

# Sexual Harassment ZERO TOLERANCE

## NO EXCUSES.



Union guide to prevent and  
combat sexual harassment  
in the workplace.

ACTIVITY AND RESOURCE  
BOOKLET



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## *Introduction:*

This booklet contains some educational resources to be used in trainings and workshops on sexual harassment at work (or wherever this topic is included). It is part of the ***UNI Global Union Equal Opportunities campaign NO EXCUSES***.

Affiliated unions can adopt the activities proposed in this booklet to their different audiences and in accordance to their objectives. This booklet is also an invitation for unions to continue sharing their experiences and results and thus continue to increase existing educational resources to help eliminate all forms of gender-based violence in the workplace.

The definitions and concepts of sexual harassment at work, how to combat and prevent it, are detailed in the “Trade Union Guide to Prevent and Combat Sexual Harassment in the Workplace” that is part of this same campaign and which can be found at ***Breakingthecircle.org***.

On the website, trainers will find the necessary theoretical resources to complement the didactic materials and activities here included for their workshops.

## OBJECTIVES

### *The activities in this booklet will help the participants:*

- Increase their knowledge about human rights issues.
- Develop their decision-making skills.
- Allow them to find informed and practicable solutions to the issues raised.
- Apply their knowledge and understanding of this problem in their workplaces.

### *Expected results:*

*Through these resources, participants are expected to be able to:*

- discuss gender roles and stereotypes and how these can lead to violence and sexual harassment.
- understand the key aspects of sexual harassment, how to combat it and prevent it.
- identify rights and responsibilities within a working environment.
- apply the principles of human rights to their own experiences
- develop cooperative learning and decision-making skills.

### *Activities / Resources:*

1. Video about violence in the workplace.
2. Activity sheet: Identify unacceptable behavior in the workplace.
3. Resource file: Definition of sexual harassment in the workplace.
4. Quiz about sexual harassment at work. Self-appraisal.
5. Resource sheet: How to prevent sexual harassment.

6. Resource file: Complaint procedure.
7. Resource sheet: Questions for an interview.
8. Activity sheet: Role play.
9. Activity sheet: Case studies.

### *Proposed strategy to present the concepts:*

1. Define violence in the workplace.
2. Introduction of the concept of sexual harassment in the workplace.
3. Define and understand sexual harassment.
4. Apply the knowledge. Self-appraisal.
5. Evaluate strategies to prevent sexual harassment. Complaint procedures.
6. Case studies. Discussion / Role plays. Discussion.
7. Reflect on your own workplace.
8. Develop strategies for the future.

# ACTIVITY SHEET

VIDEO: VIOLENCE IS IN THE  
WORKPLACE, TOGETHER  
WE CAN STOP IT.

→ **Activity: Screening of the ONLINE Video:**

<https://www.youtube.com/watch?v=VmswHjRi0eg>

→ Available for download at:

[breakingthecircle.org/#seccion3](http://breakingthecircle.org/#seccion3)

 Time 11 minutes

▶ If the target audience is not familiar with the concepts of violence and gender based violence in a previous activity, you can use the video *Break the circle!*

▶ Available a:  
[//www.youtube.com/watch?v=VV9PZ4asJFQ](https://www.youtube.com/watch?v=VV9PZ4asJFQ)  
And to download at:  
[breakingthecircle.org/#seccion2](http://breakingthecircle.org/#seccion2)

**OBJECTIVES:**

- ▶ Introduce the participants to the concepts of violence and gender based violence.
- ▶ Understand what gender roles and stereotypes are and how they can lead to violence and sexual harassment.



# **ACTIVITY SHEET**

## **IDENTIFYING UNACCEPTABLE BEHAVIOR IN THE WORKPLACE.**

This activity is designed to help participants identify behaviors that constitute sexual harassment and violence in the workplace, including verbal and physical abuse.

 **Estimated time: 15 minutes .**

### **Focus group**

- ▶ Managers / supervisors
- ▶ Workers in general

### **Preparation**

- Prepare cards that show examples of sexual harassment through photos or drawings or
- Make copies for the participants with some of the examples provided in this exercise.
- Place large sheets of paper on the wall or use a whiteboard to present participants' ideas.

### **Where**

A room large enough to accommodate several groups.

