

TOOL 11

GUIDANCE ON SEXUAL HARASSMENT¹

WHAT IS SEXUAL HARASSMENT?

Sexual harassment is any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might be expected or be perceived to cause offence or humiliation to another, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. Something can still be considered sexual harassment even if the alleged harasser didn't mean for it to be. It also doesn't have to be intentionally directed at a specific person.

It is important to remember that not all sexual harassment involves an abuse of a position of vulnerability, differential power or trust or the actual or threatened physical intrusion of a sexual nature. If it does, it also constitutes sexual exploitation or sexual abuse.

Experiencing sexual harassment can be an extremely difficult situation for personnel to meet.

All personnel are protected from sexual harassment in the workplace by organisational policies and procedures. This applies to one-off incidents and ongoing incidents. This protection comes from both employment laws and criminal laws, depending on the circumstances and countries involved.

WHO CAN IT HAPPEN TO?

Sexual harassment can happen to anyone at any time, in any place. This includes the workplace, guest houses, field offices, project site locations etc. However, there are many things an employer and its personnel can do to minimise the risks (**See Tool 8 – Risk Assessment and Strategies for Safe Operations & Programming**).

Sexual harassment can come from a colleague and from someone in a position of power or influence. Sexual harassment can happen to all people, regardless of their gender and sexual orientation and can be perpetrated by someone of the same or opposite or different sex or gender. Personnel can experience sexual harassment from anyone, for example, a supervisor or manager; a team member or close colleague; someone from another agency or service provider; a supervisee; another member of staff in another location or office.

1. This tool has been developed in reference to: UNHCR "Fight against sexual misconduct review" (2018), <https://www.unhcr.org/5c51a5d34.pdf>; UNHCR Policy on Discrimination, harassment, Sexual Harassment and Abuse of Authority (2014); ACAS [acas.org.uk/bullying](https://www.acas.org.uk/bullying); Equality & Human Rights Commission (EHRC) [equalityhumanrights.com/en/how-fair-britain/tackling-challenge-identity-based-bullying](https://www.equalityhumanrights.com/en/how-fair-britain/tackling-challenge-identity-based-bullying); British Film Institute Anti-Bullying Guidelines.

HOW DOES SEXUAL HARASSMENT HAPPEN?

Sexual harassment can take place in any number of ways, including:

- Emails, text messages, social media posts with content of a sexual nature
- written or verbal comments of a sexual nature, such as remarks about the appearance of a staff member, offensive jokes, or questions about their sexual orientation or sex life
- displaying pornographic or explicit images
- unwanted physical contact and touching
- sexual assault.

Service providers should make it clear to all personnel the sort of behaviour that is considered sexual harassment and ensure that personnel understand what is unacceptable. Accepted or expected behaviour and conduct of personnel and contracted parties should be outlined clearly in a Code of Conduct or Behaviour, that all personnel are aware of, accept and understand the consequences of not adhering to (**see Tool 10 – Sample Code of Conduct for the prevention of PSEA /SH**).

SEXUAL ASSAULT AND PHYSICAL THREATS

Some types of sexual harassment, such as sexual assault and other physical threats, constitute a criminal matter as well as an employment/contractual matter. Criminal matters should be reported to the police. It is important that advice is sought to understand the criminal proceedings in the country where you work. Where criminal cases are followed and investigated, an employer is need required to undertake a formal investigation of the matter and would follow the relevant disciplinary procedures of the agency regardless of the outcome of a criminal investigation or proceeding.

PROMOTE COMMITMENTS TO COMBAT SEXUAL HARASSMENT AND DON'T STAND BY

All agencies should make clear their commitment to global and agency commitments to combat sexual harassment. All personnel should sign-up to principles of to combat, prevent and protect people from sexual harassment. These can be in the form of an agency's staff Code of Conduct/behaviour, the IASC Six Core Principles. Agencies, and personnel, should make commitments visible and accessible to all personnel and colleagues, and visitors or others e.g. partners, in order to develop a culture where personnel are included, protected and respected. This could be through staff meetings, briefings, posters, leaflets, Sharepoint or internal systems, LinkedIn profiles etc.

All personnel across the organisation at all levels should make it clear that inappropriate behaviour and conduct is not acceptable, this can include workplace banter, jokes, gossip. Challenge comments that you hear and acts that you see that are inappropriate or not acceptable, or that make someone feel uncomfortable in any way. Don't encourage or laugh along with such behaviour. Doing nothing makes you complicit.

KNOW YOUR RIGHTS

Everyone has the right to work and carry out one's work activities in a workplace and environment free from harassment. This can also extend outside of official work hours, especially when personnel travel or are housed together. This is important when considering the situations

where humanitarian personnel work and live away from their normal places of residence or follow a formal 9-5 office work, and where personnel are considered to be “at-work” and under an agency’s codes of practice at all times whilst working in other countries or locations as to their common workplace. It is also unlawful and against global principles if anyone from an agency victimizes you for raising a complaint or reporting an incident of harassment.

