論阿詩的身材，並向她提出不受歡迎的性要求。

雖然阿詩和阿偉並非該超市的員工，他們之間亦受僱於不同僱主，但兩人在同一工作場所（超市）上班時，阿偉對阿詩所作出的行為，已可能構成共同工作場所內的性騷擾，即屬違法。

## Example: Sexual harassment against a consignment worker

In a large supermarket, there are different consignment workers and promoters. Ceci is a consignment worker from Company A, while Will is a temporary promoter from Company B. They have been working together in that supermarket in the past few weeks. On several occasions, Will comments about Ceci's figure and makes unwelcome sexual advances to her.

**Although Ceci and Will are not employees of the supermarket and they are employed by different employers, what Will has done on Ceci in the common workplace (the supermarket) is likely to be regarded as unlawful sexual harassment in a common workplace.**



# 僱主的法律責任

## Legal liability of employers



如僱員、合約工作者、代理人、實習人員或義工在僱傭、實習或進行義務工作的過程中作出違法的性騷擾行為，其僱主、主事人或任用實習人員及義工的人士將同樣負有法律責任，不論他／她是否知悉或批准該行為。除非其僱主或任用實習人員及義工的人士能證明已採取「合理地切實可行的措施」以防止有關的性騷擾發生，才可作為免責的辯護理由。

If an employee, a contract worker, an agent, an intern or a volunteer commits an unlawful act of sexual harassment during the course of employment, internship or voluntary work, his/her employer, the principal or the person who engages the intern or volunteer will be held vicariously liable whether or not they know about or approve such acts. A defence exists for the employer or the person who engages the intern or volunteer if they can prove that they have taken reasonably practicable steps to prevent such acts.

# 公司只是小本經營， 也受《性別歧視條例》規管嗎？

**We run only a small business.  
Are we governed by the SDO as well?**

公司規模不論大小，一律受  
《性別歧視條例》規管。

All companies, regardless of size,  
are governed by the SDO.

所有僱主都應採取「合理地切實可行的措施」，防止工作間發生性騷擾，萬一性騷擾事件發生，僱主應適當地處理及作出補救措施。

All employers should take reasonably practicable steps to prevent workplace sexual harassment. When an incident of sexual harassment occurs, employers should handle the matter appropriately and take remedial measures.

僱主需謹記若提出已採取「合理地切實可行的措施」作免責辯護，便有舉證責任。最終法庭會考慮個別案件的相關情況，裁定個別僱主所採取的措施是否足夠。

Employers must remember that if they bring up a defence of having taken reasonably practicable steps, the burden of proof will be on them. Ultimately, the court will consider the circumstances of the case and decide whether the measures taken by employers are sufficient.

每個個案都要考慮其實際情況才可決定僱主採取的措施，是否足夠和合理可行。

Every case has to be considered in the context of their actual circumstances in order to decide whether the measures taken by employers are sufficient and reasonably practicable.

# 僱主應採取的 「合理地切實可行的措施」 Reasonably practicable measures to be taken by employers

## 防止性騷擾政策

為公司訂立清晰的防止性騷擾政策，讓員工明白僱主的立場是不會容忍任何工作間的性騷擾，以及處理投訴的程序等。

## Anti-sexual harassment policy

Develop a clear corporate anti-sexual harassment policy to inform employees of the employer's zero-tolerance policy towards sexual harassment in the workplace, and the complaint handling procedures, etc.

## 設立申訴渠道

讓員工知道遇到性騷擾事件時，怎樣投訴及向誰投訴。

## Establishment of complaint channels

Let employees know how to lodge a complaint and who to report to in case of sexual harassment.

## 溝通及培訓

定期給予提醒或訓練，讓員工明白那些行為可能構成性騷擾。

## Communication and training

Provide regular training or reminders to employees to let them know which acts may constitute sexual harassment.

