

SEXUAL HARASSMENT OPEN SPACE
TOPICS

			
Theme	Question	Short Answer	Pointer to toolkit resource
Context	Cultural differences and dynamics in the workplace	The organisation needs to make very clear what is acceptable and not acceptable in the workplace so that there is one norm for everyone regardless of their background	Podcast on Cultural Differences
Context	Understand ILO 2019 convention on violence and harassment in the workplace	The ILO has been broadening its approach to sexual harassment to include other forms of violence and harassment in the workplace	Podcast on Regulatory Framework
Context	Sexual harassment in a patriarchal society - cultural acceptance? Recognition/understanding. How to ...	The persistence of a patriarchal culture does affect the incidence and handling of sexual harassment complaints. Unconscious bias is involved. Bringing in independent trainers, investigators and adjudicators can help to mitigate this.	Article on Organisational and Societal Factors. Case studies.
Context	Hyper sexual society, therefore people desensitised and harassment is normalised, so we brush it off and minimise it	A comprehensive awareness/training campaign, regularly updated, is essential to begin to raise sensitisation and change the accepted norms	Article on Building Awareness
Legal framework	Is it necessary to say "stop"?	The definition and explanation of terms of sexual harassment needs to be clearly set out in your Policy and further elaborated on in your awareness campaign.	Podcast on Legal Landscape. Recommended book with case law. Podcast on Legal Conundrums. Article on Victim Blaming. Link to Womens Legal Centre and NMMU material.
Legal framework	Silence is not consent		
Legal framework	Was I just sexually harassed? Having the dialogue tools to have the discussion		
Legal framework	Test for determining sexual harassment		
Legal framework	Single incident - classifying sexual harassment - test applied is ought to have known. Test applied with reference to seniority, age etc?		
Legal framework	Flirting vs sexual harassment		
Prevention	How to create awareness around sexual harassment in the workplace for millennials outside of traditional methods	There are many resources available on the internet which could be used. For example, NMMU has created short videos. The Ted Talks are powerful.	Links to NMMU website and Ted Talks
Prevention	Addressing subtle forms of bullying and bullying in organisations where there is minimal gender variance in general, male dominated industry	In situations where a risk assessment highlights the lack of gender diversity, empowerment of the minority is important during the awareness campaigns.	Article on Empowering Yourself against Sexual Harassment. Using EAP providers.
Prevention	How do we create workplaces that are respectful and safe, but allow people to be people - sensitisation and training	Awareness building is not a once off campaign, it has to be planned to include regular updates and reminders	Article on Building Awareness. Ted Talks
Prevention	Victimisation is a reality in a workplace - abuse of authority/power to victimise others; people in senior positions think they are untouchable, therefore laying a grievance against them could be very difficult	The creation of safe spaces for reporting incidents is critical. The HR department may not be the best place to receive initial complaints. Respected internal persons, independent outsiders, EAP or other anonymous hotlines may be used instead.	Article on Victim Blaming. Article on Inquisitorial vs Adversarial Approaches. Article on Building Awareness. Article on Process Framework for Handling Complaints.
Prevention	Starting early - training to prevent before entering the workplace and on induction	Inclusion of your sexual harassment awareness campaign right at the beginning of the employment relationship will help to create a more sensitive environment	Article on Building Awareness
Prevention	Training - how to effectively create understanding and awareness in very diverse group (age, gender, personality, culture, race, seniority, victims/not victims etc	A comprehensive awareness/training campaign, regularly updated, is essential to begin to raise sensitisation and change the accepted norms	Article on Building Awareness
Prevention	Corporate culture vs people culture. Institutionalised social norms forming part of our norms & leaking into the workplace, influencing perception of what is sh and what is not vs corporate culture	The organisation needs to make very clear what is acceptable and not acceptable in the workplace so that there is one norm for everyone regardless of their background	Podcast on Cultural Differences
Prevention	Political correctness and sexual harassment	Awareness campaigns need to highlight employees' right to a safe working environment and equal treatment for all.	Article on Victim Blaming.
Prevention	Love contracts - how do we deal with non-fraternisation policies. Should there be an obligation on employees to declare workplace relationships - horizontal and vertical	It has in fairly recent times become more common to have a policy in place to deal with romantic relationships in the workplace.	Article on Managing Romantic Relationships in the Workplace
Prevention	Love contracts gone wrong - appropriate; terms?	The policy on romantic relationships should make it clear that relationships should be declared early on so that at the end of the relationship any 'revenge' behaviour can be correctly identified	Article on Managing Romantic Relationships in the Workplace
Prevention	Implementation of policies, guidelines and procedures around sexual harassment - do's and don'ts	It is important to have clear policies and procedures which are compliant with the Code of Good Practice but which are appropriate for your organisation	Podcast on Mediation and separate podcase on Restorative Justice. Article on Policy Framework. Article on Adapting Disciplinary Processes.
