



***2021-2023 Snapshot of legal need for
assistance with workplace sexual harassment
in Western Australia***

Acknowledgements

Of Aboriginal people and country

Circle Green Community Legal operates throughout Western Australia on the traditional lands of the Aboriginal people, whose resilience and strength have shaped this land for generations untold. We acknowledge the devastating impact of historical injustices, including the forced removal of children, the denial of rights, and the ongoing struggle for recognition and equality.

We pay our respects to the Elders past, present, and emerging, who play a pivotal role in preserving culture and advocating for justice and equality.

We recognise the deep connection Aboriginal people have to the land, their culture, and their communities, and we honour their ongoing resilience in the face of adversity.

Of people with lived experience

This report is dedicated to people who've been targeted by sexual violence.

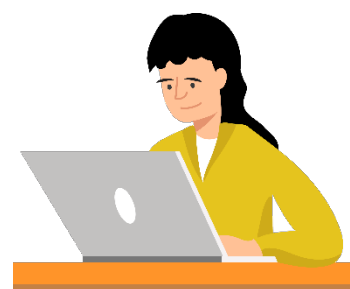
We extend our deepest empathy and support to all those who have been targeted by sexual violence. We recognise the immense courage it takes to come forward, seek support, and confront the trauma of such experiences; often navigating a complex legal system that can have the potential to lead to further harm. We also recognise the immense systemic barriers that can prevent someone from being able to report the violence or harassment.

If you've been targeted by sexual violence (including sexual harassment, which is the primary focus of this report), we want you to know that you are not alone. Your experiences are valid, and your voices matter. We acknowledge the suffering, fear, and lasting impact that sexual violence can have on individuals and communities, and we are committed to

- providing a safe and supportive environment where people who've been targeted by workplace sexual harassment can access the assistance and resources they need to make informed decisions and access justice; and
- advocating for legal and cultural change to work towards a future where sexual violence is eradicated, where survivors are believed and supported, and where all individuals are treated with dignity, respect, and compassion.

Contents

Executive Summary	5
Acknowledgement of contribution	5
Background	5
Definition and prevalence of workplace sexual harassment.....	5
About The Workplace Respect Project	6
About this snapshot.....	6
Data limitations.....	7
Reporting options.....	7
Barriers to reporting	8
Legal assistance services	9
Workplace legal services provided by Circle Green.....	9
Circle Green statistics for workplace sexual harassment matters	9
Claims or reports to external agencies.....	11
Australian Human Rights Commission (AHRC)	11
Equal Opportunity Commission WA (EOC).....	16
Fair Work Commission (FWC).....	20
WA Industrial Relations Commission (WAIRC).....	21
WorkCover WA	22
Conclusion.....	24



Executive Summary

This Snapshot contributes to the dialogue regarding legal need and barriers to reporting sexual harassment at work by setting out administrative data provided by various agencies that receive reports or complaints about workplace sexual harassment. The Snapshot builds knowledge on the gap between the prevalence of workplace sexual harassment and access to justice by looking at the quantum of reports made through external complaints pathways and, where possible, demographics of complainants. The report also looks at information on outcomes achieved, if provided by agencies.

Although there are barriers to receiving comprehensive demographic data, the data provided by agencies does align with key demographics identified in the *Time for Respect (2022)* report in terms of some groups who face higher levels of workplace sexual harassment. Prominent demographic characteristics in both data sets include being a woman and being younger than 35 years old.

There are limitations in drawing broader inferences using the administrative data in this report due to characteristics of the data; namely, it has been obtained from various agencies with differences in data collection methods and most of the data is of a small sample size due to significant underreporting of workplace sexual harassment.

The overall finding of this Snapshot is that formal reports of workplace sexual harassment to external agencies are low across the board in Western Australia, despite the known community prevalence rates identified in the *Time for Respect (2022)* report. This supports our current understanding of legal need and barriers to reporting in relation to workplace sexual harassment in Western Australia.

Acknowledgement of contribution

This report was made possible due to the following agencies supplying administrative data in relation to workplace sexual harassment and related complaints / claims:

- The Australian Human Rights Commission;
- Equal Opportunity Commission (WA);
- Fair Work Commission;
- The Western Australian Industrial Relations Commission;
- WorkCover WA; and
- WorkSafe WA (Department of Energy, Mines, Industry Regulation and Safety).

Background

Definition and prevalence of workplace sexual harassment

Sexual harassment is an unwelcome sexual advance, unwelcome request for sexual favours, or other unwelcome conduct of a sexual nature which makes the person harassed feel offended, humiliated, or intimidated. It occurs where a reasonable person would have anticipated the person harassed would feel that way given the circumstances. The intent of the harasser is irrelevant. Workplace sexual harassment occurs when the harassment has a connection with the work or workplace of the person who has been targeted.

The Australian Human Rights Commission's (AHRC) fifth national survey on sexual harassment in Australian workplaces found that one in three Australian workers reported having experienced workplace sexual harassment in the previous five years¹. The survey also found that women are more likely to be sexually harassed at work than men (41% of women compared to 26% of men).

¹ The Australian Human Rights Commission's *Time for Respect (2022)* report outlines findings from their latest survey on the prevalence, nature, and reporting of workplace sexual harassment in Australia. The survey uses a 10,000-person sample which is representative of the Australian population in terms of gender, age, and geographic location.

Some people were found to be disproportionately impacted, with a higher incidence rate compared to the overall population – including young people, people who identify as LGBTQIA+, Aboriginal and Torres Strait Islander people, people with disability and people with an intersex variation.

The survey also found that one in two Australians had been *exposed* to workplace sexual harassment in the previous five years, meaning they had either been a bystander to or a target of harassment, or both.

About The Workplace Respect Project

Circle Green Community Legal is the lead agency delivering the Workplace Respect Project in Western Australia as part of the Commonwealth Government's response to the Respect@Work Report, which identified the prevention of and response to workplace sexual harassment as an urgent priority due to the widespread and pervasive nature of its occurrence in Australian workplaces.

The key objectives of the Workplace Respect Project include tracking legal need for assistance with workplace sexual harassment; delivering legal services to people experiencing workplace sexual harassment in an accessible and effective manner; facilitating capacity building within the community to improve workers' capability to understand and address workplace sexual harassment; and influencing legal and cultural change to create fair legislation and policies in relation to workplace sexual harassment.

Visit: <https://circlegreen.org.au/projects/workplace-respect/> to learn more about the Workplace Respect Project.

About this snapshot

One of the key objectives of the Workplace Respect Project is to ensure that legal need for assistance with workplace sexual harassment is understood and monitored.

In meeting this objective, the Workplace Respect Project partnered with the Centre for Social Impact (University of Western Australia) to undertake research to help identify legal need priorities related to workplace sexual harassment and discrimination in Australia.

The Centre for Social Impact's report, *Understanding workplace sexual harassment: Trends, barriers to legal assistance, consequences, and legal need (2023)*, draws on existing literature on workplace sexual harassment, as well as interviews conducted with community legal centres and other stakeholder organisations, and people with lived experience of workplace sexual harassment, to identify and understand its prevalence, nature, and occurrence in WA. In doing so, the Centre for Social Impact has worked to build a solid evidence base for identifying legal need and offers useful insights for legal assistance services and other organisations to be more responsive to people who have been targeted by workplace sexual harassment.

Although the report draws on published statistics from different Australian reporting bodies, as well as administrative data from some community legal centres, a limitation of the report was that it was unable to consider administrative data from reporting bodies, as this data was not easily accessible for review.

In considering the feasibility of developing this legal need snapshot, the Workplace Respect Project made data requests to 6 state and national government agencies.

The goals of this report are to:

- Consider the gap between prevalence and access to justice

- Understand the quantum of reports/complaints received across agencies, and where possible, understand who (demographically) is reporting/complaining
- Understand the outcomes achieved by people reporting/complaining to said agencies
- Understand some of the data gaps regarding legal need for people targeted by workplace sexual harassment.

Data limitations

It should be noted that there are limitations associated with the data provided in this snapshot, particularly in making direct comparisons between sets of data, as the statistics have been obtained from separate bodies with distinct data collection methods and definitions. For example, one agency may refer to 'reports' of sexual harassment where another may refer to 'complaints finalised' for a certain timeframe. These figures may not be directly comparable due to the different processes associated with each body's reporting or complaint system.

Another limitation of the data in this snapshot is that a linear connection cannot be established between the different sets of data. For example, identifying whether a small percentage of the WA population in a certain timeframe received legal advice from Circle Green, then proceeded to make a complaint to the Australian Human Rights Commission, where the matter was conciliated, would require an integrated data source. Similarly, if one person targeted by workplace sexual harassment has made multiple complaints between different agencies, this is not identifiable.

Additionally, many of the reporting pathways available in Western Australia were recently introduced following the Respect@Work report. Therefore, there may be limited or even no available data for some of the newly established options for addressing workplace sexual harassment in WA. In Circle Green's case, the funding associated with the Respect@Work report commenced in the later part of the 2021/22 reporting period.

Please note that the data in this snapshot is often based on the number of services or complaints, rather than by the number of people who received a service or made a complaint.

We are not privy to certain sets of demographic data. In some cases, this is to uphold confidentiality, while in others it is due to differences in data collection approaches between agencies.

Please also note that it is possible that each agency has an internal definition of workplace sexual harassment and that these definitions are not synonymous.

The factors outlined above, and any disclaimers noted within the snapshot, should be taken into consideration when viewing the data presented in this report.

Reporting options

In Western Australia, there are numerous options when making a formal report or complaint regarding workplace sexual harassment.

A worker may choose to report an incident of workplace sexual harassment to their employer. In most cases, a formal investigation would then commence; any subsequent disciplinary action or changes to the workplace would likely depend on the outcome of the internal investigation.

An employee who has been targeted by sexual harassment may also choose to file a complaint with an external agency such as WorkSafe WA, WA Industrial Relations Commission, Australian Human Rights Commission, Equal Opportunity Commission (WA), Fair Work Commission or WorkCover WA.

WorkSafe WA is a government agency within the Department of Energy, Mines, Industry Regulation and Safety. WorkSafe inspectors may conduct site visits to workplaces in response to an incident or complaint, including those regarding workplace sexual harassment. WorkSafe WA will not administer personal remedy or compensation to an employee affected by workplace sexual harassment, but

they may use their power to investigate whether there has been a contravention of Work Health and Safety laws and apply their compliance and enforcement policy accordingly.

To prevent future instances of harassment, a stop sexual harassment order can be made by a worker who is experiencing sexual harassment in their current workplace. Applications for stop sexual harassment orders can be made to the WA Industrial Relations Commission or the Fair Work Commission, and are directed at preventing future conduct from occurring, with no compensation available to the person targeted by harassment.

Complaints made to the Equal Opportunity Commission (WA), Australian Human Rights Commission, or Fair Work Commission (seeking orders other than a stop sexual harassment order), on the other hand, do allow applicants to seek compensation for damage suffered. These pathways may involve both parties negotiating to reach a resolution. The worker targeted by sexual harassment may request compensation or other actions such as an apology or reinstatement. If the dispute is unable to be resolved through negotiation, the matter may proceed to arbitration or be heard at a court or tribunal.

