

45. HR-WRM404 - SEXUAL HARASSMENT

45.1 PREAMBLE

- i. All employees have the right to work in a pleasant and productive work environment where the individual rights and dignity of each employee are respected.
- ii. This includes the right to work in an environment that is free from conduct of a harassing or abusive nature.
- iii. In order to maintain an atmosphere of mutual respect, conduct characterised as sexual harassment will not be condoned or tolerated.

45.2 SCOPE OF APPLICATION⁸

- i. This policy applies to all people, male and female, having business dealings with the NRF. This includes:
 - Executives
 - Employees
 - Clients
 - Others having dealings with the NRF
 - Managers
 - Interns
 - Suppliers
 - Supervisors
 - Job applicants
 - Contractors
- ii. Nothing in (i) above confers the authority on employers to take disciplinary action in respect of non-employees.
- iii. A non-employee who is a victim of sexual harassment may lodge a grievance with the employer of the harasser where the harassment has taken place in the workplace or in the course of the harasser's employment.

45.3 DEFINITION

- i. **Sexual harassment** is defined as unwelcome conduct of a sexual nature that may consist of one or more of the following acts:

⁸ Based on Notice 1367 of 1998: Code of Good Practice for the handling of Sexual Harassment Cases

- a. Suggestive comments, remarks or insinuations.
- b. Unwelcome physical contact.
- c. Obscene gestures and/or indecent exposure.
- d. Displaying sexually explicit material in offices.
- e. Direct sexual proposition.
- f. Continued pressure for dates or sexual favours.
- g. Offensive written, telephonic or electronic communications.
- h. Any of the above actions as a form of coercion or blackmail for employment, advancement or salary increments or lack of advancement or dismissal if the recipient refuses.

Sexual assault and rape are criminal offences and the person assaulted will be advised to report the offence to the police.

- ii. Sexual harassment does not refer to behaviour or compliments that are acceptable to the parties involved. Friendships, whether sexual or otherwise, are a private concern.

45.4 THE NATURE OF SEXUAL HARASSMENT

- i. Sexual harassment is usually associated with the exercise of power by one person over another.
- ii. It most often occurs in relationships of unequal power or authority as in a "supervisor/subordinate" relationship. However, it may also take place between peers.
- iii. Although women are much more likely to be harassed than men are, it is possible for men to be harassed by women or other men, as well as for women to be harassed by other women.
- iv. Different social or cultural backgrounds may lead people to perceive the same conduct in different ways. What one person may accept as reasonable behaviour may be seen as offensive by another person.

Complaints of sexual harassment are often more to do with a clash of values than a clash of facts.

45.5 POLICY/STATEMENT OF INTENT

- i. The NRF will not tolerate sexual harassment, whether by top management, managers, supervisors or employees.
 - a. To ensure that employees are treated fairly, all reports of sexual harassment will be investigated immediately. These investigations must be sensitive, thorough and remain confidential.
 - b. It is the responsibility of management to ensure that complainants and witnesses are not victimised in any way.
- ii. Employees are prohibited from harassing outsiders, including stakeholders, suppliers and their employees who may have business with the NRF.
 - a. Employees who are found to have sexually harassed a co-worker or work associate will be subject to appropriate disciplinary action, which may include dismissal.
- iii. In addition, any employee who joins in or condones the harassment or abuse of another employee shall also be liable for discipline.
- iv. The NRF also recognises that false or vindictive accusations can have a serious effect on innocent individuals. Such claims will be regarded in a serious light.

45.6 PROCEDURE

- i. Any incident of sexual harassment must be reported by the employee, to his/her manager or the Legal and Workplace Relations Office.
- ii. This discussion should be treated as private and strictly confidential.
- iii. No immediate judgement on whether sexual harassment has or has not occurred should be made.
- iv. Careful and deliberate consideration must be given to protect both the person bringing the allegation and the person accused.
- v. The complainant shall make the judgement on the severity of the incident, following from which either informal or formal procedures may be followed.
- vi. The employee should be under no duress to accept one or the other option.

