

# **SEXUAL HARASSMENT POLICY**

## **I. STATEMENT OF POLICY**

This sexual harassment policy encourages the reporting of all incidents of sexual harassment experienced by any individual as a result of his or her work with the firm. In return, the firm is committed to promoting equality in the workplace by taking all reasonable measures to prevent such incidents and to deal promptly and fairly with any reports of sexual harassment in a confidential and discreet manner. Where allegations of sexual harassment are substantiated, the offender will be sanctioned in strict accordance with this policy, regardless of his or her status at the firm.

This policy does not preclude the reporting of sexual harassment complaints to The Law Society of Saskatchewan, the Saskatchewan Human Rights Commission, or if the matter is perceived to be of a criminal nature, to the police.

## **II. DEFINING SEXUAL HARASSMENT**

### **A. Who does this Policy Cover?**

This policy prohibits any work-related act of sexual harassment by any member or employee of this firm, including any staff member, paralegal, articling student, summer student, associate lawyer or partner.

Any person, including someone who is not a member or employee of the firm, who has been sexually harassed by a member or employee of the firm in the course of his or her employment with the firm, may initiate a complaint under this policy.

### **B. Where does the Policy Apply?**

The prohibition against sexual harassment includes conduct at the office and elsewhere. Sexual harassment through indirect methods of communication such as telephone calls or in writing is also covered by this policy.

### **C. What is Sexual Harassment?**

Sexual harassment is defined as any unwanted sexual advance, requests for sexual favours, or other verbal or physical conduct of a sexual nature or which is demeaning to a person because of his or her gender. These actions are considered harassment when submission to or acceptance of that conduct is made explicitly or implicitly a condition of a person's employment, the basis for employment decisions affecting that

person, or when the conduct creates an intimidating, hostile or offensive work environment.

Examples of sexually harassing behaviour include, but are not limited to:

- demands for sexual favours in exchange for employment advantages, promises or employment advantages, or the threat of withdrawal of those advantages.
- displays of sexually suggestive posters, graffiti or objects.
- unwanted comments about a person's body, sexuality, sexual orientation or sexual conducts.
- unwanted flirtation, sexual propositions or advances.
- unwanted touching, pinching, or fondling.
- sexually suggestive or obscene gestures.
- persistent unwanted attention or requests of a sexual nature after a consensual relationship has ended.
- sexist jokes or anecdotes or comments that are insulting, demeaning, or derogatory toward a person because of gender which are either obviously offensive or continue after the speaker is informed that those comments have caused offence.

#### **D. Consensual Relationships**

Fraternization or consensual social relationships are not examples of sexual harassment.

### **III. RESPONSIBILITIES**

#### **A. Responsibilities of Firm**

The firm will publicize this policy to all firm members and employees and advise them of the relief available through the firm's internal policy.

The firm will select an advisor or will utilize the services of the panel of volunteer advisors, who will receive complaints, inform complainants of the various form for complaints, communicate with alleged offenders, provide information about counselling and support services, record the complaint, mediate a mutually agreeable solution, if

possible, and report the outcome as well as serving as a liaison to management and other advisors.

The firm will also select an investigator, or will utilize the service of the panel of volunteer investigators who will investigate the complaint in the event a mutual solution is not reached and take disciplinary action in conjunction with the firm.

The firm will provide a complaints procedure that will be confidential and discreet to the greatest extent possible, and will maintain a record of all reports of sexual harassment, the procedure taken to deal with each incident, and the sanction imposed. This record will be kept in a locked filing cabinet and only current advisors will have access to those files.

The firm will impose an appropriate sanction for every substantiated charge of sexual harassment regardless of the status of the offender at the firm. Recognizing the inherent problems in sanctioning a partner, the firm will meet and develop appropriate sanctions for harassment by partners and will then apply those sanctions consistently.

Retaliation against victims of harassment advisors or investigators will not be permitted under any circumstances. Complainants will be promptly notified of the resolution of the complaint.

## **B. Responsibilities of Employees**

The firm encourages all employees to report any sexual harassment of which they are aware to the advisor of their choice. The firm reiterates its commitment to deal with such information confidentially to the greatest extent possible.

Every member of the firm is responsible for keeping his or her own behaviour free from sexual harassment. When possible, a member who experiences sexual harassment has a responsibility to bring behaviour of a sexual harassing nature to the attention of the offender.

On occasion, sexual harassment can be dealt with directly and informally by confronting the harasser with a clear message that the attention or action is unwanted. However, the firm recognizes that there may be power imbalances and other factors that make a confrontation awkward or impossible. Although informal resolution is encouraged where possible, confrontation is not a pre-requisite to making a sexual harassment complaint under this policy.

