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IMPROVED ACCESS
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**IMPACT JUSTICE/LABOUR DEPARTMENT OF
THE MINISTRY OF LABOUR AND SOCIAL
PARTNERSHIP RELATIONS, BARBADOS**

**SEXUAL HARASSMENT
IN THE WORKPLACE**

WHAT YOU SHOULD KNOW

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MESSAGES

MESSAGE FROM IMPACT JUSTICE (Improved Access to Justice in the Caribbean) Project

IMPACT Justice is a civil society project being executed at the UWI, Cave Hill Campus with funding from the Government of Canada. It mainly focuses on drafting model legislation, training legislative drafters, promoting continuing legal professional education regimes, public legal education and the training for, and use of Alternative Dispute Resolution mechanisms in the CARICOM region.

Under the Project, a Model Bill for the prevention of sexual harassment has been drafted and approved by the CARICOM Secretariat for adoption by Member States. The premise of this Bill is that sexual harassment is unwelcome behavior that can occur in a variety of situations. In 2017, the Government of Barbados enacted an *Employment Sexual Harassment (Prevention) Act* which focuses on the workplace, where many acts of sexual harassment occur. This Act, and the IMPACT Justice Model are similar in many respects, one being the requirement for every employer to ensure that there is a clear, written policy statement against sexual harassment in the workplace.

IMPACT Justice is pleased to collaborate with the Labour Department of the Ministry of Labour and Social Partnership Relations of Barbados in the preparation of this booklet “*Sexual Harassment in the Workplace – What you Should Know*” and a companion booklet “*Model Workplace Policy Statement Against Sexual Harassment*”, both of which are intended for the education and information of the public of Barbados.

Velma Newton (Prof.)
Regional Project Director
IMPACT Justice

MESSAGE FROM THE CHIEF LABOUR OFFICER

The introduction of legislation to make provision for the protection of employees against sexual harassment marks the beginning of a new chapter in the practice and administration of labour and employment relations in Barbados.

The *Employment Sexual Harassment (Prevention) Act, 2017* makes provision for the protection of employees in both the public and private sectors from sexual harassment in the course of their employment. It provides a framework for the reporting of sexual harassment complaints and a mechanism through which such matters may be determined.

This booklet – “*Sexual Harassment in the Workplace – What you Should Know*” seeks to provide basic information of which all parties who function in and about the workplace should be informed.

Under the Act, every employer should ensure that there is a clear written policy statement against sexual harassment within the workplace. All parties are encouraged to be informed on the matter of sexual harassment in the workplace and be prepared to adhere to national and workplace policy against sexual harassment in the workplace.

The Ministry of Labour thanks the IMPACT Justice Project for its assistance in preparing this booklet.

Victor Felix
Chief Labour Officer

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EMPLOYER'S RESPONSIBILITY

When an employer receives a complaint of sexual harassment, learns of instances of sexual harassment or has reason to believe that sexual harassment is occurring, the employer must take the necessary steps to ensure that the matter is promptly investigated and addressed.

- ◆ All complaints of sexual harassment should be promptly and carefully investigated by the employer.
- ◆ An administrative investigation will include interviews with all relevant persons, including the complainant, the accused and other potential witnesses.

CONFIDENTIALITY

The privacy of the complainant and of the person accused of sexual harassment must be maintained and all information must be kept strictly confidential. Information should be revealed strictly on a need-to-know basis.

CONTACT THE CHIEF LABOUR OFFICER

An employee may make a complaint to the Chief Labour Officer in accordance with sections 10 and 11 of the Employment Sexual Harassment (Prevention) Act, 2017 where:

- (1) the employee is dissatisfied with the resolution of a sexual harassment complaint;
- (2) the employee suffers further harassment from the same person after the resolution of a complaint; or
- (3) if a complaint involves a top member of the administration of the organisation.

WHAT IS SEXUAL HARASSMENT?

Sexual harassment is unwanted or unwelcomed sexual attention of an offensive nature made by a person who knows, or reasonably should know, that the attention is unwanted or unwelcomed by the other person and that the other person may conclude that the conduct was intended to –

- (a) offend, humiliate, disrespect or degrade him or her;
- (b) intimidate, threaten or compel him or her by putting him or her in fear of being placed at a disadvantage or prejudiced if he or she does not submit to the sexual harassment; or
- (c) create a hostile environment for him or her, or violate his or her dignity.

Examples of Sexual Harassment

Acts of sexual harassment include but are not limited to:

1. promising, directly or indirectly, a person a reward if the person complies with a request of a sexual nature;
2. threatening, directly or indirectly, to retaliate against a person if the person refuses to comply with a request of a sexual nature;
3. denying, directly or indirectly, a person an opportunity if the person refuses to comply with a request of a sexual nature;
4. engaging in sexually suggestive physical contact or touching or grabbing of another person in a way that is unwelcome;
5. repeatedly standing too close to or brushing up against a person
6. engaging in explicit language, sexually suggestive gestures, or indecent exposure;
7. making sexual or romantic advances toward a person and persisting despite the person's rejection of the advances;
8. sexual pranks, or repeated sexual teasing, jokes, or innuendo, in person or via e-mail or other electronic means;
9. making or posting sexually demeaning or offensive pictures, cartoons or other materials in the workplace;
10. verbal abuse of a sexual nature;

11. repeatedly asking a person to socialize when the person has indicated he or she is not interested;
12. off-duty, unwelcome conduct of a sexual nature that affects the work environment; or
13. giving gifts or leaving objects that are sexually suggestive.

WHAT ELSE SHOULD I KNOW?

- ⇒ Sexual harassment can be physical and/or psychological in nature. An aggregation of a series of incidents can constitute sexual harassment even if one of the incidents considered on its own may not be sexually harassing.
- ⇒ Certain behaviours, such as conditioning promotions, awards, grades, training or other benefits upon acceptance of unwelcome actions of a sexual nature, are always wrong and should be prohibited.
- ⇒ The victim of sexual harassment can be of the same sex as the harasser.
- ⇒ The harasser can be a Supervisor/Director/Manager, another employee or a non-employee or third party who has a business relationship with the company or may be on the premises of the company.
- ⇒ Although sexual harassment typically involves a person in a greater position of authority than the harasser, a person in a position of lesser or equal authority may also be found responsible for engaging in sexual harassment.
- ⇒ Consensual sexual or romantic relationships between employees are deemed unwise and should be discouraged by employers, particularly if one employee has supervisory authority over the other employee.



WHAT STEPS SHOULD I TAKE IF I BELIEVE THAT I AM BEING SEXUALLY HARASSED?

If an employee believes that he or she has been subjected to conduct or behavior which has the potential to be considered sexual harassment the employee should:

- **Step 1:** make his or her unease and/or disapproval directly and immediately known to the perpetrator orally, or in writing, advising that such conduct is unwelcome and offensive and must stop; and/ or
- **Step 2:** submit a written complaint within 3 months of the incident to a Supervisor/Director/Manager as the case may be. If a Supervisor, Director or Manager is responsible for the sexual harassment, the report should be made to the highest ranking authority in the organisation or to the Chief Labour Officer.

- **All incidents of sexual harassment or inappropriate sexual conduct should be reported. A person should feel free to raise concerns and make a report without fear of reprimand.**
- **A company should not retaliate against or victimize an employee or third party for filing a complaint of sexual harassment, or for cooperating in an investigation of a sexual harassment complaint.**
- **An employee shall not make a false complaint of sexual harassment. An employee who makes a false claim of sexual harassment can be subject to disciplinary action up to and including termination.**