### **Materials**

- Photocopies with examples or.
- Pre-prepared cards with images or drawings of types of behavior.
- Post-it.
- Markers.
- Tape (if necessary).

### **How**

In small groups, participants are asked to use the post-it notes to write three examples of behavior that may make others uncomfortable or make them feel uncomfortable at work.

\* Participants should i bleed if they feel comfortable with the topic and with the questions before receiving information about sexual harassment.

Once the participants have their 3 examples, the trainer will regroup the different types of behavior, by placing them on post-its in the different groups: verbal, non-verbal or physical behaviors and then discuss them with the whole group.

Use the examples of sexual harassment in the workplace listed below to prepare the group activity.

# EXAMPLES OF SEXUAL HARASSMENT

## ► VERBAL

- Refer to someone with nicknames or make comments of a sexual nature.
- Whistle at someone, make kissing sounds, howling and/or smacking of lips.
- Make suggestive comments about a person's physical appearance, the way they dress or their body.
- Make sexual comments or innuendos.
- Transform work discussions into conversations about sexual issues.
- Tell jokes or sexual stories in the presence of someone or in reference to another person.
- Ask about sexual fantasies, sexual preferences or sexual histories.
- Ask personal questions about private sexual life.
- Make sexual proposals or continuous requests for dates, especially after prior rejection.
- Tell lies or spread rumors about a person's sex life
- Make vulgar statements and / or use of abusive language.
- Require that suggestive clothing be worn.
- Request sexual favors in exchange for a job, to keep a job, to resume or extend a work contract, to improve or maintain working conditions, or to obtain some other benefit.
- Make sexually explicit comments through: phone calls, faxes, letters, emails, SMS messages, etc.

## ► NON VERBAL

- Look at someone lasciviously or fixedly.
- Make gestures or body movements of a sexual or intimidating nature.
- Block a person's path intentionally in order to intimidate them.
- Follow the person through the work place in order to intimidate them.
- Display sexually suggestive images.
- Make sexual gestures with your hands or through body movements.
- Make facial expressions such as winking, throwing kisses or licking lips.
- Display of offensive photographs, posters, reading material, t-shirts, graffiti or sexual objects so that others can see it.

## ► PHYSICAL

- Give massages around the neck or shoulders.
- Touch other people's clothes, hair or body.
- Hug, kiss, pat or caress others.
- Touching or rubbing sexually with another person.
- Standing very close to or rubbing against another person.
- Indecent exposure.
- Use authority or physical force to place someone in a position where they feel sexually threatened.

**IMAGES THAT  
CAN BE USED  
AS A TRIGGER**









## **RESOURCES:**

### **DEFINITION OF SEXUAL HARASSMENT AT WORK.**

Slides (these cards can be used to prepare a powerpoint presentation or to guide the discussion)

#### **1. WHAT IS SEXUAL HARASSMENT?**

It is **unwelcome, uninvited, offensive or threatening behavior** of a **sexual nature**, which could be expected to make a person feel **offended, humiliated or intimidated**, whether it is **intentional** or not.

It is a type of **discrimination** based on **sex**.

**2. Both women and men** may experience sexual harassment at the workplace, but **women tend to be more vulnerable** to it because they often hold **lower-paying, lower-authority and lower-status jobs** than men.

At the same time, **even women in positions of authority** may experience sexual harassment.

### **3.** *It can include:*

- *Making inappropriate sexual gestures.*
- *Staring in a sexually suggestive or offensive manner, or whistling.*
- *Making sexual comments about appearance, clothing, or body parts.*
- *Making unnecessary physical contact or inappropriate touching, including pinching, patting, rubbing, or purposefully brushing up against another person.*
- *Asking sexual questions, such as questions about someone's sexual history or their sexual orientation.*

### **4.** *It can include:*

- *Requests for sex.*
- *Repeatedly asking for dates, and not taking “no” for an answer.*
- *Saying or doing something because you think a person does not conform to gender-role stereotypes.*
- *Sexually explicit or even suggestive emails, text messages or posts on social networking sites.*

## **5.** *It can include*

- *Sharing sexually inappropriate images or videos, such as pornography, with co-workers.*
- *Displaying inappropriate sexual images or posters in the workplace.*
- *Telling lewd jokes, or sharing sexual anecdotes.*

