



平等機會委員會  
EQUAL OPPORTUNITIES COMMISSION

## **Managing Sexual Harassment in the Campus**

**Equal Opportunity Unit, The University of Hong Kong  
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### **Objectives**

- ◆ To identify behaviour which may constitute sexual harassment
- ◆ To explore ways to effectively respond to sexual harassment

## Relevant Law

### 《性別歧視條例》

#### Sex Discrimination Ordinance

- ◆ Effective: 1996
- ◆ Unlawful acts
  - Discrimination: Sex, pregnancy or marital status
  - Sexual harassment
- ◆ Established Equal Opportunities Commission

## Applicable Fields

- |   |  |
|---|--|
| <ul style="list-style-type: none"><li>◆ Employment<ul style="list-style-type: none"><li>● Employment (Mainly and wholly work in HK)</li><li>● Contract workers</li><li>● Commission agents</li><li>● Vocational training</li><li>● Employment agencies</li><li>● Trade unions</li><li>● Qualifying bodies, etc.</li></ul></li></ul> | <ul style="list-style-type: none"><li>◆ Non-employment<ul style="list-style-type: none"><li>● Goods, facilities &amp; services</li><li>● Educational establishments</li><li>● Dispose &amp; manage premises</li><li>● Barristers</li></ul></li></ul> |
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## Unlawful Sexual Harassment

### ◆ In employment

- Employee → Colleague / job applicant
- Employer ↔ Job applicant / employee
- Principal / contract worker → Contract worker
- Person residing in any premises → Person employed to work in those premises

## Unlawful Sexual Harassment

### ◆ In education

- Student → Student / Applicant
- Staff or responsible person ↔ Student / applicant

### ◆ In services provision

- Service provider (employee) ↔ Service user

## Liabilities

- ◆ Aggrieved person may seek remedies
  - Establishing unlawful act in law: Impact of behaviour on the complainant
  - Intention has relevance to pain and suffering of the complainant
  
- ◆ Some sexual harassment behaviour is criminal offense as well, e.g. indecent assault, rape

## Liabilities

- ◆ Personal liability
  
- ◆ Accessory liability
  - Pressure or instruct sexual harassment
  - Knowingly aid sexual harassment
  
- ◆ Principal's liability
  - Sexual harassment done by authorised agent
  - Authorisation: Express or implied, precedent or subsequent

## Liabilities

### ◆ Employer's liability

- Sexual harassment done by its employees in the course of their employment
  - Work-related social functions
  - Business trips
- Whether with or without knowledge or approval

→ Defense: Reasonably practical steps to prevent

## Sexual Harassment: Definition (1)

### ◆ Person-to-person

**X** makes an unwelcome conduct to **Y**

- Sexual advance
- Request for sexual favours
- Other conduct of a sexual nature

A reasonable person, having regard to all circumstances, would have anticipated that **Y** to be offended, humiliated or intimidated

## Sexual Harassment: Definition (2)

◆ X, alone or together with other persons

engages in conduct of a sexual nature

creates a hostile / intimidating environment for Y

## Conduct of Sexual Nature

◆ Include making a statement of a sexual nature

- To another person
- In his/her presence

- Orally
- In writing

● Can be

- Physical, visual
- Verbal, non-verbal
- Blatant and overt
- Subtle and indirect
- Intentional or unintentional
- Single or repeated incidents

## Unwelcome Conduct

- ◆ Subjective feeling of the aggrieved person
  
- ◆ Generally speaking
  - Unwelcome
  - Passive
  - Not responding in the same way

## Reasonable Person Test

- ◆ Objective standard
  
- ◆ Reasonable person's reaction in same or similar circumstances
  
- ◆ Stereotypical notions of so-called acceptable behaviour cannot be considered

## Regard to all Circumstances

### ◆ Consider

- Record of events as a whole
- Totality of circumstances (e.g. nature of alleged incidents, context in which these occurred)

### ◆ Need to consider

- Gender dynamic
- Power dynamic

## Sexual Harassment: Examples

- ◆ Jokes or sarcastic comments about sex or gender
- ◆ Sexually suggestive comments of body shape, sexual activities, etc.
- ◆ Obscene gestures
- ◆ Display or transmit obscene pictures, posters, magazines, websites, etc. (Include electronic messages)



## Sexual Harassment: Examples

- ◆ Inappropriate touching
- ◆ Space violation
- ◆ Repeated attempts to make a date
  
- ◆ Sexual propositions or other pressure for sex
- ◆ Implied or overt threats for sex
- ◆ Indecent assault, rape

