

Housing Agency of Jamaica Ltd.

Workplace Anti-Sexual Harassment (Prevention and Protection) Policy



Shatter the Silence, Stop the Violence ...


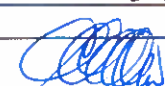
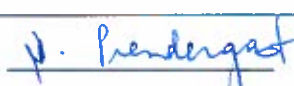

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**HOUSING AGENCY OF JAMAICA LIMITED
EXTRACT FROM MINUTES OF THE BOARD OF DIRECTORS
MEETING HELD ON MAY 18, 2023**

BOARD PAPER NO. 02/0523 SEXUAL HARASSMENT POLICY

"Being guided by The Sexual Harassment (Protection and Prevention), Act 2021, and the Sexual Offences Act, 2009 and on the recommendation of the Strategic Planning & Human Resource Committee, the Board approved the Sexual Harassment Policy."

**Director Conrad H. Pitkin
(Company Secretary)**

May 19, 2023





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1.0 The Policy Statement

The Housing Agency of Jamaica Limited (HAJL) considers the health and safety of all its employees to be one of its main priorities. As an employer, the Agency strives to be an Employer of Choice, and as such, believes it is one of the Agency's mandates to ensure that employees are provided with a workplace free from hazards, discrimination, violence and harassment including gender-based violence.

The Agency, through this policy document, seeks to declare its zero-tolerance approach on the matter/s of sexual harassment and/or offences related to/within the workplace. The Agency's Board of Directors and Management Team mutually prohibit any form of harassment and/or discrimination against employees (permanent and contractual) or non-employees (Interns, Volunteers, HEART/HOPE Trainees and/or Work Experience) of the Housing Agency of Jamaica Limited by any of its members.

Housing Agency of Jamaica Limited (HAJL) Management will take crucial steps to ensure the safety of all employees, to prevent acts of sexual harassment from occurring and to take the required corrective action/s where such an act/s has occurred.

1.1 Legislation

This document is guided by The Sexual Harassment (Protection and Prevention), Act 2021, Sexual Offences Act, 2009 and other associated Acts.

1.1.2 The Summary

The Health and Safety of all our employees (permanent and contractual), members of the Board of Directors, private contractors contracted by or on behalf of the HAJL, customers and/or third parties conducting business with the Agency and interacting with our employees is of the utmost importance and as such this policy was established to address any occurrence of sexual harassment at the Housing Agency of Jamaica.

All reported cases of sexual harassment (permanent and contractual) will be handled with the utmost confidentiality to ensure that both the accused and the complainant's safety and privacy are protected. The Senior Manager, Human Resources Management and General Administration will have oversight responsibility for the enforcement of this policy and to militate against any possible occurrence of incidents of sexual harassment and/or any form of reprisal.

The Human Resources Management and General Administration Department will monitor and mitigate the possibility of an occurrence of sexual harassment across the Agency and take the necessary steps to ensure employee awareness of the policy. The Department will also conduct periodic reviews of this policy to ensure that it is in keeping with best practices and local/international legislation/s.

1.1.3 The Purpose

In agreement with the Sexual Harassment (Protection and Prevention) Act, 2021, and any other legislative amendments and/or regulations, the Housing Agency of Jamaica Limited (HAJL) prohibits sexual harassment. All employees and people doing business with the (HAJL) are expected to conduct themselves in a professional manner during the execution of their functions on or off the Agency's compound.

1.1.4 The Objective

The objective of this policy is to define workplace sexual harassment and to outline procedures for filing complaints, outlining the responsibilities of all involved parties, investigating sexual harassment claims, and issuing appropriate disciplinary measures in the case of violations.

1.1.5 Implementation of this Policy

Housing Agency of Jamaica Limited (HAJL) will ensure that this policy is widely disseminated to all relevant persons. Extracts will also be included in the Agency's HR Policies and Procedure Manual. All new employees (permanent and contracted) must be sensitized to the content of this policy as part of their induction into the Agency.

It is the intent and mandate of the Housing Agency of Jamaica Limited (HAJL) Human Resources Management Department to revise the policy on an annual basis. Revision will require all employees to attend sensitization and awareness raising sessions on the content of this policy. It is the responsibility of every Head of Department, Managers and Team Leaders to ensure that all his/her employees are aware of the policy.

1.1.6 Monitoring and Evaluation

Housing Agency of Jamaica Limited recognizes the importance of monitoring this sexual harassment policy and will ensure that it effectively utilized by all employees and Agency stakeholders. Senior Managers, Managers and Team Leaders are responsible for reporting sexual harassment cases that have been brought to their attention, this including the number of incidents, and any other occurrences relating to the matter. The Agency will evaluate the effectiveness of this policy and make any changes needed on an annual basis, or at the request of legislative amendment.

1.1.7 The Scope

This policy is applicable to the following individuals, locations, occurrences etc. but not limited to: -

- a) All employees of the Housing Agency of Jamaica Limited (HAJL), whether permanently, contractually, or temporarily employed, interns, volunteers, and Board Members. All will be required to sign a copy of the policy indicating their understanding of the document. All mentioned parties will be governed by the terms set out in the document.
- b) All individuals entering the HAJL operational workspaces (administrative offices, site offices and/or construction areas etc.) to transact and/or conduct business direct or indirectly.
- c) Training facilities (government, non-government, local or international) social functions, groundbreaking ceremonies, press conferences, community interventions or meetings, business travel sites, restroom facilities, remote workspaces, car parks.

2.0 Policy Framework

This policy considers all forms of harassment including offences committed by same sex (male to male or female to female), supervisors, managers, directors, clients, and the opposite sex (male to female or female to male). It is also expected that external partners who are required to work directly with (HAJL) employees be made aware of the Agency's policy on this matter.

