



universität
wien

Preventing sexual harassment at work

GUIDELINES



BE ATTENTIVE. SPEAK OUT. TAKE IT SERIOUSLY.

Find out more at urespect.univie.ac.at





We are all responsible

All university members are **jointly responsible** for making the University of Vienna a **safe place** for everyone who works or studies at and visits the university. Sexual harassment concerns us all.

The University of Vienna firmly opposes **(sexual) harassment** and **discrimination** and **will not tolerate any form of abuse of power**. It stands behind everyone who contributes to a **culture of mutual respect**, takes preventive action and intervenes against (sexual) harassment and discrimination.

The University of Vienna will support you if you are affected by harassment or any other form of discrimination.

ADDITIONAL RESOURCES:

[Guidelines on sexual harassment in higher education](#)

[Checklists for people experiencing harassment or discrimination, witnesses, teaching staff and executives](#)

Sexual harassment is an abuse of power

- Sexual harassment is not primarily caused by unsuccessful advances and usually stems from an abuse of power.
- Sexual harassment is a form of discrimination.
- Sexual harassment can poison the work environment and lead to colleagues withdrawing from work or higher education.
- Sexual harassment is not a conflict between two (or several) people. It is a form of dominance and subjugation.

Where does violence begin?

Sexual violence usually refers to forced physical sexual activity such as coercion or rape that is punishable under the Austrian Criminal Code (Strafgesetzbuch, StGB). This corresponds to the **narrow definition of violence**, which mainly applies to physical assaults.

But **sexual violence** begins far earlier. It covers a **spectrum** that can range from seemingly harmless forms of misconduct to serious forms of violence. This is why we need a **wider definition of violence**.

GOOD TO KNOW: Sexual violence can range from verbal remarks, gestures, looks or psychological forms of manipulation to unwanted physical contact and physical proximity.



Legal aspects

DISCRIMINATION AND HARASSMENT

Discrimination is a societal problem that also occurs in academia and at universities. **Discrimination** describes behaviour that disadvantages people due to their **gender, ethnicity, religion or belief, age, sexual orientation and disability**.

These characteristics are markers of a diverse society and are protected from discrimination under the Federal Equal Treatment Act (Bundes-Gleichbehandlungsgesetz, B-GlBG)¹ and the Universities Act (Universitätsgesetz, UG).² You are not allowed to treat individuals unfairly because of these characteristics in the context of employment or education at the University of Vienna.³

People can also be discriminated against because of several characteristics at the same time. In these cases, the law speaks of **multiple discrimination** (e.g. discrimination of Muslim women or women with a disability).

The law also views **harassment** as a **form of discrimination**. It occurs when a person's dignity is violated due to their gender, sexual orientation, ethnicity, age, disability,

religion or belief. Harassment includes any behaviour that a person experiences as unwanted, inappropriate, degrading, insulting or offensive.⁴

SEXUAL HARASSMENT

Sexual harassment is a form of gender-based discrimination. Both members of staff and students are subject to the **harassment ban in connection with employment, training or higher education**. The Federal Equal Treatment Act (B-GlBG) prohibits university staff and students from engaging in sexual harassment towards others. The university is also responsible for protecting its members of staff and students, i.e. preventing sexual harassment and taking appropriate action when an incident becomes known.

This **protection against harassment** also applies to incidents that occur outside the place of work or study (e.g. on field trips, at conferences, on research trips, at job-related meetings outside of university, online etc.). The scope of protection applies as soon as there is a thematic connection with work, training or higher education.

Certain unwanted sexual behaviour such as intense touching, coercion, rape, stalking and online hate is also punishable as an offence under the Austrian Criminal Code (StGB).

1 Sections 8 and 8a B-GlBG
2 Section 44 UG
3 Section 44 UG, sections 41-42 B-GlBG
4 Sections 8 (2), 8a (2), 16 (2) B-GlBG

SEXUAL HARASSMENT UNDER THE FEDERAL EQUAL TREATMENT ACT (BUNDES-GLEICH-BEHANDLUNGSGESETZ, B-GLBG) AND THE CRIMINAL CODE (STRAFGESETZBUCH, STGB)

Responsibility of the University of Vienna/the Equal Treatment Commission (Bundes-Gleichbehandlungskommission)

Responsibility of the police/prosecution/court support

Verbal sexual harassment

Touching lower arms or knees ...

Touching the breasts, buttocks, thighs intensely ...

Sexual coercion, rape ...

