

MINISTRY OF LABOUR AND SMALL ENTERPRISE DEVELOPMENT

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

Objective 1: To understand the challenges related to sexual harassment in the workplace -Protection for Victims or Witnesses

Recommendations: Pages 38-39

4.7. Given that one of the challenges related to reporting of incidents of sexual harassment is the unwillingness of witnesses to provide evidence, the Committee recommends that the MLSED conducts a bystander training workshop on sexual harassment for employees at organisations.

Response:

The Ministry of Labour and Small Enterprise Development (MOLSED) embarked on sensitisation sessions from April 2019 with employers, employees and trade union representatives in both the private and public sectors. The objective of these sessions is to promote awareness of the National Workplace Policy on Sexual Harassment in Trinidad and Tobago (NWPSH) which was approved in March 2019 and to assist employers in developing their policies. Guidance for observers/bystanders is included in these sensitisation sessions in accordance with Section 9.1.5 – *The Role and Protection of Third Party Observers of Sexual Harassment* of the NWPSH.

4.8. The Committee recommends that the Conciliation, Advisory and Advocacy Division, MLSED collaborate with Legal Aid Advisory Authority (LAAA) in the provision of services to persons who are unable to afford legal representation for matters.

Response:

The Conciliation, Advisory and Advocacy Division (CAAD) of the MOLSED currently collaborates with the Legal Aid Advisory Authority (LAAA) in the provision of services to persons who are unable to afford legal representation for matters within the jurisdiction of the Industrial Relations Act (IRA), Chapter 88:01. It should also be noted that trade union representation is available to workers as defined by the IRA in matters pertinent to sexual harassment in the workplace.

4.9. The Committee recommends that the MLSED incorporate in the sexual harassment policy a procedural mechanism for anonymous reports to protect the identity persons who have reported cases of sexual harassment.

Response:

This recommendation will require further consideration and discussion with stakeholders given the need to uphold the principles of natural justice. It is also expected that the provisions of the anticipated whistleblower legislation will be incorporated into legislation on sexual harassment in the workplace which is currently being drafted.

Objective 2: To examine the prevalence of allegations and instances of sexual harassment in the workplace – STUDIES

Recommendation: Page 42

4.22. Given the magnitude of the under-reporting of cases of sexual harassment in Trinidad and Tobago, the Committee recommends that the MLSED conduct a study to determine the prevalence of sexual harassment in the workplace in fiscal 2020.

Response:

The MOLSED proposes to conduct a study in fiscal 2020 and this will be submitted as a component of a Public Sector Investment Programme (PSIP) project for consideration under mid-year review 2020.

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

Recommendations: Pages 47-49

4.42. Given that the respondents from the Committee's survey highlighted the need for a sexual harassment policy in organisations, the Committee recommends that the MLSED implement the requirement for each organisation to establish sexual harassment policy by January 2020.

Response:

The NWPSH provides at Section 9.1.1 – *Preventative Mechanisms* that: *“all employers are required to establish a system within the company (in-house mechanism), enterprise, organisation or institution to minimise the risk of sexual harassment and to respond to cases of sexual harassment in the workplace.”* The mechanism must include a policy statement prohibiting sexual harassment, communication of the policy to all employees during the orientation/induction process and dissemination of the written policy to all staff. Through the conduct of sensitisation sessions by the MOLSED, employers are encouraged and provided with necessary support to develop their own workplace policies. Additionally, stakeholders in collective bargaining relationships are encouraged to include provisions on sexual harassment in the workplace in their collective agreements. Additionally, the MOLSED is part of a drafting committee established by the Ministry of the Attorney General and Legal Affairs to prepare a draft Bill on Sexual Harassment in the Workplace. It is also being proposed that legislation makes it mandatory for each organisation to have a policy on sexual harassment in the workplace and to register the said policies with the MOLSED.

