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.