

## HR Guidance

Sexual Harassment Investigation – Reference# (01Engineering Dept/Jun/2021)

### Investigation by First Name Last Name – Department

#### Background

State the context on which the investigation was presented to you. Note the date time, who, how and note any documents and files or evidence you were presented with. Use the **STAR** method if that helps (**S**ituation, **T**ask, **A**ction, **R**esult).

#### Situation

For example: On the afternoon of Monday 3<sup>rd</sup> March Ms. Otterly and Mr Deokie presented me with the following documentation:

- a) Written statement from night duty shift manager (insert name)
- b) Copy of written statement from Field engineer (insert name)
- c) Original written statement from Production chemist (insert name)

#### Task

Mr Otterly asked if I would investigate and provide feedback/guidance on the matter as soon as I could.

#### Action

I reviewed all statements, made notes and asked for all originals. I then proceeded to arrange meetings with all parties to review statements and my questions regarding the statements. I ensured that all of these meetings had a 2<sup>nd</sup> HR representative present.

**(Remember to communicate the request in writing and use the same wording for each party – treating all with respect, fairness and equality.**

I proceeded to try and gather as much evidence as possible and also asked from statements to be provided by Mr Otterly and Mr Dookie as they have all had involvement in the matter to date prior to my engagement.

#### Result

Detail the overview of the complaint and then set out the methodology of your investigation and how it aligns to your company values.

The complaint is that of a repeated sexually suggestive conversations in the food shack and sexually suggestive messages sent in 'whats app' on company phones between two employees – one a senior manager over a period of six weeks.

### Investigation (Methodology)

#### Definitions:

**Sexual Harassment:** (quid pro quo) any physical, verbal or non-verbal conduct of a sexual nature and other conduct affecting the dignity of women and men, which is unwelcome, unreasonable, and offensive to the recipient; and where a person's rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person's job; or (hostile work

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environment) conduct that creates an intimidating, hostile or humiliating working environment for the recipient<sup>1</sup>.

The law of sexual harassment is in a state of rapid change. In many countries there is still no law on sexual harassment as a legally distinct and prohibited activity – including in Trinidad. Equal opportunity, labour, tort and criminal laws may all be applied separately or in combination to deal with this behavior.

The [national workplace policy on sexual harassment](#) in Trinidad and Tobago addresses and outlines the procedure to follow for employers and with that regard take all allegations of sexual harassment seriously.

At [Insert Company name] we are clear that there is a zero tolerance policy on Sexual harassment and that we will create a workplace where issues of sexual harassment are prohibited, prevented, addressed and remedied expeditiously and with equity, accountability and integrity. [Insert link to company policy or insert as an appendix]. As part of this investigation we shall conclude a review of our policy to ensure any learnings are applied **OR** following on from this investigation we shall complete a Sexual Harassment Policy as a matter of priority to ensure all learnings are captured.

### **Interviews:**

Keep detailed documentation of all dates and times of interviews and Interview requests (including the additional HR representative), see attached Appendix 1 for the copy of the request sent to all parties.

Monday 17th March 2020

Interviewed:

- a) night duty shift manager (insert name)
- b) Field engineer (insert name)
- c) Production chemist (insert name)
- d) Mr Otterly (National Operations Manager)

Mr Deokie (Americas Production Manager) – could not attend the interview due to a production emergency at the Pt Lisas site, rescheduled to the following day.

It is also essential to document all interview notes, See Appendix 2 for the interview checklist.

All interviews began with an introduction of who I was, what I do and how I will be investigating the matter and how confidentiality will shall proceed. I Prepared interview questions by reviewing statements to verify, question or confirm information. All notes are attached

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<sup>1</sup> [A National Workplace Policy on Sexual Harassment in Trinidad and Tobago \(opm-gca.gov.tt\)](#)

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### Findings:

The investigation is to ascertain whether it was more than likely that the incident occurred. It was not to cast judgment or prove guilt or innocence but to deliberate whether or not it was reasonable for the complainant to be believed.

The investigation formed around two research questions:

1. Did the witness statements corroborate the likely occurrence or not?

*Detail your investigation findings that support or contradict the question above*

2. Were there any inconsistencies?

*Deliberate the evidence provided and note any inconsistencies or evidence to the contrary.*

### Conclusion:

Based on the evidence and bringing the best practices from the National policy on Sexual harassment in deliberating whether or not it was reasonable for the complainant to be believed take in to account:

- the frequency of the occurrence
- The seriousness and extent of any intimidation and where it was alleged that a threat of physical violence was part of the complaint
- and whether a hostile working environment was created for the complainant.

### LEARNINGS

Detail here any learnings from your investigations:

*For example: Some of the statements point to cultural norms and the attitudes of the Trinidadian culture and society that would create some degree of subjectivity over what constitutes as sexual harassment and also employees not knowing how to deal with it or feel that they have a responsibility to report it.*

### RECOMMENDATIONS

Detail here any learnings from your investigations:

Organisational:

*For example: Based on the evidence its clear that the organisation has to step up and do more work to create a better/safer workplace culture that will not tolerate Sexual harassment, I believe this can be achieved by:*

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1. Training all staff (especially managers to recognise and deal effectively with sexual harassment)
2. Development and communication of a sexual harassment policy to create awareness of what constitutes sexual harassment and how the company and the employees should treat with it.

#### **Perpetrator:**

For example: believe both parties should be reinstated or I don't believe any disciplinary action should be taken against any party regarding the sexual harassment allegations.

#### **Victim:**

For example: use of any Employee Assistance (EAP) Counselling should be offered

#### **Management:**

For Example: Training on the policy and clear guidelines communicated to supervisors about how to investigate a claim of this nature and implications of making any decision that looks like you believe one party over the other

## **NEXT STEPS**

Detail here the next steps – ensuring to follow any policy guidelines and ensuring the best practices of Industrial Relations (IR) guidelines.

For Example: An individual meeting held separately with both parties and a letter indicating the findings and recommendations of the report should be held and issued to them.

An offer of conciliation and resolution meeting with both parties if they are interested – without prejudice if they choose not to.

HR to document a Sexual Harassment policy and schedule company wide training

## **CONFIDENTIALITY**

It is essential the fundamental nature of this investigation remains confidential therefore this report and its entire contents are for the consumption of the Chairman and its board of directors.

The findings and recommendations should be shared with the supervisors in an official memo.

Any questions queries please don't hesitate to contact any of the HR Investigating team or myself on:.

Printed Name

TITLE

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**Email Address**

Cell/Phone numbers

**Appendix 1 for the copy of the request sent to all parties.**

Insert copy of the email sent

**Appendix 2 for the interview checklist**

Insert checklist used for ALL interviews

For Example:

Date

Time:

Attendees:

- *who I was*
- *what I do and how I will be investigating the matter*
- *Not a legal investigation*
- *how confidentiality will shall proceed.*

*I Prepared interview questions by reviewing statements to verify, question or confirm information:*

*Question 1.....*

*Question 1b.....*

*Question 2.....*

*Question 3.....*

*Question 4.....*

*Question 4b.....*

*Additional questions emerging from interview:*