## **6.** *Some forms of sexual harassment are:*

- *Quid Pro Quo.*
- *Intimidation and /or humiliation.*

**7.** *One of the challenging things of talking about sexual harassment, which is a **form of violence**, is that it often **seems invisible**.*

**8.** *It is important to remember that **SEXUAL harassment** is not a product of sexual desire, but a product of **power and control**.*

*Anybody can be a victim of sexual harassment.*

## **9.** *Sexual harassment is covered in the workplace when it happens:*

- *At work.*
- *At work-related events.*
- *Between people sharing the same workplace.*
- *Between colleagues outside of work.*

## **10.** *When someone is sexually harassed in the workplace, it can:*

- *Undermine their sense of personal dignity.*
- *Prevent them from earning a living, doing their job effectively, or reaching their full potential.*
- *Poison the environment for everyone else.*

***If left unchecked, it has the potential to escalate to violent behaviour.***

**11.** *While sexual harassment occurs across occupations and industry sectors, it may be more common in certain types of employment, including:*

- *Male-dominated working environments .*
- *Jobs that are thought to be “subservient” (for example, nursing, massage therapy, waitressing).*
- *Work done in isolation (for example, live-in caregivers).*

**12.** *Recognize what harassment looks like, and **SPEAK UP WHEN IT HAPPENS!***



## **RESOURCES:** *QUIZ. SELF-ASSESSMENT.*

After defining sexual harassment at work, a self-assessment can be carried out so that participants can exercise what they have learned.



*Estimated time: 15 minutes*

### **Focus group**

- ▶ Managers / supervisors
- ▶ Workers in general

### **Materials**

- Photocopies of the questionnaire and the answer sheet.
- Pens / pencils.

### **How**

Ask the participants to work individually and complete the questionnaire below.

The answers are available on the next page.

The trainer must wait until everyone has finished responding to analyze group responses.

The answer sheet must be distributed once the activity is finished.



# SEXUAL HARASSMENT AT WORK: HOW MUCH DO YOU KNOW?

Your answers are private and confidential and do not need to be shared with anyone.

▶ **1.** The seriousness of sexual harassment has been exaggerated; most so-called harassment is really a form of flattery between workers.

True  False

▶ **2.** If a person is only joking about sex and does not intend to harm or distress another person it cannot be called sexual harassment.

True  False

▶ **3.** If someone does not immediately complain about offensive behavior, the behavior is probably welcome and not harassment.

True  False

▶ **4.** Sexual harassment is covered in the workplace when it happens:

- At work.
- At work-related social events.
- Between people sharing the same workplace.
- Between colleagues outside of work.
- At conferences, training courses or meetings.
- All of the above.

▶ **5.** Who can commit sexual harassment in the workplace?

*(Check the right answers)*

- Managers or a person with a different hierarchical position.
- Co-workers of any level.
- Customers.
- Members of the same sex.

▶ **6.** Sexual harassment only affects women

True  False

▶ **7.** The best way of stopping sexual harassment is to ignore it and it will go away.

True  False

▶ **8.** If a person has accepted the sexual attentions of someone in the past, they cannot complain about sexual harassment by that person in the future.

True  False

▶ **9.** If a woman wears revealing clothing she cannot then complain about being sexually harassed.

True  False

▶ **10.** Looks, or rude gestures are not sexual harassment, you have to actually touch or say something to another person.

True  False

▶ **11.** A manager's threats to retaliate against a subordinate if he or she refuses sexual advances may constitute sexual harassment even if the threats are never carried out.

True  False

▶ **12.** Sexual harassment can occur through e-mail or social media.

True  False

▶ **13.** A romantic relationship between a manager and his or her subordinate is sexual harassment.

True  False

▶ **14.** A person who touches an employee in a sexual manner only one time may be guilty of sexual harassment.

True  False

▶ **15.** When coworkers hang up sexually explicit posters in his work area it is within their rights.

True  False

# ANSWERS. QUIZ.

**1.** The seriousness of sexual harassment has been exaggerated; most so-called harassment is really a form of flattery between workers.

**FALSE**

Sexual harassment has nothing to do with "flirtation" or sincere sexual or social interest. Rather, it is offensive, often frightening, and insulting to the recipient.

