

Employers Best Practices Toolkit

Addressing and Preventing
Sexual Harassment in the Workplace



Contents

Acknowledging the Land.....	4
Acknowledgments.....	4
How to use the Employer Best Practices Toolkit.....	5
About Sexual Harassment.....	6
What is Sexual Harassment.....	7
Why Sexual Harassment Needs to be Addressed.....	8
Impacts on Business.....	9
Workplace Sexual Harassment and Human Rights.....	9
What is a Power Imbalance, and Why is it Important?	11
Intention Versus Impact.....	12
Tips & Templates	13
Active Listening	14
Prevention Checklist	16
Risk Assessment	17
Reprisal – Retaliation or Threat of Retaliation.....	22
Policy	22
Why you need two people to receive complaints	29
Rights and Responsibilities	29
Confidentiality	30
Confidentiality Agreement.....	31
Employee Engagement and Communication.....	33
Sexual Harassment in the Workplace – Employee Engagement & Awareness	33
Communication Schedule	35
Sample Email Templates	38
Training	44
Bystander Training	45
Complaint Form	45
Exploring Informal Resolutions.....	48

Formal Investigation and Resolutions 50

The Investigation52

Investigation Report 55

Frequently Asked Questions..... 64

Annual Policy and Procedure Review65

Quick FAQ.....66

Employer FAQ67

Employee FAQ..... 71

Acknowledging the Land

The Legal Information Society of Nova Scotia recognizes that it is situated on Mi'kmaq'ki, the ancestral and unceded territory of the Mi'kmaq people. This territory is covered by the “Treaties of Peace and Friendship,” which Mi'kmaq, Wolastoqyik, and Passamaquoddy signed with the British Crown in 1726. The Treaties recognized Mi'kmaq, Wolastoqyik, and Passamaquoddy title to the land and established rules for an ongoing relationship between nations.

We are all treaty people.

Acknowledgments

The Employers' Best Practices Toolkits was developed between 2019-2026, in partnership with Women and Gender Equity Canada as a part of our Sexual Harassment in the Workplace Project. We thank the Nova Scotia Commission on the Status of Women for providing funding to support this publication, and the continued support of the Department of Justice Canada.

We want to acknowledge and give many thanks to the individuals, organizations, employers, survivors, lawyers, social workers and practitioners that have trusted us with their stories and provided feedback, input and advice on our content.

We want to provide particular gratitude to the following people:

- Kelly Eagles, *content editor*
- Andrea MacNevin, MacNevin Law & Mediation Inc., *consultant, trainer*
- Heather deBerdt Romilly, *LISNS Executive Director*
- Alison Smith, *Acadia University, content editor*
- Nova Scotia Human Rights Commission
- Shila LeBlanc, *Restorative Approach, content editor*
- Jesse Williams; *web design*
- Lisa Neily; *graphic design*

We thank the Law Foundation of Nova Scotia, the Department of Justice Canada, and the Nova Scotia Department of Justice for providing core funding for our services. We thank members of the Public Legal Education Association of Canada for their support, and permission to adapt some of their content for use in this publication.

How to use the Employer Best Practices Toolkit

Please note: The information in the [Employer Toolkit](#) and training are suggested best practices. They do not provide legal advice. If you are uncertain at any point, please consult with a lawyer.

This toolkit provides practical resources to prevent and address workplace sexual harassment. By using the sample templates, an employer can help create a respectful workplace. Suggested steps to follow include:

1. Have a workplace sexual harassment policy.
 - Appoint a person with responsibility for the policy.
 - Communicate the policy to employees, managers, and customers.
 - Have employees complete the [Bystander Training](#) and submit the Certificate of Completion to the employee personnel file.
 - Post [Frequently Asked Questions](#) on a company website or email to managers and employees.
 - Review the [Employer Checklist](#), which guides preventing and addressing sexual harassment in the workplace.
2. Use the [Risk Assessment Checklist](#) to conduct an annual audit for workplace sexual harassment risks.
3. Review your [communications practices](#).
4. Take all complaints of sexual harassment in the workplace seriously. Use the templates provided as guides through the complaint and investigation process.

The contents of the Employer Toolkit, as well as our suggested steps, can be found at:
www.legalinfo.org/i-have-a-legal-question/workplace-sexual-harassment/

About Sexual Harrassment



What is Sexual Harassment

Sexual harassment is a broad term that includes physical and verbal actions that are sexual and degrading in nature.

Sexual harassment is a problem for anyone, whether it's at work or elsewhere. Women, people in the 2SLGBTQIA+ community, Indigenous people, and people of colour are especially at risk.

Sexual harassment involves physical and verbal actions that are sexual and disrespectful. It can happen in many places and in different ways.

Sexual harassment can include:

- Making unwanted comments about someone's body or sexuality.
- Touching someone without permission.
- Asking for sexual acts or making sexual proposals.
- Telling rude jokes or using disrespectful words about gender.
- Asking for dates or sexual favours.
- Showing sexual pictures, like porn, that others can see.
- Talking sexually and disrespectfully, or "locker room talk."
- Asking about someone's gender identity or private body parts.
- Giving unwanted sexual looks or gestures.
- Sending unwanted sexual pictures or messages.
- Using language or behaviour that is sexist or targets someone's gender or sexuality.

These are just a few examples of harassing behaviour. Sexual harassment includes any sexual actions done without permission that upset or offend others.

The behaviour doesn't have to be aimed at one person to be considered harassment. For example, if you hear a coworker making sexist jokes or see sexual images on their computer, you can speak up. You might not be the only one who feels uncomfortable. It's important to expect a workplace that is safe and free from sexual harassment.

For more information on sexual harassment, the impacts of sexual harassment, and the law, go to www.legalinfo.org/i-have-a-legal-question/workplace-sexual-harassment/#legal-information.

Have you experienced sexual harassment at work and are unsure of your options? **The Safe at Work Pathway** is a step-by-step guide that clearly explains your legal choices, helping you confidently make informed decisions. Whether you're a survivor, support person, witness, employer, or accused, you'll find reliable information tailored to your situation. Visit legalinfo.org/safeatwork for more information.

Why Sexual Harassment Needs to be Addressed

Sexual harassment is unacceptable in the workplace and is an operational health and safety issue in the workplace. Sexual Harassment is against the law. Employers must provide a safe workplace that protects employees from physical and emotional harm. Failing to investigate and address these issues exposes employers and business owners to financial and legal risks, harming their business's success and stability.

This means it is the employer's responsibility to create a work environment where everyone feels respected and safe from harassment. If workplace issues could cause harm, employers have a legal and moral duty to address them to keep employees safe. This includes incidents of sexual harassment, harassment or bullying, and assault.

It's important to have a clear process for handling complaints to maintain trust and fairness in the company and a commitment to quick, fair investigations. In Nova Scotia, it is required under the Stronger Workplaces for Nova Scotia Act. Having a clearly written and communicated policy will help you stay on task and organized while working to prevent and address sexual harassment.

There are **legal consequences** if you do not act on complaints. Failure to address these kinds of harm could:

- Lead to a civil lawsuit;
- Lead to Human Rights Commission complaints;
- Result in a grievance in a unionized environment;
- Lead to a toxic work environment;
- High turnover rate;
- Damage reputation;
- Damage morale and productivity; and
- A loss of profit.

It's important to foster a psychologically safe workplace that is harassment-free. Employees should feel comfortable bringing issues to management and trust that they can be addressed safely and fairly.

You can **address sexual harassment** in the workplace by:

- Implementing and enforcing a policy that addresses sexual harassment in the workplace;
- Modelling behaviour that demonstrates sexual harassment will not be tolerated;
- And ensuring the employees are educated about the policy and their rights and obligations under the policy.

Impacts on Business

Preventing sexual harassment and discrimination at work is very important for running a successful business. Harassment and discrimination can lead to problems like low employee morale, a bad reputation, high employee turnover, and decreased productivity. It is not only critical to address sexual harassment in the workplace from an ethical and moral standpoint, but from an economic standpoint as well.

By not addressing sexual harassment in the workplace, you risk damaging the moral of your employees and creating a **toxic environment**. Not addressing sexual harassment can lead to more sexual harassment by the accused or other colleagues. It can also cause gossip that harms the reputation of employees and the business. These damages can lead to low productivity, impact on customer retention, and high turnover rates.

For more information on sexual harassment, the impacts of sexual harassment, and the law, go to www.legalinfo.org/i-have-a-legal-question/workplace-sexual-harassment/#legal-information

Workplace Sexual Harassment and Human Rights

Sexual harassment is discrimination and is prohibited under the **Nova Scotia Human Rights Act** and the **Canadian Human Rights Act**. When a person is being sexually harassed, they are experiencing discrimination, and their rights are being violated

When a person is experiencing sexual harassment in the workplace, the employer becomes **liable**. This is because an employer is responsible for their employees safety in the workplace and in work-related relationships. The act of discrimination creates an unsafe environment for a person in the eyes of the law, so it becomes the responsibility of the employer to fix it.

If you fail to address sexual harassment appropriately, the complaint could result in **legal consequences** for the employer. This could include a complaint to **The Nova Scotia Human Rights Commission** (or the Canadian Human Rights Commission), labour board, workers compensation board (if an official diagnosis is involved), or the labour board.

Facing a complaint at a Human Rights Commission is a legal process that can be time and resource-consuming, however, there are early resolution processes available. If you do face a complaint with a human rights commission, it is best to be open to discussions regarding an early resolution.

JURISDICTION AND DISCRIMINATION

Determining jurisdiction when dealing with discrimination is important. This means that we determine what level of government or court is responsible for receiving your complaints.

Specific industries and workforces fall under the **Government of Canada's responsibility**. The remaining industries tend to fall under the responsibility of the province.

The following are federally regulated industries (falls under the Government of Canada, Canadian Human Rights Commission):

- federal government departments, Crown corporations and agencies,
- air transportation, including airlines, airports, aerodromes and aircraft operations
- banks, including authorized foreign banks
- military, Department of National Defense, or national security.
- grain elevators, feed and seed mills, feed warehouses and grain-seed cleaning plants
- First Nation governments (including certain community services on reserve)
- most federal Crown corporations, for example, Canada Post Corporation
- port services, marine shipping, ferries, tunnels, canals, bridges and pipelines (oil and gas) that cross international or provincial borders
- radio and television broadcasting
- railways that cross provincial or international borders and some short-line railways
- road transportation services, including trucks and buses that cross provincial or international
- telecommunications, such as telephone, Internet, telegraph and cable systems
- uranium mining and processing and atomic energy

What is a Power Imbalance, and Why is it Important?

In our workplace, there are different levels of power. When someone is experiencing sexual harassment in the workplace, they may be experiencing a power imbalance and abuse of power.

A **power imbalance** happens when one person has more control or influence over another. This is common in workplaces, for example, a supervisor has more authority than a shift worker. While power imbalances are natural in job roles, they can sometimes lead to unfair treatment, employees feeling unheard, or difficulty speaking up about problems.