A worker targeted by sexual harassment may also make an application for workers' compensation to WorkCover WA. Compensation may be awarded to an employee for lost earnings or medical expenses to allow them to remain in work or return to work after experiencing injury or illness as a result of workplace sexual harassment.

WA workers may also have a range of options available if they were mistreated, discriminated against, or dismissed, as a result of complaining about the harassment.

Barriers to reporting

The high prevalence of workplace sexual harassment among Australian workers is not reflected in reporting trends. The AHRC's *Time for Respect (2022)* report found that only 18% of people who experienced workplace sexual harassment in the last 5 years made a formal complaint.

In *Understanding workplace sexual harassment: Trends, barriers to legal assistance, consequences, and legal need (2023)*, the Centre for Social Impact identifies barriers to reporting which can help explain the high attrition rate between the prevalence of workplace sexual harassment and reporting behaviours associated with workplace sexual harassment.

In interviews conducted with people who have lived experience of workplace sexual harassment, the Centre for Social Impact found common themes which often prevent workers from reporting their experiences of sexual harassment.

Among these barriers were feelings of distrust and fear towards reporting systems, concerns around reputation and downplaying of experiences, impacted self-esteem and mental health, and concerns around judgement, loss of employment or other forms of backlash in the workplace.

A review of the existing literature also found systemic factors which contribute to the gross underreporting of workplace sexual harassment. Namely, the application or complaint forms required to lodge a formal report of sexual harassment are often burdensome and challenging, there is a general lack of clarity around the reporting processes, and different pieces of legislation in Western Australia make it difficult for workers to navigate the legal systems. Additionally, CSI found that reporting often does not address the root cause or impact of the workplace sexual harassment, and often there is an absence of perpetrator responsibility, which can reduce incentive to report workplace sexual harassment.

Legal assistance services

Workplace legal services provided by Circle Green

Circle Green Community Legal is an independent, not-for-profit community legal centre which provides state-wide legal assistance in workplace law, residential tenancy law and humanitarian services. Services related to employment law and workplace discrimination include legal advice, case work, representation, information, referrals, education and law reform on topics including sexual harassment, discrimination, bullying, dismissal and employment contracts.

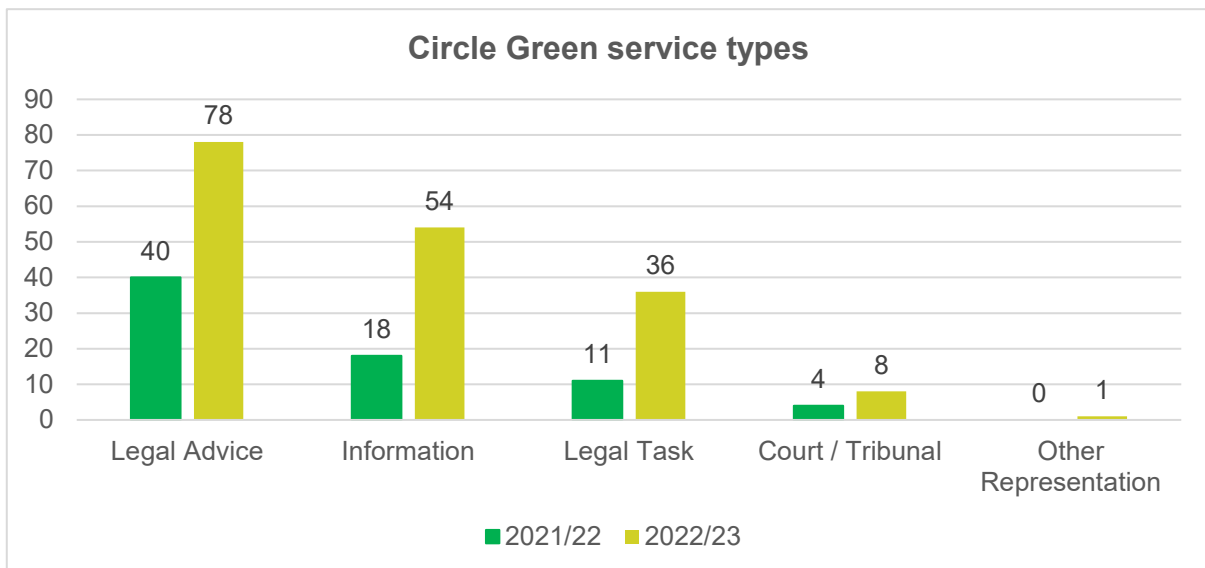
For WA workers who have been targeted by workplace sexual harassment and are seeking assistance, the most common type of legal assistance offered is free legal advice appointments.

Subject to a merit assessment, legal representation and casework may be provided for low income, marginalised and disadvantaged workers to navigate legal claims and negotiation processes.

Workplace sexual harassment and sex discrimination are among the prioritised areas for Circle Green’s legal representation.

Circle Green statistics for workplace sexual harassment matters

Overall number of services



Circle Green provided a total of 55 workplace sexual harassment-related legal services between July 2021 and June 2022. Then, between July 2022 and June 2023, Circle Green provided a total of 123 workplace sexual harassment-related legal services.

Co-occurring issues

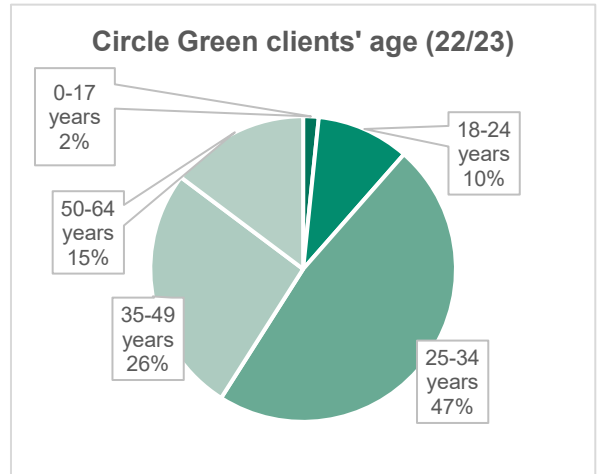
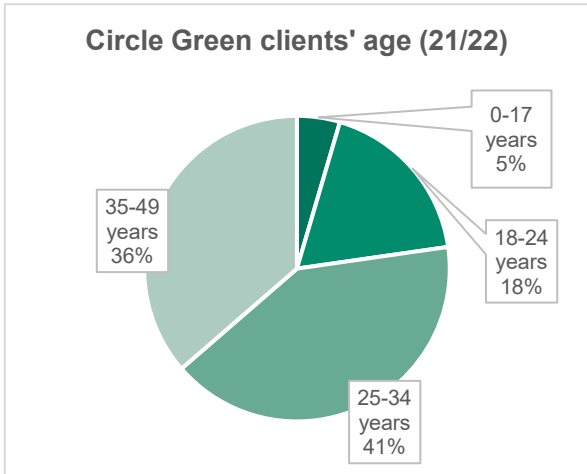
People who have been targeted by workplace sexual harassment often face co-occurring legal problems or other forms of discrimination in the workplace. The table below demonstrates the top co-occurring legal issues for people experiencing workplace sexual harassment across the two year period.

2021/22	2022/23
<ul style="list-style-type: none"> • Employment (sex/gender) discrimination 	<ul style="list-style-type: none"> • Employment discrimination (sex/gender) • Occupational health and safety

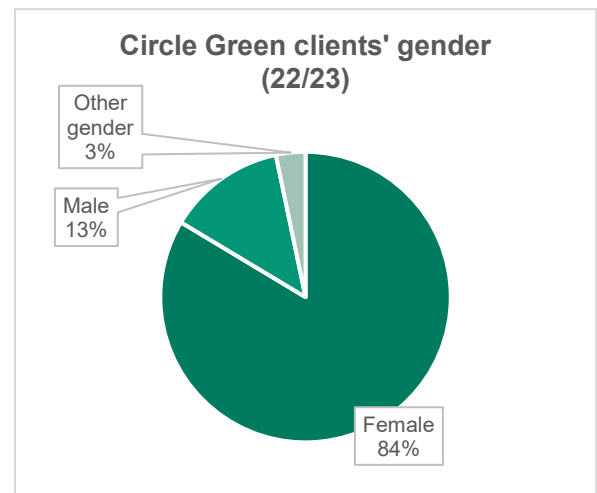
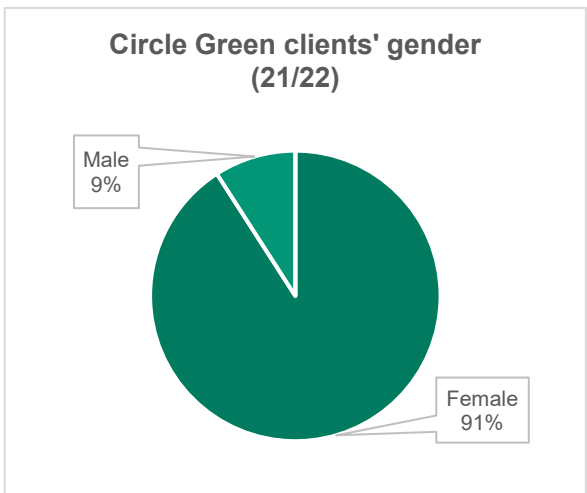
<ul style="list-style-type: none"> • General protections (workplace right) • Occupational health and safety • Unfair dismissal • Bullying • General protections (discrimination) • Forced resignation / dismissal • Underpayment 	<ul style="list-style-type: none"> • Bullying • General protections (workplace right) • Unfair dismissal • Forced resignation / dismissal • Resignation • General protections (discrimination) • Workers' compensation
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Demographics

In 2021/22, 41% of workers targeted by sexual harassment were 25–34 years old. In 2022/23, 47% were 25–34 years old.



In 2021/22, 91% of workers targeted by sexual harassment were female. In the following year, 84% of workers targeted by sexual harassment were female.



Clients by priority group	2021/22	2022/23
Financial disadvantage	100%	98%
Disability and/or mental illness	23%	42%
Culturally and/or linguistically diverse	27%	24%
Regional or remote	27%	20%

Family violence	9%	10%
Homelessness	5%	6%
Indigenous Australians	5%	5%

Data note

As mentioned in the *Data Limitations* section, please note that the funding to Circle Green associated with the Respect@Work report commenced later in the 2021/22 reporting period. The increase in funding correlates with the increase in services provided to workers targeted by sexual harassment the following year, as it became a specific priority area for Circle Green’s Workplace team with appropriate resourcing.

Further data on how Circle Green has been assisting workers targeted by sexual harassment can be found in the *Workplace Respect Project: Annual Impact Report 2022-23* [here](#).