## 適當地處理投訴

收到投訴或知悉發生性騷擾時，立即跟進並作適切處理，如展開調查。

## Proper handling of complaints

Properly handle complaints of sexual harassment upon receipt of or becoming aware of such incidents, for example, by conducting an investigation.

在取得投訴人的同意下，按情況暫時更改工作安排，以防止性騷擾事件持續發生。

Make temporary changes to work arrangements to prevent continued sexual harassment with the consent of the complainant.

## 處分及改善

若查明指控屬實，對騷擾者作警告及/或其他合適處分。

按需要改善工作安排，避免性騷擾再發生。

## Disciplinary action and improvement measure

Give warning and/or take any other appropriate disciplinary action against the harasser if the allegation is substantiated.

Improve work arrangements as necessary to prevent the recurrence of sexual harassment.

## 定期檢討

定期檢討公司防止性騷擾政策及相關預防和處理投訴安排，並留意補救措施是否能有效防止性騷擾行為再次發生。同時，檢討辦公室文化是否導致性騷擾發生的原因之一。

## Regular review

Review the company's anti-sexual harassment policy, complaint handling procedure and the related preventive measures; to monitor whether the remedial measures are effective in preventing sexual harassment; and to review the workplace culture to see if it is a contributing factor to sexual harassment.





# 訂立防止性騷擾政策

## Formulation of an anti-sexual harassment policy

### 落實防止性騷擾 政策五件事

1. 制訂一份書面的公司防止性騷擾政策。
2. 向全體職員發布/重申公司的防止性騷擾政策，並向新入職職員發布及解釋有關政策。亦可考慮向員工口頭解釋政策內容。
3. 定期提醒員工，例如在員工會議或張貼通告，提醒不應作出性騷擾行為。在資源許可下，應盡量向員工提供防止性騷擾的培訓。
4. 收到投訴或知悉性騷擾事件發生，立即處理。
5. 定期檢討公司防止性騷擾政策。

### Five steps to implement anti-sexual harassment policy

1. Formulate a written corporate policy on anti-sexual harassment.
2. Announce or restate the company's anti-sexual harassment policy and to disseminate and explain the policy to all new employees, or to verbally explain the policy to employees.
3. Regularly remind staff not to commit acts of sexual harassment, for example, in staff meetings or by posting notices; to provide training to staff if resources allow.
4. Promptly handle complaints of sexual harassment upon receipt of complaint or becoming aware of such incidents.
5. Review the corporate anti-sexual harassment policy on a regular basis.

## 中小企僱主應訂立 簡單而清晰的 防止性騷擾政策

僱主不會容忍工作間性騷擾的聲明；

性騷擾的定義；

讓員工知道可以直接找僱主或指定的管理人員處理性騷擾投訴；

紀律處分或其他適切的跟進行動；及

其他申訴渠道。

詳情可參考平機會編制的《公司防止性騷擾政策大綱》



For details, please refer to the Framework for Corporate Policy on Sexual Harassment developed by the EOC.



## SMEs should develop a simple and clear policy on anti-sexual harassment

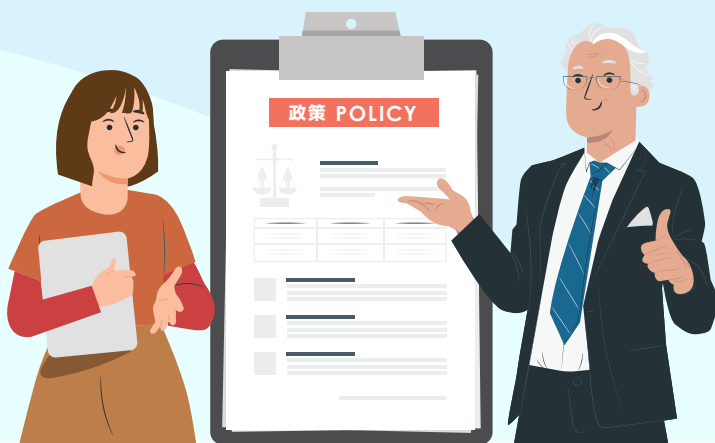
a statement of zero-tolerance of workplace sexual harassment;

the definition of sexual harassment;

information to employees that they can lodge a complaint directly with the employer or the designated person who deals with sexual harassment complaints;

disciplinary actions or other appropriate follow-up actions; and

other channels of complaint.