## **IV. PROCEDURE**

### **A. Complaints**

## 1. Reporting of Complaints

Complainants are urged to report any sexual harassment promptly after it occurs. However, because the firm recognizes the emotional impact of sexual harassment on a victim of such behaviour, delays in reporting will not automatically preclude the firm from taking action in a given situation.

## 2. Role of Advisor

Complaints may be made to any of the designated advisors. Such a report, when made orally, should be reduced to writing in the form of Appendix "A" and signed by the complainant.

After discussions with the complainant, the advisor will give an opinion on whether the facts as recited constitute sexual harassment. Whatever the opinion, the complainant may still pursue a formal complaint. Where the facts do suggest sexual harassment, but the complainant does not wish to pursue the matter, the advisor may do so without the co-operation of the complainant, however the advisor may take into account the wishes of the complainant when deciding whether to proceed. If the complainant wishes to resolve the problem informally, then the advisor may meet with alleged harasser to facilitate a mutually agreeable solution. If the parties reach a settlement, the settlement must be approved by the firm.

Where no resolution is achieved informally, the complaint will be investigated.

## **B. Investigation**

### 1. Steps in Investigation Process

Once a formal complaint is made, the investigation will be conducted in a confidential and discreet manner as far as is possible without hampering the investigation. Complaints will be investigated by the investigator as appointed. A complainant will be kept informed at all stages of the investigation and resolution. At all times throughout the investigation, the alleged offender and/or complainant may have legal counsel as their representative.

Necessary steps in conducting an investigation include:

- providing the alleged offender with a copy of the written complaint.
- providing disclosure of the nature of the complaint to the alleged offender and inviting the alleged offender to provide a response.
- interviewing all witnesses and obtaining such evidence that is relevant to the complaint.

- reviewing the investigation findings with the complainant and the alleged offender and receiving any further information.
- finding out what outcome the complainant would like to see occur.

2. Upon completion of the investigation, the investigator should immediately communicate his/her findings to the firm.

### **C. Resolution**

Both the complainant and the alleged harasser will be informed of the findings and intended sanctions as soon as the investigation is concluded.

Upon receiving the findings of the investigation, the firm and the investigator should communicate the findings and intended actions to the complainant and the alleged harasser.

If the investigator and firm determine no sexual harassment as occurred, this finding will be communicated to the complainant.

If the investigator and firm find harassment has occurred, the harasser will be subject to discipline.

#### 1. Sanctions

Where a charge of sexual harassment is substantiated, the firm will act fairly in imposing an appropriate sanction as recommended by the investigator. The sanctions available range from a written apology, referral or counselling, a reprimand, and written report to that person's file, reassignment, suspension, to discharge from the firm or removal from partnerships. Seniority or status at the firm will not affect the decision as to the appropriate sanction in the circumstances.

#### 2. False Accusations

If the investigation reveals evidence that the complainant falsely accused another of sexual harassment, the complainant will be appropriately disciplined and the documentation will be retained on the complainant's personnel file.

### **D. Retaliation**

Any act of retaliation against a person using this policy in good faith to report an incident of sexual harassment, or a person who is assisting in an investigation of an incident of

sexual harassment under this policy is inappropriate and appropriate disciplinary action will be taken against persons found to have committed such an act.

**E. Maintaining a Written Record**

The firm shall maintain a written record of each complaint and how it was investigated and resolved. Records will be maintained in a confidential manner.

**F. Conclusion**

The firm has developed the policy to ensure its employees and partners can work in an environment free from sexual harassment.

## APPENDIX "A"

### Complaint Form

I, [name of complainant], working at [name of firm], [address of firm] have reasonable grounds to believe that [name of alleged harasser], working at [name of firm], [address of firm] has engaged in sexual harassment at [address(es) of place(s) where alleged sexual harassment took place] on or about [dates of alleged harassment] in contravention of [name of firm's] policy on sexual harassment.

The particulars are as follows:

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I wish the advisor to meet with [name of alleged harasser] with a view to achieving a satisfactory resolution. (delete if inapplicable)

Signed at \_\_\_\_\_ on \_\_\_\_\_  
City Date

\_\_\_\_\_  
Complainant's Signature

*\*The complainant should sign three originals; one original to remain with the complainant; one to be forwarded by the advisor to the person against whom the complaint is laid, and the other to be left with the advisor who will, without delay, file it with the [managing body of the firm].*