Procedure	Water cooler chit chat & gossip, should you address/investigate it, responsibility to investigate. Dealing with suspicions in the absence of evidence. The bystander effect - do you say something when you see something?	This type of situation needs to be carefully handled, or the scene is set for all sorts of complications. Your awareness campaign and policy need to make it clear that anyone can report sexual harassment, whether the victim or someone else. Employees should be encouraged to report, not gossip, and you must make sure that your reporting channels are well known and considered to be safe by employees.	Process Framework for handling complaints
Procedure	The investigation process of the allegation	Your Policy should set out clear steps for the investigation process.	Process Framework for handling complaints. Article on Adaptation of Disciplinary Process. Article on Policy Framework.
Procedure	Consistency in terms of how to deal with sexual harassment. How to deal with culture differences or job level differences where there is alleged sexual harassment	It is critical for the credibility of management and the organisation that the policy applies to everyone regardless of level. It is first of all important to get the real buy in of the executive team who must understand that the policy could apply to them.	Article on Policy Framework. Template for employee survey.
Procedure	Reporting - formal vs informal. Criminal vs civil. ADR. Why: people often don't know what their options are and the recourse they have and what that practically means	The Code of Good Practice requires that victims be availed both formal and informal routes to resolve the issue. It is not sufficient to simply have a formal grievance/disciplinary procedure.	Legal avenues chart. Podcasts on Mediation and Restorative Justice. Article on Process Framework.
Procedure	"My sister's/brother's keeper" is there a duty on witnesses to sexual harassment (rights and responsibilities); can one be expected to be a witness when the misconduct relates to a senior employee?	Witnesses are often reluctant to be pulled into formal processes. This points to the advantages of an informal process or an inquisitorial process where the investigator can interview witnesses privately.	Podcast on Legal Conundrums. Note on further Legal Conundrums. Article on Inquisitorial vs Adversarial Approach. Article on Adapting the Disciplinary Process. Equal Education Case Study. Grant Thornton Case Study.
Procedure	Respecting the rights of alleged perpetrators	All parties have the right to confidentiality, although it is often difficult to preserve this in cases of flagrant and/or persistent harassment. Scrupulous attention must be paid to the rights of the alleged perpetrator. If it seems that such emphasis on his/her rights will be to the detriment of the victim, a process must be adopted which will protect both equally.	Podcast on Social Media. Podcast on Legal Conundrums. Note on further Legal Conundrums. Article on Inquisitorial vs Adversarial Approach. Article on Adapting the Disciplinary Process. Article on Dealing with the Fallout

SEXUAL HARASSMENT OPEN SPACE
TOPICS

Procedure	Addressing sexual harassment incidents/claims post employment of/by ex-employees against current employees	Your Policy should accommodate such complaints. They should not be ignored because one complaint may hide a number of other incidents in which current employees are victims but they are afraid to report. The normal process should be followed.	Process Framework for handling complaints	
Procedure	How do we make sure HR is a safe space to deal with sexual harassment. Why: employers are not sure what a safe space looks like, how to practically create a safe space	It is unfortunately often the case that HR is not trusted. You can check out whether this is true by conducting an employee survey. A truly independent external party may be the route to go.	Process Framework for handling complaints. Employee survey template.	
Mediation	Concept of restorative justices & mediation/dialogue as a tool in informal procedure and managing fall out. Mediation as a first port of call for sexual harassment and other issues in the workplace	The Code of Good Practice requires that victims be availed both formal and informal routes to resolve the issue. Informal routes would include mediation and a restorative justice approach.	Podcasts on Mediation and Restorative Justice.	
Mediation	Informal proceedings in attending to sexual harassment complaints. How to facilitate an informal grievance hearing on sexual harassment	Facilitation of informal routes requires some skill. At a minimum, it involves hearing the victim's story, establishing whether there are any witnesses or other sources of corroboration, obtaining the alleged perpetrator's side of the story, establishing the victim's desired solution and either bringing the parties together or shuttling between the two to achieve an agreed resolution.	Podcasts on Mediation and Restorative Justice. Process Framework for handling complaints.	