# 處理性騷擾投訴的原則

## Principles of handling sexual harassment complaints



### 公平處理

以公正、不偏不倚的原則和程序處理投訴，讓雙方有同樣的機會申述。

### Fairness

Complaints should be handled in a fair and impartial manner to enable both parties to have chances to present their case.

### 保密原則

所有與投訴有關的資料和記錄都會保密，只按需要向處理有關投訴的負責人披露。

### Confidentiality

All information and records related to the complaint will be kept confidential and will only be disclosed to the relevant staff on a need-to-know basis.

### 避免延誤

僱主或負責職員收到投訴後應立刻處理。

### Avoid delay

Employers or the responsible persons should deal with the complaints promptly.

### 避免利益衝突

若負責處理投訴的職員，與投訴人或被投訴其中一方有密切關係，應交由僱主或其他高層處理。

### Avoid conflicts of interest

If the employee who handles the complaint is closely connected to the complainant or the alleged harasser, the case should be passed to the employer or members of senior management.

## 保護投訴人及證人

投訴人及證人不應因真誠投訴而受到歧視或報復。(根據《性別歧視條例》第9條，「使人受害的歧視」亦屬違法。)

## 謹慎處理

體恤投訴人的感受，例如完整地記錄事件，以避免投訴人需要多次覆述不愉快的經歷，確保處理投訴的過程中，不會讓投訴人不必要地承受更多困擾和蒙受更大的羞辱。

## Protection for complainants and witnesses

Complainants and witnesses should not be faced with discrimination or retaliation because of lodging complaints in good faith (victimisation is in itself an unlawful act of discrimination under section 9 of the SDO).

## Discreet handling of complaints

Showing empathy to the feelings of the complainants, for instance, by keeping a complete record of the incident to avoid asking the complainant to repeatedly recount his/her painful story and by ensuring that the complainant would not be further unnecessarily distressed or humiliated during the handling process.



# 中小企實況 – 常見問題

## Situations faced by SMEs — Frequently Asked Questions

### 同事之間的追求是性騷擾還是私人纏綿？ Is courtship between employees regarded as sexual harassment or personal dealings?

阿輝不斷收到一位女同事邀約，該同事還時常發一些含性暗示的短訊給他。阿輝已多番拒絕但不果，最終向老闆投訴。老闆需要插手處理嗎？

Fred alleges that a female colleague has kept asking him out and sending him sexually suggestive texts, despite his multiple refusals. Finally he complains to his employer about the sexual harassment. Does his employer need to take any action?

員工之間作出的不受歡迎而涉及性的行徑，有可能構成工作間的性騷擾。該同事已多番拒絕追求，表明有關行為令人感到受冒犯，並且向僱主投訴。因此，僱主有必要了解事件，並作出適切處理，防止性騷擾事情進一步發生。

Any unwelcome conduct of a sexual nature among employees may constitute workplace sexual harassment. An employee has rejected the advances many times by making it clear that the behaviour was offensive and even lodges a complaint with the employer. The employer therefore must look into the matter and deal with it appropriately to prevent further acts of sexual harassment from taking place.



