

Facilitator Copy

Scenario Discussions for Addressing Workplace Sexual Harassment

Scenario Discussion Instructions to Facilitator

Small Group Activity (10 mins)

- 1 Divide the class into groups of 4-5: Have them number off and sit together by numbers so that people are not just sitting with people they know.
- 2 Have the groups sit together in designated places in the room.
- 3 Let them know this is a very quick exercise and they don't have a lot of time.
- 4 Ask the groups to quickly choose someone to record notes and to report back to the large group (or to share the jobs between two people).
- 5 Direct each group to their assigned scenario in the Participant's Handbook, and the questions on the discussion sheet
- 6 Tell the groups they have 5-6 minutes to discuss the scenario and answer the following questions:
 - Does the situation constitute sexual harassment or not?
 - What, if anything, should be done by management?
- 7 Circulate around the room to monitor progress.

Large Group Activity (10 mins)

- 8 Following the discussion period, reconvene the group for large group discussion:
 - a. Each group reports back outlining their decisions and the factors that were considered in their group.
 - b. Ask other groups to share ideas on the conclusions and proposed approach

Wrap Up Activity (5 mins)

- 9 After all the groups have had an opportunity to present, ask participants to state one thing they learned today about sexual harassment, why we should be concerned about it, what to do about it, etc.

Scenario 1

Brian, Jose, and Anika work in a small office where each of them has their own cubicle. Brian and Jose sometimes make comments about what type of women they find attractive. One day, Brian says to Jose, “I like women with little round butts” in front of Anika. Jose laughs as usual. Anika tells them to knock it off and that they are disgusting. Both Brian and Jose apologize to Anika. The next day, Anika again overhears Brian tell Jose a comment about a woman’s “nice legs”. Anika’s face flushes. Anika asks them to stop. Brian and Jose continue to ignore Anika’s protests and say they were just privately talking about their own personal preferences in women. Anika is upset and goes to HR to complain. Anika is nervous Brian and Jose will retaliate in some way as it is a very small office. Anika thinks they should stop.

Question 1:

Is this sexual harassment?

- **Yes.** These are repeated offensive comments of a sexual or sexualized nature that are unwelcome.
- They reflect a certain attitude toward women – that they are objects.
- Even though the comments may not be offensive to every person, they are offensive to Anika.
- Even though the comments are not directed at Anika, Brian and Jose are creating an uncomfortable (poisonous) work environment for Anika and possibly others.

Question 2:

What else could Anika have done?

- Sometimes bystanders minimize or normalize the abuse they witness (for example, “they should just walk away”), but most just do not know what to do or say to make things better. Sometimes they even joke about it to lighten the tension.
- However, responsibility for preventing sexual harassment relies on all people involved.
- Anika made the right choice by going to HR to report it. Additionally, she could explore other routes.
- It is never the victim’s fault for being sexually harassed.

Question 3:

What should the organization do? Remember your checklist:

- **Thank** the person for reporting their concerns.
- **Listen** to the person as they explain their concerns.
- **Summarize** what you have heard and your understanding of key concerns.

- **Ask** what outcomes the person is looking for.
- **Assess** physical and psychological safety and consider necessary or prudent interim measures.
- **Discuss** confidentiality.
- **Discuss** informal and formal resolution options.
- **Identify** the next steps.
- **Act** promptly:

In the case of informal resolution, plan, and execute process.

In the case of a formal complaint, thoroughly investigate promptly, confidentially, in an unbiased manner and in accordance with your workplace policy.

- **Communicate**, communicate, communicate with the parties throughout the process.
- **Wrap up**, identify any additional steps and conclude.
- **Debrief**, with the parties.
- **Follow up** to assess any new or recurrent issues. Consider broader needs for workplace restoration and harassment prevention measures.

Question 4:

Brian and Jose’s supervisor often laughs and rolls their eyes at Brian and Jose’s comments. They are told to knock it off if they get a little too crude though. Does this change anything?

- **Yes.** The severity of the problem just got one order of magnitude worse for you because this is an issue beyond just Brian and Jose. As a leader, the supervisor’s actions appear to condone the hostile work environment activity and that sends a clear message this kind of behavior is ok.
- Management and ownership need to be trained to be able to spot potential problems and then to act in a manner responsive to the problem.

Question 5:

What if in the scenario Brian and Jose were replaced with Jane and Rebecca and they were talking about the type of men they find attractive. Would that change anything?

- **No.** They are repeated offensive comments of a sexual or sexualized nature that are unwelcome.
- This kind of environment reduces the productivity of the employees and increases turnover because employees do not feel 100% comfortable coming to work.

Question 6:

What if Anika did not hear the comments made by Brian and Jose? Is it still a problem?

