

Sexual harassment at the workplace: A tough row to hoe

An estimated 83 million to 102 million women (45% to 55% of women) in the EU-28 have experienced sexual harassment since the age of 15 according to the European Union Agency for Fundamental Rights' (FRA) survey¹. Among these women, 32% indicated the perpetrator as being a boss, colleague or a customer in the employment context.

Sexual harassment is unlawful as per Article 9 of the Equality for Men and Women Act, and it is essentially defined as unwelcome sexual conduct. It may involve unwelcome physical contact, suggestive comments or jokes, unwanted invitations to go out on dates or requests for sexual interaction, intrusive questions about the private life or body, unnecessary familiarity, insults or taunts based on one's sex, sexually explicit emails or SMS messages. Here, the operative word is 'unwelcome'.

In order to control such challenging behaviour all employers and service-providers have a legal duty to protect their employees and service-users from sexual harassment. This can be effectively done by implementing an equality policy that categorically declares zero tolerance to sexual harassment. This signifies the organisation's commitment to prevent and address sexual harassment in concrete terms. For a sexual harassment policy to be effective, it should be in a written format, reviewed and updated regularly, in line with current legislation, the subject of consultation with individuals and groups within the wider environment of the organisation, widely available to all those who come in contact with the organisation and explicitly endorsed by top management officials.

Such a policy at the place of work is considered of considerable importance in the context of gender equality. To this end, the National Commission for the Promotion of Equality (NCPE) provides assistance to employers to draft or update such policies. In addition, having sexual harassment policies is one of the criteria of assessment for obtaining the Equality Mark. This certification is awarded by NCPE to companies or organisations that make gender equality one

¹ https://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-vaw-survey-main-results-apr14_en.pdf

of their core values and whose management is based on the recognition and promotion of the potential of all employees irrespective of their gender and caring responsibilities.

Moreover, the NCPE is empowered by Chapter 456 of the Laws of Malta to investigate complaints of alleged sexual harassment in the workplace and to provide the necessary assistance and information in the compilation of a complaint.

Sexual harassment has become such challenging behaviour as evidenced by statistics given above, that for the first time ever, violence and harassment in the world of work are covered in new international labour standards, adopted at the Centenary International Labour Conference and now open for ratification by the International Labour Organisation (ILO) member states.

The new ILO Convention acknowledges that violence and harassment, including sexual harassment, in the world of work affects a person's dignity, psychological, physical and sexual health, as well as their family and social environment. The Convention protects everyone's right to work in an environment free from violence and harassment. Indeed, it takes an inclusive and integrated approach, extending protection to all workers "irrespective of their contractual status"² and including persons in training, apprentices, workers whose employment has been terminated, volunteers, job applicants, jobseekers and persons exercising the authority, responsibilities or duties of an employer.

Furthermore, in line with the FRA research, the Convention acknowledges that gender-based violence and harassment disproportionately affects women and girls from entering, remaining and advancing in the labour market.

A powerful message is thus being sent by this Convention acknowledging the unacceptability of violence and harassment. The underlying causes, including multiple and intersecting forms of discrimination, gender stereotypes and unequal gender-based power relations need to be tackled to combat sexual harassment at work when aiming for a society free from any form of

² https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190



discrimination. In this regard, NCPE is committed to combat sexual harassment at work to ensure that equality between women and men is truly safeguarded.

The National Commission for the Promotion of Equality (NCPE) can be contacted on: 2295 7850 or equality@gov.mt or our Facebook page.