



Institute
for Education

Sexual Harassment Policy and Procedures for Employees and Persons on a Contract for Service

Version 2.0

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1 Policy Statement

- 1.1 The Institute for Education (IfE) does not tolerate any type of harassment of employees and persons on a contract for service, and shall investigate every complaint, respond and take corrective action, including discipline up to and including termination of respective contract if appropriate.

2 Aims and objectives

- 2.1 This document defines what the IfE perceives as sexual harassment and stipulates the procedures that shall be adopted in cases of allegations of sexual harassment at work.
- 2.2 In terms of Article 9 of the [Equality for Men and Women Act](#) (Chapter 456), it is unlawful for any person, to sexually harass other persons. Sexual harassment is also prohibited in terms of Article 29 of the [Employment and Industrial Relations Act](#) (Chapter 452) and Article 251A of the [Criminal Code](#), covering the prohibition of sexual harassment in all spheres.
- 2.3 This policy binds all the employees and persons on a contract for service of the IfE.

3 Declaration of Principles

- 3.1 The IfE believes that sexual harassment is an intolerable violation of the dignity of workers and that preventing sexual harassment is part of good management. It strives to promote a dignified working environment and acknowledges that persons who have been sexually harassed may experience emotional stress, physical stress, and/or a negative change in job performance. On the other hand, if sexual harassment is not addressed, it may be negatively affected in terms of morale amongst employees, higher rate of absenteeism, job turnover and low job performance.
- 3.2 The IfE is an equal opportunity employer and expects management and all parties are duty bound to safeguard and uphold the principles articulated in this policy document. Non-compliance will be severely reprimanded.

4 Definition of Terms

4.1 *Sexual harassment* is unwelcome behaviour of a sexual nature or other sex based conduct affecting the dignity of women and men at the workplace. Male and female employees may not always realize that their behaviour constitutes sexual harassment. They must recognize that what is acceptable to one person may not be acceptable to another. Sexual harassment is not sexual interaction, flirtation, attraction or friendship which is invited, mutual, consensual or reciprocated. This is due to the fact that for sexual harassment to arise, the conduct in question must be unwelcome.

Sexual harassment takes many forms, from relatively mild sexual comments to actual physical violence. The following may be considered as a broad classification system in this regard: -

- Physical conduct of a sexual nature: commonly regarded as meaning unwanted physical conduct ranging from unnecessary touching, patting or pinching or brushing against another employee's body to assault and coercing sexual intercourse at the place of work. Recourse to such coercive conduct could lead to the institution of criminal charges.
- *Verbal conduct of a sexual nature*: this may include unwelcome sexual advances, propositions or pressure for sexual activity; continued suggestions for social activity outside the workplace after it has been made clear that such suggestions are unwelcome; offensive flirtations, suggestive remarks, insensitive jokes, innuendoes or lewd/obscene comments.
- *Non-verbal conduct of a sexual nature*: refers to the display of pornographic or sexually suggestive pictures, objects or written materials, and making sexually suggestive gestures.
- *Sex-based conduct*: refers to conduct that denigrates or ridicules or is intimidatory or physically abusive of an employee's gender, such as derogatory or degrading abuse or insults that are gender related and offensive comments about appearance or dress. Such conduct can create an offensive working environment for the recipient.
- *Sexual blackmail (Abuse of authority)*: refers to conduct where an employee's refusal or submission to unwanted sexual behaviour is used as a basis for a decision which affects that employee's access to employment, continued employment, training, salary, and promotion opportunities. This form of behaviour involves abuse of authority as only somebody holding direct or indirect (that is capable of influencing) supervisory or managerial authority has the power to threaten or actually take an employment decision affecting the person harassed.

The above list is not an exhaustive one and should not be considered as such.

5 Procedures

- 5.1 These procedures are intended to serve as guidelines for both the IfE's Management and staff on how sexual harassment cases should be tackled fairly, consistently, constructively, promptly and with utmost confidentiality.
- 5.2 The procedures reflect the current standards of good practice and follow the basic principles of natural justice, namely:
- The alleged harasser should be informed of the nature of the accusation against him/her;
 - The alleged harasser should be given the opportunity to state his/her case prior to the undertaking of any disciplinary action.
 - Those presiding over both investigative and disciplinary hearings will act in good faith prior to reaching any decisions.
- 5.3 The primary purpose of this procedural framework is to deal with cases of sexual harassment in a constructive manner by providing employees the possibility of improving the conduct. These procedures aim to achieve this by dealing with minor breaches of code of conduct informally (where the complainant agrees).

6 Advice and assistance

- 6.1 All employees and persons on a contract for service will be informed of the IfE's Sexual Harassment Policy through dissemination/ induction training. All employees and persons on a contract for service will be further informed about the possibility of seeking assistance from outside the organisation when the employee decides to treat the matter in a formal way.
- 6.2 Employees and persons on a contract for service who are victims of sexual harassment may refer their complaints to the National Commission for the Promotion of Equality (NCPE). Employees may also, if they wish, seek the advice of the Chief Executive Officer (CEO). It will then be indicated to the victim of harassment, possible course of action, depending on the severity of the case. When the harasser is the CEO, advice should be sought from the NCPE.
- 6.3 It is the duty of employees to maintain the workplace free of sexual harassment. Should any sexual harassment be taking place, any employee or person on a contract for service, not being the harassed person, is in duty bound to bring this to the attention of management.
- 6.4 Persons making a complaint or assisting a colleague in making a complaint about discrimination and/or sexual harassment at the place of work may do so without

fearing reproach or victimization (unfair treatment). Anyone found to have engaged in victimization or threatened to victimize will be subject to appropriate disciplinary action (see point 8).

