



UNI GLOBAL UNION EMPLOYEE SEXUAL HARASSMENT



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FOREWORD BY THE GENERAL SECRETARY

Sexual harassment policy

Sexual harassment is unacceptable behaviour and should not be tolerated because it is an infringement of the fundamental human rights and dignity of another person.

Sexual harassment is also against the law.

The bottom line is respect and individual dignity. We all deserve to be respected for who we are and what we can contribute to our organisation and our colleagues.

Wherever sexual harassment is occurring, it should be stopped.

Addressing this issue may involve us in new ways of thinking about people's behaviour and how it can affect others. We need to be sensitive to the differences between individuals and to look at our own attitudes and values and how they may affect the way in which we respond to sexual harassment complaints.

UNI will respond to complaints professionally using a common sense approach based on fairness.

We will never ignore a complaint or refuse to assist with a complaint to the relevant authorities.

Cases of sexual harassment are often very complex and nowadays there can be legal implications for our actions in this area.

The following procedures provide detailed direction on the nature of sexual harassment, the roles and responsibilities of all of us and how to resolve complaints as effectively as possible. Our objective is to ensure we have here at UNI a workplace free of harassment.

By making this step, we hope that it will remind you of the importance that this document not only delivers for our office here in Nyon, but realising that workplace sexual harassment is a barrier towards our primary goal of promoting decent working conditions for all workers.

Philip J. Jennings,

General Secretary
UNI Global Union.

Swiss Federal legislation and case law have spelt out our legal responsibilities and potential liabilities in regard to our handling of sexual harassment. According to a study conducted by the Federal Office for Equality and the State Secretariat for Economics, 50 per cent of people working in Switzerland are likely to encounter sexual harassment at work which makes them feel uncomfortable¹.

UNI makes it clear in the *UNI Head Office Employees Collective Agreement* that we make a clear commitment regarding sexual harassment:

31.1 *The employer and the employees shall respect personal rights and integrity. They shall refrain from making any offending comments relating strictly to one another's private lives as well as from any physical, psychological or sexual harassment.*

THESE SEXUAL HARASSMENT GRIEVANCE PROCEDURES HAVE BEEN DEVELOPED TO:

- ▲ assist you in identifying and understanding what constitutes sexual harassment;
- ▲ deal effectively with incidents of sexual harassment, where employees are affected;
- ▲ to inform you of our legal obligations regarding sexual harassment;
- ▲ to inform you of preventative measures that UNI has in place.

This document has been carefully considered by the General Secretaries Department and the UNiA Staff Representatives.

Although it may not be totally comprehensive in addressing every issue which may arise regarding sexual harassment, it certainly covers the main issues, giving you precise information regarding dealing with sexual harassment and reporting procedures.

¹ World Radio Switzerland, Interview with Karin Lempen, Federal Office for Equality, 16 January 2008.

DEFINING SEXUAL HARASSMENT

Sexual harassment is any physical or verbal conduct or visual display of a sexual nature which is uninvited and unwelcome and which makes the recipient feel offended, humiliated or intimidated.

General Notes on Sexual Harassment

Sexual harassment is not occasional compliments and has nothing to do with the mutual attractions of friendship, which are consensual and acceptable to both parties. These are private concerns.

Grounds for harassment can exist whether harassment was intended or unintended.

Sexual harassment can take many forms.

It could be behaviour which in some circumstances would be considered normal but when repeated and unwelcome becomes harassment.

The harasser could be anyone in the workplace. It could be a superior,

colleagues, affiliates, visitors to the office, suppliers or others.

The victim does not have to be the person directly harassed but could be anyone affected by the offensive conduct.

Sexual harassment can happen to anyone, male or female, and of whatever sexual preference.

It can be individual or group behaviour.

It can include behaviour that has occurred outside of working hours such as at a UNI social function that has affected the complainant's work environment.



**SEXUAL HARASSMENT
CAN HAPPEN TO ANYONE,
MALE OR FEMALE, AND
OF WHATEVER SEXUAL
PREFERENCE.**

A simple test to apply to assess if a certain behaviour could be considered to be sexual harassment is to ask:

- 1.** Was it unwelcome?
- 2.** Was it of a sexual nature?
- 3.** Would a reasonable person have expected it to be offensive, humiliating or intimidating?