**2.** If a person is only joking about sex and does not intend to harm or distress another person it cannot be called sexual harassment.

**FALSE**

The key issue is how the conduct in question was perceived and experienced by the recipient, rather than the intentions of the actor.

**3.** If someone does not immediately complain about offensive behavior, the behavior is probably welcome and not harassment.

**FALSE**

Most of the victims keep the incidents to themselves because they are often in a position of vulnerability. Victims are afraid of damaging their careers or of even losing their jobs.

**4.** Sexual harassment is covered in the workplace when it happens:

**ALL OF THE ABOVE**

**5.** Who can commit sexual harassment in the workplace?

**ALL THE ANSWERS ARE RIGHT**

**6.** Sexual harassment only affects women

**FALSE**

Women are disproportionately affected by sexual harassment at work, but this also affects men, especially those who do not conform to prevailing male stereotypes.

**7.** The best way of stopping sexual harassment is to ignore it and it will go away.

**FALSE**

Harassment is not about sex. It's about power. If the victim does not speak up about a sexual harasser, the harasser will keep carrying out, and even accelerating, this type of behaviour.

**8.** If a person has accepted the sexual attentions of someone in the past, they cannot complain about sexual harassment by that person in the future.

**FALSE**

Sexual harassment is any sexual attention that is unwanted. Just because someone accepted this sort of attention in the past doesn't mean that it's ok now

**9.** If a woman wears revealing clothing she cannot then complain about being sexually harassed.

**FALSE**

Sexual harassment is never the victim's fault. It is the responsibility of the harasser. You cannot use the way a person dresses as an excuse for harassing them.

**10.** Looks, or rude gestures are not sexual harassment, you have to actually touch or say something to another person.

**FALSE**

Sexual harassment is more than touching. It includes explicit gestures, comments, staring or leering and intrusive questions about a person's private life.

**11.** A manager's threats to retaliate against a subordinate if he or she refuses sexual advances may constitute sexual harassment even if the threats are never carried out.

**TRUE**

If the threats are sufficiently severe and pervasive, they may constitute sexual harassment.

**12.** Sexual harassment can occur through e-mail or social media.

**TRUE**

If one worker is harassing another, or if a patient/customer/client is harassing a worker, it does not matter if it is taking place on social media, by email, telephone or out of work premises, it is still a workplace matter and should be taken seriously

**13.** A romantic relationship between a manager and his or her subordinate is sexual harassment.

**FALSE**

A romantic relationship distinguishes moments and situations within intimate relationships between individuals that have established a significant relationship connection.

**14.** A person who touches an employee in a sexual manner only one time may be guilty of sexual harassment.

**TRUE**

One single incident of unwanted touching can be sufficiently offensive to be considered as sexual harassment.

**15.** When coworkers hang up sexually explicit posters in his work area it is within their rights.

**FALSE**

Sexual harassment includes displaying offensive screen savers, photos, calendars or objects to others.



## **RESOURCES: HOW TO PREVENT SEXUAL HARASSMENT AT THE WORKPLACE**

Slides (these cards can be used to prepare a powerpoint presentation or to guide the discussion)

**1.** *Employers can prevent many cases of sexual harassment by having a **clear, comprehensive anti-sexual harassment** policy in place.*

*In cases of alleged sexual harassment, **the policy will alert all parties of their rights, roles and responsibilities.***

**2.** *Policies must clearly set out how sexual harassment cases will be dealt. Both promptly and efficiently.*

*Everyone should know about the anti-sexual harassment policy as well as the process for resolving complaints.*

### **3.** *This can be done by:*

- *Giving policies to everyone as soon as they are introduced.*
- *Making everyone at the workplace aware of them by including them in the orientation material.*
- *Training people, including people in positions of responsibility, and educating them on human rights issues.*

**4.** *An effective sexual harassment policy can limit harm and reduce liability. It also promotes equity and diversity in organizations and institutions and makes good business sense.*

## 5. OUR ROLE AS UNION WORKERS FACING SEXUAL HARASSMENT. HAS TO BE UNDERSTOOD:

- *As victims.*
- *As staff receiving a complaint.*

## 6. IF YOU ARE SUFFERING FROM SEXUAL HARASSMENT AT WORK

### ● **Don't feel guilty**

*You are not to blame. **The perpetrator** is completely **responsible for his/her actions** and remaining silent gives them more power. This will also allow for this type of behaviour to continue.*