6.6 People who feel that they have been harassed are encouraged to put forward their case in spite of perceived lack of evidence.

6.7 Dealing with sexual harassment informally - Persons experiencing minor forms of sexual harassment may take informal action by approaching the person concerned and attempting to resolve issues informally. This is done primarily, by making it clear to the harasser that the behaviour is unacceptable and must stop. Such informal action is intended to avoid seeking redress through formal procedures that may lead to a disciplinary hearing depending on the severity of the alleged offence. It remains with the rights of victim of sexual harassment to seek redress through the formal procedures outlined in this policy.

6.8 Formal Complaints - Where informal methods fail, or serious sexual harassment occurs, employees are advised to lodge a formal complaint. When a formal complaint is lodged, both parties may seek assistance from any person of their choice. The complaint should be made in writing and shall include:

- The name of the person making the complaint
- The name of the alleged harasser
- The nature of the alleged harassment
- Dates and times when the alleged harassment occurred
- Name of potential witness to the alleged incident
- Any action taken by the complainant to stop the alleged harassment

The complaint, once signed by the complainant, should be sent, in confidence, to the Chief Executive Officer. If the complainant, and/or the alleged harasser are victimized by other colleagues because of their actual or alleged behaviour, the latter are liable to disciplinary action

7 Investigations

- 7.1 Immediately after a formal complaint of harassment has been received, where necessary, action will be taken to separate the alleged harasser from the complainant. This may involve the temporary transfer of the alleged harasser to another section or suspension from work until the complaint has been resolved.
- 7.2 The ad-hoc Investigating Board, which will be composed of two full-time employees nominated by the CEO, will carry out a full and thorough investigation as quickly as possible. The CEO may also appoint specialist persons as members of the investigating board. The CEO must appoint the Investigating Board within three (3) working days from when the complaint is received. Where possible, the constitution of the Board will reflect equal gender representation. All persons involved in the investigation will maintain and ensure confidentiality at all times.
- 7.3 Given the sensitivity of sexual harassment cases, Board members should ensure an efficient and expedient investigating process. The investigating Board must initiate its work within five (5) working days when appointed.
- 7.4 Copies of statements made by witnesses will be made available to the alleged harasser and the complainant. Witness will be encouraged to appear at the complaints hearing if requested by either party. The IfE acknowledges that some witnesses may be reluctant to do so. In these circumstances, the Board will, if necessary, adjourn the hearing to ask supplementary questions to the witnesses in private. Further, witnesses will be informed by the Board that the IfE shall not permit their victimization due to giving evidence.
- 7.5 Both the complainant and the alleged harasser will also have the right to be accompanied at the complaints hearing by a staff representative.
- 7.6 Where the Board concludes that the harassment has actually taken place, disciplinary procedures will be immediately instigated. The Board may also recommend that the harasser is offered counselling.
- 7.7 The harasser will have an opportunity to defend his/her actions before a full disciplinary hearing.
- 7.8 The complainant will be offered recovery assistance if they so desire.

8 Disciplinary Hearings

- 8.1 It is important to note that proven sexual harassment by employees and persons on a contract for service of the IfE constitutes gross misconduct which could lead to dismissal.
- 8.2 If an alleged case of harassment by any employee or person on a contract for service of the IfE is actually proved, the following sanctions may be imposed according to the severity of the case:
- Written warning
 - Suspension without pay
 - Downgrading
 - Dismissal
- 8.3 Where a lesser penalty is appropriate (such as a written warning), this will be administered in tandem with the necessary action to ensure that the victim is able to work without undue embarrassment or anxiety.
- 8.4 Appeals against the above penalties and/or conclusions delineated in the Investigating Board's report may be undertaken in accordance with the IfE's [Appeals Policy and Procedures](#).
- 8.5 Where it is found that the allegations of sexual harassment made by employees or persons on a contract for service are untrue, every effort will be made to facilitate the resumption of duties by the falsely accused employee. Any employee or person on a contract for service unjustly accusing colleagues or lodging malicious and/or frivolous complaints will themselves be liable to dismissal and/or other disciplinary action as indicated above.

9 Related Documents

- [Appeals Policy and Procedures](#)
- [Breaching Conditions of Employment](#)
- [Criminal Code](#)
- [Employee Wellbeing: A Harassment & Bullying Free Workplace](#)
- [Employment and Industrial Relations Act](#)
- [Equality for Men and Women Act](#)

- [Malta – EU Sexual Harassment](#)
- [Sexual Harassment: a code of practice](#)

10 Version history

Originator	Version	Date	Changes Done
QA Department	1.0	23/02/2021	Initial Release
QA Department	2.0	25/03/2022	Updated of title of policy by including Employees and Persons on a Contract for Service. Updated all articles by removing any reference to course participants and adding persons on a contract for service.