If the answer is 'yes' to these three questions then the behaviour may constitute sexual harassment and you should seek advice from the Operations Manager, a member of the Management Team or a union representative.

WARNING: If the answer to these questions is anything other than a clear and absolutely certain "No", then there are grounds for investigation of a sexual harassment complaint.

So what does "unwelcome" mean?

As a guide, unwelcome could be defined in the following way:

That the advance, request or conduct was not requested or invited by the employee and the employee regarded the conduct as undesirable or offensive.

Whether the behaviour is **unwelcome** is a **subjective test**: it looks at how the conduct in question was perceived and experienced by the recipient, rather than the intentions behind it. It also depends on the response of the individual alleging sexual harassment. It is irrelevant that the behaviour may not offend others or has been an accepted feature of the work environment in the past.

What may be acceptable socially or in private life could well be inappropriate in a work context.

A complaint of sexual harassment should not be dismissed just because the complainant did not tell the harasser that their behaviour was unwelcome.



**WHAT MAY BE ACCEPTABLE SOCIALLY
OR IN PRIVATE LIFE COULD WELL BE
INAPPROPRIATE IN A WORK CONTEXT.**

What is "conduct of a sexual nature"?

The unwelcome behaviour must have a sexual element, overtone or implication although in some circumstances a broad approach may be applied to this part of the definition.

What is a "reasonable person"?

Whether the behaviour was **offensive, humiliating or intimidating** is an **objective test**: it looks at whether a reasonable person would have anticipated that the behaviour would have this effect.

To decide what is a "reasonable person" requires consideration of the following question: "Would a hypothetical 'reasonable person' feel that the complainant's reaction to the behaviour was understandable in all the circumstances?"



Examples of sexual harassment are:

- ▲ Suggestive remarks.
- ▲ Unwelcome sexual jokes in the presence of a person or about a person.
- ▲ Suggestive comments about a person's physical appearance or body.
- ▲ Sexual propositions or continual requests for dates especially after prior refusal.
- ▲ Suggestive behaviour such as leering or ogling and gestures or body movements of a sexual or intimidating nature.
- ▲ Offensive photographs, posters, reading matter, t-shirts, sexual graffiti or objects, when placed so as to be seen by others.
- ▲ Sexually explicit conversations.
- ▲ Tales of sexual performance.
- ▲ Name calling of a sexual nature.
- ▲ Suggestive comments about a person's alleged sexual preference.
- ▲ Wolf whistles, cat calls.
- ▲ Unnecessary familiarity such as deliberately brushing up against a person; pinching, patting.
- ▲ Vulgar statements and abusive language can constitute sexual harassment.
- ▲ Demands that certain suggestive clothing be worn.
- ▲ Wearing revealing clothing.
- ▲ Using authority or physical strength to place someone in a position where they feel sexually threatened.
- ▲ Requesting sexual favours in exchange for a job, or for keeping a job, good working conditions, or some other benefit.
- ▲ Physically touching a person where the touching is sexual in nature.
- ▲ Indecent exposure.
- ▲ Obscene communications (telephone calls, faxes, letters, emails, SMS messages etc).

Criminal Offences under Swiss Federal Law

If the sexual harassment complained of by the employee appears to also constitute a criminal offence, lodging a complaint with the Police is appropriate.

- ▲ Indecent assault or rape.
- ▲ Preventing a person from getting away.
- ▲ Stalking.

EFFECTS OF SEXUAL HARASSMENT

Sexual harassment is not just a private matter between two people. It has implications for everyone at the workplace.

Sexual harassment:

- ▲ affects morale,
- ▲ undermines productivity,
- ▲ provides unnecessary distraction,
- ▲ can create an intimidating, hostile, offensive or distressing work environment.

For the victim sexual harassment can result in:

- ▲ The person feeling embarrassed, humiliated, intimidated, uncomfortable, annoyed, irritated, angry, anxious,
- ▲ Low self esteem.
- ▲ Loss of confidence.
- ▲ Stress and stress related health problems such as depression, insomnia, headaches, skin disorders, digestive problems etc.
- ▲ Self blame, feelings of guilt.
- ▲ Reduced job satisfaction.
- ▲ Being isolated.
- ▲ Poor work performance.
- ▲ Career damage.
- ▲ Damaged reputation.
- ▲ Risks to job security.
- ▲ Job loss.
- ▲ Financial hardship.
- ▲ A negative impact on family life.
- ▲ In some cultural situations, victims can suffer loss of face and social ostracisation, leading to family hardship and even break-up.