### ● **Speak out, let them know that their behaviour is NOT ACCEPTABLE**

*Face the situation immediately*

*Write them a short letter or send them an email and let them know that their behaviour is unacceptable and that you want it to stop*

***By leaving a written trail of your actions you are preventing the perpetrator to deny in the future that they were aware of what was happening.***

## 7. IF YOU ARE SUFFERING FROM SEXUAL HARASSMENT AT WORK

- **Don't remain silent**

*By exercising our rights, we are not only protecting ourselves, but we are helping others to come out of similar situations.*

*Talk to someone you trust, talk to your union.*

## 8. IF YOU ARE SUFFERING FROM SEXUAL HARASSMENT AT WORK

- **Keep a record of everything that happens.**

*Document each case in detail (include time, date, place, as well as what happened, what was said or done) and keep all proof you have.*

*Do not erase the emails, the text messages or any other documents that may contain evidence of the harassment.*

*If the perpetrator is a supervisor or a general manager, keep a record of all your work evaluations, feedback; as well as assigned tasks and promotions.*

## **9. IF YOU ARE SUFFERING FROM SEXUAL HARASSMENT AT WORK**

### **● Present a formal complaint**

*You should present a complaint to your organization as well as to those people in charge of your work unit. If your employer does not have a procedure in place for this kind of situations, present the complaint to your union.*

## **10. THE COMPLAINT PROCEDURE USUALLY CONTAINS THE FOLLOWING STAGES:**

*Analysis.*

*Investigation.*

*Interviews with the people involved.*

*Conclusions.*

*Communication of the conclusions to the parties.*

*Taking the necessary disciplinary actions.*



# RESOURCES: COMPLAINT PROCEDURE

Slides (these cards can be used to prepare a powerpoint presentation or to guide the discussion).

THIS FILE IS AIMED AT WORKERS WHO HAVE RECEIVED COMPLAINTS ON SEXUAL HARASSMENT.

## 1. Procedure for a complaint

- *Complaints should be taken seriously, sympathetically, promptly and confidentially.*
- *Advise the complainant at all stages, respect their wishes (even if it means withdrawing the complaint), follow the process.*
- *Complaints need to be fully investigated in an impartial manner.*

## 2. The complaint procedure usually contains the following stages:

*Reception of the complaint.*

*Analysis.*

*Investigation.*

*Interviews with the people involved.*

*Conclusions.*

*Communication of the conclusions to the parties.*

*Taking the necessary disciplinary actions.*



### **3. STEPS**

- *The complainants should present the complaint to the person/committee in charge*
- *The complainant will be asked to outline their allegations in a written statement*
- *The organisation will endeavour to respond to the statement promptly.*
- *The response will be held in the form of a meeting in which the organisation will discuss with the complainant the allegations and how they would like to proceed*

### **4. STEPS**

- *The complainant will be interviewed as part of the investigation process. (see annex guidelines for a good interview)*
- *At the conclusion of the investigation a meeting will be called to present the findings of the investigation to the complainant.*
- *A separate meeting will be held with the alleged harasser.*