The Sexual Harassment (Protection and Prevention) Act, 2021 is the framework governing this policy. In addition, the International Agreements and Policies, which guide this policy, are detailed here under:-

2.1.1 International Protocols and Conventions - to which the country is committed, uphold sexual harassment as a form of violence, a human rights issue, and an obstacle to development.

- a) At the international level, gender-based violence (GBV) & violence against women (VAW) are regarded as a human rights issue and an obstacle to development.
- b) The UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) considered the Women's Bill of Rights upholds such violation.
- c) The Beijing Platform for Action (BPFA) urges governments, trade unions and non-governmental organizations to develop programmes and procedures which will eliminate sexual harassment and other forms of violence against women in all workplaces, educational institutions and elsewhere

2.1.2 The International Labour Organization (ILO) – has formally recognized sexually harassment at the workplace as being harmful. Sexual Harassment, the International Labour Office pointed out, is a violation of the fundamental rights of workers, it constitutes a health and safety hazard, is an example of discrimination, an unacceptable working condition and a form of violence, usually against female workers however, it should be noted that men are not excluded. In its Convention No. 111 on Discrimination in Employment and Occupation the ILO cites issues of health and safety to employee welfare and workplace productivity as they are affected by sexual harassment.

2.1.3 The National Anti-Sexual Harassment Policy – which was used to inform preparation of a Green Paper towards drafting anti-sexual legislation, is also intended to facilitate redress for women and men in the workplace, educational institutions and in situations of redress.

2.1.4 The National Policy for Gender Equality – (NPGE) approved by Cabinet in 2011 promotes the objectives and goal of sustainable behaviour change and an environment where females and males at all stages of the life cycle can enjoy their full human rights and develop their potentials as citizens. The policy also mandates the Ministry of Labour and Social Security to finalize the Anti-Sexual Harassment Policy to create mechanisms for persons to report and have redress for labour issues involving sexual harassment.

2.1.5 The Gender Sector Plan of the Vision 2030 National Development Plan finalized in 2010 specially identifies sexual harassment as a deterrent to national development. The plan identifies the absence of sexual harassment policy and legislation as a weakness in the economy and education and stipulates the development of sexual harassment policies in the workplace as an output of the Plan.

2.1.6 ILO's New Convention 190 (C190) – which speaks to Violence and Harassment.

2.1.7 Sexual Harassment, An ILO Survey of Company Practice, (1999); Ariane Reinhart, this book's content reflects and outline company policies and practices highlighting the intent to prevent sexual harassment in Europe and North America.

3.0 **Definitions**

The following definitions from the International Labour Organization (ILO) will be adapted when considering the matter of sexual harassment.

3.1.1 **Accused/Harasser** – an individual who consistently harasses and/or bullies another individual/s through various modes whether physical, verbal and/or visual etc.

3.1.2 **Complainant** - means a person who makes a complaint pursuant to the provisions of the Sexual Harassment Act (June 13, 2019)

3.1.3 **Harassment** - Harassment frequently involves an abuse of power where the target(s) of the harassment can experience difficulties in defending themselves. Harassment at the workplace is any unwelcomed/unwanted and offensive action, repeated and unreasonable act, addressed to a worker or a group of workers that causes difficulty in the performance of an assigned job or causes a worker to feel that he/she is working in a hostile environment. This can also cause risk to the health and safety of the worker.

3.1.4 **Workplace** – In accordance with the ILO Law no.1 of 1970, workplace is referred to as a physical place where every room or field, close or open, movable or stationary, where workers work, or is frequently entered by a worker for business and where there is a source of danger, including all rooms, fields, lawns and surrounding areas that constitutes parts of, or are connected with the place of work. A workplace does not only include physical places where work is performed during the eight working hours per day, such as an office or factory. Workplace covers any place under the direct or indirect control of the employer that an employee needs to be present or go to in order to perform his/her duties. Workplace also includes all locations where employment-related business is conducted as a result of employment responsibilities or employment relationship, in locations such as work-related social functions, conference and training sessions, official business travel and lunches, dinner, or promotional campaigns organized for client or partners, telephone conversations, and communications through electronic media. Therefore, the workplace includes not only the physical room where work is performed for eight hours per day, but also all working hours outside of the eight-working hours in the locations outside of an office-physical room.

3.1.5 **Sexual Advance/Sexual Harassment** – *The Sexual Harassment (Protection and Prevention), Act, 2021 defines the term “Sexual Advance” to include any one or more of the following acts, forms of conduct or behaviour, namely – physical contact of a sexual nature, a demand or request for sex or for favours of a sexual nature, the making of sexual suggestions, remarks or innuendos, the showing of pornography or the display of images or objects of a sexual nature; and any other physical, gestural, verbal, non-verbal or visual conduct of a sexual nature.*

“Sexual Harassment” as means the making of any unwelcome sexual advance towards a person, by another person, which is regarded as offensive or humiliating by the person towards whom the sexual advance is made or; has the effect of interfering with the work performance of the person to whom the sexual advance is made; or creating an intimidating, offensive or a hostile work environment and references to the term “sexually harass” shall be construed accordingly.

3.1.6 **Unwanted Conduct** – is any behaviour that is or was not requested, wanted, or reciprocated by the victim and is considered inappropriate behaviour for Agency employee, Board Members and/or third-party agents representing the Agency.