Punishable under the Criminal Code (StGB) ▶ Fine/imprisonment

Punishable under the Equal Treatment Act (B-GLBG) ▶ Damages

Source: [Fact Sheet: Sexuelle Belästigung nach dem Gleichbehandlungsgesetz und dem Strafgesetzbuch](#). Gleichbehandlungsanwaltschaft. Adapted to the University of Vienna by the Culture & Equality unit.

A CLOSER LOOK AT SEXUAL HARASSMENT

Behaviour classifies as **sexual harassment** under the Equal Treatment Act (B-GLBG) when **unwanted behaviour**:

1. is of a sexual nature

This can be:



verbal: e.g. sexist jokes, suggestive remarks about someone's body and appearance, questions about sexual preferences, messages with sexual content, expressions of love, derogatory remarks, catcalling, the promise of professional advantages in return for sexual favours or the threat of professional disadvantages in case of rejection etc.



nonverbal, through gestures and looks: e.g. insistent staring at certain body parts, derogatory or obscene gestures, showing or displaying sexist/pornographic imagery, exposing intimate body parts etc.



physical, through proximity and touching: e.g. physical proximity, (“accidental” or obvious) touching of someone’s shoulders, hips, breasts, thighs, lips or similar, kissing, embracing etc.

2. affects a person’s dignity or intends to do so

When someone’s behaviour is degrading or disrespectful. Respectful communication among university members is especially crucial where hierarchies or dependencies exist. Behaviour that may be acceptable in private (such as asking about someone’s love life or using a nickname) can be degrading in a professional environment.

3. is unwanted or considered inappropriate or offensive by the person affected

When someone personally experiences a certain behaviour as uncomfortable. This is subjective. What behaviour is perceived as transgressive or acceptable varies from person to person. The person displaying the behaviour must always make sure that it is welcomed by both individuals involved.

Harassers frequently excuse their actions by claiming they didn’t mean it like that. But the harasser’s intention is irrelevant. According to the law, sexual harassment is irrespective of fault, which means the question is not whether or not the harassing person believes their conduct was harmless but whether the person affected experienced the behaviour as unwanted and inappropriate.

It can be difficult to directly reject the other person’s behaviour for various reasons, from feeling immobilized or caught off guard to fearing potential repercussions. The person affected is not required to actively defend themselves. Instead, the person displaying the behaviour must ensure that it is welcome and appropriate.

4. affects the working/learning environment

When the behaviour has created or intends to create a hostile, intimidating or submissive environment. Negative consequences could include those affected avoiding certain individuals or places, feeling isolated from colleagues and having a lower ability to focus or function effectively. An impacted work or learning environment can lead to dissatisfaction with the job or study programme and result in anxiety, depression and physical complaints. Those affected often abandon their course or study programme or resign from their job.

A CLOSER LOOK AT GENDER HARASSMENT

The law differentiates between sexual harassment and gender harassment. The latter is also considered a form of discrimination, but it is not sexual. Instead, it refers to harassing behaviour that relates to **gender stereotypes** or **familial status**.

EXAMPLES OF GENDER HARASSMENT

- Degrading remarks or gestures that are based on gender stereotypes, e.g. about someone's capabilities, clothing, appearance or behaviour
- Insults and supposed jokes about women, men, trans*, inter* or non-binary people as well as their familial status, family planning and/or balancing a family and a career
- Unwanted questions about relationships, familial status and family planning as well as any implications of a connection between familial status and job performance
- Assignment of tasks according to gender roles
- Authoring, distributing, showing or displaying texts, images or objects that deprecate women, men or trans*, inter* or non-binary people
- Asking about people's body or anatomy and/or medical interventions and treatments as well as not respecting the right to bodily autonomy
- Persistently addressing and/or referring to a person using the wrong pronouns and name – i.e. not respecting their self-identification – as well as repeatedly asking about the gender and name they were assigned at birth

WHAT DOES **NOT** CONSTITUTE SEXUAL HARASSMENT?

- Sympathies or sexual attraction, if the feelings are mutual
- Consensual flirting or romantic relationships
- An amicable, familiar work environment or physical contact with mutual consent
- An informal atmosphere among university members that is considered acceptable and appropriate by everyone involved



Confidential advice

The University of Vienna has various support and counselling services available for members of staff and students. These resources can inform, support and lighten the load. They can be accessed at any time before, during or after a formal report of harassment or discrimination. The support services support those affected as well as executives and witnesses and can also be made use of by people who want to reflect on their own behaviour.

GOOD TO KNOW: Seek advice as soon as possible and as often as is helpful.



