

What is workplace sexual harassment?

Section 10(1) of the *New Brunswick Human Rights Act* defines sexual harassment as “vexatious comment or conduct of a sexual nature that is known or ought reasonably to be known to be unwelcome.” This conduct can range from sexual jokes and inappropriate comments or displays to unwanted physical contact to sexual assault.

How prevalent is sexual harassment?¹

- **It is very prevalent:** Just under half (47%) of Canadian workers witnessed or experienced some sort of inappropriate sexualized or discriminatory behaviour in a work-related setting.
- **Most often women are targeted:** One-quarter (25%) of women said that they had been personally targeted with sexualized behaviours in their workplace in the preceding year, along with 17% of men.
- **Vulnerable groups experienced higher prevalence:** Inappropriate sexualized behaviours were more common among people with disabilities, and the LGBTQ2S+ community.

Do employers typically have policies and training addressing sexual harassment?

- **Many employers are unprepared:** 32% of women and 26% of Canadian men said that their employer had not provided them with information on how to report sexual harassment and sexual assault.¹

What are the legal risks to employers?

According to the New Brunswick Human Rights Commission: “employers, housing, and service providers are liable for the sexual harassment committed by their employees or representatives in the course of their employment, if the employers, housing or service providers do not exercise due diligence to address these incidents.”²

- **Fines.** The N.B. *Health and Safety Act* authorises fines of up to \$250,000 for not complying with the Act or any of its regulations. The Criminal Code also authorises a court to impose a fine with no set limit on the amount on both organisations and individuals who violate section 217.1 of the criminal code which says everyone who directs or may direct the work of another person must take reasonable steps to prevent bodily harm at work.³
- **Jail Time.** The N.B. *Health and Safety Act* authorises imposition of a term of imprisonment of up to six months and/or a fine. The Criminal Code also authorises a court to sentence individuals who violate section 217.1 to jail time of up to life imprisonment for criminal negligence causing death.³

¹“Survey on Sexual Misconduct at Work,” Stats Canada (2020). Retrieved Jan 4, 2022 from <https://www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00015-eng.htm>

²“Guidelines on Sexual Harassment,” New Brunswick Human Rights Commission (Sept., 2018). Retrieved Jan 4, 2022 from <https://www2.gnb.ca/content/dam/gnb/Departments/hrc-cdp/PDF/GuidelinesOnSexualHarassment.pdf>.

³“New N.B. Workplace Anti-Violence & Harassment Obligations April 1, 2019,” McGinnis Cooper (Feb 27, 2019). Retrieved Jan 4, 2020 from <https://www.mcinniscooper.com/publications/new-n-b-workplace-anti-violence-harassment-obligations-april-1-2019/>.