Types of Sexual Harassment

Sexual harassment can take many forms and may involve one or more incidents and actions constituting harassment which may be physical, verbal, and non-verbal. Examples of conduct or behaviour which constitute sexual harassment include, but are not limited to:

3.1.7 Physical Harassment – includes unwelcome touching in a manner such as kissing, patting, touching, pinching, stroking, hugging, groping, giving a massage around the neck or shoulders, touching of the person's clothing, hair, or body, standing close or brushing up against another person, cornering, impeding and/or blocking movements.

3.1.8 Verbal Harassment - includes unwelcome comments about private life or body part or person's appearance, sexually suggestive or explicit jokes and comments, insults and put-downs based on a person's sex, turning work discussions to sexual topics, repeated invitations for dates, or spreading rumours about a person's sex life. It is important to note that often harassers hide behind the argument that comments are "compliments"; this does not mean that the behaviour is acceptable.

3.1.9 Non-Verbal / Gestural Harassment – includes sexually suggestive body language of repeated winks, gestures with fingers, hands, or legs, licking of lips, throwing kisses, giving personal gifts or blocking a person's path.

3.1.10 Visual / Written or Graphic Harassment – includes obscene and sexually explicit language, display or the distribution of pornographic materials (visual and audio), sexually explicit photographs, screen savers or posters, or harassment via internet communication (including electronic messages and attachments), letters, telephone calls (landline and mobile devices), and other modes of electronic communication.

3.1.11 Psychological/ Emotional Harassment – consists of persistent proposals and unwelcome requests, unwanted invitations to go out on dates, insults, taunts, or innuendoes of a sexual nature.

3.1.12 Quid Pro Quo – also referred to as "Sexual Blackmail" occurs when an employee's supervisor, manager, or any other authority figure relating to the place of employment, offers or suggests that an employee will be given an opportunity for career advancement, a salary increase, benefits, training advancements, socially and/or economically valued goods such as (housing, educational institution admissions, scholarships), perks and privileges, access to public goods, protective services; etc. and these are all conditional on an exchange of sex or physical contact. In most cases refusal to comply leads to failure to access any of the above-mentioned.

3.1.13 Poisoned/Hostile Work Environment – is created when unwelcome sexual advances, requests for sexual favours or other verbal or non-verbal or physical conduct of a sexual nature create an intimidating, hostile, abusive, offensive, or poisoned work environment that interferes with an individual's work performance.

3.1.14 Stalking / Cyber Stalking - obsessively following, besetting, contacting, and watching a person, either physically or using the internet, telephone, mail and/or other media; motivated by what the perpetrator believes are feelings of desire and love but in fact, constitute sexual harassment.

3.1.15 Voyeurism ("Peeping Tom") – The act of watching, taping, recording, or photographing a person without their knowledge, in a clandestine manner or otherwise, while the person uses or inhabits a space where they have an expectation of privacy such as their domicile, a public bathroom, a changing room etc.

3.1.16 Intimidation/Bullying/Retaliation – Persons often use non-sexual behaviour to accommodate sexual harassment. Therefore, any act of intimidation meant to prevent someone from reporting sexually harassing behaviour or to punish someone for reporting sexually harassing behaviour must be considered as a type of sexual harassment.

3.1.17 Unintentional Sexual Harassment – Acts or comments of a sexual nature, not intended to harass, can constitute sexual harassment if another person feels uncomfortable with such subjects. Claiming to not understand or failing to know that an act is harassing does not mean that it is not in fact harassment.

3.1.18 Toxic Environment – A combination of the above can create a toxic and oppressive environment for the direct target but also for other persons who are not targeted. Even if a person is not the direct target of sexual harassment but is made uncomfortable and is offended by the creation of a toxic environment, they should be able to make a report of sexual harassment.

3.1.19 Practicality of Conduct – Measuring reasonableness in sexual harassment may be ascertained by identifying whether the behaviour leading to sexual harassment conduct made the victim feel offended, ashamed, or afraid, as such only the individual who is being sexually harassed can make a written complaint against an alleged perpetrator. The third party can be a witness to the investigations once a complaint is made by the victim or the third party may make a complaint of unprofessional conduct or inappropriate conduct in keeping with the organization's code of conduct.

3.1.20 Unwelcome Behaviour – this occurs where the person subjected to sexual conduct considers it unwelcome in the specific circumstances that the offense occurs.

3.1.21 Difference between Compliment and Sexual Harassment

A **compliment** is meant to make someone feel good about themselves, whether through work ethics and accomplishments or through their demeanour or professional attire. On the other hand, **sexual harassment** is often used to gain power over the other person or to make them feel uncomfortable.

Compliment:

- A Compliment Is Something You Would Say to People You're Close With
- Compliments Stem from Respect
- Compliments are not an end to a Means
- A Compliment Is Something You Want to Hear and Want Your Loved Ones to Hear
- Compliments Builds Trust
- A compliment always gets a positive reaction

Sexual Harassment:

- a) Sexual Harassment is a criminal offence under the Sexual Harassment (Protection and Prevention) Act, 2021 and the Sexual Offences Act. Sexual Harassment is a Civil Offence that is defined as a conduct that is of a sexual nature, it can either be overt or covert and is described as offensive, unwelcome, uninvited, unreasonable, and unacceptable.
- b) A particular behaviour whether unintentional or deliberate, a first offence or repeated occurrence is defined as sexual harassment dependent largely on whether the conduct is/was unwelcome to the person to whom the act or acts were/are directed along with the surrounding circumstances.