DEALING WITH INAPPROPRIATE BEHAVIOUR

Recognize and challenge inappropriate behaviour immediately when you see or experience it. Intervene if you see others being treated inappropriately – challenging can give people the chance to change their behaviour. People can shy away from tackling behaviour because they are scared that it might disrupt the team. However, it is possible to challenge behaviour in a way that results in improved workplace conditions for all.

- Clearly describe the behaviour you find unacceptable.
- Use clear language such as ‘that is not appropriate’, ‘it makes me feel uncomfortable’, and ‘you didn’t have to speak to that person that way’.
- It might be useful to talk about effects of behaviour – i.e. rather than say ‘you are dismissive’, say ‘when you don’t let me speak, it makes me feel as if you aren’t interested in my point of view’.
- Offer colleagues practical advice and strategies about what to do when things go wrong, e.g. who they can report to. Encourage them to think about what they would like to happen in the future.
- If you see poor behaviour, and you are in the midst of a pressing deadline, without time to address the issue there and then, tell those involved that that behaviour is unacceptable, and that you want to meet with them to discuss it after the work is finished – show that bad behaviour is noted, has consequences, and will be dealt with.

MAKING A COMPLAINT OF SEXUAL HARASSMENT

Personnel who feel they have been sexually harassed, or who feel they have seen sexual harassment take place, should be able to make a complaint of sexual harassment.

Personnel should check their agency’s policies on sexual harassment and complaint handling or grievance procedures and be clear who they should make their complaint to. Many organisations will suggest complaints can be made by writing a grievance letter to appropriate supervisors or managers, but there might be others too, including a:

- member of Human Resources or Personnel with specialist training
- named personnel with specific responsibilities to support personnel to report incidents or receive external support from other services i.e. PSEA/SH Focal Points
- agency ombudsman, trade union representatives.

In cases where it doesn’t seem possible to follow internal procedures, for example if the power and influence limit this ability, personnel should seek advice and support. This could be from Regional PSEA Focal Points or Regional Safe Spaces Network Coordinator at the national or regional level in the Americas. For example, a complaint of harassment against a high-level representative in-country could be handled by the most relevant Protection actor or Investigative Body, as appropriate, or the Head Quarters of the organisation concerned.

HANDLING A COMPLAINT OF SEXUAL HARASSMENT

All complaints of sexual harassment should be taken very seriously and handled fairly and sensitively. It is often particularly emotional and distressing for personnel experiencing sexual harassment. Agencies should facilitate personnel to report such matters as simply as possible and in ways that do not cause further stress or difficulty for those involved.

It is advisable that, if wanted by the survivor, personnel can be accompanied by a work colleague or representative when meeting personnel and reporting allegations of sexual harassment. Likewise, it can be extremely stressful for those accused of sexual harassment, and they should be offered support and guidance throughout any investigative or disciplinary procedure.

All reports and complaints should be handled consistently in line with agency's existing grievance, whistleblowing and complaints policies and procedures.

HISTORIC ALLEGATIONS

Although it is advisable that sexual harassment complaints be reported within a short timeframe from the incident, employers should always take complaints and reports that are made at a later date seriously. The same complaint and investigation procedures should be followed and all those involved in the complaint e.g. witnesses, survivor, alleged perpetrator, should be treated fairly and sensitively. Circumstances can change for individuals and whereas they were not able to make a complaint or report an incident sooner, they want to report it at a later date, and also protect others from experiencing similar harassment.

Where complaints of sexual harassment include sexual assault or physical threats, they could be considered under criminal laws and this can involve different timeframes and processes. Personnel are advised to seek further advice and support here.

GUIDANCE FOR PERSONNEL

Be clear and understand your rights under the policies and procedures of your agency and global commitments relevant to your role and position. Understand the procedures that your agency has in place to promote and facilitate you to raise issues, concerns, complaint and reports of sexual harassment.

If you believe that you, or someone else, is being or has been harassed in any way by a colleague or fellow worker in the course of your work, the following guidance can support you in the next steps:

- Be clear on your rights and understand your agency's policies on what is and what is not acceptable behaviour, what is harassment at work
- Understand your agency's procedures for reporting and managing issues of harassment
- Consider what your concerns are and why you believe you are being, or have been, harassed (or bullied)
- Consider what you would like to see happen and how you would want the situation to be resolved
- Consider talking to the person you believe is harassing you and ask them to not do it, if you feel comfortable to do so
- Following your agency's procedures, report to the most relevant personnel that can take action and that you feel comfortable to report to e.g. your direct line manager, HR Manager or designated personnel within your agency

- It not possible for you to report harassment in-person to your agency or it is not clear to whom you should speak to, you can raise a complaint through your agency's formal complaint procedure, or you could directly contact the most relevant ombudsman or investigative body to which your agency is connected e.g. your agency's Union, OIOS or IGO for UN personnel, external staff welfare representative. You can also raise a complaint anonymously.
- It can be important that the process you take is documented and that a record is made of what is said, by whom to whom and when. This can then be referred to at any point in the process and to ensure that you are treated equitably and fairly. This can be crucial if formal action is taken at a later date. Take notes of what is reported and said.
- If there is any form of physical threat, abuse or criminal activity, it is advisable to contact the police, or seek local advice as to best way forward.