4.43. With regard to the National Policy on Sexual Harassment in Trinidad and Tobago, the Committee recommends:

- the inclusion of the definitive roles and responsibilities of the trade union;
- the definition of “worker” should be widened to capture volunteer workers who provide a service without hire or reward;
- to include a definition for ‘visitor’;

Response:

It should be noted that the roles and responsibilities of trade unions are captured under Section 8.0 of the NWPSH – *Legislative/Current Avenues for Resolution* and are further defined under the Trade Unions Act.

Consideration will also be given to this recommendation for inclusion into the draft legislation and subsequent revision of the NWPSH.

4.44. The Committee recommends that the MLSED partner with Non-Governmental Organisations (NGO's) to conduct public awareness campaigns and sensitisation sessions on sexual harassment in the workplace. The Committee further recommends that the MLSED collaborate with vulnerable groups/NGOs that interact/represent migrants and domestic workers in the implementation of sensitisation sessions.

Response:

MOLSED held a National Stakeholder Consultation on the Draft National Workplace Policy on Sexual Harassment in Trinidad on June 1, 2018, and Tobago on June 22, 2018. On March 08, 2019, the NWPSH was tabled in Parliament. The Ministry embarked upon a Media Blitz involving interviews on radio and television platforms spanning a broad cross-section of employer and employee demographics to raise awareness of the NWPSH. The first round of interviews was held from March 11 - 18, 2019. The second round of interviews was held during the period November 6-13, 2019. A special session dedicated to Spanish speaking migrants was held in December 2019 on the *Eye on Dependency* program on i95.5. This programme is to continue in January 2020.

MOLSED initiated collaboration with the National Union of Domestic Employees (NUDE) to sensitize household assistants about the NWPSH, to treat with not only sexual harassment but other workplace issues that may arise, in a sensitive and confidential manner. To this end, the first workshop is carded for January 18, 2020.

The International Organisation for Migration (IOM) has offered to translate the brochures, posters and policies prepared by MOLSED on sexual harassment and other workplace-related material into Spanish for distribution and placement on the Ministry's website and other online platforms, at no cost.

MOLSED also commenced discussions in March 2019 with Living Waters Community/UNHCR with respect to the conduct of sensitisation sessions to migrants on industrial relations issues including sexual harassment in the workplace.

Additionally, MOLSED proposes to establish a Hotline 800-CAAD to provide advice to the general public, including Spanish speaking migrants, on workplace issues such as sexual harassment.

4.45. The Committee recommends that the MLSED review the recommendations for national legislation on sexual harassment from the "Handbook for Legislation on Violence against Women" by the United Nations' Department of Economic and Social Affairs. The review should take into account that sexual harassment is not only a violation of women's human rights but also an infringement of men's human rights as it can occur between male to male, female to male, male to female or female to female.

Response:

MOLSED has reviewed the recommendations of the Handbook and will bring this to the attention of the drafting committee for legislation on sexual harassment in the workplace.

It should be noted that the NWPSH provides at Section 6.3: *Who may be perpetrators of a Sexual Harassment offence in the workplace*, that the act of sexual harassment can be perpetrated by male to female, female to male, male to male and female to female.

4.46. Given that there is no punitive measure for employers or persons who are not implementing the guidelines of the Policy, the Committee recommends that draft sexual harassment legislation be finalized during fiscal 2020.

Response:

A drafting committee was established by the Ministry of the Attorney General and Legal Affairs in December 2019 to prepare a draft Bill on sexual harassment in the workplace. The MOLSED is part of this committee. A first draft of the Bill is being reviewed by the committee.

4.47. The Committee recommends that the Ministry of Attorney General and Legal Affairs and MLSED note the recommended amendments to the Equal Opportunity Act, Chap. 22:03 as proposed by the Equal Opportunities Commission (EOC) in APPENDIX VII. (See page 171 of Report).

Response:

The recommended amendments to the Equal Opportunity Act, Chap. 22:03 as proposed by the Equal Opportunities Commission (EOC) in Appendix VII of the Report are noted by the MOLSED.