Sexual Harassment Involvement:

4.0 Sexual Harassment can involve:

- The harassment of women by men
- The harassment of men by women
- Same sex harassment (men can harass men/women can harass women)
- Peer harassment
- The harassment of a subordinate by a supervisor
- The harassment of a supervisor by a subordinate/s
- Third party harassment by non-employees, such as clients, vendors, interns/work experience, external service staff and suppliers

4.1 Examples of Physical Sexual Harassment

- Making unnecessary physical contact
- Standing unnecessarily close
- Touching, patting, stroking, squeezing, hugging, or pinching
- Brushing or rubbing one's genitalia against someone.
- Sexual Assault

4.2 Examples of Gestural Sexual Harassment

- Staring, leering ogling, winking, or watching
- Blowing kisses, wagging the tongue, or licking lips
- Making sexually expressive hand/finger movements
- Imitating sexually suggestive acts

4.3 Examples of Verbal Sexual Harassment

- Making sexual comments or insinuations
- Insulting a person's sex, or sexual identity
- Commenting on a person's physical appearance, age, private life, single or marital condition, maternal or non-maternal status
- Relating sexual jokes or stories, or inquiring about sexual fantasies
- Directing work discussions to sexual topics
- Requesting sexual favours
- Requesting sexual favours in return for employment prospects (quid pro quo)
- Whistling or making sexually suggestive sounds
- Using obscene and offensive language
- Making anonymous phone calls
- Making repeated unwelcome social invitations
- Gossiping, slandering, or spreading rumours of a sexual nature

4.4 **Examples of Visual Sexual Harassment**

- Sending written or graphic content that is sexually oriented.
- Sending unwanted e-mails, text messages or posting sexually explicit jokes
- Sending anonymous letters, e-mails, twitters, paging messages or SMSs
- Making inappropriate advances via social networks
- Writing graffiti of a sexual nature
- Displaying sexually explicit pictures, photographs, posters, calendars, desktop wallpaper or pornographic sites.
- Posting another person's intimate pictures / videos taken without their knowledge / consent online.

5.0 **Line of Responsibilities**

The following roles and responsibilities will apply under this policy:

5.1 **Management**

- To provide a workplace/environment that is free from all forms of discrimination and/or harassment.
- To take the necessary steps to prevent the occurrence of sexual harassment in the workplace and or eliminate sexual harassment if it occurs.
- To provide an environment that discourages victimization.
- To demonstrate commitment to the policy by leading by example, with timely and appropriate responses to all offences in the workplace.
- To monitor and revise policy and education/information programmes based on changes in national and international policies and standards as necessary.

5.2 **Employee**

- To report offences when they occur in keeping with the guidelines provided by this policy.
- To obtain and become familiar with the Agency's policy on sexual harassment.
- To ensure that behaviour conforms to the requirements of the Agency's sexual harassment policy.
- To pay attention to the responses of others to avoid offense.
- To examine their behaviour, gestures, and comments.

5.3 **Human Resources Management Department**

- To make all employees and volunteers aware of their obligations in relations to providing a workplace free from sexual harassment
- To treat all complaints seriously and confidentially
- To take immediate and appropriate corrective action in line with the policy
- To provide guidance and education where requested and/or appropriate to cases and subsequent decisions relating to sexual harassment
- To document and investigate all cases of sexual harassment. All documentation should be filed with the personnel files of both complainant and accused.
- To appropriately discipline employees who harass other employees and those who make false accusations.

5.4 **The Committee – (Sexual Harassment Dispute Committee)**

- Committees handling sexual harassment cases should include as far as is practically possible an equal representation of men and women to ensure that both women's and men's perspectives can shed light on the best solution to a case. They should also include representatives of management and employees.
- Notify employees of their rights, depending on the nature of the sexual harassment
- Report the matter to the police where criminal proceedings are required
- Take care not to prejudice the accused
- Provide the accused with an opportunity to give his/her version of the incident and to identify all supporting witnesses.
- Ensure that the investigations and grievances relating to matters under their purview are handled in a manner that ensures the identities of the persons involved and all records relating to harassment complaints are kept confidential.

- Ensure provisional work arrangements are made if necessary to ensure the complainant and accused continue working in a safe environment while the case is being investigated. This could include a temporary relocation of the accused/victim to a different workspace.

6.0 Reporting Procedure

The principles of Natural Justice will be applied in the handling of all procedures relating to sexual harassment. This process will serve to ensure that all matters are handled objectively and that each party affected is given an equal opportunity to present their case in the matter.

6.1 Reporting the Claim - Persons who, understanding the definition of sexual harassment as outlined within this policy, wishes to make a report or a claim of sexual harassment against an individual/individuals affiliated with the Housing Agency of Jamaica Limited may do so by: -

1. Documenting the incident/incidents and/or condition in writing, providing the date the document was generated and the complainant's signature.
2. Making a formal report to the designated officer with responsibility

Once the report is made, it is the responsibility of the Agency and the Responsible Officer to pursue and investigate the claim. Despite the time frame allotted by law of one (1) year for a report (formal and informal) to be made, it is professionally recommended that the following processes are executed in each case.

7.0 Confidentiality

All complaints and investigations will be treated with the strictest and highest level of confidence. In accordance with "The Sexual Harassment (*Protection and Prevention*) Act, 2021, page 11, Section 8, sub-section (2), (3), (4) and (5).

(2). An employer and person in charge of an institution (Agency) shall ensure that the information contained in the register is kept in a secure manner and that the confidentiality of the information is preserved, and shall –

- a) *Take all necessary and appropriate measures to protect the information contained in the register from unauthorized access, unauthorized use, and unauthorized disclosure; and*
- b) *Ensure that any person who has access to the register adheres to the measures referred to in paragraph (a), at all times.*

(3). No person shall disclose information which is recorded in the register, in relations to a sexual harassment claim, unless the disclosure is made with lawful authority.