Imagine everyone has a number that represents our level of power. This number would be based on a number of things, including our roles and relationships. In the workplace, each employee has their own number. This number is reflective of your role in the business, as well as who you are, who you're with, where you are, and what you're doing. For example, as a manager you may have a power number of 8, and a front line employee may have a number of 6.



Power imbalances are important to recognize in sexual harassment cases. When someone has more authority, it can make it harder for the other person to say no or express discomfort. For example, if a supervisor makes sexual advances toward a shift worker, the shift worker may feel pressured to go along with it because the supervisor has control over their job, hours, or future opportunities.

Sexual harassment can also be a result of an **Abuse of Power**. An abuse of power is the act of exploiting the position of power for some benefit. For example, managers may make advances towards their shift worker and not expect or anticipate consequences because of their role in the workplace. It is important and appropriate to consider the levels of power when addressing and preventing sexual harassment, to ensure that the position of power that the employee has been trusted with is not exploited.

If an employee brings forward a sexual harassment complaint, take time to consider the **power dynamics** between the people involved. A power imbalance can affect how the situation unfolds and how safe an employee feels in speaking up. Understanding this can help you handle the complaint fairly and support all employees in a respectful workplace.

Intention Versus Impact

It is important to understand the intention versus the impact gap when addressing and preventing sexual harassment in the workplace.



Intention is our aim, goal, or plan. Intention is where we are coming from when we do things. We control our intentions.

Impact is the effect or influence we have on those around us. We have less control over our impact since people may experience the same situation differently than we did.

Having good intentions doesn't guarantee that we will have a positive impact.

While our intention *does* matter, we are all responsible for how our actions impact others. It is rare for people to have malicious intent or to act in bad faith. Most people do not mean to cause harm. We all make mistakes. Yet, it can be difficult to fully own our impact. This is sometimes referred to as the **intention versus impact gap**. This gap refers to people's trouble owning their impact because their intentions were positive and never meant to cause harm. It can be painful to acknowledge that our impact was negative even when our intentions were positive.

While it isn't easy, finding responsibility and accountability for our actions is a powerful part of human development.



Think of it this way: if you accidentally knocked someone over, would you deny that the person fell because you didn't mean to push them? Someone alleges you harmed them, so it's important to consider their perspective on what happened, not just your own.

Tips & Templates



Active Listening

Active listening is vital for effective communication. When you listen attentively, you show respect for the person, conversation and allow yourself to respond more thoughtfully and assertively. It can also help lower tension and calm down disagreements.

Active listening can be tricky, especially for people who are neurodiverse, like those with ADHD or autism, or those dealing with mental health challenges like anxiety or depression. It can be difficult to stay focused and engaged in a conversation.

It's important to be kind to yourself and understand that these are real challenges. Finding strategies that help you focus, like using fidgeting tools, taking breaks, or setting reminders, can make listening and being present in conversations easier. Being patient with yourself and others when communication feels tough can make a big difference.



TIPS FOR ACTIVE LISTENING



Set an Intention This will help you stay focused on the goals and tone of the conversation from the beginning. For example, ask yourself, “What do I want to learn?” or “How can I show support?”



Express Your Needs If you need to fidget or use a tool to help you focus, such as a fidget toy or doodling on paper, let the other person know. Explain that these actions help you stay engaged in the conversation and are not signs of distraction.



Stay Focused and Present Put aside distractions and concentrate on the conversation at hand. Focus on what the other person is saying and try to follow through on the conversation’s goals.



Ask Questions Asking questions is a simple but powerful way to show you’re engaged in the conversation. It also helps you better understand what the other person is saying. Ask for clarification if something is unclear or ask open-ended questions to keep the dialogue going.



Body language is communication, too. Small physical responses like nodding, smiling, or changing your facial expression based on what is being said show the speaker that you are actively listening.



Avoid Interrupting Let the speaker finish their thoughts before responding. Interrupting can break the flow of the conversation and may make the other person feel unheard.



Don’t Plan Your Response Stay fully present in their words and thoughts. Trust that you will be able to respond after they’ve finished, once you’ve fully understood their perspective.



Paraphrase and Summarize To show that you’re really listening, try paraphrasing or summarizing what the other person has said. For example, you could say, “So what I’m hearing is...” or “It sounds like you’re feeling...” This confirms that you’ve understood them and helps clarify if needed.



Take Notes if Needed This can be especially useful for people who struggle with focus or memory. Just let the other person know you’re taking notes so they understand it’s for clarity, not because you’re distracted.

Sexual harassment is a serious issue that affects both employees and the success of a business. By taking a proactive stance and implementing a clear policy, employers can reduce their legal risks and improve employee morale and retention.

Prevention Checklist

Keeping a business running smoothly requires organization, especially when implementing new rules and policies. We've created a simple checklist to help you put your Sexual Harassment policy into action. You can use this checklist annually when you review your policy to ensure everything is in order. This tool helps you stay on track and organized in your efforts to prevent and address sexual harassment in the workplace. You can find an individual file for your records at legalinfo.org under our *Workplace Sexual Harassment* section.

Sexual Harassment Prevention Checklist

Checklist

- ☐ Review the provided training in the Employers Best Practices Toolkit - lms.legalinfo.org
- ☐ Review the policy provided in The Employers' Best Practices Toolkit
- ☐ Enter the name of your organization as indicated in the sample policy.
- ☐ Designate an employee as "Position A" as noted in section 6 of the policy, "Disclosing Sexual Harassment in the Workplace." Ensure the employee is notified of the designation.
- ☐ Designate an employee as "Position B" as noted in section 6 of the policy. This person will receive disclosures when Position A is in conflict. Ensure the employee is notified of the designation.
- ☐ Organize training for all supervisory staff and those responsible for administering the policy.
- ☐ Organize training for all staff.
- ☐ Create a reminder to review the policy annually and refresh all staff and supervisor training. This reminder should be shared with management and HR.
- ☐ Perform a risk audit of the physical environment to identify high-risk areas for sexual harassment. Make a note of actions taken to reduce the risk (See *LISNS' sample Risk Assessment Checklist* form).
- ☐ If your workplace is unionized, discuss implementing the policy with union representatives. Review the policies that are outlined within the union's policies, as well as the contract.

Risk Assessment

Performing a **Risk Assessment** will help you identify weak spots, and identify the risk of sexual harassment. A Risk Assessment can help you identify a practical plan that you can put into place to prevent or minimize the risk of sexual harassment.

Risk assessments allow you the opportunity to slow down and look at your environment for areas that you may have missed or overlooked. Having an organized risk assessment reminds you of important things to consider such as:

- The distance between chairs in board or meeting rooms.
- The functionality of your security system and/or cameras.
- Areas hidden out of sight (either within sightline of people or by security cameras).
- The desk space between employees and/or the clients/public.
- Policy communication practices.
- And more.

Check out our **Safe at Work: Workplace Safety Check-Up**, an interactive quiz that will help you think about risk factors in your workplace at legalinfo.org/safeatwork.

Use the **following template** to conduct an **annual audit** of the workplace for potential safety risks.

You can find an individual file for your records at legalinfo.org under our *Workplace Sexual Harassment* section.

RISK ASSESSMENT TEMPLATE

[INSERT COMPANY OR ORGANIZATION NAME / LOGO]

Job/ Department/ Location:				Completed by:	Date:
Risk Audit - Physical Environment					
Physical Environment	Y	N	N/A	Examples of Controls	Existing and Other Controls
Recommended Controls <i>(identify person(s) responsible and expected completion dates, if possible)</i>					
Please assess the following:					
Outside building and parking lot				- Bolted entries/locks - Designated public-entry doors - Clear sightlines (look at landscaping, layout, and bushes) - Good lighting - Motion/movement detectors	
Entry control and security system				- Coded doors/security doors - Employee ID cards and guest passes with sign-in/-out - Clearly labelled staff areas - Closed-circuit video system - Metal detectors - Alarms (silent or sounding) - Mirrors	

Reception and waiting areas				• Clear sightlines • Means of communication • Signage (re: hours) • No heavy or sharp objects			
Public counters				• Widened service desks • Barriers (e.g., unbreakable screens) • Silent, concealed alarms • Other means to summon help			
Interior design, hidden areas (utility rooms, etc.), and lighting				• Restricted public access • Clear sightlines • Locked doors • Mirrors • Angled corners			
Stairwells and exits				• Exit signs • Good lighting • No obstructions • Panic bars for escape • Requirements of fire code and building code			
Elevators and washrooms				• Clear sight lines • Restricted public access • Communication devices or alarms • Locks that can be accessed by security			
Public meeting rooms and interview rooms				• Clear sight lines • Communication devices or alarms • Furniture layout • Weighted furniture • Extra exit			

BLANK TEMPLATE

Isolated areas (e.g., areas where workers work alone)				• Clear sight lines • Means of communication between employer and staff in an isolated area • Mirrors • Angled corners • Restricted access			
Location of cash and valuable goods				• Locked and hidden storage			
Workplace location (e.g., shared building, neighbouring businesses, neighbourhood)				• Security tours • Cameras • Secured grounds			
Are individual security devices necessary to protect workers?				Individual security devices include: • personal alarms • cell phones • two-way radios • GPS or other locating devices			
If used in your workplace, are security systems and individual security devices tested regularly?				If used in your workplace: • Test the security systems regularly (at least every 6 months or according to manufacturer's recommendation) • Test individual security devices before use and regularly while in use • Keep records of tests			

Is there a designated safe area where workers can go during a workplace violence incident?			For emergency purposes, a safe area (e.g., a safe room, the business next door) should be identified. If using a safe room, it should have a: • Clear entry • Lock that can be used from the inside and accessed by security • Means of summoning immediate assistance		
Are there other measures or procedures needed to protect workers from the risks arising in the physical environment?			Measures and procedures will depend on the specific workplace.		
If your workplace has security measures or individual security devices, are workers trained in their use?			Provide workers training on workplace security measures and in the proper use and testing of individual security devices such as alarms or security buzzers.		
Are workers and supervisors trained in all relevant measures and procedures that will protect them from violence associated with the physical environment?			Information, instruction, and/or training includes: • Risks of workplace violence arising from their job or location • Relevant measures and procedures		

Reprisal – Retaliation or Threat of Retaliation

Reprisal (retaliation) is when someone, like a manager or coworker, treats someone badly because they made a complaint, or are a bystander and helped with a complaint. This is against the law under the **Stronger Workplaces for Nova Scotia Act**.

Retaliation can include things like:

- Being fired or demoted
- Getting fewer hours or worse shifts
- Being left out of meetings, important communications or team activities
- Being spoken to in a rude or threatening way,
- Spreading rumours or gossip to damage someone's reputation.

These are just some of the ways someone may try to get back at another. Everyone has the right to address sexual harassment, inclusion, and workplace safety without fear of retaliation or mistreatment.

