



IMPROVED ACCESS
TO JUSTICE IN THE
CARIBBEAN



**IMPACT JUSTICE/ LABOUR DEPARTMENT OF THE MINIS-
TRY OF LABOUR AND SOCIAL PARTNERSHIP RELATIONS,
BARBADOS**

**MODEL
WORKPLACE POLICY STATEMENT
AGAINST
SEXUAL HARASSMENT**

October 2018

Funded by the
Government
of Canada



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 "*Model Workplace Policy Statement Against Sexual Harassment*" and a companion booklet "*Sexual Harassment in the Workplace – What you Should Know*", 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 "*Model Workforce Policy Statement Against Sexual Harassment*" is intended to meet the requirements of section 4 of the Act.

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, Ministry of Labour & Social Partnership Relations, Barbados

IMPACT JUSTICE/LABOUR DEPARTMENT OF BARBADOS

MODEL WORKPLACE POLICY STATEMENT AGAINST SEXUAL HARASSMENT

The provisions of this policy are subject to and intended to be in fulfillment of section 4 of the Employment Sexual Harassment (Prevention) Act, 2017, (herein referred to as the ESH(P) Act, 2017).

1. Purpose

- 1.1 Sexual harassment violates an individual's fundamental rights and personal dignity, it is unlawful, and will not be tolerated by []. It is the policy of [] to provide an environment free from harassment of any kind and for any reason. An employee and any third party who interacts with [] is entitled to work and be in a work environment that is free of sexual harassment. **ESH(P) Act, 2017 Sch. Item (b)**
- 1.2 [] will make every reasonable effort to ensure that no employee or anyone who interfaces or comes into contact with [] is subjected to sexual harassment. As such [] will take those measures and actions, including disciplinary action, as may be appropriate in the circumstances of any particular matter, in response to any behaviour that constitutes sexual harassment. **ESH(P) Act, 2017 Sch. Item (c) and (d)**
- 1.3 Where it is determined by [] that an allegation of sexual harassment is true, [] will take prompt and appropriate corrective action against any person under its direction in response. **ESH(P) Act, 2017 Sch. Item (d)**

2. Definition

- 2.1 For the purpose of this Policy Statement, *sexual harassment* includes:
 - the use of any sexually suggestive words, comments, jokes, gestures or actions that annoy, alarm or abuse a person;
 - the initiation of uninvited physical contact with a person;
 - the initiation of unwelcome sexual advances or the requests for sexual favours from a person;
 - asking a person intrusive questions or questions that are of a sexual nature pertaining to that person's private life;
 - transmitting sexually offensive writing or material of any kind and in any format or medium;
 - making sexually offensive telephone calls to a person; or
 - any other sexually suggestive conduct of an offensive naturein circumstances where a reasonable person would consider the conduct to be offensive. **ESH(P) Act, 2017 Sch. Item (a)**

2.2 In addition to the above, other examples of conduct specifically prohibited by [] include:

- (a) promising, directly or indirectly, a person a reward if the person complies with a request of a sexual nature;
- (b) threatening, directly or indirectly, to retaliate against a person if the person refuses to comply with a request of a sexual nature;
- (c) denying, directly or indirectly, a person an opportunity if the person refuses to comply with a request of a sexual nature;
- (d) engaging in sexually suggestive physical contact or touching or grabbing of another person in a way that is unwelcome;
- (e) repeatedly standing too close to or brushing up against a person;
- (f) engaging in explicit language, sexually suggestive gestures, or indecent exposure;
- (g) making sexual or romantic advances toward a person and persisting despite the person's rejection of the advances;
- (h) sexual pranks or repeated sexual teasing, jokes or innuendo in person or via e-mail or other electronic means;
- (i) making or posting sexually demeaning or offensive pictures, cartoons or other materials in the workplace;
- (j) verbal abuse of a sexual nature;
- (k) repeatedly asking a person to socialize when the person has indicated he or she is not interested;
- (l) giving gifts or leaving objects that are sexually suggestive;
- (m) off-duty, unwelcome conduct of a sexual nature that affects the work environment;
- (n) the telling of sexual stories and the making of sexually suggestive gestures; or
- (o) deliberately creating an overall offensive environment, including use of vulgar language, displaying, storing, or transmitting sexually explicit photographs or other materials.