(4). Pursuant to subsection (3), a disclosure is made with lawful authority only if, and to the extent that –

- a) *The disclosure is made to a party to the harassment claim upon their request.*
- b) *The disclosure is made to the Tribunal, where a complaint is made to the Tribunal pursuant to section 27.*
- c) *The disclosure is made for the purpose of, and necessary for, the discharge of any functions under this Act or any other relevant enactment.*
- d) *The disclosure is made for the purposes of any proceedings, whether criminal or civil and whether arising under or by virtue of this Act or otherwise.*

(5) A person who knowingly or recklessly discloses information kept in a register in contravention of subsection(3) commits an offence and shall, on summary conviction in a Parish Court be liable to a

fine not exceeding Five Hundred Thousand Dollars (\$500,000.00) or in default of payment thereof to a term of imprisonment not exceeding one (1) month.

8.0 Discipline

Employees who violate this policy are subjected to the appropriate discipline. In the case that an investigation results in the findings that this policy has been violated, the mandatory minimum discipline is a written reprimand. The discipline for very serious or repeat violations is termination of employment, and/or experience the intervention of law enforcement. Persons who violate this policy may also be subject to civil damages or criminal penalties as deemed fit under the laws of the land



9.0 Levels of Reporting and Overseeing Bodies

9.1 Accused or Complainant – (Line Staff / Team Leads/ Manager)

If the “accused” or the “complainant” is a part of these employee categories (line staff, supervisor (Team Leads) and/or Managers) then the matter will be reported to the Head of the Human Resources Department.

9.2 Accused or Complainant – (Executive Management)

If the “accused” or the “complainant” is a part of the Executive Management Team, then the matter will be reported to the HR Committee of the Board of Directors.

9.3 Accused or Complainant – (Board of Directors Member)

If the “accused” or the “complainant” is a part of the Board of Directors, then the matter will be reported to the Ministry of Economic Growth and Job Creation.

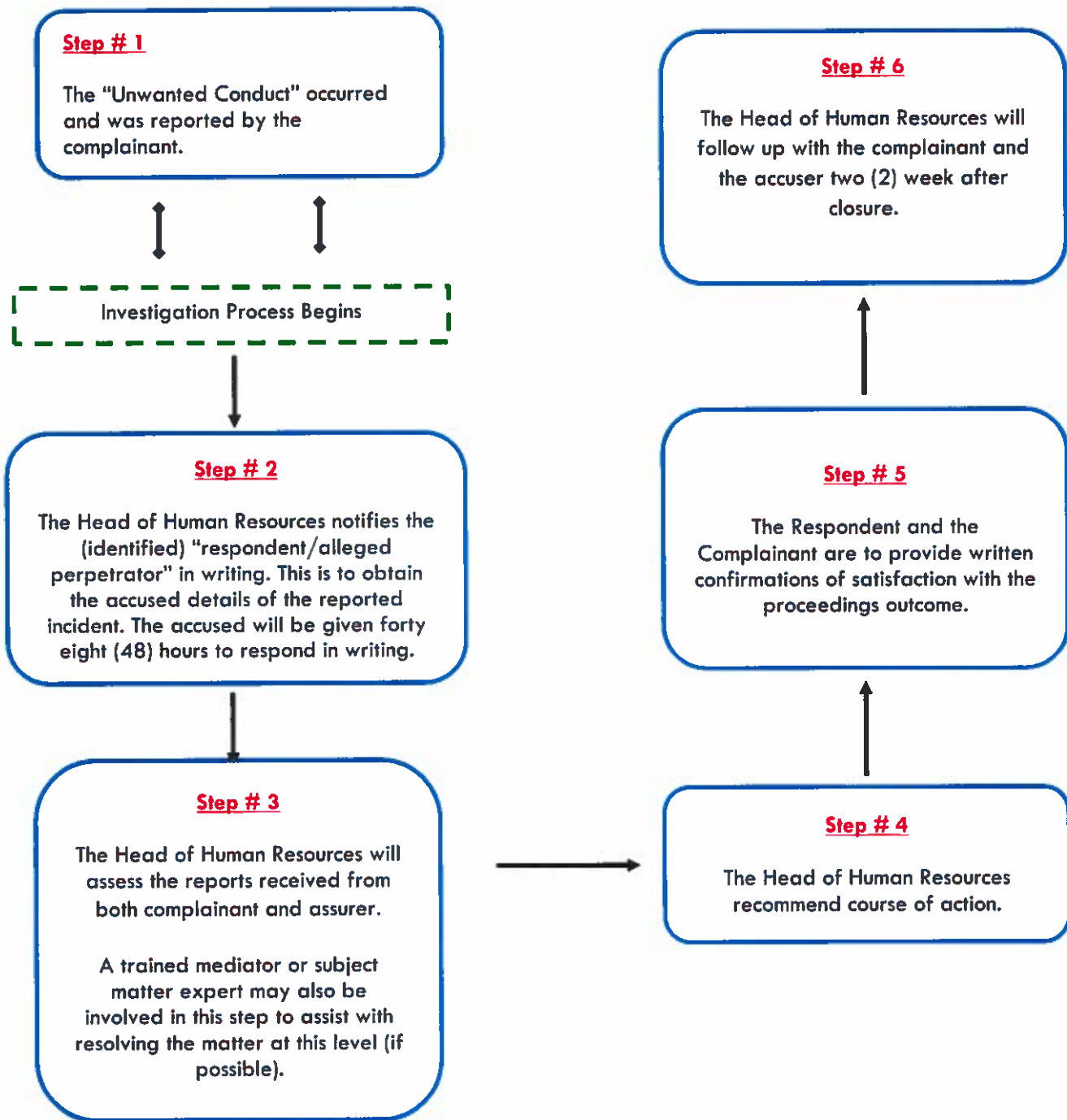
9.4 Accused or Complainant – (Head of Human Resources Department)

If the “accused” or the “complainant” is the Head of the Human Resources Department, the Head of the Agency (unless compromised) will be notified and then the matter will be reported to the Sexual Harassment Tribunal.