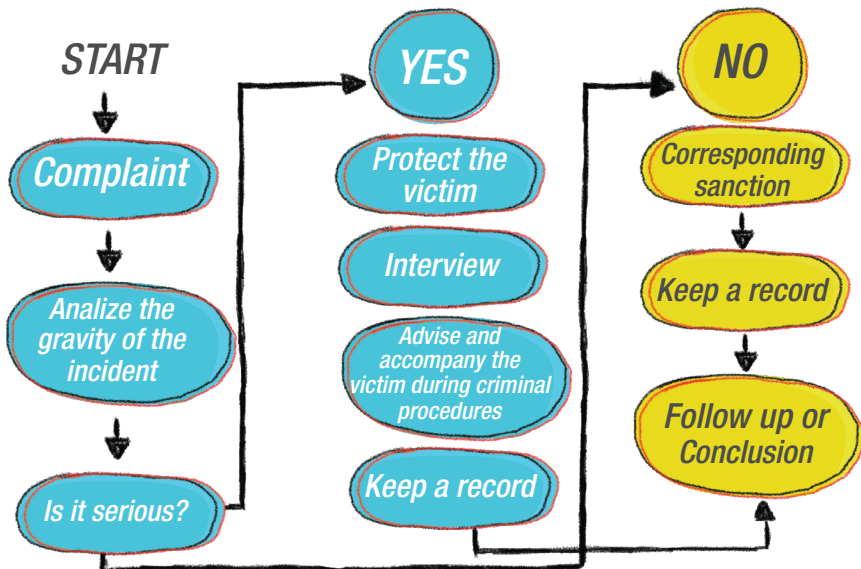
## 5. STEPS

- Once the complainant has heard the findings of the investigation, management will decide which steps need to be taken in order to resolve the complaint.

The resolution of the case should be done speedily and effectively, taken into account the gravity of the case and the wishes of the complainant.

- The complainant is allowed to have his/her union representative of choice to accompany them to the meetings.

## 6. Flow chart



## **7.** *Sanctions can include:*

*Warnings , suspension, job change, inability for promotion, dismissal.*

*These measures do not impede the complainant to pursue criminal action in accordance to the law.*

## **8.** *Persecution / Victimization*

*If a worker is victimized for filing a complaint, or if a colleague or union representative is victimized for helping someone file a complaint; this may constitute an illegal victimization and action should be taken through the competent authorities.*



## **RESOURCES:** *EXAMPLES OF QUESTIONS THAT MAY BE USED TO CARRY OUT A PROPER INVESTIGATION*

The following list of questions is to help guide those workers who have been given the task of receiving claims and carrying out investigations on sexual harassment in the workplace.

- ▶ Who is the accused person?
- ▶ What did the accused do?
- ▶ What did the accused person say? Do you remember the exact phrase?
- ▶ When did it happen?
- ▶ Where did it happen? Can you specify?
- ▶ Were there any witnesses?
- ▶ Has it happened before?
- ▶ Have other people been affected?
- ▶ Who else told you about the case?
- ▶ How has it affected you? How do you feel right now?
- ▶ What have you done about it so far?
- ▶ What do you want me to do?
- ▶ Do you feel that you can return to your workplace?
- ▶ How do you think the problem you are facing will be solved?
- ▶ How would you describe the witnesses' relationship to the accused person?

*The person who carries out the interview must not play the role of psychologist, but should the victim wish to seek professional help, the interviewer must help them to do so.*

# **RESOURCES:** *ROLE PLAYING*

**Focus group:** ALL WORKERS

## **Objectives**

- ▶ To recognize sexual harassment as well as other unacceptable conducts/behaviours at the workplace, their impact and their causes.
- ▶ Develop group strategies.

## **Materials**

- Photocopies of the different scenarios.

## ▶ **STEPS**

### **STEP 1:**

In small groups, ask the participants to play out possible sexual harassment scenarios in the workplace.

### **STEP 2:**

Each group will play their scenario for the rest. After each role play, the floor is open for a general discussion on what happened: whether it was a case of sexual harassment, how the victim felt, what strategies to follow, etc.

During this time, the person leading the workshop will take notes on the different ideas/views of the group on a large paper or board so that the rest of the group can see.

### **STEP 3:**

After all the groups have finished, a general discussion on future strategies to tackle and prevent cases of sexual harassment, should ensue.

## ► **POSSIBLE SCENARIOS.**

*The scenarios for this activity must be chosen in accordance to the group (ex: which sector groups, age composition, etc.).*

### *SCENARIO 1.*

Dean has only worked for the company a few months. He started hanging out with Jerry, Laura, and Tom after work. They had a few drinks and Dean revealed something personal to the group. The next day at work Dean walked in to find people around him whispering and laughing. Laura and Jerry told Dean that it was all in good fun and they didn't know it was a secret. The whole department now has an embarrassing nickname for Dean. Dean's work performance has decreased significantly and he has used all of his sick days.

### *SCENARIO 2.*

Jason is an Executive Assistant working for Kate, a Vice President. Kate asks Jason to stay late many nights to work on projects. Jason and Kate are friendly and sometimes even flirt a little. One evening Kate tries to kiss Jason, but Jason turns away and explains that he does not believe it would be appropriate. The next day Kate tells Jason about a job opening for another department and explains that she believes it would be a good move for him.