## 僱主希望「大事化小」的處理方法有問題嗎？ Is there a problem with the employer's attempt to play down the seriousness of the matter?

陳小姐在一間建築公司任職行政助理，公司內以男性員工佔多數。男同事們經常在辦公室內談論女性的身材及各自的性生活，陳小姐對此感到尷尬，並向僱主反映。僱主向陳小姐解釋這是男同事一向的工作文化，叫陳小姐避開他們，輕鬆對待。

Miss Chan works as an administrative assistant in a construction company. Most of her colleagues are men who often talk about women's figures and their own sex life in the office. Miss Chan feels embarrassed and tells the employer about this. The employer explains to Miss Chan that this has always been the male employees' work culture and asks Miss Chan to stay away from them and take it easy.

同事們在公司範圍內公開討論自己的性生活及有關性的議題時，有可能對其他在場的員工造成滋擾及不安。雖然同事的討論並非故意針對某位員工，但這行徑已有可能對其他在場的員工構成一個在性方面具敵意或威嚇性的環境。

When employees publicly discuss in the office their own sex life and matters related to sex, other employees who are present may feel unsettled and uncomfortable. Although the employees' discussions are not aimed at any particular person, the conduct has created a sexually hostile or intimidating work environment for other employees in the workplace.

僱主有責任檢討辦公室文化，並提醒員工，例如透過制訂防止性騷擾政策、發放通告或提供相關培訓，加強公司上下對此問題的認識，幫助員工培養互相尊重的工作間文化。

Employers have the responsibility to review the workplace culture and to remind employees, for example, by developing an anti-sexual harassment policy, issuing notices and/or providing relevant training to enhance employees' understanding of sexual harassment and foster a workplace culture of mutual respect.

我是一間中小型服裝店的經理，  
若顧客性騷擾前線售貨員，應如何處理？

**As the manager of a small and medium-sized boutique,  
if a customer sexually harassed a frontline salesperson,  
what should I do?**

公司應讓從業人員了解法例對他們的保障及公司所制訂防止性騷擾的措施。

若你知道前線員工被顧客性騷擾，你應馬上制止有關顧客，並讓該顧客知道其行徑是違法，以防止性騷擾事件繼續發生。如情況嚴重，如涉及猥褻或非禮，應考慮尋求警方協助。

記錄有關詳情（例如：日期、時間、地點、證人及騷擾者的言行），並向公司匯報。

若公司多次收到員工被顧客性騷擾的投訴，不但沒有採取任何補救措施，仍繼續容許顧客在店內性騷擾其員工的話，公司亦有可能需負上法律責任。

The company should let their employees know what protection they have under the SDO and the preventive measures against sexual harassment adopted by the company.

If you are aware that a frontline employee is sexually harassed by a customer, you should stop the customer right away and let the customer know that sexual harassment is unlawful to prevent further incidents of sexual harassment. If the case is serious, such as involving an indecent act or indecent assault, you should consider seeking assistance from the police.

The details of the incident (for example, date, time, place, witness and the harasser's remarks and behaviour) should be recorded and reported to the company.

If the company refuses to adopt any remedial measures and even continues to condone the acts of sexual harassment upon repeated complaints from its employees against a customer, it may be held liable.

解僱投訴人時已按勞工法例賠償，  
是否仍可能對投訴人構成「使人受害的歧視」？  
**If a complainant has been compensated for his/her dismissal according to the Employment Ordinance, will he/she still be considered as being discriminated against by way of victimisation?**

王先生是一間中小企的總經理。剛入職的同事向人事部主管反映，王先生經常在辦公室走廊不知有心還是無意地觸碰他的臀部，使他感到不安和受到冒犯。由於王先生是「皇親國戚」，人事部主管不敢開罪他，為了避免事件繼續出現，人事部主管因此解僱了該名剛入職的員工，並按勞工法例作出賠償。

Mr Wong is the General Manager of a SME. A newly recruited employee tells the head of the personnel department that Mr Wong often touches his bottom, not knowing if he does it intentionally or not, in the hallway of the office, which has made him feel uneasy and offended. As Mr Wong is a relative of the employer, the head of the personnel department does not dare to offend him, but dismisses the complainant instead and compensates him according to the Employment Ordinance.