10.0 Informal Procedure

The focus of the informal procedures is to settle the matter between the two parties amicably in a confidential and conciliatory manner and is geared towards simply stopping the “unwanted behaviour”. The informal procedure must be settled within Thirty (30) days of the reporting date.

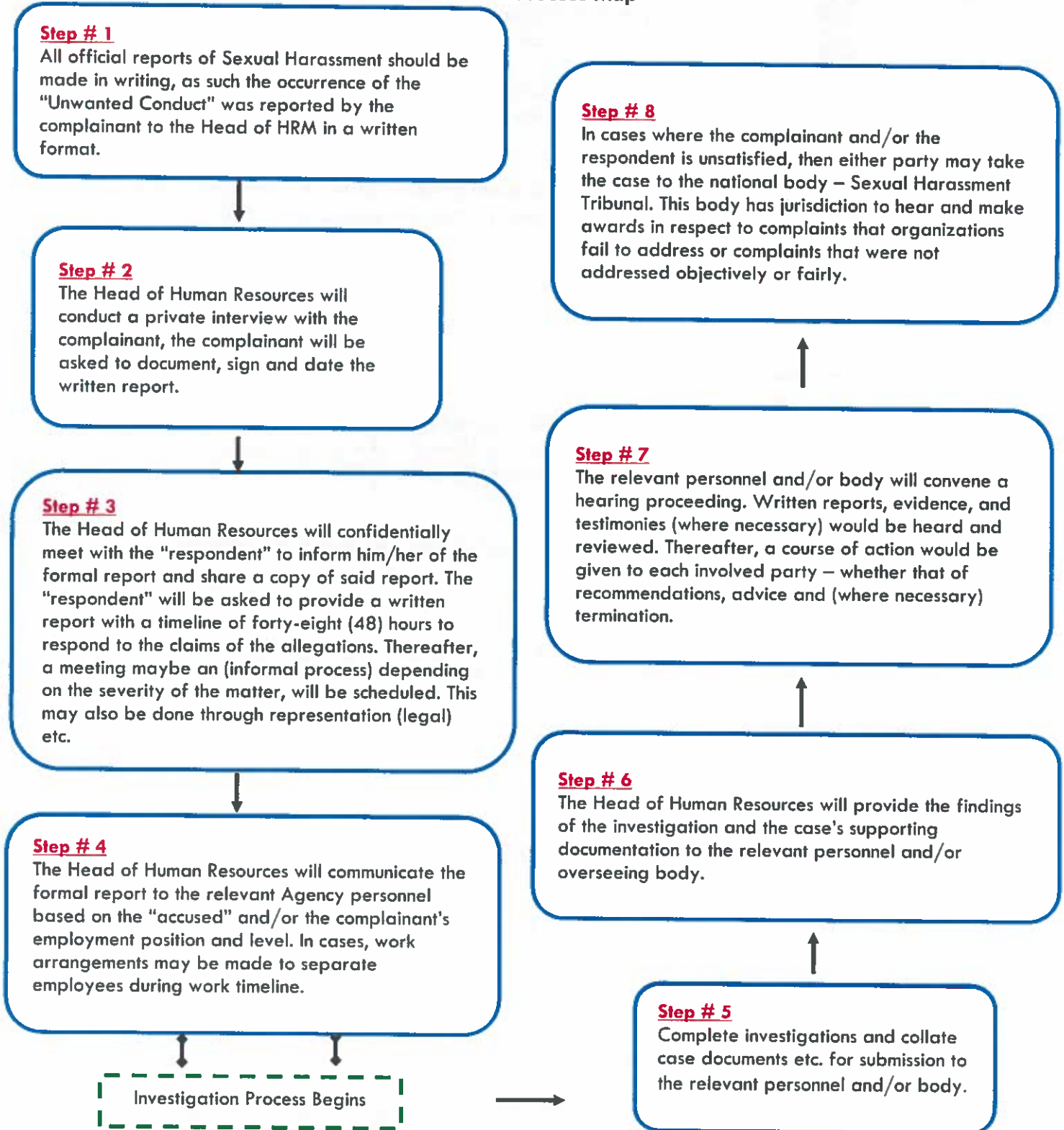
**** Informal Process Map ****



11.0 Formal Procedure

An employee will not be required to exhaust informal attempts at resolution before choosing to lodge a formal complaint.

**** Formal Process Map ****



12.0 Sanctions and Disciplinary Measures



Applicable Sanctions are based on each individual case of sexual harassment; hence, each case will be assessed on its own merit and evidence provided. It is dependent on the issues that the Agency personnel, overseeing bodies and/or the Sexual Harassment Committee, apply the various sanctions. An employee who has been found to have sexually harassed another person under the terms of this policy is liable to any of the following sanctions:

- Alternative Dispute Resolution – this is the first mode of action as this is where crucial and stern conversations are held with all the involved parties as it relates to the matter/s.
- Verbal or written warning
- Adverse performance evaluation
- Reduction in wages
- Transfer
- Demotion
- Suspension and/or
- Dismissal
- Intervention of Law Enforcement and/or Legal Proceedings

The nature of the sanctions and disciplinary measures will depend on the gravity and extent of the harassment. Suitable deterrent sanctions will be applied to ensure that incidents of sexual harassment are not treated as trivial.

