

## **SEA and Sexual Harassment Policy**

### **The Policy Statement**

LAW is committed to providing a safe environment for all its employees which is free from any form of violence including Sexual Exploitation and Abuse (SEA) and sexual harassment. LAW has a zero-tolerance policy for any form of sexual harassment or SEA in the workplace, treats all incidents seriously, and promptly investigates all allegations.

Sexual exploitation refers to any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes including, but not limited to, threatening or profiting monetarily, socially or politically from the sexual exploitation of another. Sexual abuse is defined as the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. SEA is defined in greater detail below.

Sexual harassment refers to unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated. Sexual harassment is defined in greater detail below.

SEA and sexual harassment will be treated with different levels of severity. Sexual harassment will be considered prima facie a disciplinary issue, which may be a sufficient ground for termination, and a criminal issue in particularly serious circumstances. SEA will be treated as prima facie a criminal issue. Any person found to have sexually harassed another will face disciplinary action, up to and including dismissal from employment. Any person found to have committed SEA will have their employment terminated and will be referred to law enforcement if so desired by the survivor of their exploitation/abuse. All complaints of sexual harassment and SEA will be taken seriously and treated with respect and in confidence. No one will be victimized for making such a complaint.

### **Definition of Sexual Exploitation and Abuse**

For purposes of this policy sexual exploitation refers to any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Similarly, the term sexual abuse means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

Examples of conduct or behavior which constitutes SEA includes, but is not limited to:

- ☐ Rape
- ☐ Sexual assault
- ☐ Sex and sexual activity with a child (persons under the age of 18 years)

- Exchange of money, employment, goods or services for sex, including sexual favors or other forms of humiliating, degrading or exploitative behavior
- Solicitation of a prostitute

### **Definition of sexual harassment**

LAW defines sexual harassment as unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated. It includes situations where a person is asked to engage in sexual activity as a condition of that person's employment, as well as situations which create an environment which is hostile, intimidating or humiliating for the recipient.

Sexual harassment can involve one or more incidents and actions constituting harassment may be physical, verbal and non-verbal. Examples of conduct or behavior which constitute sexual harassment includes, but is not limited to:

**Physical conduct** x Unwelcome physical contact including patting, pinching, stroking, kissing, hugging, fondling, or inappropriate touching

x Physical violence, including sexual assault x Physical contact, e.g. touching, pinching x The use of job-related threats or rewards to solicit sexual favours

**Verbal conduct** x Comments on a worker's appearance, age, private life, etc.

x Sexual comments, stories and jokes x Sexual advances x Repeated and unwanted social invitations for dates or physical intimacy x Insults based on the sex of the worker x Condescending or paternalistic remarks x Sending sexually explicit messages (by phone or by email)

**Non-verbal conduct** x Display of sexually explicit or suggestive material x Sexually-suggestive gestures x Whistling x Leering

### **Who the policy applies to**

The policy applies to all LAW employees, consultants, volunteers, clients, casual workers or visitors.

### **Targets of SEA and sexual harassment**

Any person can be a victim of sexual harassment/ SEA, regardless of their sex and gender. Sexual harassment/SEA may also occur between people of the same sex. What matters is that the sexual conduct is unwanted and unwelcome by the person against whom the conduct is directed.

Sexual harassment and SEA are manifestations of power relationships and often occurs within unequal relationships in the workplace, for example between manager/supervisor and employee.

LAW undertakes to safeguard its program beneficiaries from any form of sexual harassment and/ or SEA from LAW staff, contractors, casual workers, clients or visitors.

Anyone who commits SEA will be referred to law enforcement if consented to by the survivor. If the survivor does not want the matter referred to law enforcement, LAW should so far as is reasonable and possible respond to the incident in the way preferred by the survivor.

Employees of LAW, consultants, volunteers, clients, casual workers or visitors who sexually harasses another will be dealt with in accordance with this internal policy.

Sexual harassment and SEA are prohibited whether such acts take place within LAW premises or outside, including at social events, business trips, training sessions or conferences sponsored by LAW.

### **Complaints procedures**

LAW recognizes that because sexual harassment and SEA often occurs in unequal relationships within the workplace, victims often feel that they cannot come forward. Therefore, LAW understands the need to support victims in making complaints. Throughout the complaints procedure, a victim is entitled to the services of an in-house counsellor. LAW will nominate a number of counsellors and provide them with special training to enable them assist victims of SEA/sexual harassment.