根據《性別歧視條例》，如公司沒有作出合理可行措施防止工作間的性騷擾，無論僱主知情與否，公司仍有可能要為員工的性騷擾行為負上轉承責任。

Under the SDO, employers may be held vicarious liability for their employees' act of sexual harassment in the course of employment, whether or not it was done with the employer's knowledge if the company has failed to take reasonable practicable steps to prevent sexual harassment in workplace.



雖然公司在解僱該員工時是按勞工法例賠償，但由於公司是基於他作出性騷擾投訴後而將他解僱，這樣解僱可視作給予該員工較差的待遇，違反了《性別歧視條例》，構成使人受害的歧視。

另外，王先生不當地觸碰該名員工臀部的行為，亦可能構成非禮，屬刑事罪行。

Even though compensation has been given according to the Employment Ordinance for the dismissal, the company is likely to be held liable for discrimination by way of victimisation under the SDO as dismissing the employee on the grounds of lodging a sexual harassment complaint can be seen as a less favourable treatment.

Besides, Mr Wong's inappropriate act of touching the bottom of the employee might also constitute a criminal offence of indecent assault.



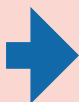
# 如被性騷擾可以怎樣做？

## 詳細記錄事件：

記錄事件的日期、時間、地點、事發經過（例如騷擾者的言行、你的反應等），以及有沒有其他人在場。這些資料將有助你提出申訴。

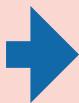
## 可從以下的途徑提出申訴：

向僱主作出投訴



循公司內部性騷擾投訴機制處理

向平機會作出投訴



由平機會進行調停及／或調查。  
如經調查後，調停不成功，受屈人可向平機會申請法律協助。  
投訴時限：事發起計12個月。

入稟區域法院作申索



由區域法院聆訊及作出裁決。  
申索時限：事發起計24個月。

# What to do if one is sexually harassed?

## Record the incident as fully as possible:

Record the date, time, place, details of the incident (e.g. the harasser's remarks and behaviour, and your response, etc.) and the presence of any witnesses. This information can help support your complaint.

## You can lodge a complaint through the following channels:

To lodge a complaint with the employer



Through the company's internal complaint handling mechanism on sexual harassment.

To lodge a complaint with the EOC



The EOC will conduct conciliation and/or investigation. If post-investigation conciliation is unsuccessful, the Aggrieved Person may apply for legal assistance from the EOC. Period of limitation for lodging a complaint: within 12 months from the time when the act was done.

To file a claim with the District Court



The District Court will hear the case and give a ruling. Period of limitation for filing a claim: within 24 months from the time when the act was done.

# 平機會怎樣幫忙？

## What will the EOC do to help?

### 平機會的角色

平機會致力以持平、公正、公平和客觀的態度就爭議作出調停，在處理投訴中並不代表任何一方。平機會鼓勵投訴及答辯雙方以調停方式來解決糾紛，如達成和解協議，雙方可免卻法律訴訟的風險。

### 提早調停、 調查及調停

平機會接獲投訴後，會初步審視所指稱事件是否屬反歧視條例範圍內的違法行為。在展開調查前，如平機會認為合適的話，會先建議雙方進行提早調停來迅速地解決爭議，而無需經過深入的調查程序。參加提早調停會議屬自願性質。

如投訴及答辯雙方未能在提早調停階段達致和解，平機會會恢復對個案進行全面調查。調查的目的是為了釐清事件，協助雙方了解爭議事宜。因應調查所得，平機會或會建議雙方再次進行調停。調停純屬自願性質，調停人的角色是協助雙方看清投訴中的爭論點，辨識可以達成協議的要點，並且嘗試解決糾紛。

### The role of the EOC

The EOC is committed to handling disputes in a fair, impartial and objective manner, without siding with any party. The EOC encourages complainants and respondents to resolve disputes through conciliation. If a settlement is reached, the risk of legal proceedings can be avoided.