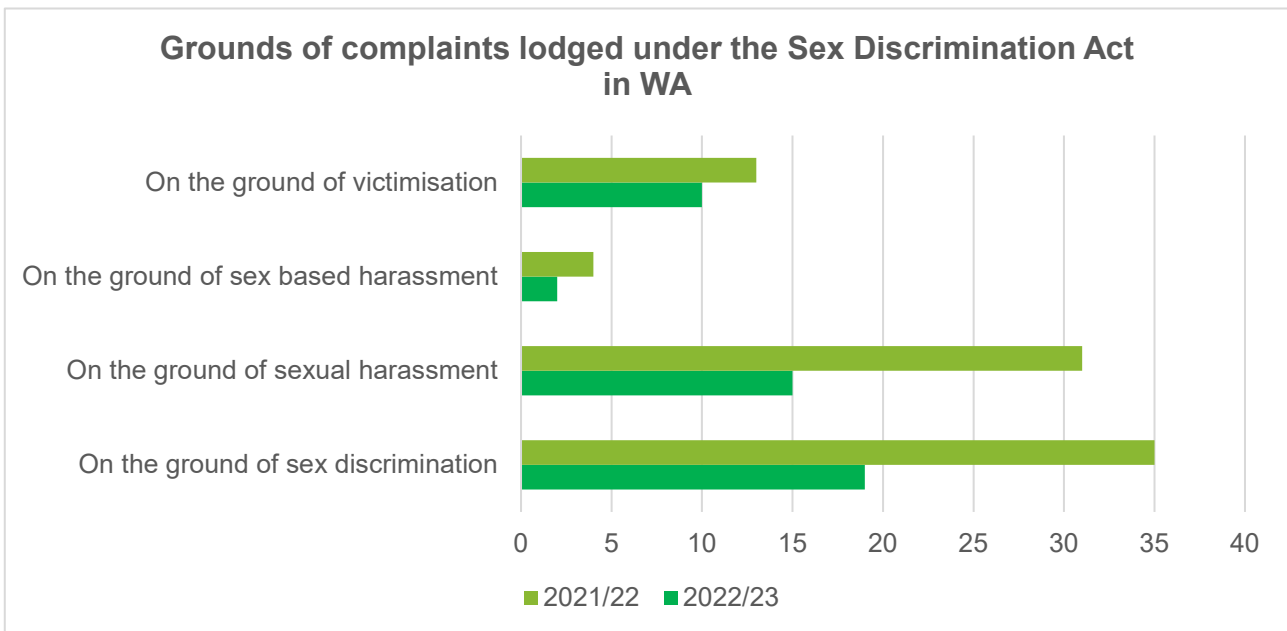
Claims or reports to external agencies

Australian Human Rights Commission (AHRC)

This section covers grounds of complaints lodged to the Australian Human Rights Commission under the Sex Discrimination Act in the area of employment in different States and Territories in Australia, outcomes of these complaints and demographics of complainants.

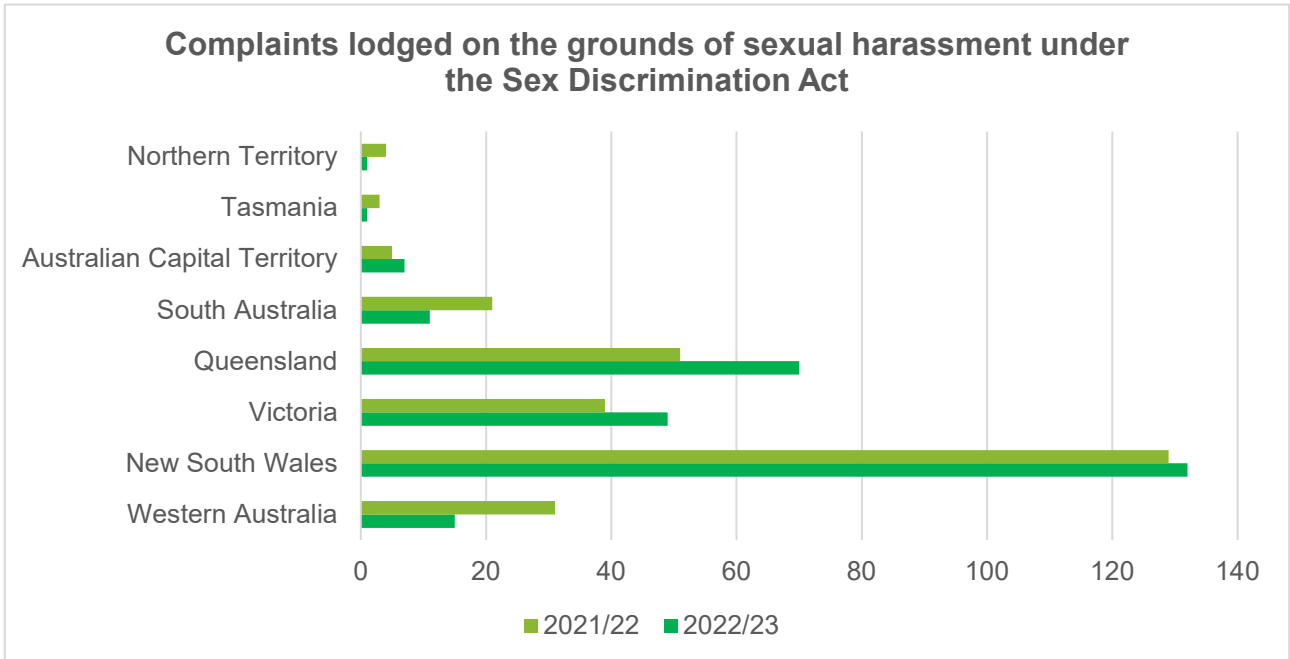
Discrimination grounds for complaints lodged under the Sex Discrimination Act in the area of employment (Western Australia)

In Western Australia there was a reduction in complaints made to the AHRC under the Sex Discrimination Act in the area of employment in 2022/23 (36 total) compared to the previous year (51 total).



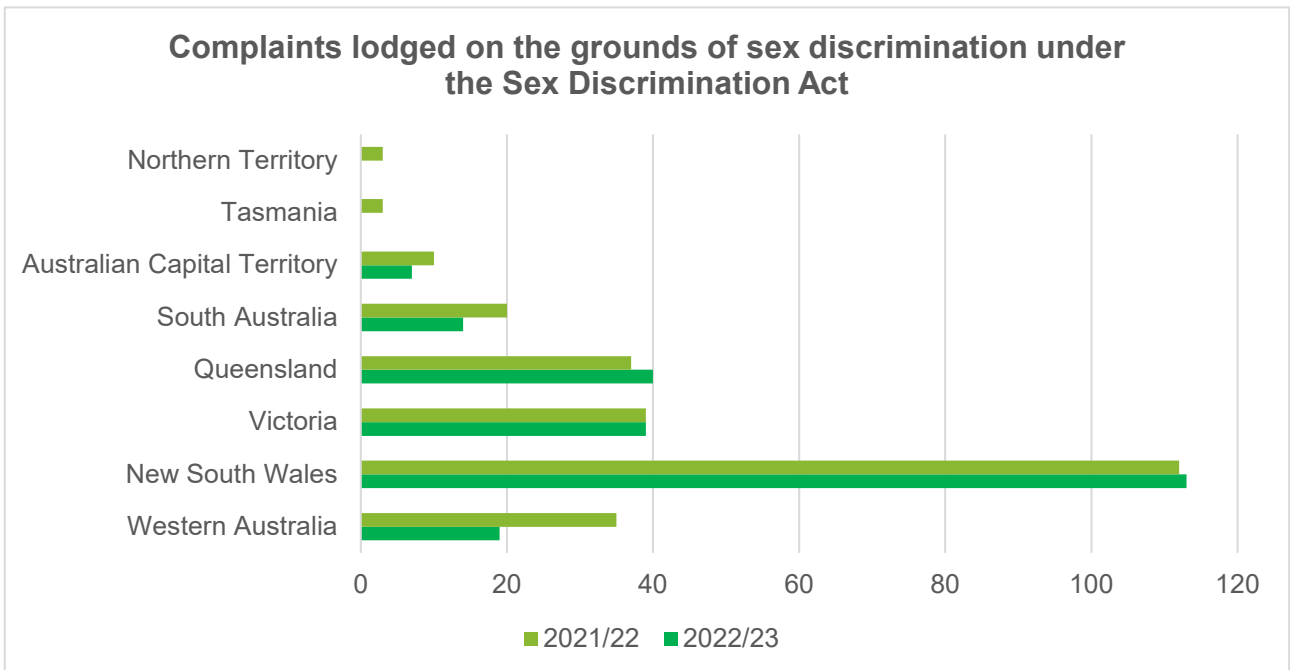
Complaints on the grounds of sexual harassment throughout Australia

Over the two-year period of 2021/22 – 2022/23, complaints to the AHRC on the grounds of sexual harassment (in the area of employment) reduced by more than 50% in WA, while increasing in other States and Territories.



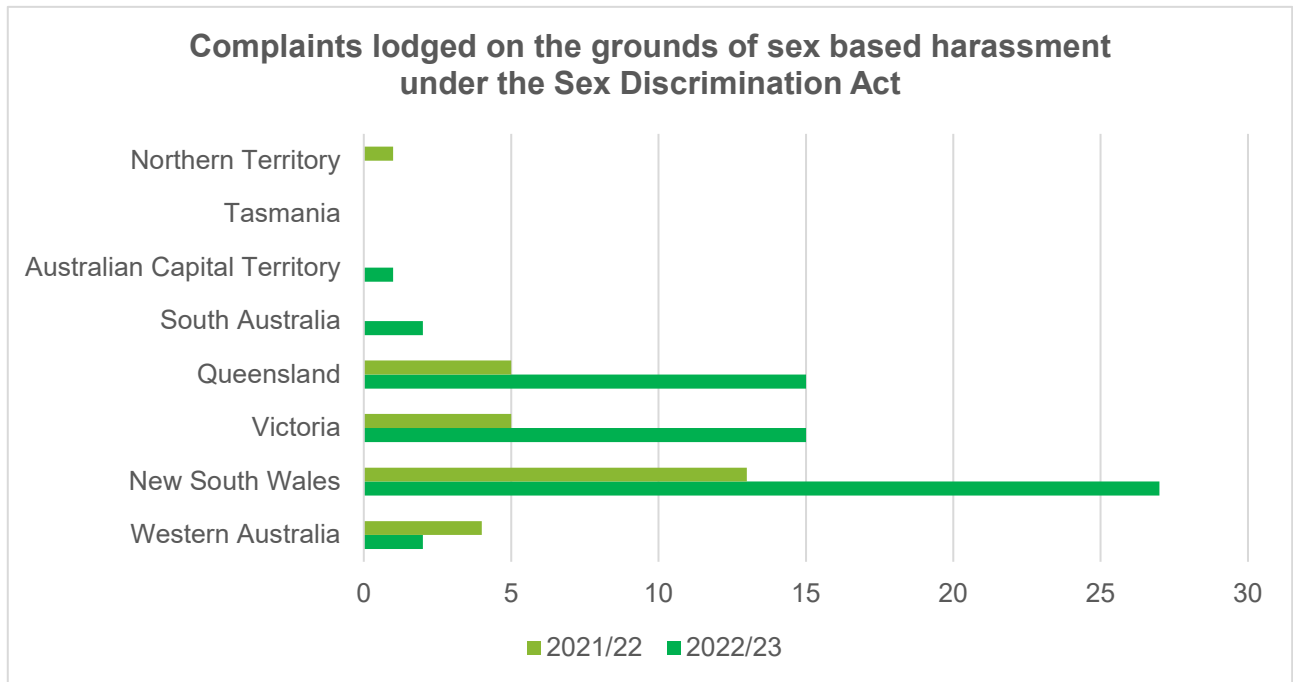
Complaints on the grounds of sex discrimination throughout Australia

In the same period, complaints to the AHRC on the grounds of sex discrimination (in the area of employment) reduced most significantly in WA, and decreased or remained consistent in all States and Territories other than Queensland and New South Wales.