If the victim leaves or is sacked, future job opportunities may be jeopardised. In times of high unemployment, and in a demoralised state, the victim will probably face a significant time of unemployment.

COMMITMENTS IN RESPONDING TO SEXUAL HARASSMENT COMPLAINTS FROM EMPLOYEES

In dealing with any complaint involving sexual harassment UNI undertakes:

- ▲ to treat all complaints seriously and sympathetically,
- ▲ that complaints will be dealt with promptly and confidentially,
- ▲ to advise the complainant at all stages of the complaint process and to respect the wishes of the complainant, even if that means withdrawing a complaint,
- ▲ if the complainant withdraws the complaint, and there is an environment of sexual harassment at the workplace, to pursue that issue whilst maintaining confidentiality regarding the individual's complaint,
- ▲ to ensure, to the extent that UNI is able, that complaints will be fully investigated in an impartial manner,
- ▲ to ensure, to the extent that UNI is able, that the resolution of complaints is just and equitable,
- ▲ that support will be given to employees lodging complaints with outside organisations,
- ▲ to act to ensure, to the extent that UNI is able, that steps are taken by UNI to protect you from intimidation, victimisation or reprisal at work,
- ▲ to act and to ensure, to the extent that UNI is able, that steps are taken to prevent further sexual harassment occurring in the workplace.

UNI GLOBAL UNION RESPONSIBILITIES REGARDING SEXUAL HARASSMENT

At UNI Global Union we will do the following:

1. Issue a strong Sexual Harassment Policy with Grievance Procedures, endorsed by the General Secretaries Department and the UNiA Staff Representatives.

Our Policy:

- ▲ outlines what is acceptable and unacceptable behaviour;
- ▲ expresses strong disapproval of sexual conduct in the workplace, whether it be from colleagues, affiliates, visitors to the office, suppliers or others;
- ▲ tells employees what to do if they are confronted with sexual harassment;
- ▲ explains how UNI will respond to complaints, who is responsible within UNI for handling complaints, and **what disciplinary action will be taken against harassers.**

2. Make the Sexual Harassment Policy and grievance procedures known to all employees and have it readily available **in a written form** for them.

3. Provide all employees with training in what constitutes sexual harassment,

and in the UNI Sexual Harassment Policy and grievance procedure.

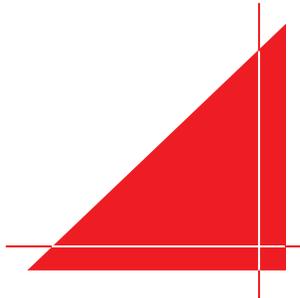
Ensure that **senior employees are aware of their role** and responsibility in preventing sexual harassment, and model professional conduct at all times.

4. Include information about sexual harassment in training materials and induction packs.

5. Ensure employees know how to make a harassment complaint and that no artificial barriers are put in the way of doing this. Detail the names and position of anyone to whom employees can go with enquires or complaints of sexual harassment. In the event the complainant feels that UNI has not conducted the investigation to their satisfaction or they feel uncomfortable with any decision UNI has made they may approach their union.

6. Reassure employees that all complaints will be confidential.

7. Reassure employees that **no retaliation** will be taken against someone who makes a complaint.
8. **Take every complaint seriously.** Investigate every complaint thoroughly and promptly.
9. Ensure that appropriate action is taken to address and resolve complaints.



It is not sufficient to develop a policy and hope the harassment will cease or not occur. Active strategies have been implemented by UNI to ensure you work in a healthy and safe environment free from sexual harassment.

Liability of Individuals

Individual persons may be held liable for their own harassing behaviour in connection with their employment.

PROCEDURES TO RAISE A COMPLAINT OF SEXUAL HARRASSMENT AS UNI EMPLOYEE

Use the following sexual harassment grievance procedure:

1. In the first instance, the complainant should present their allegations to either the Operations Manager or a member of the Management Team (their names and positions are listed in the employee handbook). This person will be known as the nominated UNI representative.

The complainant may be accompanied by their union representative throughout this process if they wish.

2. The complainant will be asked to outline their allegations in a signed written statement. This will help make it easier for the complainant to express their thoughts. It is beneficial for the complainant to do this away from the office so that they can collect their thoughts with a clear state of mind.