### *SCENARIO 3.*

Laura is up for a promotion that she's been working on for almost a year. One day Laura approaches the manager about the upcoming decision, and the manager suggests that perhaps they should spend some "personal" time together to see if she "clicks" on a more physical level before the promotion is awarded.

### *SCENARIO 4.*

Today at work, Tyson notices that one of his coworkers has a rather tight pair of pants on. Thinking that they are all friends, Tyson catcalls and whistles at the employee, intending it as a joking compliment. But the coworker becomes angry and embarrassed.

### *SCENARIO 5.*

You've just come back from lunch, and are about to start working on a project when you decide to check your e-mail. You notice that your sister has sent you a risqué picture. You think that it's pretty funny, so you forward it to several coworkers. Fifteen minutes later, you receive a couple of responses telling you that the e-mail is offensive.

### *SCENARIO 6.*

Jim's a nice guy, and he's always been really nice to Emma. He's asked her out on several occasions, and she always politely declined. He's just sent her an sms asking her to go to dinner with him tonight. Emma is tired of the persistent requests.



### *SCENARIO 7.*

Your coworker has a habit of staring at the woman who works in the office across from him, especially at her legs and chest. It makes you uncomfortable to watch and you want him to quit.

### *SCENARIO 8.*

You love your job in customer service, but lately a man keeps returning his purchases and asking specifically for you. Whenever you help him, he makes sexually lewd comments. You are unsure how to respond, and fear that you may lose your job if you complain.

# **RESOURCES:** CASE STUDIES

**Focus group:** MANAGERS, UNIÓN DELEGATES,  
PEOPLE IN CHARGE OF RECEIVING CLAIMS.

## **Objectives**

► Recognize sexual harassment and other unacceptable conducts/behaviours at the workplace, their impact, their causes and strategies to eradicate them.

## **Materials**

- Photocopies of the cases.

## ► **STEPS**

### **STEPS 1:**

Participants are broken into groups and each group receives a copy of two possible cases of sexual harassment. Only one of the cases should be the same for all the groups.

#### **For example:**

Group 1: Cases 1 y 3

Group 2: Cases 2 y 4

Group 3: Cases 1 y 4

Group 4: Cases 3 y 5

Etc.

Participants will be then asked to read, analyze and discuss each case with their group.

Each group must come to a conclusion on whether or not the type of scenario described constitutes sexual harassment or not, and how it should be handled.

### **STEPS 2:**

Each group will present their case study.

A group discussion will ensue.

Here are some examples of case studies. You will find answers at the end.

① *Message from a fellow colleague in LinkedIn :*

*« Charlotte, delighted to connect, I appreciate that. This is probably horrendously incorrect but that is a stunning picture!!*

*You definitely win the prize for the best LinkedIn picture I have ever seen.*

*Always interested to understand people's skills and how we might work together”.*

*Alex*



② *Eric is heterosexual. In a conversation with other work colleagues he was asked by one of them whether he liked or not football. When he responded “no”, his colleague remarked “you’re gay then”.*

*When he filed a grievance, the HR director rejected it on the base that it was office banter. The company’s evidence was that this kind of expression was “quite normal” in football circles and was treated as a joke.*

3 Ms. Furlong started work for BMC Software, a technology company, as a senior account manager. Soon after joining, she noticed that the company used lap dancing clubs and brothels, both to entertain clients and for work-related social events. At a company event in Nashville, a social night was held at well-known bar, during which women in the company's party were encouraged to dance on the tables.

Afterwards, the then managing director of the company allegedly told Ms. Furlong that had she been present, she would have been "up on the table" and a senior vice president of the company, groped Ms Furlong's bottom and told her he "would like to eat her like a marshmallow".

Ms Furlong reported this to her manager, who failed to investigate the matter and told her that "reporting the incident would not do her any favours".

Furthermore, she was then informed by another manager, in a one-to-one meeting, that her colleagues had been speculating about her having a relationship with a married male colleague, based on the fact that she had been dancing close with him at a line dancing event.

4 A female sales assistant was asked by a male colleague go on a "date" with him, despite her being married and not interested in any form of relationship. This male colleague and his co-workers, would regularly make sexist comments and gossip of a sexual nature directed at her and even spread rumors to the effect that she was having an affair with her Assistant Manager and began uttering particular sexual expletive comments on any occasion that a male employee came into the aisle in which she was working.