Sexual harassment, inclusion, and workplace safety policies should explicitly prohibit retaliation. This is vital for protecting the comfort, safety, and security of all participants in the complaint process and work environment.

As per the policy provided in this toolkit, retaliation or threat of retaliation is strictly prohibited. It states:



Any retaliation, threat, or intimidation against any complainant, witness, respondent, or other member of the workplace for having accessed this policy may be subject to discipline up to and including termination. This includes making or filing false complaints against any member of the workplace for the purpose of retaliation.

Please note: The information in the [Employer Toolkit](#) and training are suggested best practices. They do not provide legal advice. If you are uncertain at any point, please consult with a lawyer.

Policy

Please note: The information in the [Employer Toolkit](#) and training are suggested best practices. They do not provide legal advice. If you are uncertain at any point, please consult with a lawyer.

Having a policy ensures that you have a clear foundation to prevent and address sexual harassment.

The toolkit includes a [sample Workplace Sexual Harassment \(WSH\) Policy](#) that can be tailored to meet your needs. The Policy is written in plain language to help everyone understand the expected behaviour in the workplace.

Sample Policy

You can download a sample policy at [legalinfo.org](https://www.legalinfo.org) under our *Workplace Sexual Harassment* section.

WORKPLACE SEXUAL HARASSMENT POLICY

[insert company/organization logo]

For Company/Organization Name

[insert company/organization address]

PURPOSE AND SCOPE

We do not tolerate sexual harassment in the workplace. This Sexual Harassment Prevention Policy applies to any sexual harassment that occurs in the workplace, in the course of work, or during any activities that could reasonably be associated with work.

DEFINITIONS

Abuse of Power – Entering into a romantic or sexual relationship where there is an imbalance of power.

The person in the position of power may be found to have engaged in misconduct. If a complaint of sexual harassment is filed, consent will not be a defence.

Bystander – A person who is present and witnesses sexual harassment, but who was not directly involved in the harassment.

Complainant – A member of the workplace who has made a complaint of sexual harassment.

Respondent – A member of the workplace who is alleged to have sexually harassed another.

Sexual Cyberbullying – Electronic communication of a sexual nature, direct or indirect, that causes or is likely to cause harm to another individual's health or well-being. Sexual cyberbullying can include non-consensual sexual contact online (for example, sending/posting nude images or pornography) even if it was not intended to cause harm.

Sexual Harassment – Sexual conduct (including comments and/or gestures) that is known or ought reasonably to be known as unwelcome. This could include a sexual advance made by an individual in a position of power to a subordinate. This could also include retaliating or threatening to retaliate against an individual after they rejected a sexual advance. Sexual harassment is a type of sex discrimination and is prohibited under the [Nova Scotia Human Rights Act](#).

Workplace – The workplace includes any activity, event, or undertaking that a member of the workplace participates in and that has a substantial connection to the workplace.

CONFIDENTIALITY

Every effort will be made to respect the wishes of the persons who have experienced sexual harassment and to protect the privacy and anonymity of any person who discloses an incident of sexual harassment. Limits to confidentiality may be required in certain, specific circumstances.

In the following circumstances, we may be required to take immediate action following a complaint of sexual harassment:

- a. An individual is at imminent risk of severe or life-threatening self-harm;
- b. An individual is at imminent risk of harming another person; or
- c. There are reasonable grounds to believe that others may be at significant risk of harm.

Confidentiality of all participants in the complaints process will be protected and respected to the fullest extent possible. Disclosure of information collected through this process will only occur where reasonably necessary to fulfill the purpose for which it was collected or as required by law.

PROTECTION FROM RETALIATION AND/OR THREAT OF RETALIATION

Any retaliation, threat, or intimidation against any complainant, witness, respondent, or other member of the workplace for having accessed this policy may be subject to discipline up to and including termination. This includes making or filing false complaints against any member of the workplace for the purpose of retaliation.

RIGHTS: COMPLAINANT AND RESPONDENT

The Complainant and the Respondent

Both the complainant and the respondent have the right to:

- a. have their confidentiality protected;
- b. have the limits of confidentiality explained to them prior to disclosing their complaint or prior to responding to a complaint;
- c. decide whether to access available services and to choose those services they believe will be most beneficial;
- d. be informed of resources outside the workplace;
- e. be informed of the procedures in place to address sexual harassment;
- f. have one support person present throughout the procedures;
- g. be informed of any significant updates that occur at any point in the formal complaint process;

- h. receive a copy of the investigation report (redacted to protect confidentiality); and
- i. be informed of the outcome of the investigation, including any discipline or remedial measures.

The Complainant

The complainant has the right to:

- a. a plan to protect their safety; and
- b. reasonable and necessary actions to prevent further unwanted contact with the respondent.

The Respondent

The respondent has the right to have reasonable and necessary actions taken to prevent further contact with the complainant.

DISCLOSING SEXUAL HARASSMENT IN THE WORKPLACE

Complainant

A complaint of sexual harassment within the workplace should be brought to [title of Position A].

If the complaint involves the [title of Position A], the complaint must be brought to [title of Position B]. In this case, all components of the resolution process would be carried out by [title of Position B].

A complaint can result in an informal resolution or in a formal investigation. Where the complaint is brought by the person who experienced the sexual harassment, they will be provided with information regarding the options for addressing the complaint as well as information on where to access additional resources for support outside the workplace.

Third Party/Bystander

Where a bystander witnesses or has reasonable concerns about an act of sexual harassment, they are encouraged to submit a written statement to the [Position A]. Whether a statement from a bystander can proceed as a formal investigation without an identified complainant will be determined by the [Position A].

Where a bystander's statement identifies an employee, who may have experienced sexual harassment, the [Position A] will reach out to this person, while maintaining confidentiality, to offer information on available supports and resources.

Information provided by a bystander may also be used to engage in a process to address systemic or cultural concerns within the organization.

INFORMAL RESOLUTION

Where it is determined that an informal process is an appropriate way to respond to a complaint of sexual harassment, the following is a selected list of options:

- a. **Facilitation:** facilitated discussion between the complainant and respondent by a qualified third-party;
- b. **Notification:** the [Position A] or the [Position B] notifies the respondent that the behaviour must stop immediately;
- c. **Education:** the [Position A] or the [Position B] arranges coaching, support, and educational opportunities for the respondent and/or other members of the workplace.

Informal resolution requires the voluntary participation of both the complainant and the respondent. Prior to a respondent choosing to be involved in any informal process, they will be provided with:

- a. written notice that a complaint has been brought against them and that at this time the response to the complaint will be informal;
- b. a copy of the complaint and this policy;
- c. details of available supports and resources;
- d. a reminder that the choice to voluntarily participate or engage in any part of the informal process will not be considered as evidence that the respondent has breached the policy;
- e. a reminder that the information learned while proceeding under the informal process can be used later if the matter proceeds to a formal investigation. Such information may also be disclosed to outside parties if required by law;
- f. a reminder that if the respondent is not willing to voluntarily participate in the desired informal process, the [Position A] may proceed to a formal investigation; and
- g. a reminder that this policy prohibits retaliation.

FORMAL INVESTIGATION

Where the [Position A] determines that a formal investigation is the appropriate response to a complaint of sexual harassment, the following steps will be taken:

- a. provide written notice to the respondent that a complaint has been brought against them. Such notice will include:
 - i. a copy of the complaint;
 - ii. a copy of this policy;
 - iii. a review of the procedure that will be followed;

- iv. details of any steps to be taken to limit further contact between the complainant and the respondent;
 - v. details of available supports and resources; and
 - vi. a reminder that the policy prohibits retaliation.
- b. give the respondent 15 business days to provide a formal written response to the complaint; and
 - c. offer the complainant an opportunity to receive a copy of the respondent's written response to the complaint, if one is received.

If the respondent does not provide a written response, written notice will be provided to the complainant and the respondent that the allegations are unchallenged.

The investigation report shall be completed in a timely manner. To the extent possible, the investigation report should be completed within 30 business days of the date that the complaint was received. Where more time is required, written notice shall be provided to the complainant and the respondent before the 30 business days have passed.

The *[Position A]* will interview and take statements from the complainant, the respondent, and any other witnesses that the *[Position A]* believes to have information relevant to the investigation. Following each interview, the individual interviewed will be provided with a written summary of the interview and given a reasonable length of time to provide comments on its accuracy.

THE INVESTIGATION REPORT

The investigation report will include:

- a. an overview of the allegations;
- b. a summary of the persons interviewed and any relevant evidence;
- c. identification of witnesses only by letter or number to protect confidentiality;
- d. a summary of the findings of fact based on the evidence gathered;
- e. a finding of whether the allegations of sexual harassment occurred; and
- f. recommendations on any remedy or discipline as appropriate.

A copy of the investigation report will be sent to the complainant and the respondent.

TEMPLATE EXAMPLE

POSSIBLE OUTCOMES

Discipline

If sexual harassment is found to have occurred, the respondent will be disciplined appropriately, up to and including termination.

Remedies

In addition to any discipline issued, the organization may require the respondent to participate in training and education.

It may also be determined that offering education and training on preventing and eliminating sexual harassment in the workplace should be provided to the entire workforce.

TRAINING AND PREVENTATIVE MEASURES

Training for Supervisors and Staff Administering the Policy

Supervisors and staff responsible for administering this policy will be trained on this policy within the first week of being hired and once every year from then on.

Training to Implement the Policy with all Staff

Staff shall be trained on this policy within the first week of being hired and once every year from then on.

Policy Revisions

This policy should be reviewed and updated at least once every three years.

RESOURCES

If you are facing or have faced workplace sexual harassment within Nova Scotia, you may qualify for help. You can contact LISNS by:



Telephone at 1-833-407-3600



Live chat at www.legalinfo.org



Email at safeatwork@legalinfo.org

Why you need two people to receive complaints

Explaining Position A and Position B

Throughout the policy, you will notice that we refer to **Position A** and **Position B**. This is important in case a complaint is made against one or the other. Position A and Position B will be facilitating the investigation process. Having two or more people will ensure that you can conduct a safe investigation, and lower the risk of a conflict of interest impacting the process.

It is important to document who is in Position A and Position B along with the policy, as well as the appropriate contact information. When you are printing and distributing the policy to your employees, include this information.

Rights and Responsibilities

It's important to understand the rights and obligations in the workplace. Everyone has the right to a safe place of employment, and all employees must respect that right.

It's important to understand that you have a heightened responsibility and obligation to establish, communicate, and enforce policies that ensure your employee's safety. If workplace issues could cause harm, employers have a duty to address them to keep employees safe. This includes incidents of sexual harassment, harassment or bullying, and assault.

During the Process, the Complainant and the Respondent both have the right to:

- have their confidentiality protected;
- have the limits of confidentiality explained to them prior to disclosing their complaint or prior to responding to a complaint;
- decide whether to access available services and to choose those services they believe will be most beneficial;
- be informed of resources outside the workplace;
- be informed of the procedures in place to address sexual harassment;
- have one support person present throughout the procedures;
- be informed of any significant updates that occur at any point in the formal complaint process;
- receive a copy of the investigation report (redacted to protect confidentiality); and
- be informed of the outcome of the investigation, including any discipline or remedial measures.