Certain serious cases, including physical violence, will result in the immediate dismissal of the accused/harasser.

12.1 Board Sub-Committee

The installation of a Board Sub-Committee is required in accordance with legal guidelines. This committee is to review all sexual harassment complaints and concerns that may occur with the following category of employees

- Managing Director
- Senior Manager/s
- Company Lawyers
- HR Practitioners

13.0 Agency's Guidelines for a Panel of Investigators

- Make sure that hearings of the Panel commence within five days of the complaint being made by the person subject to sexual harassment or by a third party.
- Ensure that both complainant and alleged perpetrator have the right to be heard or represented
- Take steps to make sure that the identities of all parties are kept confidential
- Take down clear, detailed, and precise records of the hearings (with dates, times and all details proceedings including representations by both parties, evidence of others if presented and statements by Panel Members).

- Guarantee that the inquiry is prompt, thorough, discreet, and impartial; and conducted according to the disciplinary investigations process of the Ministry of Finance and Public Services’.
- Monitor the situation throughout to make sure that sexual harassment stops immediately and completely starting with the date of commencement of the Inquiry/investigation.
- Take proactive steps to protect employees against victimization for making or being involved in a complaint (such as social isolation, transfers, denial of promotion, or dismissal).
- Take care not to disadvantage the complainant to prejudice the alleged offender if the claim is found to be untrue or fabricated.
- If the complaint is malicious, take the necessary action against the complainant in consultation with the Human Resources and Management Department.
- Make sure that the victim and the offender are notified of the outcome of the investigation/inquiry in writing within a specified period of time not more than fourteen (14) days.

13.1 Remedial Actions – Complainant

The Human Resources and Management Team will have to ensure that the person subject to harassment has not lost or continues to lose out on employment opportunities and benefits.

- Prompt reinstating of the victim if his/her employment had been wrongfully terminated
- Remedying of demotions or the denial of promotions as a consequence of the harassment show cause letter and letter of explanation, domestic inquiry, and punishment upon establishment of the charges be followed
- Where the complaint is proved but a lesser form of punishment can be justified, the panel may determine an appropriate punishment.

13.2 Remedial Actions – Wrongfully Accused

The Human Resources and Management Team will have to ensure that the person subject to unjustified, wrongful, or baseless complaints damages or loss due to sexual harassment allegations has not lost or continue to lose out on employment opportunities and benefits.

- Prompt reinstating of the victim if his/her employment had been wrongfully terminated
- Remedying of demotions or the denial of promotions as a consequence of the harassment show cause letter and letter of explanation, domestic inquiry, and punishment upon establishment of the charges be followed

14.0 Protection against Retaliation

Bullying, intimidation and threats which are meant to accommodate sexual harassment or retaliate against an individual/ individuals who have made a complaint of sexual harassment, is seen as acts of sexual harassment and shall be treated accordingly.

14.1 False Claims

A person/ persons found to bring forth a false claim of sexual harassment willfully and knowingly against another individual shall be liable for a breach of the sexual harassment policy and shall be reprimanded accordingly.

14.1.1 **Liability for Harassment**

A person/ persons found to be in breach of this policy shall be found liable for sexual harassment and reprimanded accordingly.

15.0 **Prevention Mechanisms**

- Effective action to prevent sexual harassment in the work environment requires great awareness of sexual harassment and its components, the commitment of management, organizational policies, and mechanisms for redress, as well as their strict enforcement.
- Additionally, the executive management of Housing Agency of Jamaica Limited will need to ensure that its selection criteria for Management positions refer to the ability to deal with sexual harassment issues, include accountability mechanisms in job descriptions, and monitor behaviour at management performance reviews.

15.1 **Monitoring and Evaluation Framework**

The Housing Agency of Jamaica Limited Monitoring and Evaluation Framework refer to employee-engaged activities designed to understand how our sexual harassment policy was implemented, what it has achieved and the changes as it relates to workforce engagements.

15.1.1 *Make a Commitment*

- Recognize sexual harassment as a form of misconduct under employment law and a disciplinary offense under the Agency's disciplinary procedures.
- Adopt this policy as a zero-tolerance mechanism with regards to sexual harassment at the workplace.
- Ensure that the policy on sexual harassment is reviewed periodically to maintain legislative alignment and relevance.

15.1.2 *Commitment to Action*

This commitment to action is referred to all employees of the Agency as no discretion will be executed for reported matters of sexual harassment.

- Ensure that sexual harassment does not take within the workplace and around the workplace (as far as possible and practicable) thereby ensuring the security of employees (from sexual harassment).
- Display rules and penalties against sexual harassment in the workplace, in prominent locations throughout the workplace in a language that is understandable
- Put in place workplace mentoring schemes for employees

15.1.3 *Create Awareness*

- Generate awareness amongst all employees (at all levels) that sexual harassment is a criminal offense and that instances of harassment will be dealt with severely.
- Make sure that managers are aware of their responsibilities with regards to monitoring and ensuring compliance with the sexual harassment policy within their respective departments.

15.1.4 Address the Issue

- Provide guidance and support to managers on prompt and effective methods of dealing with situations of sexual harassment.
- Ensure that management, human resources personnel and supervisors are vigilant and proactive towards recognizing and addressing issues of sexual harassment in the workplace
- Establish a system to encourage reporting on sexual harassment by persons' subject to such violence as well as third parties (co-workers, supervisors etc.)
- Treat all complaints of sexual harassment seriously and confidentially.