3. The Employee's Rights and Responsibilities under this Policy

3.1 Prevention is the best approach in the elimination of sexual harassment. [] and its administration express strong disapproval of any acts that can be construed as acts of sexual harassment. If an employee believes that he or she has been subjected to conduct or behaviour which has the potential to be considered sexual harassment, the employee should 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.

3.2 Under section 7 of the Employment Sexual Harassment (Prevention) Act, 2017, where an employee has been sexually harassed by another employee or by a client, that employee may, following the complaint process as set out below, lodge a complaint in writing with the company within 3 months of the event that constituted sexual harassment.

(Here the organisation sets out its complaints procedure.) ESH(P) Act, 2017 Sch. Item (e) and (g)

3.3 [] will 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. All employees are assured that [] will not engage in any acts of reprisal or retaliation arising from the filing of a complaint.

4. The Employer's Responsibilities under this Policy

4.1 Where [] receives an allegation of sexual harassment, learns of instances of sexual harassment or has reason to believe sexual harassment is occurring, [] will take the necessary steps to ensure that the matter is promptly investigated and addressed even if an individual does not wish to file a formal complaint.

4.2 All complaints of sexual harassment will be promptly and carefully investigated by the administration.

4.3 In determining whether an alleged conduct constitutes sexual harassment, the totality of the circumstances, such as the nature of any sexual advances and the context in which the alleged incidents occurred will be examined. A determination of appropriate action will be made from the facts on a case-by-case basis.

4.4 The administration will review the findings with the complainant at the conclusion of its investigation. If the investigation reveals that the complaint appears to be valid, immediate and appropriate corrective action, up to and including discharge, will be taken to stop the harassment and prevent its recurrence. **ESH(P) Act, 2017 Sch. Item (d)**

4.5 If the validity of the complaint cannot be determined, immediate and appropriate action will be taken to ensure that all parties are reacquainted with the sexual harassment policy and to avoid sexual harassment in the future.

4.6 If a complaint involves a member of the administration, then a written complaint should be made to [].

(Here the organisation states the post/person to whom such a complaint should be made.)

4.7 Any finding can be appealed using the procedure as set out:

(Appeals process consistent with procedure set out earlier should be entered here.)

5. Resolution

5.1 An employee of [] or any person under the direction of [] who has been found to have sexually harassed another employee or third party will be subject to disciplinary action up to and including termination. **ESH(P) Act, 2017 Sch. Item (d)**

5.2 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. **ESH(P) Act, 2017 Sch. Item (g)**

(a) where an employee is dissatisfied with the resolution of a sexual harassment complaint; or the employee suffers further harassment from the same person after the resolution of a complaint; or

(b) if a complaint involves a top member of the administration of [].

5.3 An employee who has made a false complaint of sexual harassment shall be subject to disciplinary action up to and including termination.

6. Confidentiality

6.1 All inquiries, complaints and investigations will be treated by [] with confidentiality. Information will be revealed strictly on a need-to-know basis. It is contrary to section 25, and against the policy of [] for any person to disclose to any person the circumstances of any complaint, the name of a complainant, or the name of a respondent. **ESH(P) Act, 2017 Sch. Item (f)**

6.2 An employee, a third party or other individual contacted in connection with a complaint will be counselled that any information pertaining to the complaint must be held in confidence.

Information or advice

For further advice or consultation on this policy an employee may speak with their supervisor or contact the Human Resources Department at:

(The company's information on who should be contacted is entered here.)

Contact details for Chief Labour Officer:

Chief Labour Officer

Labour Department

2nd Floor East

Warrens Office Complex

St. Michael

Tel: 1 246 535-1500/34

ESH(P) Act, 2017 Sch. Item (g)

Labour Department

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