### Early conciliation, investigation and conciliation

Upon receiving a complaint, the EOC will first review whether the alleged unlawful act falls within the remit of the anti-discrimination ordinances. Where appropriate, the EOC will suggest both parties undergo early conciliation to settle the dispute promptly to save the need to conduct an in-depth investigation. Participation in early conciliation is voluntary.

If both parties cannot reach a settlement during early conciliation, the EOC will investigate the matter to ascertain facts and help both parties to understand the points in dispute. Subject to the findings of the investigation, the EOC may suggest both parties attempt further conciliation. Conciliation is completely voluntary. The role of the conciliator is to help both sides

如個案未能調停解決，投訴人可向平機會申請法律協助。

需注意的是，法例亦列明平機會可在以下情況決定不對投訴進行調查或終止調查：

平機會信納投訴所指稱的行為不屬違法；

平機會認為受屈人不願意進行或繼續調查；

有關行為在12個月前作出；

投訴屬瑣屑無聊、無理取鬧、基於錯誤理解或缺乏實質；或

投訴由受屈人的代表提出，而平機會根據有關規則，決定投訴不應以代表方式提出。

投訴人亦可考慮向法律援助署申請法律援助或自行向區域法院提出訴訟。

see the issues in dispute clearly and identify key conditions needed for reaching an agreement, in a bid to resolve the dispute ultimately.

If the case cannot be resolved through conciliation, the complainant can apply for legal assistance from the EOC.

The law also provides that the EOC may decide not to conduct, or to discontinue, an investigation into a complaint for any of the following reasons:

The EOC is satisfied that the alleged act is not unlawful by virtue of a provision under the relevant ordinance;

The EOC is of the opinion that there is no desire on the part of the aggrieved person(s) for the investigation to be conducted or continued;

More than 12 months have elapsed since the relevant act;

The EOC is of the opinion that the complaint is frivolous, vexatious, misconceived or lacking in substance; or

The EOC determines, in the case of a representative complaint, that the complaint should not be a representative complaint (in accordance with the relevant rules).

The complainant can also consider applying for legal aid from the Legal Aid Department or initiate legal proceedings before the District Court of his/her own accord.



# 政策支援及培訓服務

## Policy Support and Training Services

為協助商業機構及市民大眾加深了解性騷擾，制訂防止性騷擾政策及預防措施，平機會製作了一些網上資源給公眾免費查閱。

In order to raise public awareness of sexual harassment and help businesses come up with policies and preventive measures against sexual harassment, the EOC has some free online resources for the public.

COMPASS  
平機會反性騷擾  
資源平台



COMPASS EOC  
Anti-Sexual  
Harassment  
Resource Platform



促進平等就業  
機會的良好  
管理常規



Equal Opportunities  
in Employment:  
Good Management  
Practices



平機會定期舉辦免費課程，讓公眾認識反歧視條例及相關的法律責任。除此之外，亦會按私營機構的需要，提供度身訂製的收費培訓和顧問諮詢服務。相關的顧問諮詢服務包括：審閱機構現有的反歧視政策、處理投訴程序和其他工作常規，並提出一套適合機構使用，而又符合平等機會原則的工作常規與程序建議。

The EOC provide free training courses on the anti-discrimination ordinances and relevant legal obligations for members of the public regularly. Besides, the EOC can also arrange customised training and consultancy services catering to the needs of enterprises on a fee-for-service basis. The scope of services includes the review of existing policies, complaint handling procedures and other work practices of the organisation and recommendations to achieve equal opportunities.