The complainant also has the right to:

- a plan to protect their safety; and
- reasonable and necessary actions to prevent further unwanted contact with the respondent.

The respondent has the right to have reasonable and necessary actions taken to prevent further contact with the complainant.

Confidentiality

Confidentiality is an important part of the Sexual Harassment in the Workplace Policy. Employees need to feel comfortable and confident that they can go to a manager and report incidents of sexual harassment knowing this information will not be shared with other employees.

HERE ARE STEPS YOU CAN TAKE TO PROTECT CONFIDENTIALITY:

- Include information about confidentiality with the complaint form, and any training material for employees.
- Only speak with the involved parties about the investigation.
- Only ask for the information you need during the complaint and investigation process.
- Store records in a secure location. This could be a locked filing cabinet or a password-protected folder on a password-protected computer.
- Use code names. If your employees have employee numbers, use this as opposed to their names when taking notes.

There are always limits to confidentiality. The sample policy sets out situations where these limits are. You must act immediately if you suspect that someone is at risk of harming themselves or others. If this is something you suspect will occur or is threatened, you must immediately report this.



The following is from the sample policy:



Confidentiality

Every effort will be made to respect the wishes of the persons who have experienced sexual harassment and to protect the privacy and anonymity of any person who discloses an incident of sexual harassment. Limits to confidentiality may be required in certain, specific circumstances.

In the following circumstances, we may be required to take immediate action following a complaint of sexual harassment:

- ***An individual is at imminent risk of severe or life-threatening self-harm;***
- ***An individual is at imminent risk of harming another person; or***
- ***There are reasonable grounds to believe that others may be at significant risk of harm.***

Confidentiality of all participants in the complaints process will be protected and respected to the fullest extent possible. Disclosure of information collected through this process will only occur where reasonably necessary to fulfill the purpose for which it was collected or as required by law.

The Employer Best Practices Toolkit provides a sample Confidentiality Agreement that you can provide to participants involved in any investigation. This ensures that all parties are aware of their responsibility to maintain confidentiality regarding this process. You will find this agreement on the next page.

Confidentiality Agreement

We provide a sample Confidentiality Agreement that you can provide to participants involved in any investigation. A Confidentiality Agreement ensures that all parties are aware of their responsibility to maintain confidentiality regarding this process. It is important to note that maintaining confidentiality is critical to protecting everyone involved, the matters at issue, and the integrity of the evidence.

You can find a copy of this agreement at legalinfo.org under our *Workplace Sexual Harassment* section.

CONFIDENTIALITY AGREEMENT: SEXUAL HARASSMENT INVESTIGATION

I, _____, understand that an investigation is a highly sensitive matter and that it is critical to maintain the utmost confidentiality throughout the process. This is important to protect the confidentiality of all those involved, the matters at issue, and the integrity of the evidence.

In that regard, I agree that I will not discuss with anyone any matters relating to the investigation including:

- the fact that I am being interviewed or witnessing an interview and the questions that have been asked;
- any of the issues discussed during the interview;
- my opinions about the investigation;
- what other individuals, if any, might also be participating in the investigation process.

If I have any questions or concerns about what is covered by this agreement, I will address them with the investigator prior to signing below. Failure to maintain confidentiality may be considered interference with the investigation and may result in employee discipline.

Participant's Signature

Date

Name of Investigator

Date

Support Person's Signature

Date

Employee Engagement and Communication

Effective and intentional communication is vital for a safe, respectful workplace, particularly regarding sexual harassment and safety policies. Clear, accessible communication channels ensure employees understand policies and show management's commitment to their well-being.

A focused communication pipeline actively engages employees in programs and training, building trust and encouraging reporting of inappropriate behavior. A good strategy ensures the message is retained, fostering a culture where everyone understands and feels supported in preventing sexual harassment.

Sexual Harassment in the Workplace – Employee Engagement & Awareness

It's important to have practical options to reach and engage employees efficiently and effectively. You can do this by tweaking current tactics and adding new ones to support them. Keep it simple and focus on the basics.

Key questions for effective communications with employees include:

- How can we engage employees more in programs and training?
- Are the right communications reaching the right people at the right time?
- Are the delivery modes appropriate for our employees?
- How do we best talk with, rather than talk to, employees?

Who are your employee audiences?

When connecting with your employees, you can reach out to them collectively - or all together. But you may also wish to communicate with different segments, or departments, of your employees. These include:

- Frontline workers
- Administrative staff
- Managers
- Departments and units
- Unionized employees
- Maintenance staff
- Senior managers, executives, owners

Segmenting, or targeting specific groups of employees allows you more control to tailor the message appropriately for your employees. It is helpful to understand the demographics of your employee group, if possible. This often helps determine the best approaches and materials to reach them with.

Face-to-face meetings, trainings, and events are typically the preferred way to communicate with your employees — even if engagement seems low. Face-to-face communications ensure that the conversation is more personal, and it helps with people retaining the information.

Employees also appreciate digital and hard copy communications, like email, brochures, posters, and fact sheets.

Open channels present an opportunity, because welcomed communications get more attention – and open the door for even further engagement.

Communication Tactics That Stick

Marketers use the term **stickiness**: advertisements that are memorable because they stick with audiences long after the campaign is over – and achieve a goal, be it awareness or sales. Think of Wendy's "Where's the Beef?," Dove's "Campaign for Real Beauty," and the War Amp's "Play Safe."

Sticky campaigns are successful because they:

1. Frame everything in terms of audience needs versus straight information;
2. Have a simple and concrete message;
3. Use humour, emotion or the unexpected;
4. Encourage participation

Here are 5 elements of sticky ideas:

1. **They are simple:** the idea/communication is stripped down to the core message.
2. **They are unexpected:** the message is remarkable, and out of the ordinary, so people's attention is captured.
3. **The message is concrete:** there is no vague message here. You are clear and concise about your message and what you are trying to get across.
4. **The idea is believable:** people understand and believe you when you are speaking. It is credible.
5. **The idea hits your emotions:** the message is something that people care about. In this particular instance, people should care about the well-being of their co-workers.

The message is relatable: stories can help describe and deliver a message to an audience, by putting them in relatable scenarios.

Picking and staying to a few main topics focuses audience attention. Repeating the messages is more impactful than covering a dozen topics in one or two ways. Your three main messages might be:

- **This is a health and safety issue** – the need for employees to feel secure and respected while on the job is paramount. Under the law you must have a policy to ensure prevention and response to sexual harassment in the workplace.
- **We all have a role to play** – A workplace is a community, and members of a community look out for one another. Bystanders play a critical role in reaffirming an employee's personal space, their right to say no, and their right to feel – and to be – safe at work.
- **We have zero tolerance for sexual harassment in our workplace.** Quite simply, sexual harassment is wrong on every level and will not be tolerated. We want employees to want to come to work, to feel safe, to know they can speak up safely, and have the support of management and colleagues.

Communication Schedule

Before you start:

Before you start, you should have ...

- Email client/Service where you can email your entire staff, and segments of your staff (if applicable)
- Training Slide Deck specific to your policy and company
- An FAQ specific to your company and policy
- Identified and consenting safety and harassment officers for your workplace
- Policies, slide Decks, FAQs, and any other important information printed and ready to distribute (enough for every employee and shared version)
- Digital versions stored in an accessible location for all employees.
- Posters with critical information to post in common areas/bulletin boards
- Binders, folders, portfolios to store hardcopies

On-Boarding

All new hires should:

- Receive a **Welcome Kit**, that contains any information that you need employees to have on hand about their behaviour at work. This could include history, policies, benefits, etc.
- Policies should be gone over with the new staff member.
 - This should include an in-depth safety training, which includes a **Sexual Harassment Policy training** and a **Bystander Training**.
- They should be introduced to **safety** and/or **harassment officers**, as well as the **managers** and **HR staff** if applicable.

Permanent

- There should be a hard copy of all **safety policies**, including the **sexual harassment policy**, available in an easy-to-access location for **all employees**. This may mean multiple locations.
- Employees should also be able to access all important information about the safety policies, including the sexual harassment policy, **digitally**. This includes any side decks, infographics, posters, important emails, forms and the policy themselves. This could be housed on a cloud-storage file service, intranet, or employee-only web site.
- You can reinforce the message and policy by putting up posters in lunchrooms, bathrooms, or bulletin boards.



Annual Schedule

There should be annual training sessions on the policies in your workplace. This includes a training on the **Sexual Harassment Policy**, and the processes for those who are looking to submit a complaint, a witness/bystander, a support person, and safety/harassment officers.

- Emails advising the employers of the date and times that they are scheduled for this training should be sent **4 week in advance, 2 weeks in advance**, and then **the day before the training**.
- After the training session, a *Thank You* email should be sent to the employees in attendance.
 - This email should include (as links or attachments):
 - FAQ
 - Slide Decks
 - Videos
 - Policies
 - Important Contact Info
 - Important links, like **The Legal Information Society of Nova Scotia's Safe at Work app**.
- Any employees that miss the training should be sent an email for re-scheduling.
- **1 month, 3 months** and **6 months** after the training, an email reminder should be sent out that includes a highlight of **key concepts**, the **links** to important information (like policies, slide decks, videos, etc.), and **contact information of the safety or harassment officers**. You can schedule these using your calendar, email client or a mass email service like Envoke or Mailchimp.
- **Repeat this schedule every 12 months.**

Sample Email Templates

You can find these email templates at legalinfo.org under our *Workplace Sexual Harassment* section.

E-mail templates: Employees

Key message to employees: sexual harassment is a health and safety issue

SUBJECT: Your safety is paramount – Sexual Harassment in the Workplace Bystander Training

Ensuring our workplace is safe and healthy for all employees is our top priority. Learning more about sexual harassment is important, and we are asking all employees to watch a series of short videos, about 30 minutes in total on how to be an effective bystander. Please click here for the series: [Bystander Training \(lms.legalinfo.org\)](https://lms.legalinfo.org)

The training takes an occupational health and safety approach to creating respectful workplaces and offers tips for how to be a supportive bystander, a role we all play. Upon completion of the self-directed training, you will receive a certificate that you can submit to your manager for placement in your personnel file.

Together we are working to keep each other safe.

Key message to employees: we all have a role to play

SUBJECT: You have a role to play – Sexual Harassment in the Workplace Bystander Training

Our workplace is a community, and we must look out for one another. Bystanders play a critical role in reaffirming your personal space, your right to say no, and your right to feel – and to be – safe at work. That is why we are asking you to watch a series of short videos: [Bystander Training \(lms.legalinfo.org\)](https://lms.legalinfo.org)

Learning more about sexual harassment and the important role we all play in prevention is the focus of the video series. Upon completion of the self-directed training, which will take about 30 minutes, you will receive an electronic certificate that you can email to your manager for placement in your personnel file.