REPORT IT AND SEEK SUPPORT

If you see or experience bullying or harassment, find out how to report or make a complaint within your agency and approach the most relevant person e.g. line manager, heads of department or team leaders, the designated PSEA Focal Points, union officials, relevant Protection actor, UN IGO or OISO etc. Line managers and colleagues can offer support to those on the receiving end of inappropriate behaviour or conduct.

If you do not feel able to formally or informally challenge inappropriate behaviour when it happens, seek support or advice from your agency's Head Quarters or, relevant Protection actors in your area of operation, or PSEA Focal Points or employee union, investigative body. Where you or others, want to remain anonymous, a trusted intermediary can help to bring a complaint to the attention of employers, especially where they become aware of multiple complaints about the same individual.

GUIDANCE FOR MANAGERS

- Make your commitment to ensuring a positive and inclusive work environment and workplace culture visible and noticeable
- Organize regular dialogues with your staff and partners on safe work places, gender equality and non-discrimination.
- Recognize you have a duty of care for personnel of your agency and offer a process whereby personnel can escalate concerns and make complaints safely and confidentially
- Be open to receive feedback and give appropriate feedback to all personnel equally
- Be clear on and follow your agency procedures and take immediate action by responding to and investigating allegations as soon as possible, and in consideration of the wishes of the worker
- Respect confidentiality and support personnel to raise concerns or make a complaint, asking them how they wish to proceed and what they expect to happen
- Reassure personnel that incidents, reports, complaints will remain confidential, where possible, and information will be shared only with those necessary to conduct a fair and objective investigation of the matter i.e. on a need-to-know basis
- Offer the appropriate support to personnel e.g. psycho-social or medical support
- Tell personnel that each concern will be appropriately investigated in a timely manner and as thoroughly as possible. Work to the timescales outlined in your policy and procedures and give updates to those making a complaint or report. Deal with the complaint or report as quickly as possible
- Ensure that anyone reporting a case of harassment is treated equally, this includes consultants,

- volunteers, collaborators, full or part-time personnel
- Make clear to all personnel that your agency does not tolerate any form of intimidation, relationship or victimization of anyone who reports, makes a complaint, raises a concern or is witness to sexual harassment.
- All personnel, especially those raising the concern, should be aware that any report will be taken seriously, as long as it is made in good faith and without malicious intent.
- Personnel can remain anonymous, but they should be aware of how this might affect the ability of the agency to investigate the complaint, but it does not mean that a complaint is not investigated. Be clear on mandatory reporting laws and explain these to complainants in cases where relevant.
- Work with external agencies or bodies i.e. investigatory bodies, who have been contacted directly by personnel and whereby they are not able to come forward directly to your agency. Review why personnel might not be comfortable to raise complaints within the agency and consider how you, or your agency, can reassure or make the process more accessible and safer for people to raise concerns and make reports confidentially.

KNOW YOUR ROLE AND RESPONSIBILITIES, AND CONTEXTUAL ISSUES

Be clear on your responsibilities and expectations of you as a supervisor or manager, and those of your agency as employer. Take all reasonable steps to prevent bullying, harassment and discrimination in the workplace, office, field, project sites etc. Think about how you would like to be treated.

Understand the local laws, national level HR rules and procedures that are in place and followed by your agency in the location where you work. Participate in relevant coordination and protection groups to be aware of the contextual risks that are prevalent and can exacerbate risks of sexual harassment for personnel. Work with your relevant Protection, HR, PSEA Focal Point personnel to promote a positive working environment and to establish robust safeguards against sexual harassment and inappropriate behaviour.

BE CLEAR AND SHARE YOUR AGENCY'S POLICIES

- Your agency should have in place a policy that includes a set of principles, explicit statement of zero-tolerance of discrimination, bullying or harassment, definitions of these terms and specific examples, including harassment on social media or online e.g. Code of Conduct.
- A commitment to investigating complaints and agreed procedures with appropriate resources to manage fair and confidential investigations should be in place, with clear disciplinary procedures and responses to inappropriate behaviour and complaints. Make clear that raising issues of harassment or bullying will not lead to victimization or retaliation, and that everyone, regardless of seniority or position, will be treated equally.
- These policies should be understood and shared with all personnel transparently. Consider ways in which you can promote the principles, code of conduct and commitment to anti-bullying and harassment e.g. posters, leaflets, events.
- Ensure that personnel are trained, updated on relevant commitments and understand their rights.