3. The complainant's statement should state the facts:

- ▲ Time
- ▲ Date
- ▲ Location of incident (in an office, the cafeteria etc)
- ▲ Witnesses
- ▲ Any other relevant information pertaining to your complaint

4. UNI will endeavour to respond to the complainant's statement within 48 hours. The response will be held in the form of a meeting in which UNI can discuss with the complainant the allegations made and how they would like to proceed with the allegations.

5. The complainant will be interviewed by the person they reported their allegations to, as listed at point 1. The interviewer may also seek to have an independent legal adviser present as part of the meeting to assist with the investigation.

6. The complainant will be asked to keep all information discussed confidential, and this will also be respected by the interviewer and legal representative. The complainant will be informed of other people who may need to know about the proposed investigation. UNI will always ensure that only those people who need to know about the investigation are informed.

7. At the complainant's written request:
a) an investigation will be conducted by

the nominated UNI representative (continue to 8)

b) The complainant may decide to withdraw a complaint of sexual harassment, and UNI will also respect this decision. However, UNI may see it as appropriate to organise a refresher course or statement regarding sexual harassment to its employees. This will not identify any individual staff member whether they are the alleged harasser or the complainant (Stop)

8. The investigation will be initiated as soon as possible in consultation with the complainant. Depending on the number of employees to be interviewed this may take some time. As a guideline, UNI will endeavour to conclude the investigation within 15 working days, unless another mutually agreed time frame is

consented to between the complainant and the nominated UNI representative. This will allow time for re-interviewing the alleged harasser and witnesses if the need arises.

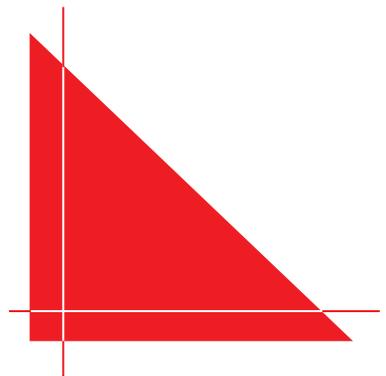
9. At the conclusion of the investigation, a meeting will be called to present the findings of the investigation to the complainant. A separate meeting will also be held with the alleged harasser. Once the complainant has heard the findings of UNI's investigation, direction will be sought as to how the complainant would like to proceed.

10. At all stages of the investigation, an employee is allowed to have a union representative of their choice accompany them to meetings.



When a member of the Management Team or the Operations Manager is asked to conduct an investigation into alleged sexual harassment, they will endeavour:

- To remain impartial
- To investigate the matter in a professional and confidential manner
- Offer the complainant and the alleged harasser the right to approach their union
- Provide support and advice through counselling services to the complainant
- Provide relevant information to the complainant and alleged harasser or their representative(s) at all stages of the investigation, meetings and resolution.
- Ensure fair and correct procedures are followed and appropriate action is taken.
- Respect the wishes of the complainant even if that means withdrawing the complaint.



POTENTIAL COSTS OF SEXUAL HARASSMENT TO UNI GLOBAL UNION AS EMPLOYER

DISAFFECTED EMPLOYEES

- ▲ Damage to employee morale.
- ▲ Conflict between employees.
- ▲ Loss of talented and valued employees.

FINANCIAL

- ▲ Costly and protracted legal proceedings.
- ▲ Payment of financial compensation.
- ▲ Possible bankruptcy.
- ▲ Time and money spent on recruitment, training and development of new employee(s).
- ▲ Stress related insurance claims.

DAMAGE TO UNI PUBLIC IMAGE AND CREDIBILITY

- ▲ Negative influence on opinions of affiliates and their members and outside organisations.

- ▲ Potential damage to working relationships between affiliates, corporations and UNI.
- ▲ In the view of members.
- ▲ In the union movement.
- ▲ In the broader community – fuels the anti-union debate.
UNI not attractive to new employees.

REDUCED PRODUCTIVITY AND EFFICIENCY

- ▲ Employees not performing to capacity.
- ▲ Efficiency and quality is impaired.
- ▲ Risks of accidents increased.
- ▲ Increased absenteeism and staff turnover.
- ▲ Loss of working time for complainant, alleged harasser, witnesses, senior staff, other UNI employees for investigations and resolution.



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