Together we are continuing to build a culture founded on mutual respect and support.

Key message to employees: we have zero tolerance for sexual harassment in the workplace

SUBJECT: Zero tolerance – Sexual Harassment in the Workplace Bystander Training

Let us be frank. We have zero tolerance for sexual harassment in our workplace. That is why we are encouraging everyone to watch a series of short videos, about 30 minutes in total, on how to be an effective bystander. Please click here: [Bystander Training \(lms.legalinfo.org\)](https://lms.legalinfo.org)

We are working to be more informed about sexual harassment and the role we can all play in preventing sexual harassment. This training delves into the issue of sexual harassment and offers tips for how to be a supportive bystander. Upon completion of the self-directed training, you will receive a certificate that you can submit to your manager for placement in your personnel file.

Sexual harassment is wrong on every level and will not be tolerated. We want you to come to work, to know you can speak up safely, and that you have the support of management and colleagues.

E-Mail Templates: Managers

You can find these email templates at legalinfo.org under our *Workplace Sexual Harassment* section.



Key message to manager: sexual harassment is a health and safety issue

SUBJECT: Your role – Sexual Harassment in the Workplace Bystander Training

Ensuring our workplace is safe and healthy is our top priority. We are asking all employees to watch a series of short videos, about 30 minutes in total, focused on the issue of sexual harassment and the role bystanders can play. In advance of the email on [DATE] announcing the training, you can watch the video series here: [Bystander Training \(lms.legalinfo.org\)](https://lms.legalinfo.org)

The training takes an occupational health and safety approach to creating respectful workplaces and offers tips for how to be a supportive bystander. Please encourage all your employees to complete the training and answer any questions they may have. If you hold regular staff meetings, please make this an agenda item.

Upon completion of the self-directed training, employees will receive an electronic certificate which they can send to you for placement in their personnel file.

In addition to the training, we have developed a Sexual Harassment Prevention Policy that employees should be aware of and familiar with. This may be another agenda item for your regular staff meetings.

A [Frequently Asked Questions](#) sheet is attached that answers questions we anticipate may be asked regarding the training.

Key message to manager: we all have a role to play

SUBJECT: Encourage participation – Sexual Harassment in the Workplace Bystander Training

Bystanders play a critical role in ensuring a respectful and safe workplace. That is why on [DATE] we will send an email to all employees asking them to watch a series of short videos, about 30 minutes in total. The videos are a part of new Bystander Training that addresses sexual harassment in the workplace. Before then, you can watch the video series here: [Bystander Training \(lms.legalinfo.org\)](https://lms.legalinfo.org)

Please inform your team members about the videos and encourage them to complete the training. If you hold regular staff meetings, please make this an agenda item. Upon completion of the self-directed training, employees will receive a certificate they can give you for placement in their personnel file.

In addition to the training, we have developed a [Sexual Harassment Prevention Policy](#) that employees should be aware of and familiar with. This may be another agenda item for your regular staff meetings.

A [Frequently Asked Questions](#) sheet is attached that answers questions we anticipate may be asked about the training.

Key message to manager: we have zero tolerance for sexual harassment in the workplace

SUBJECT: Zero tolerance – Sexual Harassment in the Workplace Bystander Training

We have zero tolerance for sexual harassment in our workplace. That is why we are encouraging all employees to watch a series of short videos, about 30 minutes in total about how to be an effective bystander against workplace sexual harassment.

On [DATE], we will send an email to all employees asking them to watch a series of short videos, about 30 minutes in total. Before then, you can watch the video series here: [Bystander Training](#)

It is important that employees know about the videos and are encouraged to complete the training. If you hold regular staff meetings, please make this an agenda item. Upon completion of the self-directed training, employees will receive an electronic certificate they can send to you for placement in their personnel file.

In addition to the training, we have developed a [Sexual Harassment Prevention Policy](#) that employees should be aware of and familiar with. This may be another agenda item for your regular staff meetings.

A [Frequently Asked Questions](#) sheet is attached that answers questions we anticipate may be asked about the training.

E-mail templates: Employees

Key message to employees: sexual harassment is a health and safety issue

SUBJECT: Your safety is paramount – Sexual Harassment in the Workplace Bystander Training

Ensuring our workplace is safe and healthy for all employees is our top priority. Learning more about sexual harassment is important, and we are asking all employees to watch a series of short videos, about 30 minutes in total on how to be an effective bystander. Please click here for the series: [Bystander Training \(lms.legalinfo.org\)](https://lms.legalinfo.org)

The training takes an occupational health and safety approach to creating respectful workplaces and offers tips for how to be a supportive bystander, a role we all play. Upon completion of the self-directed training, you will receive a certificate that you can submit to your manager for placement in your personnel file.

Together we are working to keep each other safe.

Key message to employees: we all have a role to play

SUBJECT: You have a role to play – Sexual Harassment in the Workplace Bystander Training

Our workplace is a community, and we must look out for one another. Bystanders play a critical role in reaffirming your personal space, your right to say no, and your right to feel – and to be – safe at work. That is why we are asking you to watch a series of short videos: [Bystander Training \(lms.legalinfo.org\)](https://lms.legalinfo.org)

Learning more about sexual harassment and the important role we all play in prevention is the focus of the video series. Upon completion of the self-directed training, which will take about 30 minutes, you will receive an electronic certificate that you can email to your manager for placement in your personnel file.

Together we are continuing to build a culture founded on mutual respect and support.

Key message to employees: we have zero tolerance for sexual harassment in the workplace

SUBJECT: Zero tolerance – Sexual Harassment in the Workplace Bystander Training

Let us be frank. We have zero tolerance for sexual harassment in our workplace. That is why we are encouraging everyone to watch a series of short videos, about 30 minutes in total, on how to be an effective bystander. Please click here: **Bystander Training (lms.legalinfo.org)**

We are working to be more informed about sexual harassment and the role we can all play in preventing sexual harassment. This training delves into the issue of sexual harassment and offers tips for how to be a supportive bystander. Upon completion of the self-directed training, you will receive a certificate that you can submit to your manager for placement in your personnel file.

Sexual harassment is wrong on every level and will not be tolerated. We want you to come to work, to know you can speak up safely, and that you have the support of management and colleagues.

Training

Training is a critical part of communicating your Sexual Harassment policy to your employees, and is a necessary step to preventing sexual harassment, and safety issues in the workplace. It ensures that all employees are aware of the expected, appropriate behaviour to model in the workplace, and the consequences they face if they are inappropriate.

Training also provides you with the opportunity to review the policy, procedures, contact points, and where the information is located digitally and as a hard copy. It is important to have both versions accessible to all employees, and training allows you to communicate that to everyone.

Performing annual training with all employees also allows you a great opportunity to connect with everyone to receive feedback. It is important that employees feel heard, and engaged in the workplace.

It is important that you craft a Sexual Harassment and Workplace Safety training that is tailored to your company and needs. In this training you should:

- Define what sexual harassment is
- Offer examples of sexual harassment
- Explain Impact versus Intent
- Explain Power Imbalances and Abuse of Power
- Review any sexual harassment policies you may have
- Review the process of submitting a complaint
- Review the process of submitting a complaint as a witness
- The Rights and Obligations of every party involved in the complaint process
- Who the Safety/Harassment Officers are
- Where the policies are located (both hard copy and digital)

Bystander Training

A **Bystander** is a **witness** to the harassment. They are a person who is present when the incident takes place, and witnesses the event. They may not take part, or be targeted, but they may feel impacted just the same.

Bystanders are an important part of addressing, and preventing sexual harassment. By encouraging your employees to speak up if and when they witness something, it enforces a commitment to workplace safety.

Bystander training reviews appropriate methods to interrupt, prevent, and report sexual harassment if they witness sexual harassment. Bystander training acknowledges their importance and acknowledges your commitment and valuing your employees' ability to speak up if they see a colleague being violated.

The Legal Information Society of Nova Scotia has developed Bystander Training that you can provide to your employees to help communicate the importance of Bystanders in your workplace and what they can do to help address Sexual Harassment. For more information on Bystander Training, go to

www.legalinfo.org/i-have-a-legal-question/workplace-sexual-harassment/#bystander-training.



Complaint Form

Structured documentation of sexual harassment complaints via a form is crucial for a fair process. This creates a formal, detailed record essential for a proper investigation, protecting the complainant and the organization by establishing a clear timeline and demonstrating a serious, responsible commitment to addressing the issue.

Thorough documentation, from the initial complaint to resolution, is essential. This paper trail proves the employer's due diligence, fairness, and transparency if the issue becomes a legal matter. Documenting all evidence, conversations, and actions ensures accountability, minimizes legal risk, and fosters a culture of trust and safety.

While a formal complaint form is useful, flexibility is key. Employers should accept and attach other written communications (letters, emails) to the form, ensuring all complaints are acknowledged, documented, and ready for a formal investigation, regardless of the initial submission method.

You can find the complaint form at legalinfo.org under our *Workplace Sexual Harassment* section.

Sexual Harassment Complaint Form

Date:

Person receiving complaint:

COMPLAINANT INFORMATION

Name:

Job Title:

Email:

Phone:

REPRESENTATION

YES

NO

UNSURE

I would like to have a support person present when I am being interviewed.

☐
☐
☐

My preferred language is

☐
☐

and I will require an interpreter for an interview.

PERSONAL SAFETY

YES

NO

I currently feel that I am in danger.

☐
☐

I believe that I will be subjected to further harassment, discrimination or violence in the next 24 hours.

☐
☐

I believe that I will be subjected to further harassment, discrimination or violence if I continue to work with the respondent(s) or continue to be in contact with the respondent(s) at work.

☐
☐

I believe that I will be subjected to further harassment, discrimination or violence if I continue working at or attending this workplace.

☐
☐

I believe that I am safe at work.

☐
☐

I believe that I am safe traveling to and from work.

☐
☐

I currently feel that I am in danger.

☐
☐

Date:

Time:

Location:

Name(s) of person(s) alleged to have committed sexual harassment:

Name(s) of anyone who witnessed the incident or who may have relevant information:

Please provide a detailed description of incident(s) and the circumstances surrounding the incident(s).

NOTE: Use additional pages as necessary to complete the statement.

Please provide any other relevant information:

Do you have any documents, notes, photographs, recordings or other material related to the incident? If so, may we have copies of them? Attach to this document.

Confirmation of Information Provided as True and Correct

I have reviewed all the information included in this document. I understand the information and swear that to the best of my knowledge it is true and correct.

COMPLAINANT	WITNESS
Name	Name
Signature	Signature
Date	Date

Exploring Informal Resolutions

Informal resolutions require active participation from everyone involved. The goal is to handle the situation through conversations rather than through formal channels like investigations or legal action.

