



THE MINISTRY OF ATTORNEY GENERAL AND LEGAL AFFAIRS

MINISTERIAL RESPONSE

The Fourteenth Report of the Joint Select Committee on
Human Rights, Equality and Diversity on Sexual Harassment in the Education Sector.

I. Introduction

The Fourteenth Report of the Joint Select Committee on Human Rights, Equality and Diversity on Sexual Harassment in the Education Sector 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 Fourteenth 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 Education Sector 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

Findings and Recommendations - Objective 1 – To understand the Prevalence of Sexual Harassment in the Education Sector and Educational Institutions (pages 37-40 of the 14th Report)

4.1. During the period 2014 to March 2019, there were fifty-two (52) reported cases of sexual harassment in educational institutions (Table 5). However, the Committee was unable to definitively determine the prevalence of sexual harassment in educational institutions due to the following reasons:

- MOE's data collection is based solely on complaint reports received of sexual harassment;
- MOE does not assess anecdotal reports in the school environment (e.g. graffiti in washrooms/school infrastructure) with the view to detecting, monitoring and reporting sexual harassment in educational institutions;
- MOE does not categorise and record certain types of child behaviours that fall within the definition of sexual harassment unless a complaint report is received;
- Although sexual harassment complaints are reported by the MOE to the Teaching Service Commission (TSC), there was variance in the data the Committee received from the MOE and TSC on the categorization of sexual harassment complaints received for the period 2014 to March 31, 2019;

- There was no reporting obligation for tertiary institutions to submit reports received to the MOE; and
- TTUTA's current system of filing did not permit the extraction of the relevant data pertaining to sexual harassment.

4.2. The Committee noted that of the thirty-three (33) reports of sexual harassment received by the TSC (APPENDIX XI), nineteen (19) were on-going and fourteen (14) were closed as at March 31, 2019. Of the fourteen (14) closed cases, there were seven (7) cases in which the officer was re-instated and one (1) case of death of the officer. In the six (6) remaining closed cases in which no further action was taken, the reasons included lack of parental consent to provide a written statement and deficiencies in the Investigating Officer's report.

4.3. The Committee noted that the most prevalent category of sexual harassment in primary schools was female student complainants against male teachers which represented seventeen (17) of the thirty-three (33) cases reported to the TSC (Table 7). In tertiary institutions complaints from female students against male students was the primary complaint contributing to six (6) of the eight (8) (Table 8) cases reported to the UTT and three (3) of the six (6) cases reported to the University of the Southern Caribbean (USC) (Table 8). As such, the Committee recognised that the perpetrators of sexual harassment in the education sector may be both adults and students.

4.4. The Committee further noted that these acts of sexual harassment encompassed various aspects of communication via social media, the sharing of photos, offensive messages written in public spaces such as washrooms and sexual grooming.

4.5. The Committee found that the TSC Disciplinary Tribunal had a zero percent success rate for cases completing all stages of the investigation process due to the following contributory factors:

- The lengthy investigative process (Figure 2);
- Lack of parental consent for the child complainant to provide a written statement to the Investigating Officer;
- Deficiencies in the Investigating Officer's report;
- Child complainant unwilling or no longer willing/interested to pursue the matter;
- Child complainant refuses to provide evidence;
- Insufficient evidence in the Investigating Officer's report;
- The Education Act, Chap. 39:01 and the Public Service Regulations treat with acts of misconduct between civil servants but has no authority to compel third parties to appear before the Disciplinary Tribunal of the Teaching Service Commission;
- In the cases where officers are charged/found guilty by the TSC and the matter is taken to the Court, the current provisions of the Public Service Commission Regulations do not permit the dismissal of a teacher charged with sexual harassment until the TSC is in receipt of the court transcript; and
- Delays to receive court transcripts for concluded court matters.

4.6. The Committee acknowledged that teachers facing allegations of sexual harassment are placed on suspension and further noted that the average length of suspension ranged between one (1) to five (5) years.

4.7. The Committee was informed that re-instated teachers who were previously the subject of sexual harassment allegations were not monitored by the MOE subsequent to their resumption of duty.

4.8. The Committee noted that Guidelines on the Grievance/Complaints Procedure in the National Policy on Sexual Harassment in the Workplace stated that, “*The person carrying out the investigation shall ... Ensure that the process is completed as quickly as possible and commence within three (3) working days of the complaint being made*”. However, the TSC lacks specific timeframes for each stage of the investigation process (APPENDIX V).

Recommendations (with respect to the AGLA) (page 40 of the 14th Report):

4.15. The Committee recommends that the Ministry of the Attorney General and Legal Affairs note the recommendations provided by the EOC (Appendix VI) and the general recommendations also indicated in APPENDIX IX.

Response:

The Attorney General and Minister of Legal Affairs has duly noted the recommendations proposed by the EOC in Appendix VI, on pages 82 to 85, of the 14th Report as well as General Recommendations which are indicated in Appendix IX, pages 94 to 95, of the 14th Report.