WORKPLACE SEXUAL HARASSMENT POLICY

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.

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**