Informal resolutions can be:

- **Conversation:** expressing how the actions have impacted you may be an option. This should only be done if you feel safe in doing so.
- **Facilitation:** facilitated discussion between the complainant and respondent by a qualified third party;
- **Notification:** a supervisor notifies the respondent that the behaviour must stop immediately;
- **Education:** a supervisor arranges coaching, support, and educational opportunities for the respondent and/or other members of the workplace.

Many people choose an Informal Resolution as a first step because it can feel less intimidating, and may lead to a quicker resolution.

Informal resolutions require clear and careful communication. They also can allow for more flexibility in how issues are handled, which sometimes can lead to collaborative and constructive outcomes, as long as all parties are willing to participate.

Informal resolutions cannot work without trust and respectful participation. They have a greater risk of stalling or manipulation. Parties may eventually disagree, and not wish to participate. They also may have little to no check on power imbalances, as well as biases. These issues can lead to a lack of trust and confidence in the participants and the process. It is important to allow everyone to advocate for themselves within the informal process, and ensure that if they wish to communicate the impact, they are provided the space to communicate this.

Things to consider before informal resolutions

While informal resolutions can be beneficial to use, there are some things that you should consider before approaching an informal resolution.

Voluntary Participation: for informal resolutions to be effective, all parties must be willing participants, and engaged in the process. This means that everyone must be open and ready to receive each person's perspective and understand the impact over their intent. Genuine participation can lead to effective change in the workspace.

Power Imbalances: If there is an imbalance of power between the parties involved, an informal resolution may not be appropriate. This may lead to some parties feeling unintended pressure to accept an unfair, or inappropriate resolution.

Is this an Ongoing Issue?: if the harassment is severe, follows outside of the workplace or if it is an ongoing issue, an informal resolution is not an appropriate option. It is important to meet the complaint with an equitable reaction.

From the policy



Informal Resolution

Where it is determined that an informal process is an appropriate way to respond to a complaint of sexual harassment, the following is a selected list of options:

- a. **Facilitation:** facilitated discussion between the complainant and respondent by a qualified third-party;
- b. **Notification:** the [Position A] or the [Position B] notifies the respondent that the behaviour must stop immediately;
- c. **Education:** the [Position A] or the [Position B] arranges coaching, support, and educational opportunities for the respondent and/or other members of the workplace.

Informal resolution requires the voluntary participation of both the complainant and the respondent. Prior to a respondent choosing to be involved in any informal process, they will be provided with:

- a. written notice that a complaint has been brought against them and that at this time the response to the complaint will be informal;
- b. a copy of the complaint and this policy;
- c. details of available supports and resources;
- d. a reminder that the choice to voluntarily participate or engage in any part of the informal process will not be considered as evidence that the respondent has breached the policy;
- e. a reminder that the information learned while proceeding under the informal process can be used later if the matter proceeds to a formal investigation. Such information may also be disclosed to outside parties if required by law;
- f. a reminder that if the respondent is not willing to voluntarily participate in the desired informal process, the [Position A] may proceed to a formal investigation; and
- g. a reminder that this policy prohibits retaliation.

Formal Investigation and Resolutions

A formal investigation, as outlined by the policy, allows you, the complainant and the respondent the ability to have a formal record made of the complaint, investigation and resolution. Formal investigations can help identify and resolve the harassment before it becomes more widespread. Alternatively, if the harassment has become a widespread, or large issue, a formal complaint can assure your employees that you are taking the matter seriously and are committed to workplace safety.

The Formal Investigation process is as follows:

- The complainant provides the complaint in writing
- Respondent is provided with a copy of the complaint, policy, procedure, and further details
- Respondent is provided time to respond in writing
- Formal Interviews are conducted with the Complainant, Respondent and any Bystanders who wish to participate
- An Investigation Report is written, including remedies, and provided to the complainant and respondent

Both sides should be provided the opportunity to provide their evidence, such as:

- Emails between you and the accused
- Emails between you and the supervisors
- Any official communication between you and your place of employment
- Doctors notes
- Text Messages
- Voice Mail Messages
- Witness Statements
- Timesheets
- Security footage

This is not a comprehensive list, so feel free to have a conversation about what kind of evidence they wish to present.

From the Policy



Formal Investigation

Where the [Position A] determines that a formal investigation is the appropriate response to a complaint of sexual harassment, the following steps will be taken:

- a. provide written notice to the respondent that a complaint has been brought against them. Such notice will include:
 - i. a copy of the complaint;
 - ii. a copy of this policy;
 - iii. a review of the procedure that will be followed;
 - iv. details of any steps to be taken to limit further contact between the complainant and the respondent;
 - v. details of available supports and resources; and
 - vi. a reminder that the policy prohibits retaliation.
- b. give the respondent 15 business days to provide a formal written response to the complaint; and
- c. offer the complainant an opportunity to receive a copy of the respondent's written response to the complaint, if one is received.

If the respondent does not provide a written response, written notice will be provided to the complainant and the respondent that the allegations are unchallenged.

The investigation report shall be completed in a timely manner. To the extent possible, the investigation report should be completed within 30 business days of the date that the complaint was received. Where more time is required, written notice shall be provided to the complainant and the respondent before the 30 business days have passed.

The [Position A] will interview and take statements from the complainant, the respondent, and any other witnesses that the [Position A] believes to have information relevant to the investigation. Following each interview, the individual interviewed will be provided with a written summary of the interview and given a reasonable length of time to provide comments on its accuracy.

The Investigation

When investigating a sexual harassment complaint, an interview provides you the opportunity to hear all sides of the complaint. An interview form allows you to document the investigation in a consistent, organized manner.

The Interview Form Template ensures investigators use a structured, consistent approach for interviewing complainants, respondents, and witnesses. It guarantees recording key details like logistics and important topics, including confidentiality and anti-retaliation policies. This standardization promotes fairness, thoroughness, and a reliable investigation record.

Interview Form

You can find the Interview Form at legalinfo.org under our *Workplace Sexual Harassment* section.

RESPONDING TO A COMPLAINT OF SEXUAL HARASSMENT – INTERVIEW FORM & CHECKLIST

[INSERT COMPANY/ORGANIZATION LOGO]

COMPLAINT INFORMATION				
File number:		Date of Complaint:		Investigator:
Date of Interview:			Location of interview:	
Time Interview Began:		Time Interview Concluded:		
Audio/video recording of interview?	YES	☐	NO	☐
PERSON BEING INTERVIEWED				
Name:		Choose one: ☐ Complainant ☐ Respondent ☐ Witness ☐ Other (describe):		
Email:		Phone:		
SUPPORT PERSON (if present)				
Name:	Email:		Phone:	
INTERPRETER (if offered as an option)				
Name:	Email:		Phone:	
CHECKLIST FOR INVESTIGATION INTERVIEW				
Explain the investigation process.				☐

BLANK TEMPLATE

Explain confidentiality; it is a best practice to have the person sign a confidentiality agreement.	☐
Explain that information provided during the interview may be shared with the employer and used to make decisions following the investigation.	☐
Explain that retaliation against any person for participating in this process is unacceptable and is a violation of the organization's policy which may result in discipline.	☐
Provide information on supports such as EAP and other outside resources.	☐
Remind the person that they have the right to have a support person present (let them know they can change their mind about this at any point prior to being interviewed).	☐
Inform a support person that they are not permitted to answer questions or interject, only to be present, take notes, and assist the person being interviewed.	☐
Ask the person if they have any questions before getting started.	☐
Ask the person to tell you about the incident or other relevant information.	☐
When finished, ask if there is anything else they would like to tell you.	☐
Make arrangements to collect any relevant material (e.g., emails, texts, videos, photos).	☐

Investigation Report

An investigation report is essential to handle sexual harassment and safety complaints properly. It creates a detailed record of the investigation, which protects everyone involved and shows the company takes complaints seriously. This report also serves as legal evidence, proving the company acted fairly and responsibly, which can protect the business from lawsuits.

The investigation report will include:

- An overview of the allegations;
- A summary of the persons interviewed and any relevant evidence;
- identification of witnesses only by letter or number to protect confidentiality;
- A summary of the findings of fact based on the evidence gathered;
- A finding of whether the allegations of sexual harassment occurred; and
- Recommendations on any remedy or discipline as appropriate.

A copy of the investigation report will be sent to the complainant and the respondent.

Before sharing the report with the Complainant and Respondent, you may want to share the report with the relevant managers or supervisors. This will allow the team to gain a clear understanding of the recommendations from the report, and provide time for the team to develop a plan for how to put these recommendations in place.



Investigation Report Sample

You can find the sample investigation report [here](#).

Sample Investigation Report

[INSERT “ABC COMPANY/ORGANIZATION” LOGO]

FILE NO.:	111
DATE OF COMPLAINT:	June 25, 2021
DATE OF REPORT:	July 7, 2021
POLICY(IES) CONSIDERED:	Sexual Harassment Prevention Policy
COMPLETED BY:	A. Walden, HR Manager
SUBMITTED TO:	G. Cooper, CEO

PRIVILEGED AND CONFIDENTIAL, JULY 7, 2021

BACKGROUND

Provide information on the nature of the complaint, including who the complainant(s) and respondent(s) are, the date the incident was alleged to have occurred, and any other relevant information that provides context for the complaint.

Example:

On May 16, 2021, Tamia Francis (the “Complainant”), a casual warehouse worker on night shift, filed a complaint of sexual harassment against Pierre Fairbanks (the “Respondent”), a warehouse night shift supervisor. On May 18, 2021, I was hired to investigate the complaint under the formal complaints process in Acme Ltd.’s *Sexual Harassment Prevention Policy*.

There are three incidents raised in the complaint form, which is attached to this report. The three incidents are alleged to have occurred on the night shifts of February 1, February 28, and March 12, 2021. The Respondent was on leave for personal reasons from April 18 until April 30, 2021. The Complainant was on vacation from May 1 until May 14, 2021.

The Complainant started with Acme Ltd. on June 4, 2020. The Respondent has worked as a night shift supervisor with Acme Ltd. since August 8, 2004.

POLICY

Reference the nature of the complaint under the *Sexual Harassment Prevention Policy*.

Example:

This is a complaint of sexual harassment, which is defined in Acme's policy as:

Sexual conduct (including comments and/or gestures) that is known or ought reasonably to be known as unwelcome. This could include a sexual advance made by an individual in a position of power to a subordinate. This could also include retaliating or threatening to retaliate against an individual after they rejected a sexual advance. Sexual harassment is a type of sex discrimination and is prohibited under the *Nova Scotia Human Rights Act*.

REVIEW OF ALLEGATIONS AND EVIDENCE

Summary of Allegation(s)

- Describe the allegation(s)

Example:

On February 1, 2021, the Complainant alleges that the Respondent ran his hand along the Complainant's back and rested his hand on her lower back. He asked her how old she was, and she responded that she was 23. He told her that she was "a pretty young thing."

On February 28, 2021, the Complainant alleges that the Respondent found her alone in the stockroom doing inventory. The Respondent asked her if she needed help, and she told him she did not. The Complainant alleges that the Respondent stayed in the stockroom with her for over an hour, standing near her and asking personal questions like whether she had a boyfriend, if she lived alone, and how she traveled to the worksite. The Complainant states she felt very uncomfortable. The Respondent was pulled away when a call for assistance came in over the two-way radio that required immediate attention.