16.0 Costing Effects of Sexual Harassment

Sexual Harassment is not trivial, amusing, or harmless. Depending on the situation, the person, and the incident it will have far-reaching consequences. It will have negative implications for an employee's:

- Safety and comfort
- Physical Health
- Psychological wellbeing
- Productivity
- Terms and work and work environment, and
- The right to his or her body

An employee may feel shocked, disgust, confusion, anger, shame humiliation, fear, helplessness, indignation, self-pity, guilt, vulnerability, resentment, distress, and psychological trauma as a result of sexual harassment. This can affect the employee's psychological state of mind, and in turn, impact on his/her work leading to impaired judgement, demotivation, absenteeism, and reduced productivity.

Costs of Sexual Harassment for Employees	Cost of Sexual Harassment for Employers	Cost of Sexual Harassment for Society
<ul style="list-style-type: none"> ▪ Missing out on career opportunities ▪ Feelings ranging from irritation and nervousness to anger, powerlessness, and humiliation ▪ Loss of self-esteem ▪ Deteriorating relationships ▪ Social isolation ▪ Depression, stress, high blood pressure and other stress related illnesses ▪ Drug and alcohol abuse ▪ Resignation ▪ Suicide 	<ul style="list-style-type: none"> ▪ Low Productivity ▪ Impaired Judgement ▪ Lack of Trust ▪ Lack of Teamwork ▪ De-motivation of employees ▪ High Absenteeism ▪ High Turnover ▪ Risk of Workplace Accidents ▪ Loss of valuable employees ▪ Financial costs of sick pay ▪ Medical costs ▪ Legal bills for courts ▪ A negative corporate image ▪ Sexual discrimination within the Agency 	<ul style="list-style-type: none"> ▪ Cost of welfare benefits ▪ Rehabilitation costs ▪ Legal and criminal justice related expenses ▪ Healthcare expenditure ▪ Denial of access to employment

17.0 Glossary

All definition provided within this section are extractions from the Sexual Harassment Act, 2019

Complainant	-	means a person who makes a complaint pursuant to the provisions of the Sexual Harassment (Protection and Prevention) Act (2021)
Co-worker	-	in relations to a worker, means another person who is employed by the employer of the worker.
Employer	-	means a person who engages, in any form, a Worker
Employment	-	includes any form of engagement of a worker
Hearing	-	<p>means a hearing conducted by the Tribunal pursuant to an institution includes: -</p> <ul style="list-style-type: none"> a. A school, college, university and other place of learning or training b. A correctional institution or lock up within the meaning of section 2 of the Corrections Act. c. A place of safety within the meaning of section 2 of the <i>Child Care and Protection Act</i> or any other place for the custody of minors. d. A nursing home within the meaning of section 2 of the <i>Nursing Homes Registration Act</i> or any other place for custody of the elderly e. A medical facility and psychiatric facility f. A place for the use of any facility as the Minister may, by order published in the <i>Gazette</i>, designate as an institution for the purpose of this Act; psychiatric facility has the meaning assigned to it in section 2 of the <i>Mental Health Act</i>.
Respondent	-	in relation to a complaint, means the person who is alleged to have committed the act to which the complaint relates.
Sexual Advance	-	<p>includes any one or more of the following acts, forms of conduct or behaviour, namely –</p> <ul style="list-style-type: none"> a. Physical conduct of a sexual nature. b. A demand or request for sex or for favours of a sexual nature.

- c. The making of sexual suggestions, remarks, or innuendos
- d. The showing of pornography or the display of images or objects of a sexual nature; and
- e. Any other physical, gestural, verbal, non-verbal or visual conduct of a sexual nature

Sexual Harassment

- means the making of any unwelcome sexual advance towards a person, by another person, which –
 - a. Is reasonably regarded as offensive or humiliating by the person towards whom the sexual advance is made or
 - b. Has the effect of
 - i. Interfering unreasonably with the work performance of the person to whom the sexual advance is made; or
 - ii. Creating an intimidating, offensive or a hostile work environment, and references to the term "sexually harass" shall be constructed accordingly.

Supervisor

- in relation to worker, means a co-worker who, by virtue of the co-worker's employment, is in a position of authority over that worker.

Tribunal

- means the Sexual Harassment Tribunal constituted under "worker" means a person who carries out work in any capacity for a person conducting a business or undertaking, including work as –
 - a. An employee, whether in the private or public sector.
 - b. A domestic worker
 - c. A person engaged under a contract for services, or a subcontractor of that person.
 - d. An employee of a person or subcontractor referred to in paragraph
 - e. A person whose service is procured or arranged by a company which is in the business of supplying workers for other businesses, and who has been assigned to work in the business or undertaking.

- f. An apprentice, a trainee, or an intern.
- g. A student gaining work experience.
- h. A volunteer
- i. A person of a class prescribed by the Minister for the purposes of this education after consultation with the Minister with responsibility for labour.

2. Any reference in this Act to conduct of a sexual nature in relation to a person, of a statement of a sexual nature concerning that person, whether the statement is made orally or in writing.

3. In order to determine whether any act, conduct or behaviour constitutes sexual harassment –

- a. all of the circumstances surrounding the act, conduct or behaviour shall be taken into consideration
- b. it shall be considered whether the act, conduct or behaviour constituted a course of conduct or, if not, was a significant single instance sufficiently serious to be so determined; and
- c. the determination shall be based on the findings in the particular case.

18.0 **Related Information**

- International Labour Organization Law No 1 (1970)
- The Sexual Offences Act (2009)
- Offences against the Person Act (2009)
- Cyber Crimes Bill (2010)
- Town and Communities Act (1843)
- Telecommunications Act (2000)
- Charter of Rights and Proposed Victims Charter
- Grievance Policy for the Public Sector