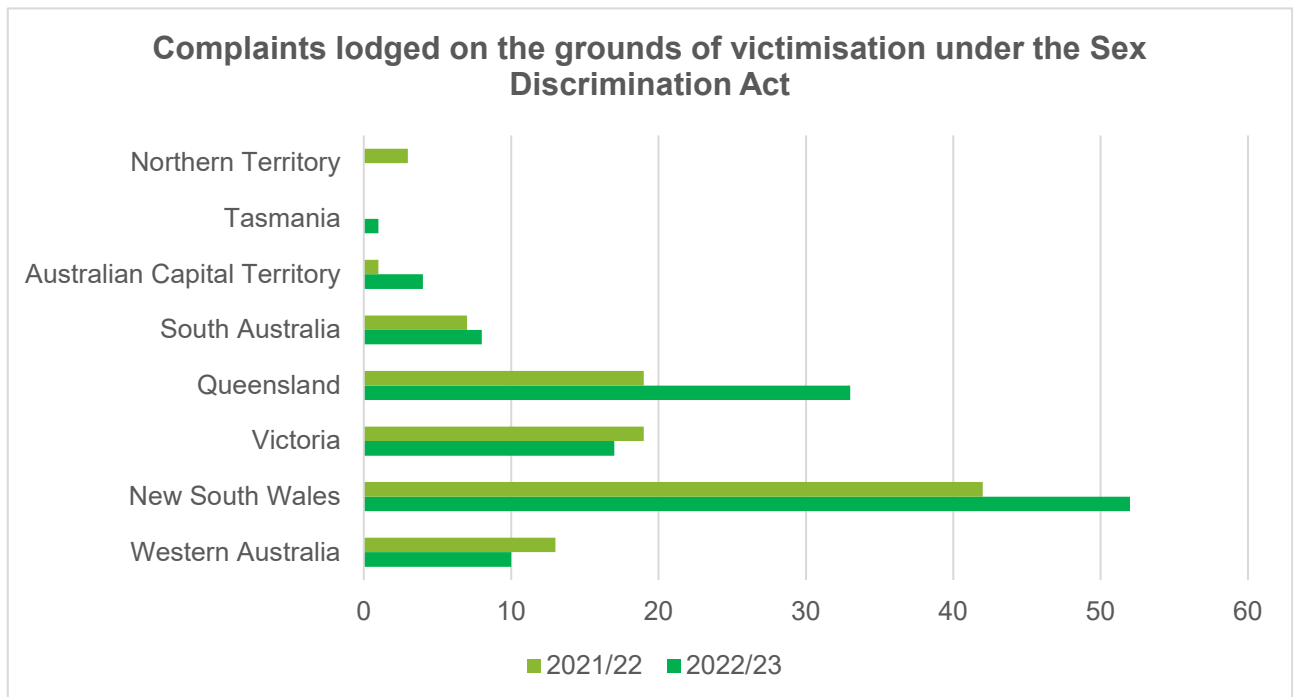
Complaints on the grounds of sex-based harassment throughout Australia

From 2021/22 – 2022/23, complaints on the grounds of sex-based harassment (in the area of employment) were low in many States and Territories including WA, but increased significantly in Queensland, Victoria and New South Wales.



Complaints on the grounds of victimisation throughout Australia

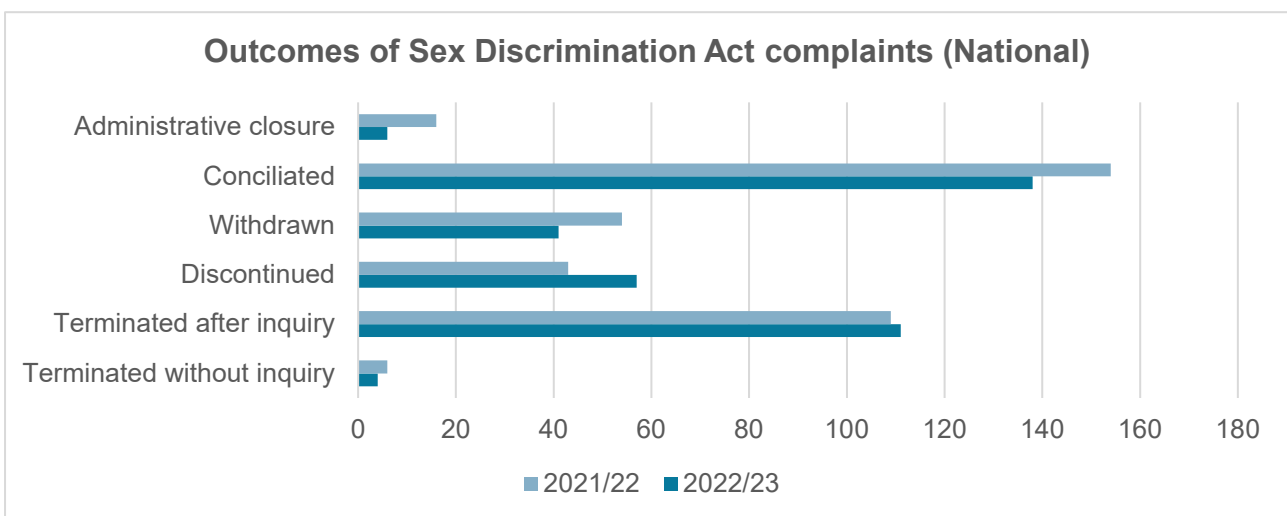
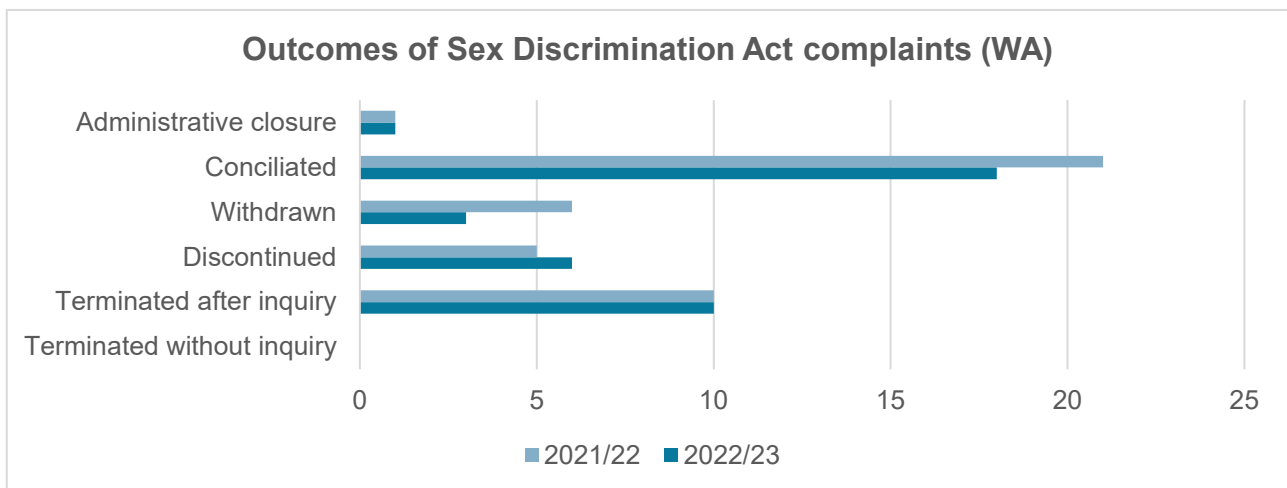
Over the same two-year period, complaints to the AHRC on the grounds of victimisation (in the area of employment), decreased in WA, the Northern Territory and Victoria, while increasing in all other States and Territories.



Outcomes of complaints under the Sex Discrimination Act

Complaints under the Sex Discrimination Act may have the following outcomes:

- **Administrative closure** – includes where a complaint has not been lodged by or on behalf of an aggrieved person and where a complaint has also been lodged under State or Territory anti-discrimination law.²
- **Conciliated** – where both parties negotiate to reach a resolution. If an agreement is reached, it may include an apology, compensation for lost wages, changes to a policy or agreeing to put anti-discrimination policies in place.³
- **Withdrawn** – includes where a complainant withdraws due to personal circumstances or where they decide not to proceed after reviewing information from the respondent or being provided with information about the law and/or a preliminary assessment of the complaint.
- **Discontinued** – this occurs in circumstances where the President’s delegate is satisfied the complainant no longer wishes the Commission to continue its inquiry. This may occur after the complainant has received information from the respondent or been provided with information and/or a preliminary assessment of the complaint.
- **Terminated after inquiry** – this occurs after inquiry where the complaint is found to be trivial, vexatious, frivolous, misconceived or lacking in substance, has no reasonable prospect of conciliation (NRPC), inquiry is not warranted, or the behaviour is not unlawful.
- **Terminated without inquiry under section 46PF** – a complaint may be terminated without inquiry if the President’s delegate is satisfied, having regard to the matters referred to in section 46PH of the AHRCA, that the complaint should be terminated without inquiry.



² <https://humanrights.gov.au/our-work/commission-general/publications/annual-report-2021-2022>

³ <https://humanrights.gov.au/complaints/complaint-guides/conciliation-how-it-works>

The most prominent outcomes from 2021 – 23, both nationally and in WA, are that the complaint was conciliated or terminated after inquiry.