On March 12, 2021, the Complainant alleges that the Respondent met her as she was punching out for the shift. The Respondent asked her if he could take her on a date. The Complainant said that she was not comfortable with this and asked him not to ask questions like this. The Complainant alleges that the Respondent responded, "Oh well, I guess I am still a lucky guy because I get to watch you walk away from me."

SUMMARY OF EVIDENCE

Complainant

Example:

- The Complainant provided evidence in her own words of what happened on February 1, 2021, February 28, 2021, and March 12, 2021.
- She also provided written statements.
- The Complainant stated that on February 1, 2021, she believed two other workers in the same area of the warehouse witnessed the Respondent's behaviour.
- The Complainant stated that on February 28, 2021, no one else witnessed the comments made by the Respondent.
- The Complainant stated that on March 12, 2021, she believed one other worker was punching out at the same time and heard the comments the Respondent made to her.
- The Complainant reviewed the notes I took during our interview and signed off on their accuracy and completeness.

Respondent

- The Respondent denies that he ran his hand down the Complainant's back and rested his hand on her back on February 1, 2021.
- He says that he may have patted her on the back in a manner meant to be friendly.
- The Respondent agrees that he offered the Complainant help in the stockroom on February 28, 2021, but only because she was very slow with inventory and seemed like she was unable to complete the work on her own.
- The Respondent denies standing close to the Complainant or asking her personal questions. He states that he was simply trying to make conversation while they were taking inventory together. He thought it was regular workplace banter.
- The Respondent denies that he asked the Complainant on a date on March 12, 2021. He says he has no memory of asking her anything like this, and if he did, he was obviously just joking around.
- He denies making the comment to the Complainant that he gets to watch her walk away.
- The Respondent confirmed that he was provided a copy of Acme Ltd.'s *Sexual Harassment Prevention Policy* on January 4, 2020, and that he signed off on receiving training on the policy on that same date.
- The Respondent reviewed the notes that I took during our interview and signed off on their accuracy and completeness.

Witness 1:

- Review evidence provided by Witness 1 and each witness thereafter.

Example:

- Witness 1 was present in the warehouse when the Complainant alleges the Respondent ran his hand down her back and rested his hand on her lower back.
- Witness 1 states that they saw this happen.
- They stated that the Complainant appeared uncomfortable.
- Witness 1 could not hear what the Respondent was saying to the Complainant.
- Witness 1 discussed this afterwards with Witness 2 and learned what the Respondent said to the Complainant.
- Witness 1 checked with the Complainant after that to see if she was okay.
- Witness 1 reviewed the notes I took during our meeting and signed off on their accuracy and completeness.

Witness 2:

Example:

- Witness 2 was present in the warehouse when the Complainant alleges the Respondent ran his hand down her back and rested his hand on her lower back.
- Witness 2 states that they were in front of the Complainant and could not see what the Respondent was doing with his hands.
- Witness 2 states that they heard the Respondent ask the Complainant how old she was and heard him tell her that she was “a pretty little thing.”
- Witness 2 states that they spoke to Witness 1 afterwards and learned that the Respondent had his hands on the Complainant’s back.
- Witness 2 states that Witness 1 offered to check in with the Complainant to see if she was okay.
- Witness 2 reviewed the notes I took during our meeting and signed off on their accuracy and completeness.

Witness 3:

Example:

- Witness 3 was present and leaving night shift on March 12, 2021, at the same time as the Complainant.
- Witness 3 did not hear the Respondent ask the Complainant on a date but heard the Complainant telling the Respondent, “You are making me uncomfortable. Please do not ask me these kinds of questions.”
- Witness 3 heard the Respondent say something like, “Oh well, now I get to watch you walk away” to the Complainant.
- Witness 3 stated that this was not a normal way for a supervisor to speak to an employee, so it stood out to them.
- Witness 3 reviewed the notes I took during our meeting and signed off on their accuracy and completeness.

FINDINGS AND ANALYSIS

The findings are based on a balance of probabilities, which simply means the event is more likely than not to have occurred. The findings should be based on all of the evidence gathered as well as the credibility of each person.

Example:

The following are my findings:

1. The Respondent did run his hand along the Complainant’s back and rested his hand on the Complainant’s lower back on February 1, 2021, as alleged by the Complainant. The evidence of the Complainant and Witness 1 and Witness 2 all support this finding. The Respondent’s evidence is not credible given the other evidence that was gathered.
2. The Respondent did ask the Complainant how old she was and did tell her that she was “a pretty young thing” on February 1, 2021. The evidence of the Complainant, Witness 1, and Witness 2 all support this finding. The Respondent’s evidence is not credible given the other evidence that was gathered.
3. The Respondent did ask the Complainant for a date on March 12, 2021. The evidence of the Complainant and Witness 3 support this finding. The Respondent’s evidence is not credible.

4. The Respondent's evidence was not credible overall; therefore, I favour the Complainant's evidence regarding the allegations of February 28, 2021 and find that the Respondent did stand too close to the Complainant and asked personal questions that were unrelated to the task of doing inventory in the stockroom.

The Respondent's behaviour constitutes sexual harassment under Acme's policy. The Respondent's behaviour also constitutes an abuse of power under the policy.

RECOMMENDATIONS

The Respondent's violations of the Sexual Harassment Prevention Policy are serious and undermine a safe and healthy work environment for the Complainant as well as any other employees who witnessed his behaviour.

The Respondent had already been trained in Acme Ltd.'s Sexual Violence Prevention Policy. The Respondent was in a position of power over the Complainant and other employees who witnessed his behaviour.

This type of behaviour cannot be tolerated in the workplace. Acme Ltd. should consider serious discipline to address this behaviour. I recommend terminating the Respondent's employment.

Investigation Report Template

You can find the Investigation Report Template at legalinfo.org under our *Workplace Sexual Harassment* section.

TEMPLATE FOR CONDUCTING AN INVESTIGATION

[INSERT COMPANY/ORGANIZATION LOGO]

FILE NO.:	
DATE OF COMPLAINT:	
DATE OF REPORT:	
POLICY(IES) CONSIDERED:	
COMPLETED BY:	
SUBMITTED TO:	
<i>PRIVILEGED AND CONFIDENTIAL, [DATE]</i>	
BACKGROUND Provide information on the nature of the complaint, including who the complainant(s) and respondent(s) are, the date the incident was alleged to have occurred, and any other relevant information that provides context for the complaint.	
POLICY Reference the nature of the complaint under the Sexual Harassment Prevention Policy, for example, "this is a complaint of sexual harassment, which is defined in the policy as...(copy definition)."	

--

REVIEW OF ALLEGATIONS AND EVIDENCE

Summary of Allegation(s)

- Describe the allegation(s)

SUMMARY OF EVIDENCE

Complainant

- Review in point form the evidence provided by the complainant

Respondent

- Review in point form the evidence provided by the respondent

FINDINGS AND ANALYSIS

The findings are based on a balance of probabilities, which simply means the event is more likely than not to have occurred. The findings should be based on all of the evidence gathered as well as the credibility of each person.

RECOMMENDATIONS

Provide recommended remedy or discipline based on the findings.

Frequently Asked Questions



Annual Policy and Procedure Review

Regularly reviewing your sexual harassment policy and procedures is critical. While it is recommended that you conduct a formal review **every 12 months**, companies can do so more frequently if they feel it is necessary.

Reviewing the policy and procedures is not only a matter of best practice but is also a legal requirement. In Nova Scotia, under the *Stronger Workplaces for Nova Scotia Act*, it is required that **employers review their policies and procedures every 3 years**. By consistently reviewing your approach, you demonstrate a clear commitment to employee well-being and stay ahead of potential issues before they escalate.

Reviewing your policies provides an opportunity to gather employee feedback and ensure that the policy is being effectively communicated and understood by everyone. The goal is to make sure your policy isn't just a document on a shelf but a living, effective tool that employees trust and can rely on. A regular review ensures that your procedures are practical, fair, and continue to meet the evolving needs of your workplace.

To help you with this process, here is a checklist of key considerations for your annual review:

- **Review and Refresh Policy:** Check your existing sexual harassment policy for any needed updates or changes to keep it current and relevant.
- **Review and Refresh Training:** Ensure all supervisory staff and employees receive an annual refresher training on the policy and its procedures.
- **Assess Communication:** Review your communication methods to ensure they are effectively reaching all employee segments and that the policy's key messages are being retained.
- **Conduct a Risk Audit:** Perform an annual risk audit of the physical environment to identify and mitigate potential risks for sexual harassment.
- **Collect Feedback:** Create a mechanism for employees to provide feedback on the policy and the complaint process, and be open to making changes if something isn't working as intended.
- **Re-appoint Positions:** Reaffirm who holds the roles of "Position A" and "Position B" to ensure they are clearly identified and that there are no conflicts of interest.
- **Consult with legal experts:** It's important to include legal experts, such as lawyers, in your review process. This will give you an opportunity to ensure that your policies and procedures are compliant with the current legislation, and go over issues that you may have encountered.

Quick FAQ

What is sexual harassment?

Sexual conduct (including comments and/or gestures) that is known or ought reasonably to be known as unwelcome. This could include a sexual advance made by an individual in a position of power to a subordinate. This could also include retaliating or threatening to retaliate against an individual after they rejected a sexual advance. Sexual harassment is a type of sex discrimination and is prohibited under the **Nova Scotia Human Rights Act**.

What is abuse of power?

Entering into a romantic or sexual relationship where there is an imbalance of power. The person in the position of power may be found to have engaged in misconduct. If a complaint of sexual harassment is filed, consent is not a defence.

An abuse of power can also happen in a platonic relationship where the person in the position of power is using their position to manipulate the employee who they have power over.

What is retaliation?

Retaliation is about getting revenge or getting even. It can take many forms and may include a threat or intimidation against any complainant, witness, respondent, or other member of the workplace for filing a complaint of sexual harassment in the workplace or for participating in an investigation. It may also include making or filing false complaints against any member of the workplace for the purpose of retaliation.

Employer FAQ

Why should employers have sexual harassment policies?

It is the right thing to do, and employers have legal obligations to ensure their workplaces are free from sexual harassment. Implementing a policy allows for a consistent response to complaints and lets employees know they can report unwelcomed behaviour. A policy promotes a culture of safety.

How can I inform employees about the sexual harassment policy?

Informing employees about the sexual harassment prevention policy can be part of the training process for new employees. Employers can ensure that new employees take the **Bystander Training** available through the Legal Information Society of Nova Scotia as part of their orientation. For existing employees, provide them with a copy of the policy and a link to the training available (lms.legalinfo.org).



TIP: Put a reminder in your calendar to ensure that all staff complete the Bystander Training and Sexual Harassment Prevention Training materials once a year.