課程查詢：( 852 ) 2106 2155

Enquiries: (852) 2106 2155

# 怎樣聯絡平機會？

## How to contact the EOC?

COMPASS平機會反性騷擾資源平台：  
[www.eoc.org.hk/COMPASS](http://www.eoc.org.hk/COMPASS)

COMPASS | eoc anti-sexual harassment  
resource platform  
平機會反性騷擾資源平台

COMPASS EOC Anti-Sexual Harassment  
Resource Platform:

[www.eoc.org.hk/COMPASS](http://www.eoc.org.hk/COMPASS)

COMPASS | eoc anti-sexual harassment  
resource platform  
平機會反性騷擾資源平台

反性騷擾熱線：  
(852) 2106 2222

Anti-Sexual Harassment Hotline:  
(852) 2106 2222

短訊：  
6972566616538  
(供聽障或有語言障礙人士查詢使用)

SMS service:  
6972566616538  
(For people with hearing impairment/  
speech difficulties)

傳真：  
(852) 2106 2324

Fax:  
(852) 2106 2324

網址：  
[www.eoc.org.hk](http://www.eoc.org.hk)

Website:  
[www.eoc.org.hk](http://www.eoc.org.hk)

地址：  
香港黃竹坑香葉道41號16樓

Address:  
16/F, 41 Heung Yip Road,  
Wong Chuk Hang, Hong Kong

辦公時間：  
星期一至五（公眾假期除外）  
上午8時45分至下午5時45分

Office Hours:  
8:45 a.m. to 5:45 p.m.,  
Mondays – Fridays (excluding public holidays)



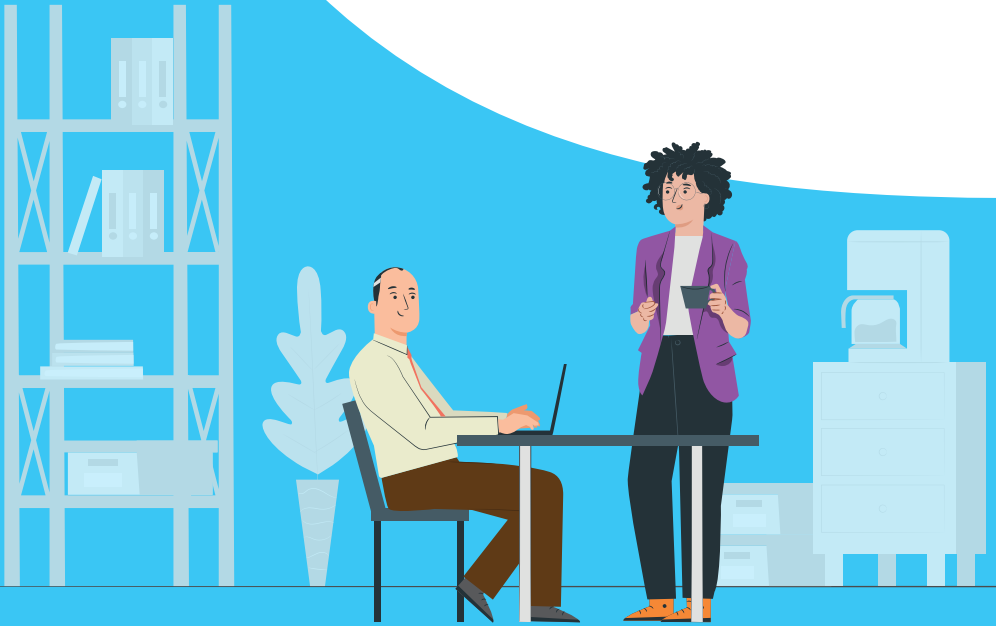
平等機會委員會  
EQUAL OPPORTUNITIES COMMISSION



平等機會委員會  
Equal Opportunities Commission

2021 年修訂  
本小冊子內容只作參考用途，不可視為法律意見。  
如有垂詢，請聯絡平機會或另行諮詢法律意見。

Revised in 2021  
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and should not be construed as legal advice.  
For specific enquiries, please contact the EOC for  
assistance or seek independent legal advice.



平等機會委員會  
EQUAL OPPORTUNITIES COMMISSION

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