4.48. The Committee recommends that the MLSED note:

- the legal principles and procedural mechanisms proposed by the Faculty of Law, University of the West Indies, St. Augustine (see Table 7) for a sexual harassment law; and
- the suggestions of the Australian High Commission at 3.22 (See page 34 of Report) and include provisions on digital harassment and sexual harassment via technology and social media in the National Workplace Policy on Sexual Harassment.

Response:

The MOLSED has taken note of the legal principles and procedural mechanisms proposed by the Faculty of Law, University of the West Indies, St. Augustine (Table 7) for a sexual harassment law and the suggestions of the Australian High Commission at 3.22 of the Report.

In keeping with the NWPSH, provisions on digital harassment and sexual harassment via technology and social media will be put forward by the MOLSED for consideration by the drafting committee for legislation.

4.49. The Committee recommends that training and sensitisation be provided to employers on the National Policy for Sexual Harassment in the Workplace, with specific focus on the complaint procedures and the forms of remedies related to sexual harassment in the workplace. The Committee further recommends that the MLSED consider courseware in order to reach a wide audience.

Response:

MOLSED embarked on sensitisation sessions from April 2019 with employers, employees and trade union representatives in both the private and public sectors. The objective of these sessions is to promote awareness of the NWPSH and assist employers in developing their policies. The sensitisation sessions include training on the complaint procedures and the forms of remedies related to sexual harassment in the workplace. Consideration will be given to the utilisation of courseware to reach a wider audience.

4.50. The Committee recommends that the MLSED review the concerns of the various NGOs in Table 8.

Response:

Stakeholder	Concerns	Response of MOLSED
WINAD	The Policy's definition of sexual harassment should include "unwanted" and that the word "unreasonable" should be explained as it can potentially cause blame to fall on the complainant if an individual finds that the behaviour towards the complainant was "reasonable".	The use of the words "unwanted" and "unreasonable" is explained in the NWPSH at Section 6.2 – What is NOT Sexual Harassment.
WOMANTRA	The Policy should include the following provisions: • A whistleblowing procedure; • A procedure for anonymous reporting; • A robust grievance procedure; and • Implementation of an Employee Assistance Programme to both the private and public sectors.	The Whistleblower Legislation would be used in tandem with the Sexual Harassment Legislation. There is a robust Grievance Procedure attached to the NWPSH at Appendix I and III. Psychosocial support for all parties including the observer/bystander is to be funded by the employer in their employee assistance programme.
ECA	• The various levels of literacy amongst employers and employees, in particular within small businesses to understand the Policy; and • The need to educate employers on the procedures to manage a claim of sexual harassment.	MOLSED conducts customised training with the private sector that takes into account various levels of literacy. This includes sensitisation on procedures in managing claims of sexual harassment.

Stakeholder	Concerns	Response of MOLSED
Network of NGOs	The Policy provides the following: • Public awareness campaigns; • Appropriate mechanisms to deal with the issues of sexual harassment; • Appropriate sanctions for those employers who are not willing to adhere to the Policy; and • The introduction of legislation to specifically deal with sexual harassment and not included as part of other legislations.	The comments of the Network of NGOs have been noted by MOLSED and are addressed in the NWPSH.
EOT and ECA	A proper connection and synergy needs to be created between the various Ministries and stakeholders for the efficient implementation of the Policy.	MOLSED has started discussions for collaboration with the Office of the Prime Minister, the Ministry of Community Development, Culture and the Arts, and the Ministry of Education, as well as trade unions and employer's organisations.

4.51. The Committee recommends that MLSED note the recommendations of the Women's Institute for Alternative Development (WINAD) in APPENDIX V.

Response:

MOLSED has noted the recommendations of the Women's Institute for Alternative Development (WINAD) and recognises that most of the issues are addressed in the NWPSH. Consideration will be given in the drafting of legislation of those issues which are not addressed in the policy.