Also, see the checklist included in the Employer's Best Practices Toolkit available through the Legal Information Society of Nova Scotia: <https://lms.legalinfo.org>

How can an employer prevent sexual harassment in the workplace?

- Ensure you have implemented a sexual harassment prevention policy;
- Ensure you and your supervisors responsible for administering the policy understand their roles and obligations;
- Ensure all members of your workplace understand what constitutes as sexual harassment;
- Conduct ongoing education for your employees about what is sexual harassment and make sure they understand the Sexual Harassment Prevention Policy and how to report sexual harassment;
- Perform a risk audit of your workplace's physical environment.
- Encourage conversations about the work environment including those related to sexual harassment;
- Let your employees know that you will not tolerate sexual harassment at the workplace and demonstrate your commitment to zero tolerance by taking immediate action, when appropriate; and
- Post the Sexual Harassment Prevention Policy in a prominent place and distribute the policy to all employees. Add discussion of the policy to the agenda for a staff meeting.

Can consensual sexual relations between a supervisor and an employee they supervise be considered sexual harassment?

Yes. While a consensual sexual relationship between a supervisor and an employee is not always prohibited, it will always have consequences. These may include complaints of sexual harassment, or a requirement for either the supervisor or the employee to be transferred to a different work location.

Some employers/organizations choose to prohibit these types of relationships altogether. It is important that managers and supervisors maintain high standards of fairness and impartiality in supervising employees. These standards may be compromised, or at least the appearance of neutrality will be compromised, if a manager engages in a romantic or sexual relationship with an employee.

It is difficult to give an impartial performance appraisal to someone when you are involved in a sexual relationship with them. Further, there is a power imbalance between the supervisor and the employee and it may be difficult for the supervisor to rely on consent if the employee later complains they were coerced into the relationship. The relationship between the supervisor and the employee may also form the basis for a sexual harassment complaint if it creates a hostile or toxic environment for others.

For professional reasons, these relationships should be avoided. If one occurs, both individuals may want to consider the possibility of transfer.

What should I do to support employees who have filed a complaint of sexual harassment?

When you receive a complaint of sexual harassment in the workplace, you can use the LISNS' sample interview form and checklist to guide you through the process at the Employer's Best Practices Toolkit:

<https://lms.legalinfo.org>

In addition, here are some tips for supporting someone who has filed a complaint of sexual harassment in the workplace:

- Assure employees that you appreciate them bringing their complaint forward;
- Inform them of resources available through EAP and/or the community;
- Inform them that retaliation of any kind will not be tolerated. Let them know it is a violation of the policy and may result in discipline;
- Ensure employees are aware they can have one support person present throughout the investigation process.

If an employee chooses to address the harassment informally by addressing the behaviour with the harasser, you should periodically check with the employee to ensure that the harassment has ceased, and that no retaliation has ensued.

What should I do to support an employee who is being accused of sexual harassment?

Remind the employee about any EAP or other programs offered by the organization. Remind them they can have one support person present throughout the investigation process.

There are times when an employee who is accused of sexual harassment needs to be temporarily removed from the workplace until the investigation is completed. Ensure that the employee understands that this is done for the safety of everyone involved, including themselves. Remind them that no decisions will be made until the investigation is complete.

What records should I keep?

We want to emphasize the importance of this. You should document your conversations with the parties involved in the complaint, keep any evidence of harassment, make any evidence available to the investigator, and document what actions you took to resolve the harassment situation, if any. Document what you witness, what you did, what you said, and who witnessed any conversations or behaviour. If you are ever called upon later to defend your actions, it is important that you can demonstrate you took appropriate action. Also, encourage the complainant to document all incidents of harassment and to make those records available to investigators.

What are possible disciplinary actions I can take against the harasser?

Actions range from a verbal warning to termination of employment. The level of discipline will depend on the context of each situation. To prevent sexual harassment in the workplace, a clear zero tolerance message must be sent to all employees. Nevertheless, disciplining employees always requires a review of all of the circumstances. If you believe that serious discipline is warranted but are uncertain whether to terminate an employee, you should seek legal advice.

When employees understand that incidents of sexual harassment in the workplace will be taken seriously, harmful behaviours will be reduced, employees will feel safer, and morale will improve.

What should I do if an employee is being sexually harassed by an “outsider” such as someone from the public, clients, customers, or vendors?

Managers and supervisors are responsible for ensuring that their employees are not sexually harassed by anyone they work with including the public, clients, customers, or vendors. Inform employees that such conduct will not be tolerated and that sexual harassment from anyone should be reported immediately. It may be necessary for you to have a conversation with the person alleged to be harassing employees,

informing them that their behaviour is unacceptable. If the harassment is from a customer, you must still take appropriate action within your control to ensure that the offensive behaviour stops.

You may need to:

- Ask the alleged harasser to leave the premises;
- Contact security;
- Followup with the harassed employee;
- Follow your organization's policy(ies) for reporting sexual harassment;
- Create a policy for dealing with these specific types of situations.

Check out the sample **risk audit form** from LISNS. You can add a row that addresses these specific types of situations and record any steps taken to mitigate the risk to staff. You can find it at [legalinfo.org](https://lms.legalinfo.org) under our *Workplace Sexual Harassment* section.

Should I protect the privacy of the complainant and/or the alleged harasser?

Yes. Confidentiality within a sexual harassment complaints process is essential. Managers and supervisors should respect the privacy of all parties concerned in a sexual harassment allegation.

However, you cannot guarantee complete confidentiality. Employees have a right to privacy regarding personal information. If you are reviewing a sexual harassment allegation, only involve those persons who can provide relevant information. Advise everyone involved in the review that the privacy of all parties must be honoured. Set an example for employees by only discussing information regarding a complaint of sexual harassment on a need-to-know basis.

It is a best practice to have anyone involved in a formal complaint process sign a confidentiality agreement. See a sample confidentiality agreement in the LISNS Employer Best Practices Toolkit at <https://lms.legalinfo.org/>.

Possible additional questions:

- Can I fire someone if a complaint is made against them?
- What should we do if there is no policy in place?
- Can we stop co-workers from discussing this on social media?
- How long does an investigation usually last?
- How much does an investigation usually cost?

Employee FAQ

What can I do if I am being sexually harassed in the workplace?

While each person needs to decide what action is best for them, many individuals have found informal action facilitates the fastest resolution with the fewest complications. You can start with telling the person involved to stop the behaviour.

Try to be as clear as possible. For example, “It makes me uncomfortable when you rub my shoulders, please do not do this.” If this does not work, you should consider putting it in writing and tell the person what conduct you find offensive and what action you will take if it continues. For example, “I find your sexual jokes offensive. I consider these to be sexual harassment, and I will file a complaint if you continue to tell them to me.” Date and sign the letter, keep a copy, and have a witness watch you deliver the letter. If this is done via email, BCC the witness.

If the informal approach does not work or you are not comfortable taking this route, see if your workplace has a sexual harassment prevention policy (this may also be referred to as a respectful workplace policy, code of conduct, harassment policy, or other similar titles). You can file a complaint under the policy. Review the policy to see who a complaint should be filed with and reach out to that person to start the complaint process.

You can access up to four hours of free legal advice regarding sexual harassment in the workplace through LISNS at legalinfo.org/safeatwork.

What if an employer does not respond to an employee’s complaint about sexual harassment?

Sexual harassment is a form of discrimination under the Nova Scotia **Human Rights Act**. Your employer has a legal obligation to respond to complaints of sexual harassment in the workplace.

If you do not feel safe in your workplace due to sexual harassment that is not being addressed by your employer, you may need to inform your employer that you will not be attending your shift because you are not safe at work. This may not be a feasible option for some people, and you may need to seek other supports within the workplace.

Is there a supervisor or colleague that you trust to discuss the issue? You can try seeking their assistance in reaching out to your employer regarding the sexual harassment by copying them on an email or being present with you when you meet with the employer to raise the issue in person.

You can seek legal advice. You are able to access up to four hours of free legal advice regarding sexual harassment in the workplace through LISNS at legalinfo.org/safeatwork.

What can I do if I am being accused of sexually harassing someone in the workplace?

It is stressful to be accused of sexual harassment. You should access any employee assistance programs provided by your employer and/or reach out to your own preferred health care providers for support during the process.

Review any existing sexual harassment prevention policy to be sure you understand your obligations and rights within the process. If you do not understand, ask your employer for clarification.

Keep a written record of your interactions with the complainant. Document the steps taken by your employer in investigating the complaint to ensure that you are provided with your procedural rights under the policy.

You are entitled to have one support person with you in most processes to provide moral support. You may want to seek legal advice.

Can I compliment someone?

Yes, co-workers and supervisors can give compliments to their colleagues. Telling someone they look good today or complimenting a new piece of clothing is generally considered acceptable. It is inappropriate, however, if it is accompanied by a leering stare and/or a whistle, is continually given to only one particular person, and/or is accompanied by sexual comments or gestures. Any of these may be considered as sexual harassment.

Examples of inappropriate comments that could be considered sexual harassment are:

- “Hey, baby, you are sure looking fine today!”;
- “Why don’t all women look like you?”;
- “I love that outfit. It really shows your figure!”;
- “Everyone should have muscles like you.”

Can I date someone from work?

Consensual dating at work is permissible. However, awkward situations can occur. For example, if the relationship fails and you are still forced to work with this person on a regular basis, work-related interactions could become strained. Work performance could suffer. Frequently, the impact of the relationship is felt by co-workers, and depending on the nature of the relationship, this could contribute to toxicity in the workplace.

Consensual dating of a supervisor is also allowed in many organizations, but it is never advisable. Such relationships often give the perception of a conflict of interest and that the supervisor is “playing favourites.” To counter this perception, supervisors have been known to overcompensate by giving too much work, for example, to their partner and, therefore, treating their partner unfairly. Also, employees who have dated their supervisors report that co-workers tend to discredit the valuable and legitimate goals an individual has achieved because they perceive that success was the result of favouritism.

Is flirting still allowed?

It is not illegal to flirt at work; the law does not require a sterile work environment with no human interaction. What is expected and necessary in our diverse community is professionalism, respectful behaviour, and awareness of how our behaviour affects others. A supervisor who flirts with subordinates would not be acting professionally even if the attention was appreciated. This could cause some employees to feel uncomfortable and/or not take this supervisor seriously, which is problematic.

What can I do if I witness sexual harassment in the workplace?

If you believe you have witnessed sexual harassment in the workplace, you should take these three steps: **See, Evaluate, Act.**

You can reach out the person who you believe was sexually harassed and inquire about their safety. Based on your conversation with this person, you may want to provide the person with information on how to report sexual harassment and assist them in reporting the behaviour, or you may wish report what you witnessed yourself, or you may determine that no action needs to be taken.

More information on the role that bystanders can play in responding to sexual harassment in the workplace can be found at the LISNS' Bystander Training: <https://lms.legalinfo.org>

[illegible]

[illegible]

[illegible]