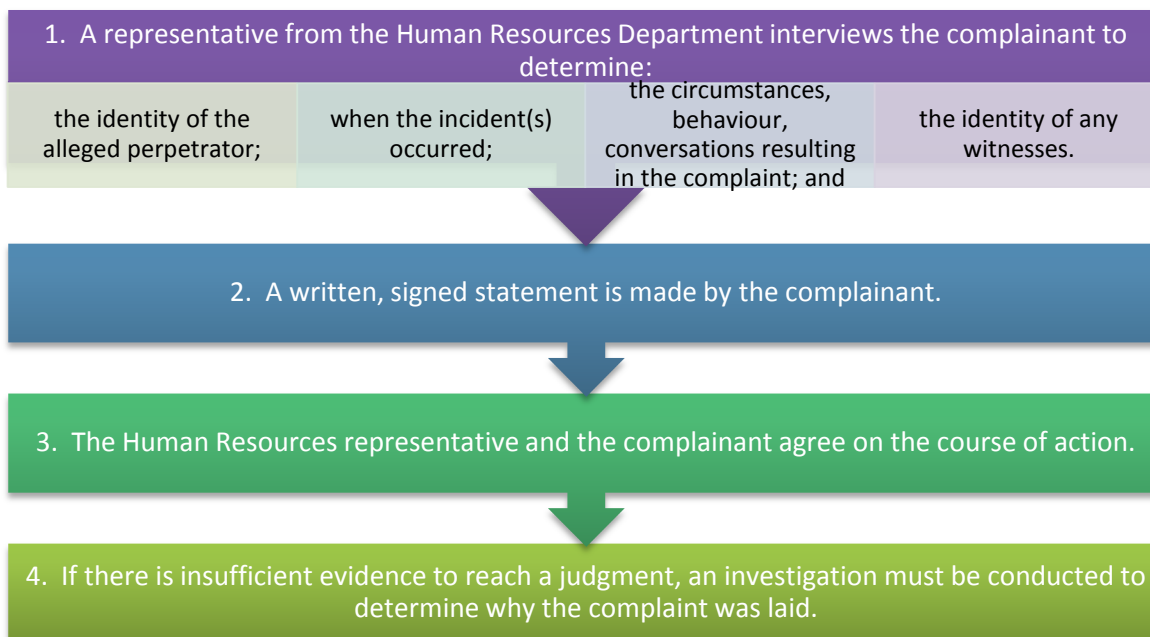
45.6.1 INFORMAL COMPLAINTS

This is normally handled by the employee's manager, with discussions being conducted along the following lines:

- i. The employee should furnish his/her description of the incident.
- ii. A verbal summary should be made to the employee as confirmation of understanding.
- iii. The options available to the complainant should be reviewed. These include attempting to resolve the problem informally with the alleged harasser:
 - a. a verbal/written request to the harasser from the complainant to stop the harassment.
 - b. filing a formal complaint or;
- iv. The manager must agree with the complainant on a course of action.

45.6.2 FORMAL COMPLAINTS

- i. These are initiated when the employee wishes to pursue the matter through a formal investigation.
- ii. These are handled by the designated Legal and Workplace Relations functionary, with the following procedure being followed:



45.6.3 APPROPRIATE ACTION

- i. Once the investigation has been completed, management shall decide whether or not to institute formal disciplinary action. This can take one of the following forms

45.6.3.1 CORRECTIVE DISCIPLINE

- i. This aims to prevent the recurrence of the unacceptable conduct.
- ii. This unacceptable conduct must be pointed out by management to the accused.
- iii. Further, management and the accused must explore alternatives to prevent the incident happening again.
- iv. No final disciplinary record is kept.
- v. An apology by the accused to the complainant would be appropriate. However, this apology needs to be accepted by the complainant.

45.6.3.2 DISCIPLINARY HEARING

- i. In cases of serious sexual harassment, it is necessary to hold a disciplinary hearing in terms of the NRF's disciplinary procedure.
- ii. Should the employee be found guilty of sexual harassment, an appropriate disciplinary sanction must be imposed.
- iii. This can include summary dismissal, or a warning with the requirement to attend corrective workshops.

45.6.4 GRIEVANCE PROCEDURE

- i. Where the complainant has reported the matter to the appropriate manager or Human Resources Department but feels that no action or in appropriate action has been taken, he/she should make use of the NRF's grievance procedure.