## Who may be the Harasser?

- ◆ Anyone
  - Whether unintentionally or maliciously
  
- ◆ Groups of people may create a sexually hostile environment
  
- ◆ Person in control of others

## Who may be Sexually Harassed?

- ◆ Anyone regardless of sex
  - Women represent the majority of reported cases
  
- ◆ More vulnerable
  - Work alone or in isolated / remote area
  - Women moving into non-traditional work area
  - Subordinates, junior staff, casual workers
  - Ethnic minority women

## Dealing With Sexual Harassment

- ◆ Lodge a complaint with the EOC (within 12 months)
- ◆ Take legal action (within 24 months)
- ◆ Report to the police (If criminal in nature)
  
- ◆ Internal procedures: Different approaches
  - Encourage self-management
  - Informal (Intervention and resolving matters)
  - Formal investigative procedures

## Self Management

- ◆ Complainant approaches respondent directly, makes clear that the behaviour is not acceptable
- ◆ Requests immediate stop of sexual harassment
- ◆ May request apology from the respondent
- ◆ Points to note
  - Act early
  - Record event, nature of behaviour, date, time, place and witnesses, etc.
  - Seek emotional support or counseling
  - If behaviour continues, decide next action

## Informal Resolution

- ◆ Emphasis on
  - Resolution
  - Manager or designated person: Intervention and mediation
- ◆ Appropriate when
  - Parties likely to have ongoing contact and complainant's wish
  - Addressing individual concerns
  - Person responsible for the behaviour may admit

## Informal Resolution

- ◆ Role of manager and designated person
  - Take the matter seriously, listen carefully
  - Respect privacy
  - Maintain impartial and be fair
  - Explain
    - University's policies and relevant laws
    - Impact of the behaviour and expectation of the University (Where necessary, coach parties to act appropriately)
    - Possible options for solutions
  - Consider mediating disputes
  - Make records

## Formal Investigative Process

- ◆ According to University's policy and procedures
  - Usually involve: Written complaint, investigation and possible disciplinary actions
- ◆ When to use
  - Complainant wishes
  - Informal attempts at resolution failed
  - Involves serious allegations of misconduct
  - Complainant has been victimised

## Handling Sexual Harassment Complaints

- ◆ Key principles: Regardless of the nature
  - Give priority and prompt handling
  - Keep matter in confidential
  - Treat in serious, professional and fair manners
  
- ◆ Prevention of victimisation

## Handling Sexual Harassment Complaints

- ◆ Points to note
  - Bear in mind nature of sexual harassment and issues involved
    - Sensitive in nature
    - Not easily articulated / proved
    - Power dynamic
    - Gender stereotype
  
  - Concern for victim's emotion and situation

## Preventing Sexual Harassment

### ◆ Rights and responsibilities

- Everyone is entitled to have the equal opportunities to develop and contribute
  - A safe environment to work, study and live in
  - Be respect and not to be harassed
- Everyone shares the responsibilities
  - Be conscious about own behaviour
  - Help create and maintain such environment

## Preventing Sexual Harassment

### ◆ Role of the University

- Key: Prevention
- Take reasonably practical steps

Consider

- What has been done?
- What should have been done?

## Preventing Sexual Harassment

- ◆ Role of managers and designated persons
  - Set the tone
  - Lead by example – be a good role model
  - Influence and change workplace and campus culture

## Preventing Sexual Harassment

- ◆ Role of managers and designated persons
  - Always observe the professional code of conduct
  - Know the mechanisms
  - Familiar with the University's procedures
  - Understand sexual harassment issues and learn how to handle it

## Preventing Sexual Harassment

### ◆ Role of managers and designated persons

- Management by walking
- Check environment or work process
  - Ensure that it is free of sexist materials or any other forms of stereotyping materials such as posters, screensavers, etc.
  - Wherever possible, make sure it is unlikely for sexual harassment to happen

## Preventing Sexual Harassment

### ◆ Role of managers and designated persons

- To team members
  - Ensure they are aware of and understand sexual harassment policies and procedures
  - At staff meetings
    - Raise sexual harassment issues
    - Make it clear that you won't tolerate
  - Ensure they would raise concerns with you
  - Follow up any behavioural changes
  - Intervene immediately to suspected sexual harassment, no need to wait for complain



## Key Messages

### ◆ Remember

- Sexual harassment once happens, harm is done
- Prompt and effective responses can reduce the negative effect and harm to all parties

### ◆ Preventing sexual harassment

- Do not confine to technical interpretation
- Both individuals and the University have the responsibilities to do so
- Managers and designated persons should pay attentions to any inappropriate behaviour and deal with it without delay

## Equal Opportunities Commission

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