



THE MINISTRY OF ATTORNEY GENERAL AND LEGAL AFFAIRS

MINISTERIAL RESPONSE

The Thirteenth Report of the Joint Select Committee on
Human Rights, Equality and Diversity on Sexual Harassment in the Workplace.

I. Introduction

The Thirteenth Report of the Joint Select Committee on Human Rights, Equality and Diversity on Sexual Harassment in the Workplace was presented in the House of Representatives on November 8, 2019, and in the Senate on October 25, 2019.

Standing Order 110(6) of the House of Representatives and 100(6) of the Senate, respectively, require the Minister with responsibility for the Ministry/Body reported on by a Joint Select Committee to present to each House, a paper responding to the recommendations/comments contained in the Report.

This document is the Ministerial Response to the recommendations and comments as presented in the said Thirteenth Report, to be presented to the Parliament, through the Attorney General and Minister of Legal Affairs.

II. Summary of Issues Identified, Recommendations and Responses

During the Committee's inquiry into Sexual Harassment in the Workplace the following issues were identified and recommendations proposed that require written responses from the Attorney General and Minister of Legal Affairs. The responses of the Attorney General and Minister of Legal Affairs to these recommendations are contained hereinafter in this document.

Issue Identified

Objective 3 – To examine and make recommendations on current management procedures and mechanisms to seek redress as a victim of sexual harassment in the workplace and current legislation and policies (local, regional and international) to treat with victims of sexual harassment in workplaces in Trinidad and Tobago (pages 43-49 of the 13th Report)

Legislation (pages 46-47 of the 13th Report)

4.35. The Committee noted the requirements for legislation related to sexual harassment as stated in the "Handbook for Legislation on Violence Against Women" by the United Nations' Department of Economic and Social Affairs:

- legislation should criminalize sexual harassment;
- recognize sexual harassment as a form of discrimination and a violation of women's human rights with health and safety consequences;
- define sexual harassment as unwelcome sexually determined behaviour in both horizontal and vertical relationships, including in employment (including the informal employment sector), education, receipt of goods and services, sporting activities, and property transactions; and

- provide that unwelcome sexually determined behaviour includes (whether directly or by implication) physical conduct and advances; a demand or request for sexual favours; sexually coloured remarks; displaying sexually explicit pictures, posters or graffiti; and any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

4.36. The Committee further noted however, that sexual harassment is judicially recognised as a category of sex discrimination in case law across the Commonwealth and in other international documents such as the Beijing Platform for Action and the UN Declaration on the Elimination of Violence against Women was adopted in 1993.

4.37. The Committee noted that following employer tenets in the Policy require enforcement via legislation:

- *“Every employer must therefore take steps to develop, implement and promote a sexual harassment policy that is suitable to the structure of their particular workplace.”*
- *“All Employers...will be required to submit an Annual Report to the Minister of Labour specifying the sexual harassment complaints received during that period, as well as the manner of resolution in each instance.”*
- *All employers – “...shall...notify the Minister of Labour and/or the Secretary with responsibility for Labour of all cases of sexual harassment within one (1) month of the date of the report...”*

4.38. The Committee found that while a person can seek redress via the Equal Opportunity Act, Chap. 22:03 based on discrimination in employment under the ground of sex, sexual harassment is not expressly stated as a ground of complaint and the complaint of victimisation can only be lodged at the EOC after the incident and as such, the person may be out of a job for the duration of a year or two years.

4.39. The Committee acknowledged that while the EOC supports opinion that specific legislation is needed to deal with doubts person may have with regard to sexual harassment in the workplace, the EOC is collaborating with the CPC to amend the Equal Opportunity Act, Chap. 22:03 to provide clarity and definitions. (See **APPENDIX VII**).

4.40. The Committee noted that as at April 12, 2019 the MLSED was preparing drafting instructions for the Office of the Chief Parliamentary Counsel, MAGLA and that there is no definitive timeline for the introduction of draft legislation in Parliament.

4.41. The Committee noted that while the CARICOM Model Protection Against Sexual Harassment Bill can be utilised to form a part of the legislation to be drafted on sexual harassment to be submitted to the Chief Parliamentary Counsel (CPC), it does not provide for non-verbal and social media sexual harassment and therefore the legislation needs to be tailored to the technological advancements of society.

Recommendations (with respect to the AGLA) (page 48 of the 13th Report):

4.47. The Committee recommends that MAGLA and MLSED note the recommended amendments to the Equal Opportunity Ach, Chap. 22:03 as proposed by the EOC in Appendix VII.

Response:

The Attorney General and Minister of Legal Affairs has duly noted the recommendations proposed by the EOC in Appendix VII, on pages 172 to 173, of the 13th Report.