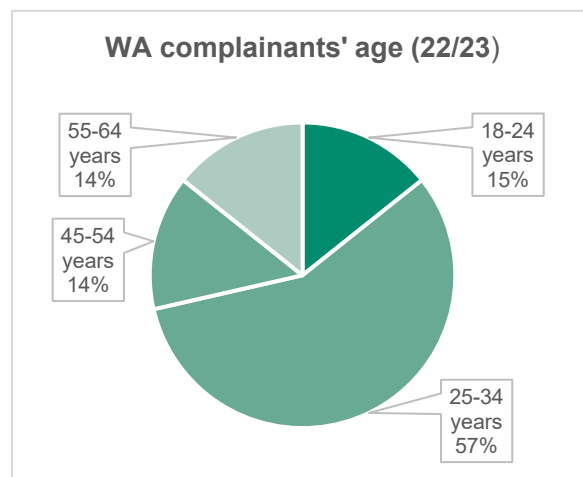
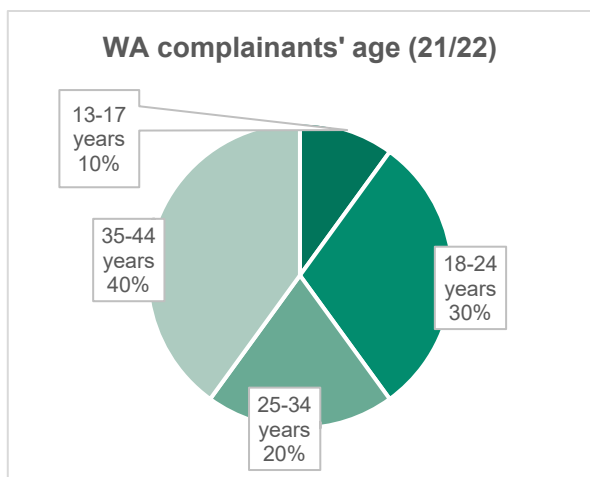
In 2021/22, 154 complaints under the Sex Discrimination Act were conciliated nationally, with 21 of these complaints from WA. In the next year, 138 complaints were conciliated nationally, with 18 from WA.

In 2021/22, 109 complaints were terminated after inquiry nationally, with 10 of these complaints from WA. In 2022/23, 111 complaints were terminated after inquiry nationally, again with 10 from WA.

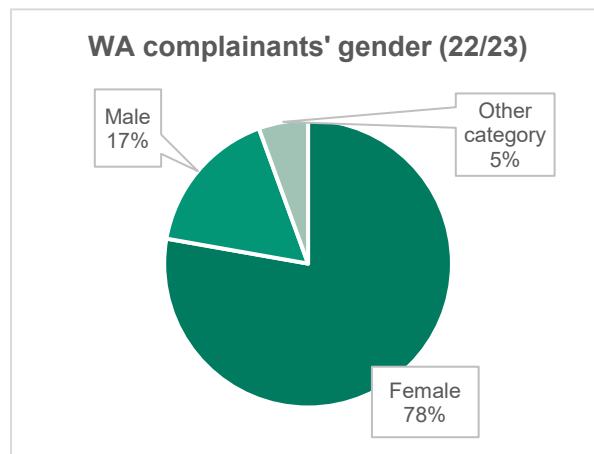
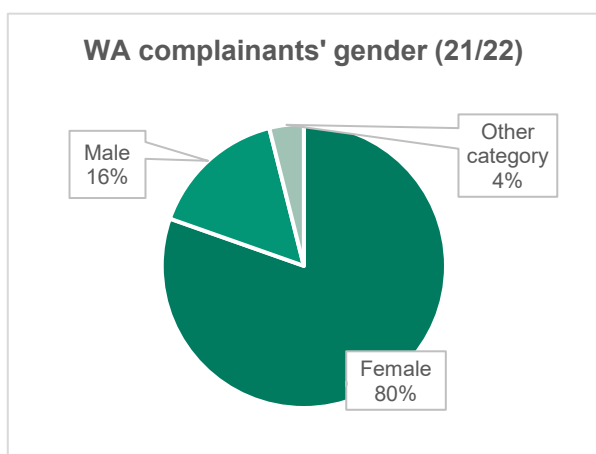
In the AHRC, most cases terminated after inquiry on both a state and national level were due to no reasonable prospect of conciliation (207 nationally, 17 in WA from 2021–23). Few were because the claim was trivial, vexatious, frivolous, misconceived or lacking in substance (7 nationally, 2 in WA from 2021–23). Few also found that inquiry was not warranted (4 nationally, 1 in WA from 2021–23), or not unlawful (1 nationally, 0 in WA from 2021 –23).

Demographics

Nationally, the most prevalent age group that made a complaint under the Sex Discrimination Act to the AHRC from 2021–23 was 25–34-year-olds (49 complainants). In WA, the most prevalent age groups who made a complaint from 2021–23 was also 25–34-year-olds (6 complainants).



Complainants under the Sex Discrimination Act in WA were predominantly female in 2021/22 – 2022/23.



Data note

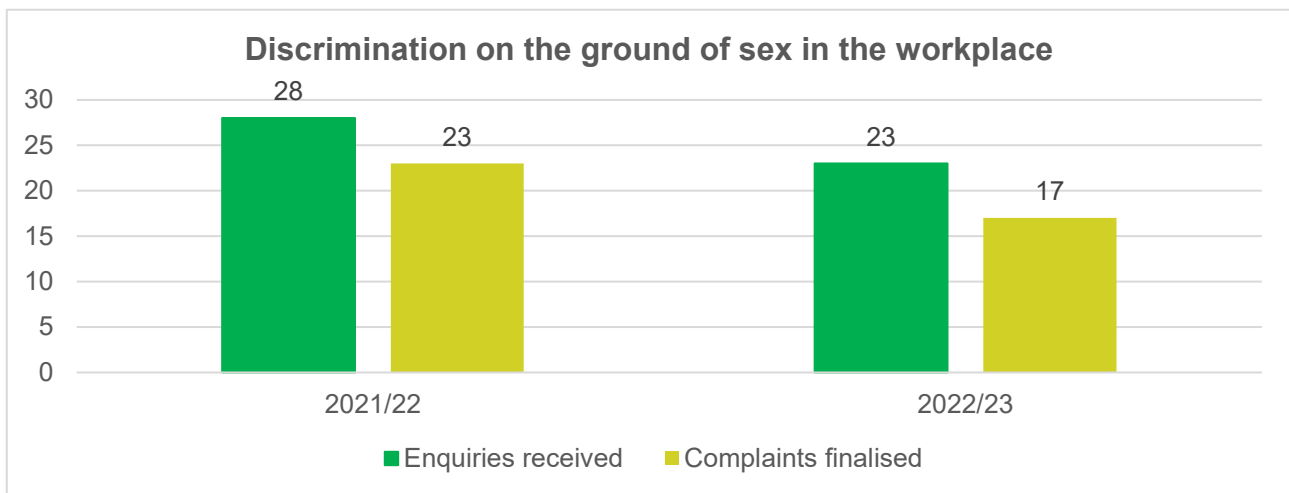
Please note that not all complainants provide their age when making a complaint under the Sex Discrimination Act. Additionally, location-based data to assist in understanding the makeup of regional and metropolitan complainants in WA is not available.

Equal Opportunity Commission WA (EOC)

This section covers enquiries and complaints to the Equal Opportunity Commission (WA) regarding discrimination on the ground of sex and sexual harassment in the workplace, outcomes of the complaints and demographics of complainants.

Enquiries and complaints regarding discrimination on the ground of sex in the workplace in WA

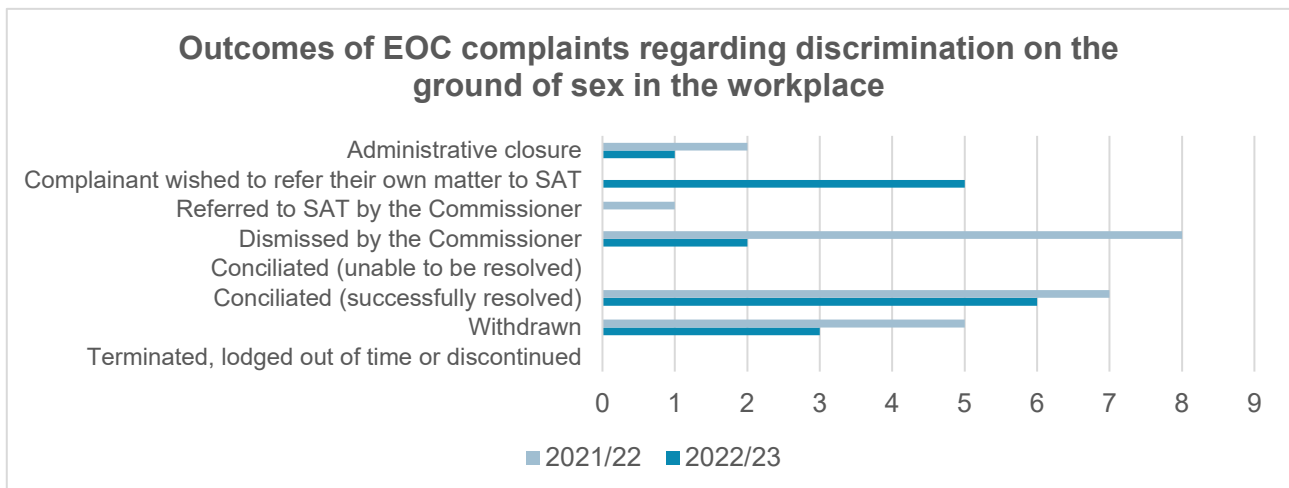
The Equal Opportunity Commission (WA) received a higher number of enquiries and complaints in 2021/22 regarding discrimination on the ground of sex in the workplace than the number of enquiries and complaints received in 2022/23.



Outcomes of complaints regarding discrimination on the ground of sex in the workplace

Of the 23 complaints finalised in 2021/22, 8 were dismissed by the Commissioner and 7 were conciliated (successfully resolved). The rest of the complaints regarding discrimination on the ground of sex in the workplace were withdrawn, lapsed or referred to the State Administrative Tribunal (SAT) by the Commissioner.

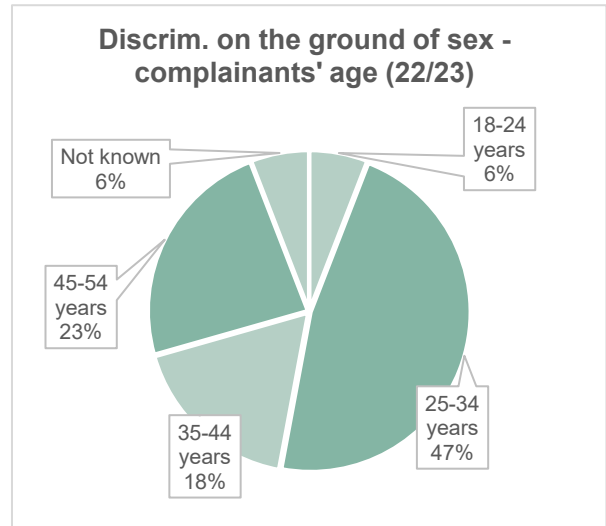
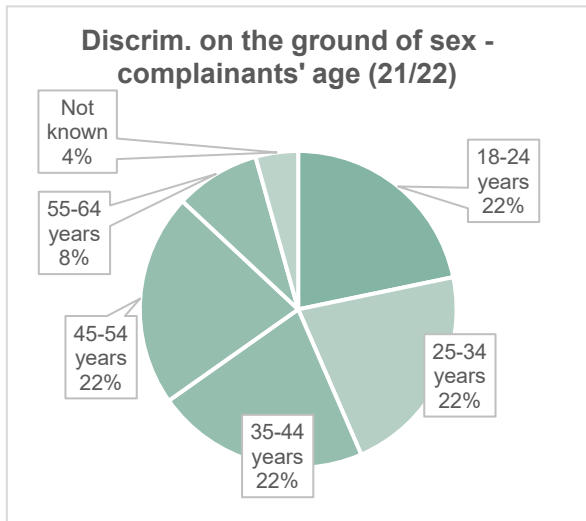
Of the 17 complaints finalised in 2022/23, 6 were conciliated (successfully resolved) and 5 complainants wished to refer their own matter to the SAT. The rest of the complaints were withdrawn, dismissed by the Commissioner or lapsed.