Mediation	Managers as mediators - having an internal cadre who can champion resolution	It is sometimes possible to identify managers who have high levels of interpersonal skills, and who are therefore trusted by employees, who could be trained to do this. If the victim and perpetrator report to the same manager, and he has the skills to mediate and achieve a quick resolution that is satisfactory to both parties, that is a first prize. However, it must be recognised that many managers do not want to do this, or do not have the skills, and therefore other channels must be made available	Process Framework for handling complaints. Podcast on Mediation	
Dealing with the fall out	Responding to the trauma, vicarious trauma and emotional wellbeing of recipients, alleged perpetrators and organisations in sexual harassment cases and accessing support. Fall out - at beginning, during, and after.	These situations are all typical results of the divisive and complex nature of sexual harassment cases. It is important for the health of the organisation to carefully analyse the situation and involve employees in debriefing and counselling sessions as appropriate.	Podcast on Dealing with the Fall out. Audio Powerpoint on Dealing with the Fallout.	
Dealing with the fall out	Tangible fall out: physical workplace reactions, what constitutes immediate action, breaking the destructive corporate culture. Intangible fall out: mob justice and social justice of the social media element for both the reporter and the alleged perpetrator (blaming the victim, having the perpetrator fired). Dealing with the fall out highlights the perceptions of individuals around sexual harassment and unchecked prejudices			
Dealing with the fall out	The lasting effects of workplace sexual harassment - how the loved ones are affected			
Fear	How to overcome the stigma attached to sexual harassment			
Dealing with the fall out	Accused of sexual harassment and found not guilty - what now?	Depending on the severity of the alleged incident, it may not be possible for the two parties to continue working in the same jobs/department as before. The resolution to the case does not finish with the verdict, appropriate accommodation or post-incident handling must be instituted.	Podcast on Dealing with the Fall out. Audio Powerpoint on Dealing with the Fallout.	
	Dealing with malicious claims of sexual harassment	Your Policy should include a section on this to make it clear that malicious claims will be dealt with in terms of the disciplinary procedure as misconduct. However, you should not jump to a conclusion that a claim is malicious just because an alleged perpetrator is found not guilty. There may have been a genuine misunderstanding.	Article on Policy Framework.	
Dealing with the fall out	Inconclusive findings on sexual harassment matters. Aggrieved refuses to refer matter to CCMA or lay a criminal/civil case. However, still pressuring the company to remove the "perpetrator". Inciting colleagues, disciplinary action followed for causing disruption in the workplace; then seen as "victimisation"	These are a complex set of circumstances which may need the input of an independent outside Sexual Harassment Expert, even in the role of an advisor to HR and senior management.	Article and Audio Powerpoint on Dealing with the Fallout	
Dealing with the fall out	Non-disclosure agreements - do they help or hinder?	It is always tempting for an organisation, faced with a difficult or complex case of sexual harassment particularly involving a senior or critical employee, to settle with either the victim or the alleged perpetrator rather than go through a formal process. "Pay to make the problem go away". Sometimes this is a sensible solution. However, organisations have probably over-used this option and this has repercussions for organisational culture and reputation. The Roger Ailes case with Fox News in the US is a case in point.	Article on Non-Disclosure Agreements. Links to Ted Talks	
Fear	Breaking the silence on sexual harassment and the bullying that exacerbates the harassment. Victims suffering in silence and having to resign as they cannot handle the pressure. Impact of sexual harassment. How to empower employees in breaking the silence and ensuring a safe working environment for them. How to deal with the bullying that follows. Prevention through dialogue	This is where it is so important to have a clear and appropriate Policy endorsed and role modelled by top management, coupled with a carefully designed awareness campaign, along with reporting channels that are considered safe. An employee survey can help to 'take the temperature' around this.	Article on Prevention. Template for Employee Survey	
Fear	The commonality of shame in reporting: moving away from the narrative that it only happens to women, also transgender individuals. Is this adding to the fear or resistance of men viewing conduct from other men or women as sexual harassment? Does this add to the embarrassing and shame around it happening as a man reporting it? Dealing with unchecked social norms and biases	Your Policy should explicitly include harassment of a sexual nature between employees of any gender type. In accordance with the evolution of ILO Conventions, your Policy should even be expanded to include bullying and other forms of harassment. Your awareness campaign should then deal with this openly. An employee survey could be useful.	Article on Victim Blaming. Template for Employee Survey	
Fear	37% do not report through formal processes. Creating grievant friendly processes. Why victims fear reporting especially when it relates to a senior staff member. Ethnic fear.	The Code of Good Practice requires informal processes to be made available to complainants. Recent publicised cases have emphasised the need for a 'victim centred' approach. Particular problems in formal processes are the need for the victim to face the alleged perpetrator and submit to cross examination.	Article on Victim Blaming. Podcast and article on Legal Conundrums. Article on Adaptation of Disciplinary Process. Process Framework. Equal Education Case Study.	