

Sample Sexual Harassment Policy

[Explanatory note: This sample sexual harassment policy is intended for use by private and public employers in the Pacific to help them develop their own sexual harassment policies. It is based on international good practices and includes all the components which make a sexual harassment policy comprehensive. As such, it is not intended to be a collection of clauses from which employers can pick and choose. Instead, any effective policy must include most if not all of the content of this sample policy. Organisations should of course modify certain clauses to meet specific conditions within their organisations.]

The Policy Statement

[Name of Company] is committed to providing a safe environment for all its employees free from discrimination on any ground and from harassment at work including sexual harassment. [Name of Company] will operate a zero tolerance policy for any form of sexual harassment in the workplace, treat all incidents seriously and promptly investigate all allegations of sexual harassment. Any person found to have sexually harassed another will face disciplinary action, up to and including dismissal from employment.

All complaints of sexual harassment will be taken seriously and treated with respect and in confidence. No one will be victimised for making such a complaint.

[Explanatory note: This explains in broad terms what the policy is about and sets out the intention of the organisation in adopting the policy.]

Definition of sexual harassment

Sexual harassment is unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated. It includes situations where a person is asked to engage in sexual activity as a condition of that person's employment, as well as situations which create an environment which is hostile, intimidating or humiliating for the recipient.

Sexual harassment can involve one or more incidents and actions constituting harassment may be physical, verbal and non-verbal. Examples of conduct or behaviour which constitute sexual harassment include, but are not limited to:

Physical conduct

- Unwelcome physical contact including patting, pinching, stroking, kissing, hugging, fondling, or inappropriate touching
- Physical violence, including sexual assault
- Physical contact, e.g. touching, pinching
- The use of job-related threats or rewards to solicit sexual favours

Verbal conduct

- Comments on a worker's appearance, age, private life, etc.
- Sexual comments, stories and jokes
- Sexual advances
- Repeated and unwanted social invitations for dates or physical intimacy
- Insults based on the sex of the worker
- Condescending or paternalistic remarks

- Sending sexually explicit messages (by phone or by email)

Non-verbal conduct

- Display of sexually explicit or suggestive material
- Sexually-suggestive gestures
- Whistling
- Leering

[Explanatory note: This section defines sexual harassment. If examples are included, it is important to note that they are not exhaustive and that sexual harassment can include any conduct of a sexual nature which is unwanted and unwelcome by the recipient.]

Anyone can be a victim of sexual harassment, regardless of their sex and of the sex of the harasser. [name of company] recognises that sexual harassment may also occur between people of the same sex. What matters is that the sexual conduct is unwanted and unwelcome by the person against whom the conduct is directed.

[Explanatory note: This recognises that men and women can be victim of sexual harassment in the workplace.]

[Name of company] recognises that sexual harassment is a manifestation of power relationships and often occurs within unequal relationships in the workplace, for example between manager or supervisor and employee.

Anyone, including employees of [company name], clients, customers, casual workers, contractors or visitors who sexually harasses another will be reprimanded in accordance with this internal policy.

[Explanatory note: This section should be adapted to the needs of the company based on the type of work it does and the people who its employees are likely to come into contact with. Although it can be difficult for a company to deal with sexual harassment when it is perpetrated by third parties, the company is nonetheless responsible for the well-being of its workers if the harassment occurs during work. For example, companies where employees are in contact with third parties, such as hotels or restaurants, should have specific policies to deal with sexual harassment of its workers by customers.]

All sexual harassment is prohibited whether it takes place within [company name] premises or outside, including at social events, business trips, training sessions or conferences sponsored by [company name].

[Explanatory note: This recognises that harassment can take place both at the office, but also at social event where sexual harassment may be more likely to occur. This clause will vary according to the company and the type of work/activity they carry out.]

Complaints procedures

[Explanatory note: Although complaints of sexual harassment can be dealt with through the normal company complaints procedure, companies are increasingly adopting specific complaints procedures to deal with sexual harassment to respond better to the needs of victims and to ensure that investigations are carried out properly. Individuals who deal with sexual harassment complaints should be trained specifically on this issue and on the nature of sexual harassment.]

Further, victims of sexual harassment may want to resolve the matter in different ways. Some may be happy with an informal resolution and for the matter to stop, others may want more formal measures. In addition, informal resolution mechanisms may be inappropriate where the allegation is serious or where the harasser is also the victim's supervisor. It is important that the company's complaints procedures reflect these different needs and ways of resolving conflict.]

Anyone who is subject to sexual harassment should, if possible, inform the alleged harasser that the conduct is unwanted and unwelcome. [company name] recognises that sexual harassment may occur in unequal relationships (i.e. between a supervisor and his/her employee) and that it may not be possible for the victim to inform the alleged harasser.

If a victim cannot directly approach an alleged harasser, he/she can approach one of the designated staff members responsible for receiving complaints of sexual harassment. This person could be another supervisor, a member of the human resources department, etc.

When a designated person receives a complaint of sexual harassment, he/she will:

- immediately record the dates, times and facts of the incident(s)
- ascertain the views of the victim as to what outcome he/she wants
- ensure that the victim understands the company's procedures for dealing with the complaint
- discuss and agree the next steps: either informal or formal complaint, on the understanding that choosing to resolve the matter informally does not preclude the victim from pursuing a formal complaint if he/she is not satisfied with the outcome
- keep a confidential record of all discussions
- respect the choice of the victim
- ensure that the victim knows that they can lodge the complaint outside of the company through the relevant country/legal framework

[Explanatory note: It is important to give the victim options for reporting the matter and this will depend on the structure of the company. The need for options for reporting is very important because having one person only to report to limits the ability of the victim to avail themselves of the complaints procedure. If for example, the harasser is also the designated person, the designated person is away on leave, or the victim would rather report it to a woman than a man or to a man than a woman and the designated person is a man, woman etc.]

Throughout the complaints procedure, a victim is entitled to be helped by a counsellor within the company. [company name] will nominate a number of counsellors and provide them with special training to enable them to assist victims of sexual harassment. [company name] recognises that because sexual harassment often occurs in unequal relationships within the workplace, victims often feel that they cannot come forward. [company name] understands the need to support victims in making complaints.

[Explanatory note: In many large companies, certain employees are designated as counsellors to help victims of sexual harassment navigate the complaints procedures.]

Informal complaints mechanism

If the victim wishes to deal with the matter informally, the designated person will:

- give an opportunity to the alleged harasser to respond to the complaint
- ensure that the alleged harasser understands the complaints mechanism