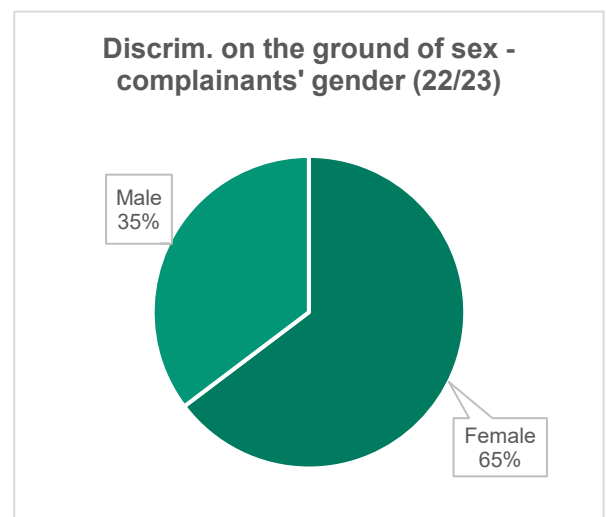
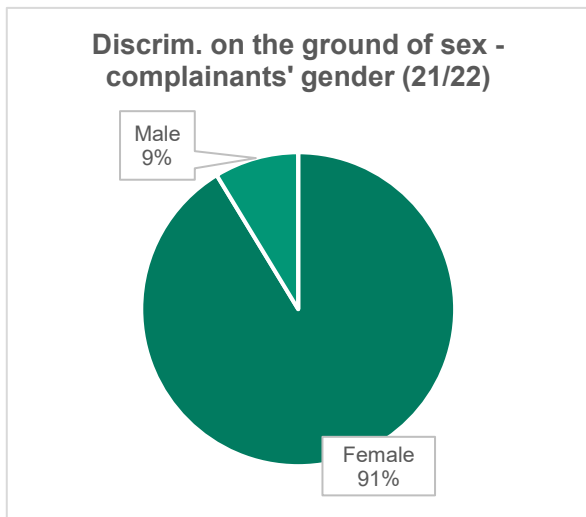
Demographics of complainants of discrimination on the ground of sex in the workplace

In 2021/22, there were 5 complainants in each of the following age groups: 18–24 years, 25–34 years, 35–44 years and 45–54 years. No complainants identified their age as below 17 years or above 65 years.

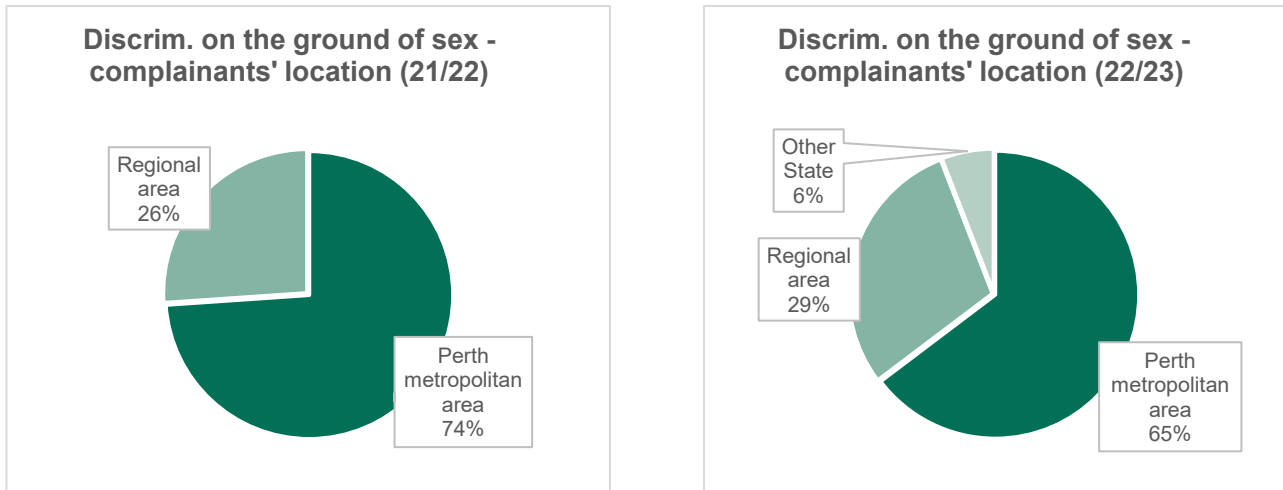
In 2022/23, the most prominent age group was 25–34 years old (8 complainants, or 47%), followed by 45–54 years old (4 complainants, or 23%). No complainants identified their age as below 17 years or above 55 years.



Complaints to the Equal Opportunity Commission (WA) regarding discrimination on the ground of sex were predominantly lodged by female complainants in 2021/22 – 2022/23. However, in 2022/23, there was a higher percentage of male complainants than the previous year.



Roughly one quarter (26%) of complainants to the Equal Opportunity Commission (WA) regarding discrimination on the ground of sex were regionally located in 2021/22. This percentage increased to 29% of complainants the following year.



Enquiries and complaints regarding sexual harassment in the workplace in WA

Both enquiries received and complaints finalised regarding sexual harassment in the workplace reduced by 22% and 7% respectively from 2021/22 to 2022/23.



Outcomes of complaints regarding sexual harassment in the workplace

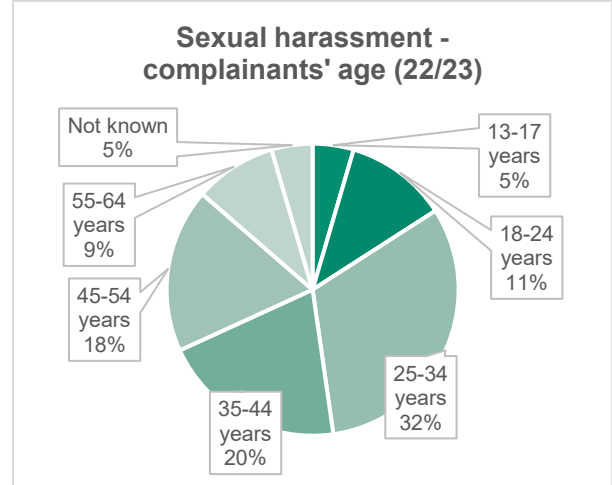
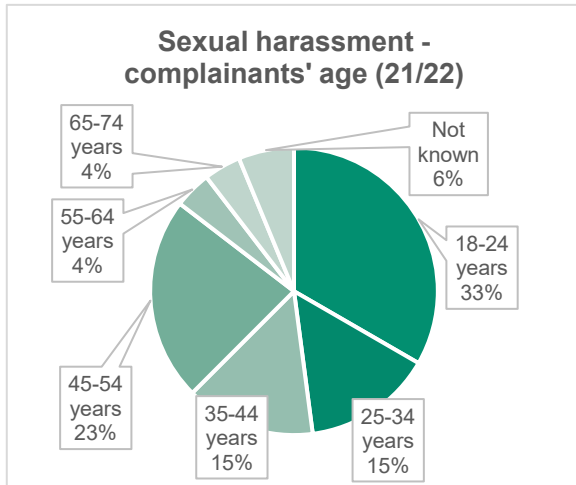
More complaints regarding sexual harassment in the workplace were conciliated and successfully resolved in 2021/22 than in the following year (23 of 48, or 48% of finalised complaints in 2021/22, compared to 15 of 44, or 34% of finalised complaints in 2022/23).



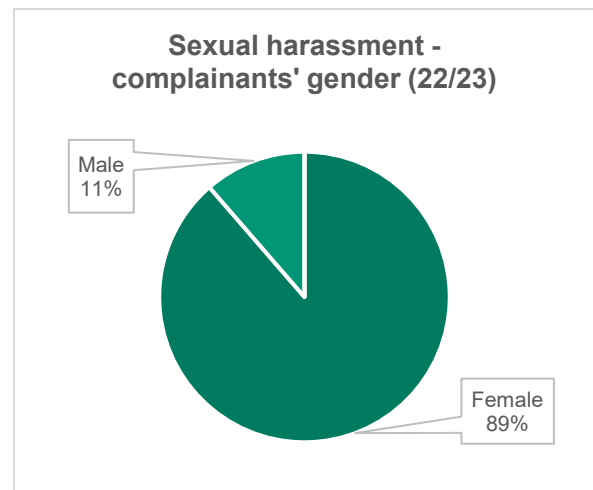
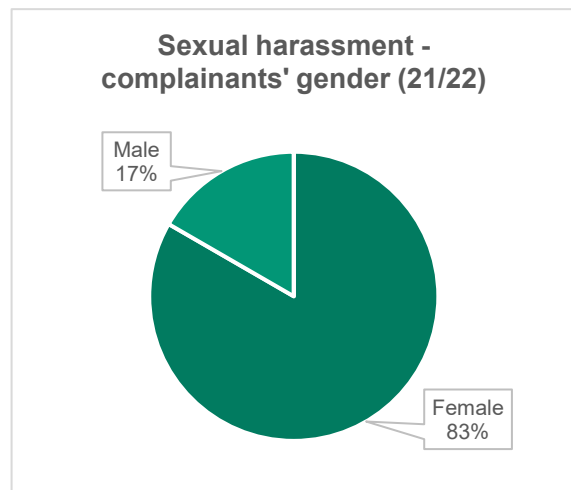
In 2021/22, 6 complaints were referred to SAT by the Commissioner, whereas 0 complaints were referred to SAT by the Commissioner in 2022/23. On the other hand, perhaps consequentially, 0 complainants wished to refer their own matter to the SAT in 2021/22, which then increased to 7 complainants who wished to refer their matter to the SAT in 2022/23.