ADVANTAGES OF CONFIDENTIAL SUPPORT SERVICES

- Time to discuss all your concerns and questions
- You can clarify your needs as well as potential solutions and courses of action
- No action will be taken without your consent

- Your concern will be kept in strict confidence
- If you wish, you can be referred to further support services within and outside of university

 **ADDITIONAL RESOURCES:**
Overview of support services



Formal complaints

People experiencing harassment can make a formal complaint with personnel management, if the harassment/discrimination is caused by a member of staff. If the harassment/discrimination originates from a student, the Sexual Harassment & Bullying Counselling Office will provide support in preparing a complaint. The University of Vienna is obligated to respond to the situation and prevent further harassment or discrimination under their duty of care (Fürsorgepflicht).

 **ADDITIONAL RESOURCES:**
Overview of options for making a complaint

SANCTIONING HARASSMENT AND DISCRIMINATION

The university can choose to take different courses of action in line with the principle of proportionality.

If a member of staff harasses/discriminates against others, it can:

- organize a formal meeting (through personnel management or the Rectorate team) with the person displaying harassing/discriminating behaviour
- take disciplinary action (e.g. issue a caution, dismissal)

HOW TO MAKE A FORMAL COMPLAINT

The nature of a complaint and its consequences depend on the situation and the gravity of the incident/allegation. The following provides an overview of the available procedures.

Possible course of action if a **member of staff violates the harassment ban**:

- When personnel management becomes aware of an incident, the person affected is promptly invited to an initial meeting. If desired, they can be accompanied by a person of trust from within the university (a colleague, a member of the works council or the Equal Opportunities Working Party).
- Personnel management then contacts the accused person and summons them to a meeting.
- Interviews may also be requested with people from within the working environment. These meetings serve to gain an understanding of the incidents and to determine possible consequences.
- On the basis of these interviews and the collected documentation (e.g. chat histories or emails), personnel management then decides if and how to proceed in line with the principle of proportionality. If disciplinary action is appropriate, this is coordinated with the Rectorate team.
 - Written warnings are recorded in the personnel file.
 - If the employee is dismissed, the works council is informed and given the opportunity to consent or object to this disciplinary action.
- Communicating with those affected:
 - Personnel management keeps the people or person who reported the incident informed about the start (expected duration) and conclusion of the investigation.
 - Information on individual steps taken as part of the investigation as well as on disciplinary action taken against the person accused is not disclosed for privacy reasons.



External complaints channels

EQUAL TREATMENT COMMISSION (BUNDES-GLEICHBEHANDLUNGSKOMMISSION)

The **Equal Treatment Commission** (Bundes-Gleichbehandlungskommission) is an external entity set up at the Federal Chancellery that deals with matters pertaining to (sexual) harassment and other forms of discrimination and can draw up expert opinions. It can be consulted by private individuals or by people fulfilling certain functions (e.g. members of the Equal Opportunities Working Party).

LEGAL CLAIMS

- Claims for damages under private law: minimum EUR 1,000
- Time limit for enforceability/limitation period: three years (one year for gender harassment)
- Burden of proof: Sexual harassment must not be proven but only be made credible. The alleged harasser has to prove that no sexual harassment has taken place.

Sources (and further reading)

Bundes-Gleichbehandlungsgesetz. (retrieved: 21 June 2024).

Gleichbehandlungsanwaltschaft. (2023). **Abhilfe gegen sexuelle Belästigung. Leitfaden für Arbeitgeber:innen.** (retrieved: 21 June 2024).

Gleichbehandlungsanwaltschaft. (2023). **Sexuelle und geschlechtsbezogene Belästigung. Das können Sie dagegen tun!** (Stand: 10.07.2024)

Gleichbehandlungsanwaltschaft. (n.d.). **Fact Sheet: Sexuelle Belästigung nach dem Gleichbehandlungsgesetz und dem Strafgesetzbuch.** (retrieved: 10 July 2024)

Hassan, S., Sanchez-Lambert, J. (2020). **It's not that grey. How to identify the grey area – a practical guide for the twilight zone of sexual harassment.** (retrieved: 02 September 2024).

Lipinsky, A., Schredl, C., Baumann, H., Humbert, A., Tanwar, J. (2022). **Gender-based violence and its consequences in European Academia, Summary results from the UniSAFE survey. Report, November 2022.** (retrieved: 24 June 2024).

FWF Austrian Science Fund. (2024). **Safety and Diversity in Research.** (retrieved: 02 September 2024).

Universität für Musik und darstellende Kunst Wien. (n.d.). **Geschlechtsbezogene Belästigung.** (retrieved: 10 July 2024)

Universität Innsbruck. (n.d.). **Belästigungsschutz an Universitäten. Informationen des AKG.** (retrieved: 03 July 2024).

Universitätsgesetz 2002. (retrieved: 20 September 2024)

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