LAW shall ensure that all employees, volunteers, consultants and clients are made aware that they can approach one of the designated staff members responsible for receiving complaints of SEA/sexual harassment. Employees may also approach the Executive Director.

When the designated person/ Executive Director receives a complaint of SEA or sexual harassment, s/he will:

1. Immediately record the dates, times and facts of the incident(s)
2. Ascertain the views of the victim as to what outcome she/he wants
3. Ensure that the victim understands the company's procedures for dealing with the complaint
4. Discuss and agree the next steps: either informal or formal complaint, on the understanding that choosing to resolve the matter informally does not preclude the victim from pursuing a formal complaint if she/he is not satisfied with the outcome

5. Keep a confidential record of all discussions
6. Respect the choice of the victim
7. Ensure that the victim knows that they can lodge the complaint outside of the company through the relevant country/legal framework
8. Inform the alleged harasser of the complaint against them. He or she must be given an opportunity to answer the allegations in writing and to produce evidence to the contrary.

### **Formal complaints mechanism for SEA and Sexual harassment**

If the victim of SEA/sexual harassment wants to make a formal complaint or if the informal complaints mechanism has not led to a satisfactory outcome for the victim, then the formal complaint mechanism should be used to resolve the matter.

The designated person, who initially received the complaint, will refer the matter to a senior human resources manager to instigate a formal investigation. The senior human resources manager may deal with the matter herself/himself or refer the matter to an internal or external investigator.

The person carrying out the investigation will:

- i. Interview the victim and the alleged harasser separately
- ii. Interview other relevant third parties separately
- iii. Decide whether or not the incident(s) of sexual harassment or SEA took place
- iv. Produce a report detailing the investigations, findings and any recommendations
- v. If the sexual harassment or SEA took place, decide what the appropriate remedy for the victim is, in consultation with the victim (i.e.- an apology, a change to working arrangements, a promotion if the victim was demoted as a result of the harassment, training for the harasser, discipline, suspension, dismissal or criminal action)
- vi. In the case of SEA, inform the victim of their right to pursue criminal action against the alleged harasser.
- vii. Follow up to ensure that the recommendations are implemented and that the behaviour has stopped and the victim is satisfied with the outcome
- viii. If it cannot determine that the sexual harassment and or SEA took place, he/she may still make recommendations to ensure proper functioning of the workplace
- ix. Keep a record of all actions taken
- x. Ensure that the all records concerning the matter are kept confidential

- xi. Ensure that the process is done as quickly as possible and in any event within 14 days of the complaint being made.

### **Informal complaints mechanism for complaints of sexual harassment**

Cases of SEA may not be dealt with informally, however, when a victim of sexual harassment wishes to deal with the matter informally, the designated person will undertake the following:

1. Give an opportunity to the alleged harasser to respond to the complaint
2. Ensure that the alleged harasser understands the complaints mechanism
3. Facilitate discussion between both parties to achieve an informal resolution which is acceptable to the complainant, or refer the matter to a designated mediator within the company to resolve the matter
4. Ensure that a confidential record is kept of the outcome
5. Follow up after the outcome of the complaints mechanism to ensure that the behaviour has stopped
6. Ensure that the above is done speedily and within 14 days of the complaint being made

### **Outside complaints mechanisms**

A person who has been subject to SEA/sexual harassment can also make a complaint outside of the company.

### **Sanctions and disciplinary measures**

Anyone who has been found to have sexually exploited and abused or sexually harassed another person under the terms of this policy is liable to any of the following:

- i. Verbal or written warning
- ii. Adverse performance evaluation
- iii. Reduction in wages
- iv. Transfer
- v. Demotion
- vi. Suspension
- vii. Dismissal
- viii. Criminal action

The nature of the sanctions will depend on the gravity and extent of the harassment. Suitable deterrent sanctions will be applied to ensure that incidents of SEA and sexual harassment are not treated as trivial. Certain serious cases, including physical violence, will result in the immediate dismissal of the harasser.

**Implementation of this policy**

LAW will ensure that this policy is widely disseminated to all relevant persons. It will also be included in the staff handbook. All new employees must be trained on the content of this policy as part of their induction into the company.

Every year, LAW will require all employees to attend a refresher training course on the contents of this policy.

It is the responsibility of every manager to ensure that all his/her employees are aware of the policy.

**Monitoring and evaluation**

LAW recognizes the importance of monitoring this sexual harassment and SEA policy and will ensure that it anonymously collects statistics and data as to how it is used and whether or not it is effective.