On informing her manager of the offensive conduct, she was advised that the type of conversation complained of was "ok, as they [the co-workers] were just young lads". The manager questioned the male co-workers who admitted engaging in sexually explicit conversations, but assured the manager that the conversations were about women in general and were not directed at the complainant personally.

5 Mrs. Dos Santos approached a supervisor, Mr. MacDonald, and said, “Can I ask you a favour?”, with the intention of asking for an envelope. His response was, “As long as it is not a sexual favour”.

Mrs. Dos Santos took offence at this remark, but later said that she did not complain at the time because she did not want to be seen as a “troublemaker”.

The employer asked Mrs. Dos Santos to attend a capability meeting the following week.

This was her second capability meeting (the first had been a few months before) and it related to evidence that she had not been paying attention to her screen. She went home feeling ill around 30 minutes before the meeting and was signed off work.

A few weeks later, after several delays because of Mrs. Dos Santos’ illness and a cancellation by the employer, the capability meeting took place. Mrs. Dos Santos brought a six-page document that set out her grievances, and one of the issues that she raised was Mr. MacDonald’s “sexual favour” comment. The managers present at the capability meeting refused to discuss her complaints, saying that it was appropriate to deal with them in a separate grievance meeting. Mrs. Dos Santos formally resigned the next day, and it later transpired that she had been seeking alternative employment during her sick leave.

6 A restaurant’s manager and a subordinate employee, a female server, carried on a consensual relationship for a while, but then the subordinate broke off the relationship. Thereafter, the manager refused to work with her, but still sought encounters with her, brushing up against the server on several occasions in a sexual way and confronting her in the office and propositioning her.

## RESULTS

### **CASE 1.**

#### **Result:**

Yes. This was a comment based on her appearance and not on her professional capacity.

LinkedIn is a platform to broaden professional networks and for business purposes. His comments on her appearance are deemed as sexist and can lead to harassment claims.

While an innocent remark between colleagues who know each other well is unlikely to constitute harassment, comments about a woman's appearance are inappropriate in the workplace.

### **CASE 2.**

#### **Result:**

The case was brought to court and the employee won on the basis of harassment based on sexual orientation, religion or belief.

(Austin v. Samuel Grant (North East Ltd.))

### **CASE 3.**

#### **Result:**

The tribunal held that Ms. Furlong had been sexually harassed by her colleagues and considered that the company was liable on the basis that the company had control over the environment where the harassment took place.

The tribunal also found that the comments by Ms.

Furlong's manager about an alleged relationship, and her manager's attempts to discourage her from complaining about the groping incident, were both harassment. Finally, it held that the company's failure to investigate Ms. Furlong's grievance properly was victimisation.

Employers should take care to ensure that none of their working practices - whether social or business - may offend employees in a manner that might give rise to discrimination claims.

(Furlong v. BMC software Ltd)

### **CASE 4.**

#### **Result:**

It is sexual harassment. The key element of this behavior is that it was unwanted and unwelcome, creating an "offensive environment" for the complainant, such that the co-workers'

comments did not necessarily need to be addressed to or directed to the complainant personally. The Court noted that conversation of a "sexually explicit nature" creates an offensive working environment.

(A store v A employer EDA 163)

### **CASE 5.**

#### **Result:**

The employment tribunal was satisfied with the employer's conduct, holding that the way in which the employer treated the claimant did not entitle her to resign and claim constructive dismissal.

The employment tribunal also rejected Mrs. Dos Santos's sexual harassment and direct sex discrimination claims. Although the tribunal accepted that the manager's remark was "possibly unwise" given that English was not Mrs. Dos Santos's first language, the only way it could be seen as an innocent joke between colleagues with a long-term working relationship.

The claimant's reaction to it was excessive. The tribunal noted that its decision might have been different had the remark been a request for a sexual favour or been accompanied by an obscene gesture.

(Dos Santos v Preview Services Ltd  
ET/2700170/10)

### **CASE 6.**

#### **Result:**

It is sexual harassment. The court in this case observed that just because the server and the manager had had a consensual relationship in the past, their prior history did not give the manager a "free pass" to harass the server at work later. (Lipphardt v. Durango Steakhouse of Durango, Inc. 2001)



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