- **No**, it is not okay if the victim is not present or did not hear. It encourages the behaviour in other people that might hear, or even just between themselves, which creates a butterfly effect of this being tolerated.

Scenario 2

The local delivery driver comes into the office at least every other day with deliveries. The driver takes a liking to the new receptionist who is signing for the packages and asks her out. The receptionist is not interested and says no. The delivery driver is convinced the receptionist's mind can be changed. While not every day, but usually once a week or so, the driver brings candies, flowers, cards, small stuffed animals just for the receptionist. The receptionist is not interested and ignores the gestures. The receptionist tells a supervisor the driver is making them uncomfortable.

Question 1:

Is this sexual harassment? • **Yes.** The driver is making repeated unwanted advances.

Question 2:

What should the organization do?

- Even though the driver is not its employee, the organization has an obligation to act.
- One way to do this is to have a supervisor or other manager/owner of the company substitute for the receptionist when the driver comes in one day. You speak to the driver and make clear that their efforts are not welcome by the receptionist or by the company; they are to stop, and if they continue, you will report the matter to their employer. This action may allow the driver to save face, end the behavior, and allow the driver to avoid a potentially job-killing report to their employer.
- Alternatively (or if you feel you need to), you can skip the pleasantries and simply ask for a new driver, but be prepared to answer questions by the driver's bosses about why you are requesting a new one.

Question 3:

What if the receptionist was painfully shy- and didn't speak up. Instead, they just looked uncomfortable and blushed?

- Some people are not comfortable expressing their discomfort. This doesn't make the receptionist any less a victim. If the organization is aware of the situation, it is still required to act.
- From an employer's perspective, simply being "unaware" of the conduct is not a defense. You have a proactive duty to provide a safe and harassment free workplace. That requires some due diligence on your part. A good practice in due diligence is to randomly check-in with employees with respect to their work experiences.

Question 4:

Did you assume the delivery driver was a man? What if the driver is a woman?

- The gender of the harasser and the victim are irrelevant for the purposes of sexual harassment. The conduct is sexual in nature, pervasive, ongoing, and is not welcome. It is harassment and should be handled as described above.

Scenario 3

When Maria began working for your organization as a general labourer, she went by a different name and pronoun. A few years later, Maria began transitioning from male to female. Maria started the process of medical transition and developed female breasts as a result of hormone treatments. Maria was stared at and ignored. Other female co-workers have complained about Maria using “their” washroom. Other women in the office were friendlier, but often asked uncomfortable questions like what “parts” they had down there, if they could use the “new ones” and how?

Question 1:

Is this sexual harassment?

- **Yes.** The conduct, comments, and questions of Maria’s co-workers are a form of gender-based harassment.

Question 2:

What should your organization do about it?

- You have a big problem and it must stop immediately. If this sort of behavior is left unattended, it can lead to a negative impact on employee morale and productivity, staff turnover, and the mental wellbeing of your employees.
- The first thing to consider is whether Maria is comfortable with informal resolution and training, or whether a formal investigation is necessary given the severity of the conduct.
- Regardless, employee training is needed. Consider harassment training, bystander training, and sensitivity and diversity training. It is the employer’s, not Maria’s, responsibility to offer this training.
- Also consider other ways you might help your employees embrace broader perspectives and increase awareness and tolerance, for example, hosting a quarterly “awareness day” on sensitive topics such as gender identity and expression, disability, etc.

Question 3:

Does the industry matter? Construction is a notoriously “tougher” environment.

- **No.** Research confirms that many LGBTQ2S+ members do not feel safe and/or comfortable “coming out” at work. It is critical you create an inclusive and positive working environment for all employees, regardless of:
 - how they identify;
 - your level of awareness in that regard; or
 - the industry you are in.
- It means your organization may have more work to do with respect to education, training, and enforcement.

Question 4:

What should you do about staff complaints regarding Maria's use of the "women's" washroom?

- Washrooms have always been fraught with misgivings for trans people. Last year, the National Center for Transgender Equality surveyed over 27,000 Americans, of whom roughly two percent identify as trans. The survey found that in the previous 12 months:
 - 59 percent of transgender people avoided using public washrooms where possible
 - 24 percent of transgender people had had their presence in a washroom questioned
 - 12 percent of transgender people were verbally harassed. Nine percent of transgender people had been denied access to a washroom
- Gender expression and gender identity are prohibited grounds of discrimination under both federal and provincial human rights legislation. Excluding Maria from the "women's" washroom would be an act of harassment and discrimination
- We all need to use the washroom eventually. So, the time for companies to recognize that they should be making the experience as pleasant as possible – for everyone – is long overdue.
- Consider offering gender-inclusive washrooms. This is also a way for companies to proactively demonstrate inclusive values.