



Workplace Harassment Policy and Procedures

Current as at 1st February 2011

This Policy is subject to the provisions of the Dictionary and Interpretation.

1. Purpose of this Policy

The Company is committed to provide a working environment to all its Employees ensures good workplace relations are maintained, and believes that all Employees are entitled to be treated with dignity and respect while at work and when representing the business in any capacity outside of work.

This Policy has been drafted so as to ensure that Employees are not subjected to any unwanted workplace harassment.

Harassment in the workplace:

- decreases productivity,
- increases absenteeism, and
- is also against the law.

For these reasons, any form of harassment will not be tolerated.

2. Scope

All Employees of the Company must adhere to the requirements of this Policy. The Company will ensure that this Policy is brought to the attention of contractors & visitors, and enforce their compliance with it.

3. Types of harassment

The Company is committed in all areas to provide a work environment that is free from harassment. Harassment based upon an individual's:

An Employee's employment will not be adversely affected as a result of bringing complaints of unlawful harassment.

3.1 Harassment

Harassment is unwelcome conduct towards an individual based on any of the factors described above, when the conduct creates an intimidating, hostile or offensive work environment that

- causes an employee to feel victimized; or
- negatively affects job opportunities

Workplace harassment usually consists of a pattern of unwelcome behaviour, however, it can consist of just one act where this is of a serious nature. Also, there is no need that the harasser intended to offend or harm in order for it to be unlawful. All that is required under the law is that a reasonable person would consider the person being harassed would be offended, humiliated or intimidated by the behaviour in question.

Examples of harassment that may violate the law and will violate this Policy include:

- oral or written communications that contain offensive name-calling or jokes, slurs, negative stereo-typing or threats. This includes comments or jokes that are distasteful or targeted at individuals or groups based on age, disability, marital status, national origin, race or colour, religion, sex, sexual orientation or gender identity
- Non-verbal conduct such as staring, leering and giving inappropriate gifts
- Physical conduct, such as assault or unwanted touching
- Visual images, such as derogatory or offensive pictures, cartoons, drawings or gestures, whether in hard or electronic form.

Performance feedback is not harassment or inappropriate behaviour. Effective leadership requires that managers talk with their Employees about their job performance. Managers should be clear about how each Employee is performing and how the Employee's overall behaviour contributes to the workgroup's ability to deliver results consistent with Phoenix's values. Such discussions may be difficult and they should always be done professionally and respectfully. However, constructive criticism and supervisory actions regarding performance deficiencies or other workplace issues of themselves are not harassment.

3.2 Sexual Harassment

Sexual harassment is unfortunately a common form of harassment. It is illegal for an employer or an employee to sexually harass another employee or the employer (hereinafter referred to as "the victim") by:

- (a) subjecting the victim to an act of physical intimacy; or
- (b) requesting sexual favours from the victim; or
- (c) subjecting the victim to any act or conduct with sexual connotations, including
 - spoken words,

- gestures or
- the production, display or circulation of written words, pictures or other material where:
 - (i) the act, request or conduct is unwelcome to the victim and could reasonably be regarded as offensive, humiliating or intimidating to the victim;
 - (ii) the victim is treated differently, or it could reasonably be anticipated that the victim could be so treated, by reason of the victim's rejection of or submission to the act, request or conduct.

3.3 *What is unwelcome sexual conduct?*

Sexual harassment arises if the sexual conduct in question is **unwelcome**. Whether the behaviour is unwelcome is a **subjective** question and will depend on the particular person against whom it is directed.

4. **What to do if you are being harassed**

If an Employee believes that he or she is being harassed, there are a number of important steps that one may take:

1. a) The victim is entitled to tell the harasser that his/her behaviour is unacceptable, and that it must stop immediately. Whilst it is extremely useful that these things are said to the harasser by the victim so that the harasser does not interpret one's silence as tantamount to consent, if the victim feels too uncomfortable to say these things to the harasser, this will not be deemed to be an invalid claim. If the harassment then ceases there is no obligation on the harasser to take the matter further. b) If the victim wishes to escalate their complaint or feels they are unable to approach their harasser, a written report of this behaviour or incident can be lodged with their Line Manager, or the Legal Affairs Director. In any event the Legal Affairs Director should be copied in any complaint.

Any complaint will be kept confidential.

5. **Responsibilities of the Company**

The Company regards sexual harassment as a form of intimidation that has the effect of insulting and demeaning the Employee against whom it is directed. It is therefore unacceptable in the working environment and the Company will take positive action to prevent its occurrence.

The Company has a legal responsibility to take reasonable steps to prevent harassment from happening in the workplace. This involves:

- educating Employees about harassment,
- communicating and complying with this Policy,
- establishing grievance procedures and
- ensuring compliance by all in its workforce.

All complaints of workplace harassment will be taken very seriously and are dealt with sympathetically and in a confidential manner. Every reasonable complaint will be investigated and, if found to be proved, appropriate warnings or other disciplinary action will be taken against the harasser. The Company will ensure that victims are not victimised or treated unfairly for making a complaint.

6. The Role of the Line Manager

Managers, as guardians of equality of opportunity, have an important role in the prevention of workplace harassment. First, Line Managers must ensure that they do not harass Employees. Secondly, Line Managers must ensure that their staff understand this Workplace Harassment Policy.

When Line Managers observe discrimination or harassment, they should take steps to stop it and warn the person of the consequences if the behaviour continues. If a person approaches them with a complaint about harassment, they should take appropriate steps to resolve it referring to the above procedures. This may include initiating disciplinary action against Employees who have committed acts of discrimination or harassment. If this is not possible or inappropriate, then the Group CEO and the Legal Affairs Director should be informed.

7. The Role of the Employee

Employees have a personal responsibility for the practical application of equal opportunities initiatives. The co-operation of all Employees is needed for the Company to make real progress in this area.

Each Employee must ensure that they do not engage in harassing behaviour towards other Employees, managers or supervisors, clients or customers. Employees should be aware that they can be held legally responsible for their unlawful acts. Employees who aid or encourage other persons to harass can also be held legally liable.

Any Employee engaging in improper harassing behavior will be subject to disciplinary action, including the possible termination of employment.

8. Procedures invoked in cases of alleged discrimination or harassment

If one is accused of acting in a discriminatory manner towards a fellow Employee, or a job applicant, or if one is accused of harassment, the complaint will be fully investigated.

It is the duty of the Company, upon the request of any person claiming to have been harassed, to provide such person within ten working days of such a request, with a report on the allegation made or the procedures used by the employers in the matter alleged to constitute such harassment.

In the course of investigation the accused will be given a proper and decent opportunity to prove his/her innocence and to provide an explanation of his/her actions.

If no harassment or discrimination is proven, then the matter will terminate there. If it is concluded that a false claim has been maliciously made against the accused, the alleged 'victim' may be subject to disciplinary action.

If it is established that the accused has acted in a discriminatory manner or has harassed another Employee, the Company will decide what action is to be taken. This may range from counseling to formal disciplinary action, including dismissal in serious cases.