Demographics

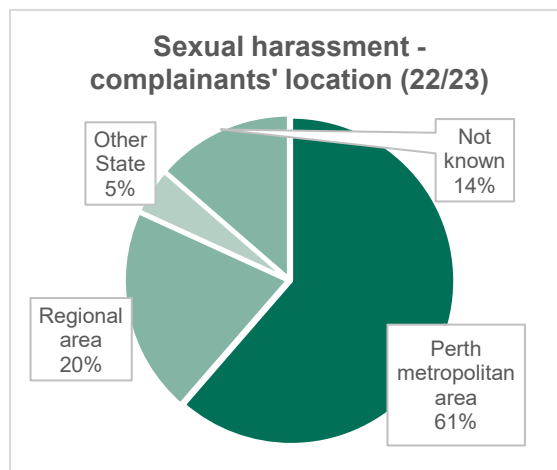
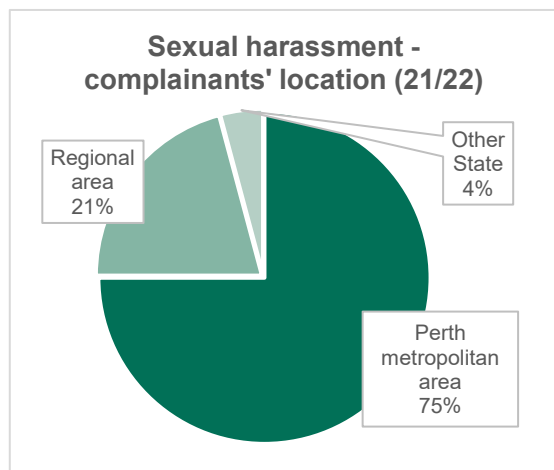
In 2021/22, the most prominent age demographic of complainants to the Equal Opportunity Commission (WA) was between 18-24 years old (33%). In 2022/23, the most prominent age demographic of complainants was between 25-34 years old (32%).



In complaints regarding sexual harassment in the workplace, the majority of complainants were female in both 2021/22 and 2022/23.



The percentage of complainants from the Perth metropolitan area decreased in the two-year period from 2021/22 – 2022/23.



Fair Work Commission (FWC)

Nationally, there were 28 applications for an order to stop sexual harassment at work in 2021/22. In 2022/23, there were 39 applications (12 applications to stop sexual harassment and 27 applications to stop bullying and sexual harassment).

Data note

As Circle Green was required to make a Freedom of Information request to the FWC, we were only able to receive existing documents containing data relevant to the stop sexual harassment orders. In responding to the request, the FWC provided a range of documents and partial documents that made reference to application numbers, demographics of applicants and outcomes of the matters at different and particular points in time. The documents did not include data disaggregated by State or for the specific years we were looking at as part of this snapshot (besides the total number of applications made).

WA Industrial Relations Commission (WAIRC)

Stop sexual harassment provisions became operative on 20 June 2022 in the WA jurisdiction. No applications for stop sexual harassment orders were made to the WAIRC in the 2021/22 or 2022/23 reporting periods.

WorkSafe WA

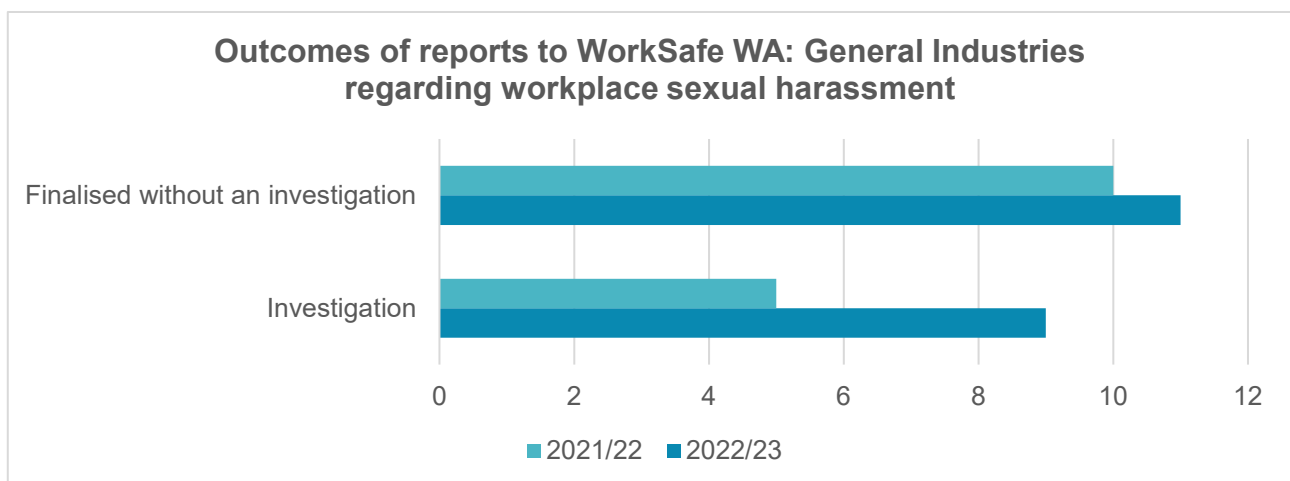
This section covers the number of reports regarding sexual harassment and sexual assault to WorkSafe WA (Mines), the number of reports regarding sexual harassment to WorkSafe WA (General Industries), and outcomes of reports to General Industries.

Reports of sexual harassment – Mines and General Industries Mines received a higher number of reports of 'alleged sexual harassment' in both 2021/22 and 2022/23 than were received in General Industries. Mines also received 32 'alleged sexual assault' reports over the two-year period. The number of reports regarding sexual assault decreased from 25 reports in 2021/22 to 7 reports in 2022/23.



Outcomes of reports regarding sexual harassment – General Industries

In both 2021/22 and 2022/23, fewer reports regarding workplace sexual harassment were investigated than the number of reports finalised without an investigation.



Data note

Note that the data relates to reported incidents, not reported ill health subsequent to incidents. Numbers reported may or may not correlate to other factors, and reporting requirements in the Work Health and Safety legislation is more specific in the mining context.

Note that reasons for finalising reports without investigation and any enforcement action taken were not able to be provided. Data regarding outcomes of reports to Mines was unable to be provided.

WorkCover WA

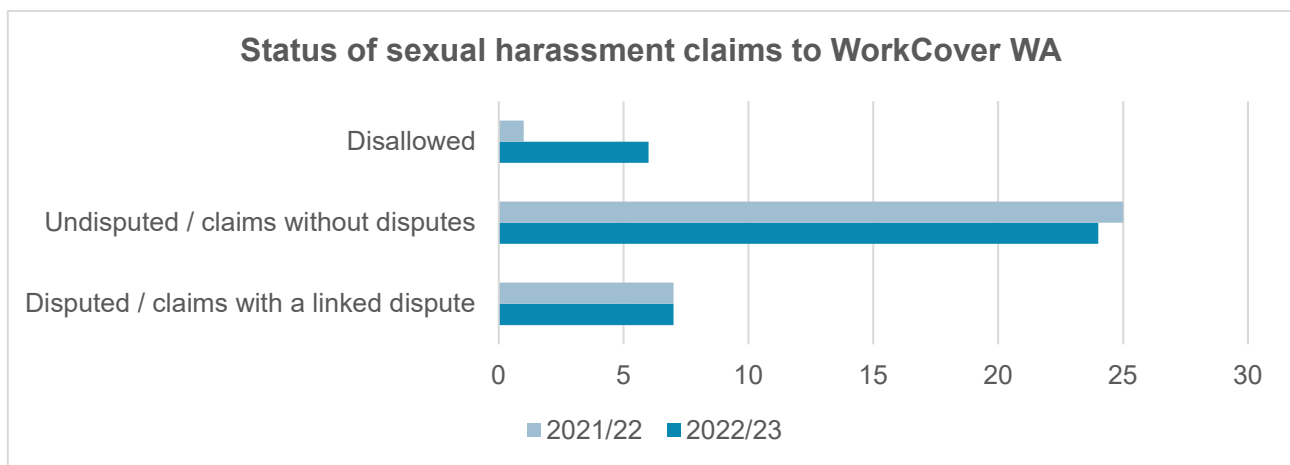
This section covers the number of claims made to WorkCover WA for psychological injuries resulting from sexual harassment, claim statuses, claim payment amounts and claimant demographics.

Claims lodged for psychological injuries resulting from sexual harassment and their statuses

In 2021/22, there were 32 claims lodged to WorkCover WA for psychological injuries resulting from sexual harassment, while in 2022/23, 31 claims were lodged.

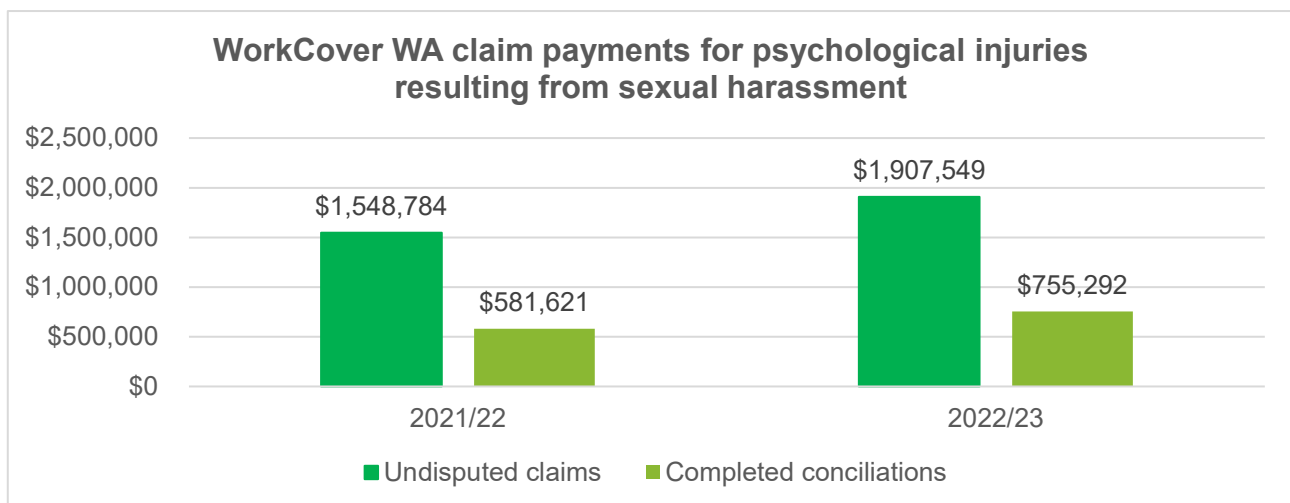
The number of disallowed claims increased from 1 claim in 2021/22 to 6 claims in 2022/23. The number of claims with a linked dispute remained the same – 7 claims in 2021/22 and 7 claims again in 2022/23. The majority of claims were without disputes – 25 claims in 2021/22 and 24 claims in 2022/23 (78% and 77%, respectively).

All claims with a linked dispute were resolved through conciliation in 2021/22. In the following year, most claims with a linked dispute were conciliated (5 out of 7); the remaining claims with a linked dispute were ongoing / did not have a 'completed date'.



