

TABLE OF SEXUAL HARASSMENT BEHAVIOURS¹

IMPORTANT NOTES



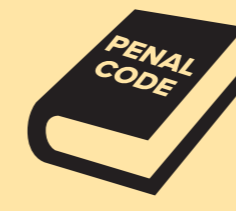
Acts of sexual harassment are always disciplinary offences,

in accordance with the Civil Service Statute and its regulation on Prevention and Dealing with Sexual Harassment. This means that sexual harassment represents a violation of the legal duties of any civil servant staff, and, therefore, can have disciplinary consequences.



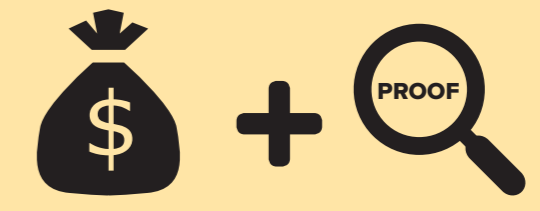
Acts of sexual harassment may sometimes be a crime,

depending of the specific circumstances or situation. The behaviour is a crime when it is most serious and results in criminal consequences. All crimes are identified in the Penal Code. Criminal responsibility must be determined by the courts, and on the basis of an accusation from the prosecutor.



The Penal Code includes crimes of two (different) natures: public or semi-public.

- **Semi-public crime:** the victim must make a complaint, the complaint is a formal requirement for the criminal accountability of the offender.
- **Public crimes** will be brought before the Courts. Even in the absence of a complaint from the victim. This is because public crimes are considered more serious than semi-public crimes.



Acts of sexual harassment may have civil indemnity (compensation),

depending on the circumstances. Civil indemnity for behaviours or actions exist when the specific actions result in personal damages or harm to a person in accordance with the Civil Code (article 417 and beyond). The rule is that in civil cases, the complainant has the burden of proof, or must demonstrate that the behaviours in question are wrong, have caused harm and that there is a link between the behaviour and the harm.

BEHAVIOURS IN THE LIST BELOW REPRESENT A SUMMARY OF SEXUAL HARASSMENT TYPES

CATEGORY	BEHAVIOUR	EXAMPLE OF ACTION	CRIMINAL STATUTES (POTENTIAL)	NATURE OF CRIME
PHYSICAL	Sexual relations (having sex)	Demanding to have sexual relations (including oral sex)	<ul style="list-style-type: none"> ● Rape (Penal Code, art. 172) ● Sexual abuse of a minor (child aged 14 years and under) (Penal Code art. 177) 	Public
	Physical act with a sexual character or nature	Forced kissing, hugging, touching parts of another person's body, stroking, rubbing parts of the body against the victim's body; offender telling or demanding that the other person touch their sexual organs	<ul style="list-style-type: none"> ● Sexual coercion (PC art. 171 KP) ● Sexual abuse of a minor (child 14 years and under) (PC art. 177) ● Sexual acts with an adolescent (PC art. 178) 	Public
	Physical intimidation or restraining (preventing escape)	Leaning against the victim against their wishes; pushing against a wall or other place; preventing the victim from moving (restraining the victim); making it difficult for the victim to leave (restraining)	<p>Not always a crime</p> <p>It constitutes a crime when:</p> <ul style="list-style-type: none"> A Accompanied with threats (threats – PC art. 157); or B Committed through or facilitated by abuse of power (use of public power to obtain benefit to oneself (or other) or to cause harm to the victim (or other) (abuse of power – PC art. 297) 	Semi-Public Public
VERBAL OR WRITTEN	Sexual comments (verbal or in writing)	Making kissing noises or whistling, flirting/taunting, making comments about physical attributes, compliments of a sexual nature/character, sending messages with sexual content (WhatsApp, Facebook, SMS, e-mail, letters or notes)	<p>May not be a crime</p> <p>Becomes a crime when:</p> <ul style="list-style-type: none"> A Accompanied with threats (threatening – PC art. 157); or B Use of power to obtain benefits for the self (or another person) or to cause harm to the victim (or another person) (abuse of power – PC art. 297) 	Semi-Public Public
	Spreading rumours of a sexual nature	Making rumours about the victim's sexual life; making up stories or public comments of a sexual nature	<p>Public disclosure of information related to someone's private and/or sexual life without his/her consent (PC art. 183)</p> <p>Observation: defamation (damaging one's reputation in general) may only carry civil indemnity</p>	Semi- Public
	Pressure to go out on a date (or have relations of an intimate nature)	Repeated requests for intimacy, sending messages, asking someone else to facilitate intimacy	<p>Not always a crime</p> <p>It constitutes a crime when:</p> <ul style="list-style-type: none"> A Accompanied with threats (threats – PC art. 157); or B Committed through or facilitated by abuse of power (use of public power to obtain benefit to oneself (or other) or to cause harm to the victim (or other) (abuse of power – PC art. 297) 	Semi-Public Public
VISUAL OR GESTURES	Showing or sending offensive or sexual materials	Showing or sending pornography or sexual drawings/images	<p>Not always a crime</p> <p>It constitutes a crime when:</p> <ul style="list-style-type: none"> A Accompanied with threats (threats – PC art. 157); or B Committed through or facilitated by abuse of power (use of public power to obtain benefit to oneself (or other) or to cause harm to the victim (or other) (abuse of power – PC art. 297) 	Semi-Public Public
	Exhibitionism	Displaying sexual organs (including breasts when by a woman), masturbating or rubbing sexual organs in front or near another person.	<ul style="list-style-type: none"> ● Sexual exhibitionism (PC art. 181) <p>It will also amount to a crime when:</p> <ul style="list-style-type: none"> A Accompanied with threats (threats- PC art. 157); or B Committed through or facilitated by abuse of power (use of public power to obtain benefit to oneself (or other) or to cause harm to the victim (or other) (abuse of power – PC art. 297) 	Semi- Public Semi- Public Public
	Other sexual gestures	Making sexual gestures with hands or parts of the body including gestures that depict masturbation	<p>May not be a crime</p> <p>Becomes a crime when:</p> <ul style="list-style-type: none"> A Accompanied with threats (threatening – PC art. 157); or B Use of power to obtain benefits for the self (or another person) or to cause harm to the victim (or another person) (abuse of power – PC art. 297) 	Semi-Public Public
	Publication of a person's sexual activities without his/her authorisation	Publication of the victim's sexual activities through any media (e.g. video and photos) without victim's authorisation	<ul style="list-style-type: none"> ● Public disclosure of information related to someone's private and/or sexual life without his/her consent (PC art. 183) <p>It will also amount to a crime:</p> <ul style="list-style-type: none"> A Accompanied with threats (threats – PC art. 157); or B Committed through or facilitated by abuse of power (use of public power to obtain benefit to oneself (or other) or to cause harm to the victim (or other) (abuse of power – PC art. 297) 	Semi-Public Semi-Public Public

1. Analysis conducted by Jurídica Social.



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