



BUILDING AND MAINTAINING AWARENESS IN PREVENTING SEXUAL HARASSMENT IN THE WORKPLACE

This article was co-authored by Dr Penny Abbott and Dr Angela du Plessis.

The legislative framework

The Code of Good Practice has specific requirements around awareness that organisations need to have in place:

- The contents of the Sexual Harassment Policy must be communicated effectively to all employees (Section 7.2);
- Employers and, where applicable, employer organisations should include the issue of sexual harassment in their orientation, education and training programmes (Section 11.2).

It should also be noted that trade unions are also required to include the issue of sexual harassment in their education and training programmes for shop stewards and employees (Section 11.3).

These requirements will form the basis of assessment by the Department of Labour, the CCMA or a court as to whether the steps that an employer took to prevent sexual harassment were reasonable. Clearly, what is reasonable for a large corporate needs to be adapted to be reasonable for a medium or small organisation.

Guidance from other sources

Some good advice is contained in the latest edition of the UK Equality and Human Rights Commission's (EHRC) Technical Guidance on Sexual Harassment and Harassment at Work.¹ The outline of steps to be taken is:

1. Put a proper Policy in place (see the article on Policies elsewhere in the Toolkit).
2. Engage your staff – obtain feedback from surveys, exit interviews and workplace discussions.
3. Assess and take risks to reduce risks in the workplace (see the Risk Assessment template elsewhere in the Toolkit).

¹ <https://www.equalityhumanrights.com/en/publication-download/sexual-harassment-and-harassment-work-technical-guidance>

4. Put reporting channels in place (either directly raising a complaint or using an anonymous tip off channel). (See also the SABPP Fact Sheet on Hotline Management, September 2019 <https://sabpp.co.za/sabpp-fact-sheets/>)
5. Train all employees.
6. Have a clear process for handling complaints of sexual harassment.
7. Be clear on how to deal with sexual harassment carried out by third parties (customers, suppliers, contractors etc.).

The EHRC has a short video on 4 steps in preventing sexual harassment in the workplace: <https://youtu.be/okV0uieMFgw>

Communicating the Sexual Harassment Policy

The Policy should be available to all employees in a format understandable to them, so this might involve translations, and should be available in a variety of media including hard copies (placed where an employee can take it and read it confidentially), soft copies on the intranet and also a soft copy where employees can access it even when not at work.

Note particularly that the Policy needs to be communicated to contractors, customers and other interested parties, so suitable means to access it for those people must be provided.

The Policy should be part of the induction process (not just referred to, new employees must be taken through it) and manager training. Other considerations for communicating the policy can include:

- Regular references in employee newsletters/magazines;
- Poster campaigns on physical or digital noticeboards (varying the posters to attract interest). An example desk drop is included elsewhere in the Toolkit;
- Regular surveys (see section below);
- Staff meetings;
- Reminders ahead of events which might carry a higher risk, such as parties, conferences, team building events etc.
- Scheduled annual reminder emails or letters to all staff.

Employee Assistance Providers can also do awareness campaigns for you. Review your contract with them to ensure that it covers sexual harassment awareness and case handling.

In view of the fact that the Code of Good Practice requires trade unions to educate and train their members around sexual harassment, it could be a good opportunity to partner with your trade union(s) around awareness campaigns.

If a full range of media is used, it is easier to ensure that changes to the policy or related issues are communicated in good time, for example, a change to a 'safe person' or a change to the internet address of the reporting channel.

Staff Surveys

Employee engagement surveys would not typically include questions around a 'safe environment' in terms of harassment. However, in order to gauge what is really happening in the organisation

(recognising that dealing with reported incidents might only be dealing with the tip of an iceberg), targeted surveys could be carried out at appropriate intervals.

Example staff survey (also see the Excel sheet of the survey below in the Toolkit for you to use as a template):

		Yes	No	Not applicable
1	Have you experienced any of the following behaviours in the last xx months?			
a	Remarks, jokes etc. of a sexual nature which were offensive to you			
b	Physical touching which was offensive to you			
c	Communication via social media from another employee which was offensive to you			
2	Was this behaviour from any of the below?			
a	Someone senior to you			
b	A colleague			
c	A subordinate			
d	A customer			
e	A contractor or other supplier			
3	Did you report such behaviour?			
a	To your manager			
b	To your HR department			
c	To the Employee Assistance Programme			
e	To your shop steward or union rep			
d	To the designated person if not one of the above			
f.	To anyone else.			
4	Aside from a formal report as above, did you discuss the incident with anyone else?			
a	At work			
b	Outside work			
5	If you did not make a formal report, why not?			
a	I was not sure whether the incident was really sexual harassment or not			
b	I didn't think any action would be taken			
c	I didn't trust the confidentiality of reporting			
d	I feared negative consequences to myself if I report			
e	Any other reason			
6	If you did report the incident, was action taken?			
7	If you did report, and action was taken, were you satisfied with the outcome?			
8	If you were not satisfied, why not?			
a	I feel that I was not listened to carefully and the decision that the perpetrator was not guilty was not justified			
b	I feel that the action taken against the perpetrator was too lenient			
c	Other			
9	If you were to experience any such behaviour at work in the future, would you report it?			
a	I don't think any action would be taken			
b	I don't trust the confidentiality of reporting			
c	I fear negative consequences to myself if I report			
10	Do you believe the organisation is taking enough steps to prevent harassment at work?			
11	If not, what would you suggest?			

Responses to the survey can be compared with actual complaints received, to see whether the records are reflecting reality.

Training

Training could be delivered through blended learning, some on-line but some face to face, in a safe environment with people of similar seniority/job types etc. where concerns can be raised.

For all employees:

- What is unacceptable behaviour
- Recognising harassment
- What to do when it happens, or when you see it happening to someone else.

For managers

- Warning signs that harassment might be happening
- What to do if a complaint is lodged with you as the first receiver
- How to handle potential outcomes (dealing with fall out).

Keep records of who has been trained to ensure that all staff have attended and to be able to plan training updates.

Reviewing and improving your awareness campaigns

Taking steps to prevent sexual harassment in the workplace is not a once-off exercise. Firstly, there may be changes in the workplace or in the work itself which make sexual harassment more or less likely. (See also the Risk Assessment template in the Toolkit.) Secondly, new technologies might be developed which can make it much easier to get information to employees or to set up anonymous reporting channels. A review at least once a year should be done to see if anything necessitates any change in what the organisation is doing in this respect.

The role of the Employment Equity Committee

Sexual harassment is defined as a form of unfair discrimination (Section 3 of the Code of Good Practice on Handling of Sexual Harassment Cases in the Workplace). One of the functions of an Employment Equity Committee as set out in the Code of Good Practice on Employment Equity, is to review the analysis conducted by the employer in preparing the Employment Equity Plan. The analysis should, amongst other things, assess the working environment to identify barriers to improved representation of previously disadvantaged groups, which includes female and other-gendered people.

The Employment Equity Committee should be closely involved in preventing sexual harassment. This is because a climate in which sexual harassment is condoned or not adequately prevented can constitute a 'hostile work environment' which discriminates against a section of the workforce on one or more of the prohibited grounds. The Committee should be consulted on the development of or amendments to the policy, and should be consulted on appropriate methods of communication to all employees. At the least, Committee members should be to serve as a point of information for employees.