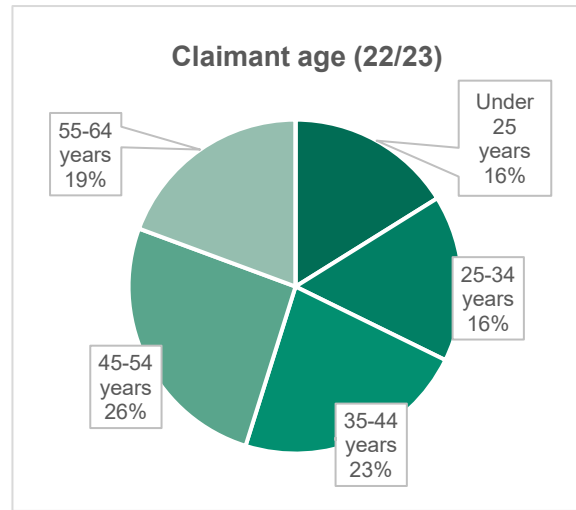
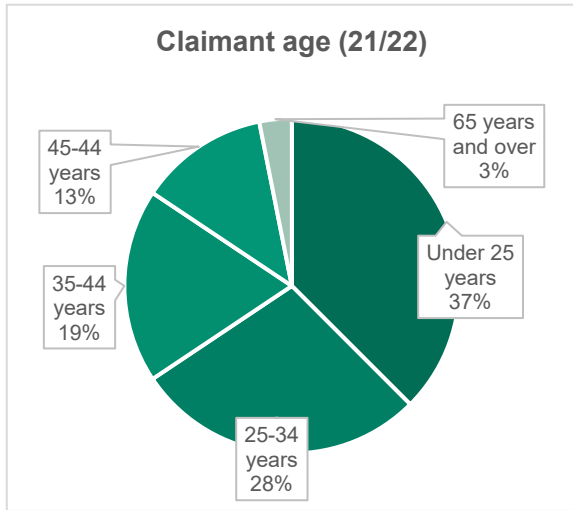
Claim payments

The total claim payments for undisputed claims in both years, 2021/22 and 2022/23, is over double the amount paid for claims which had a linked dispute and were resolved in conciliation.

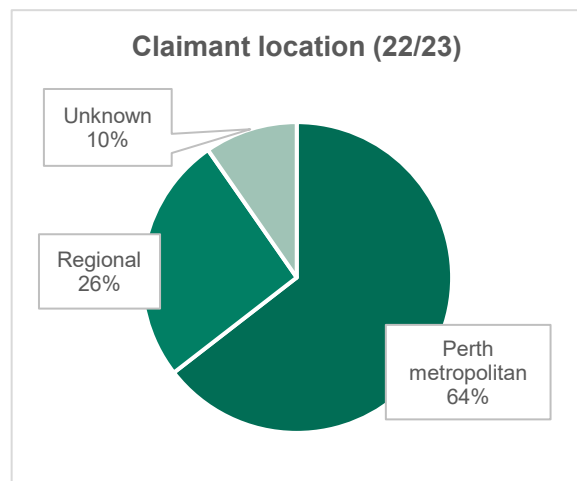
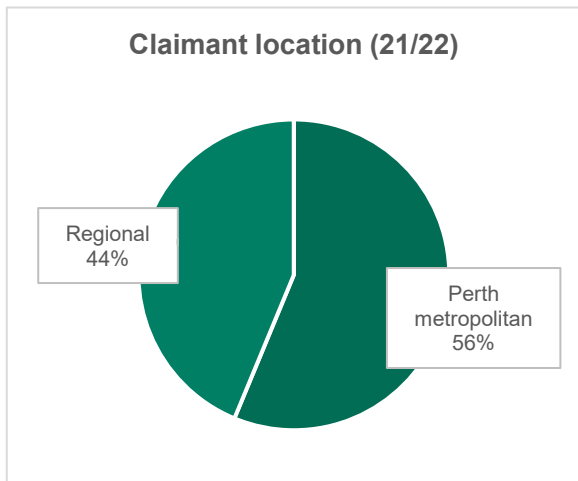


Demographics

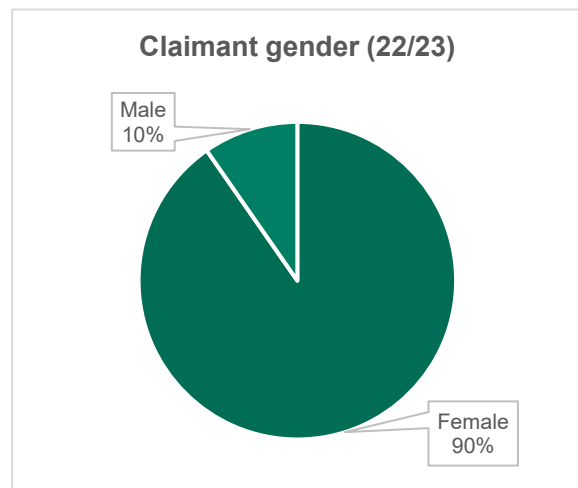
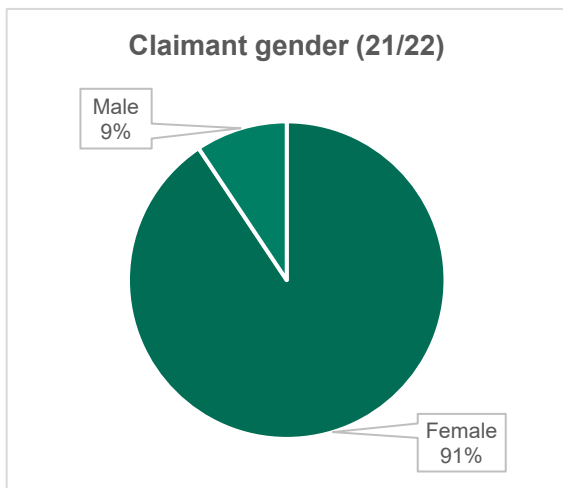
In 2021/22, under 25-year-olds made up the highest percentage of claimants (37%), whereas in 2022/23, 45–54-year-olds made up the highest percentage of claimants (26%).



Regional claimants made up almost half of total claimants to WorkCover WA in 2021/22. This decreased to 26% of claimants in the following year, although 10% of claimants did not identify their location in 2022/23.



Over the two-year period, the majority of WorkCover WA claimants with psychological injuries related to sexual harassment were female (91% in 2021/22 and 90% in 2022/23).



Data note

Claim status is based on the status of a claim at the time of data extract.

In calculating claim amounts, estimates were used for unfinalised claims and actual costs for finalised claims. Data regarding the reasons for denial of claims is unavailable.

Conclusion

This report considers the gap between prevalence of workplace sexual harassment, as identified in the Australian Human Rights Commission's Time for Respect (2022) report, and access to justice – or the quantum of reports made to various agencies according to the different external pathways in Western Australia and, where possible, demographic information regarding who is reporting. The report also considers outcomes achieved and any data limitations that exist.

Below is an overview of the administrative data provided by each agency (including Circle Green, which has been included for comparative purposes).

Body / Agency	Claim, report, or service type	21/22	22/23	Most common outcome/s	Most complainants are (Demographic notes)
Australian Human Rights Commission - Complaints under the Sex Discrimination Act in the area of employment (WA)	On the ground of sexual harassment	31	15	Conciliated	<ul style="list-style-type: none"> - Younger than 35 years old (66%) - Female (79%)
	On the ground of sex-based harassment	4	2		
	On the ground of sex discrimination	35	19		
	On the ground of victimisation	13	10		
Equal Opportunity Commission (WA) – Complaints under the Equal Opportunity Act in the area of employment	On the ground of sexual harassment	48	44	Conciliated	<ul style="list-style-type: none"> - Younger than 35 years old (48%) - Female (86%) - From the Perth metro area (68%)
	On the ground of sex discrimination	23	17	Conciliated	<ul style="list-style-type: none"> - Younger than 35 years old (49%) - Female (78%) - From the Perth metro area (70%)
WorkCover WA	Claims for psychological injuries resulting from sexual harassment	32	31	Undisputed claim	<ul style="list-style-type: none"> - Younger than 35 years old (49%) - Female (91%) - From the Perth metro area (60%)
WorkSafe WA: Mines	Reports of alleged sexual harassment	378	402	Not provided	Not provided
	Reports of alleged sexual assault	25	7	Not provided	Not provided
WorkSafe WA: General Industries	Reports regarding sexual harassment at work	15	20	Finalised without investigation	Not provided
Circle Green Community Legal	Workplace sexual harassment-related legal services	55	123	N/A	<ul style="list-style-type: none"> - Younger than 35 years old (61%) - Female (87%)

There are limitations regarding the data contained in this report, as described at the start of the report and in disclaimers throughout. Potential to draw broader inferences has been hindered by these limitations, including differences in data collection methods between agencies, small sample sizes and limited access to data regarding outcomes and demographics.

However, there are some observations to be made. One of the most apparent is the significant gap between the prevalence of workplace sexual harassment and external reports of sexual harassment at work using any of the available pathways in Western Australia. This aligns with existing data regarding making an internal report or complaint – only 18% of people who experienced sexual harassment in the workplace from 2018 – 2022 made a report or complaint to their employer, according to national prevalence data.⁴ This suggests that most workers who experience sexual harassment are either choosing not to address it in any capacity, or are seeking alternate solutions outside of a formal reporting process.

As shown in the above table, administrative data from agencies shows that most workers who reported sexual harassment in Western Australia from 2021 – 2023 were female, younger than 35 years old and from the Perth metropolitan area. These demographics align with the Time for Respect (2022) report, which identified high prevalence of workplace sexual harassment among women (41% had been sexually harassed in the last 5 years, compared to 26% of men). More than two-thirds of non-binary people were sexually harassed at work in the last 5 years (67%), a prevalent demographic which isn't reflected in the administrative reporting statistics. Time for Respect (2022) also identified that 47% of people aged between 15 – 17 and 46% of people aged between 18 – 29 had been sexually harassed in the last 5 years.

Interestingly, there were more complaints filed to the Equal Opportunity Commission (WA) than the Australian Human Rights Commission, despite the Equal Opportunity Act's definition of workplace sexual harassment, which is narrower than the Sex Discrimination Act's definition. The EO Act definition specifies that "the harassed person must have reasonable grounds to believe that if they reject the advance, refuse the request or object to the conduct, they will be disadvantaged or they are in fact disadvantaged," which is an additional standard to meet. Based on practical experience, a reason for this could be associated with resourcing / processing time compared to the Australian Human Rights Commission.

WorkSafe Mines received the highest number of reports of sexual harassment. This could in part be due to the nature of the WorkSafe reporting process – when compared to a legal claim where a personal remedy is being sought, this pathway may be less burdensome. Another explanation could be the impact of health and safety regulations on the mining industry. It is possible that ongoing, embedded general safety and reporting messaging to workers in the industry has had an impact on workers becoming more aware of WorkSafe as a pathway for making an external report. It could also be the case that the WA Parliamentary Inquiry into Sexual Harassment against Women in the FIFO mining Industry has had an impact on reporting.

This Snapshot report is primarily about contributing to the dialogue on legal need and barriers to reporting workplace sexual harassment in Western Australia. It finds some useful data regarding quantum of reporting and demographic characteristics of complainants and identifies gaps or limitations in available data – an important part of building the narrative around legal need and barriers to reporting which can ultimately inform prevention of and response to workplace sexual harassment in Western Australia.

⁴ Time for Respect, 2022