



# CHRAJ SEXUAL HARASSMENT POLICY

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## Preface

Sexual Harassment has been an age long problem due to the unequal socialization of the male and female genders. In most cases females are the victims of sexual harassment, although any one can be victim.

In some contexts, people who occupy positions of authority sometimes abuse the trust reposed in them and take improper advantage of those who either work with them or depend/relate to them for services.

The Commission is therefore delighted to introduce this important policy document to address the issues of workplace Sexual Harassment. In developing this Policy, the Commission also took into consideration a template that is easily adaptable by other stakeholders required under the National Anti-Corruption Action Plan (NACAP) to have in place Sexual Harassment Policies to curb harassment that result from abuse of power.

The Commission's Sexual Harassment Policy has taken into consideration the various forms of workplace harassment, intimidation, and exploitation. It also addresses the issue of retaliation. It proceeds not only from the human rights-based approach, but also from purely ethical and anti-corruption viewpoint of abuse of office and trust.

The policy is directed at Commission members and staff as well as clients, users of the Commission's services and persons who are given lawful access to the Commission.

## Acknowledgement

The Commission is grateful to all those who in diverse ways contributed to the development of this policy. I wish in particular to appreciate the effort of Ms. Eugenia Appiah, Head, Ethics and Compliance Unit of the Commission for developing the initial draft of the present policy document for the consideration of the Commission.

The painstaking review and consideration of extant sexual harassment policies within and outside Ghana which enriched the final outcome document by Deputy Commissioners Richard Quayson and Ms. Mercy Larbi at the formulation meeting of the Commission with a view not only to serve as a policy for the Commission but with the intention that it becomes the standard workplace sexual harassment policy for easy reference by implementing partners of the National Anti-corruption Action Plan (NACAP) is greatly appreciated and commended.

The secretarial support of Mr. Lambert Luguniah of the International Cooperation Unit of the Commission during the policy finalization meetings is equally appreciated and commended.



**JOSEPH WHITTAL**  
**COMMISSIONER**

# **Policy on Sexual Harassment**

## **The Commission on Human Rights and Administrative Justice (CHRAJ Ghana)**

### **1. Introduction**

The Commission on Human Rights and Administrative Justice (the CHRAJ) was established pursuant to the 1992 Constitution by the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456) as the National Human Rights Institution (NHRI), the Ombudsman and an Anti-Corruption Agency for the public sector. The functions of the Commission include promotion and protection of fundamental human rights and freedoms, ensuring administrative justice, and preventing and investigating corruption and abuse of office.

### **2. Policy Brief and Purpose**

The **Sexual Harassment Policy** of the Commission aims at safeguarding employees of both sexes from unwanted sexual advances, and to provide them with guidelines to report incidents. It also explains how the Commission handles complaints, takes action against offenders, and assists victims to recover.

The Commission is committed to a work environment in which all individuals are treated with dignity, respect, and decency. Every person has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits unlawful and discriminatory practices, including harassment, intimidation, oppression, and exploitation. Therefore, the Commission expects that all relationships among persons in the office or work settings will be professional and free of prejudice and harassment.

This policy aims to ensure that all its employees can work in an environment free from harassment, intimidation, exploitation, and oppression. The Commission will make every reasonable effort to ensure that all concerned are

familiar with the policy and are aware that any complaint in violation of the policy will be investigated and resolved appropriately.

Through education and enforcement of this policy, the Commission will seek to prevent, correct, and discipline behavior that violates this Policy.

### 3. Objectives

The specific objectives of this policy are:

- a. To take appropriate measures to prevent sexual harassment and sexual abuse within the Commission.
- b. To respond promptly and effectively to reports/complaints of sexual harassment and abuse in the Commission.
- c. To administer appropriate sanctions when a violation is found to have occurred.

### 4. Scope

This policy applies to Commission Members and all Staff. All persons, regardless of their position, are covered by and are expected to comply with this policy and to take appropriate measures to ensure that prohibited conduct does not occur.

The Commission will also not tolerate sexual harassment from outside the Commission. This Policy shall extend to clients and users of the Commission's services (clients, complainants, respondents, contractors, suppliers, and all other persons external to the Commission).

### 5. Policy Statement

Pursuant to its vision of a Society that is truly free, just and equitable, where human rights and human dignity are respected, where power is accountable, and governance is transparent, the Commission shall not accept or tolerate sexual harassment in its workplace or in any work-related location outside the

workplace, such as during official trips, meetings and work-related social events.

## a. Guiding Principles

### i. Equality and Freedom from Discrimination

Article 17(2) of the 1992 Constitution of Ghana provides that:

**A person shall not be discriminated against on grounds of gender, race, colour, ethnic origin, religion, creed or social or economic status.**

### ii. Respect for human dignity

Article 15(1) also provides that:

**The dignity of the individual shall be inviolable.**

Sexual harassment constitutes discrimination and a violation of the dignity of the individual. It is illegal and prohibited under Ghanaian law.

Commission Members, persons holding appointment under the Commission, and other persons given lawful access to the Commission, are prohibited from engaging in any of the practices prohibited in this policy.

## 6. Sexual Harassment Defined

For the purposes of this policy, “sexual harassment” includes unwelcome conduct of a sexual nature that detrimentally affect the work environment or leads to adverse consequences for the victims of harassment<sup>1</sup>.

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<sup>1</sup> Commission on Human Rights and Administrative Justice (CHRAJ) vrs. Professor Frank Awuku Norvor [2001-2002] 1 GLR 78; Janzen V. Platy Enterprise Ltd (1998) 1 S.C.R. 1252, 10 C.H.R.R., D/6205; 2, 32, 40

## 7. Sexual Harassment Explained

Sexual harassment may take different forms. The following examples of sexual harassment are intended to be a guide and are not exclusive when determining whether there has been a violation of this policy:

- a. Verbal sexual harassment includes innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks, and threats; requests for favours of a sexual nature; and verbal abuse or "kidding" that is oriented toward a prohibitive form of harassment, including that which is sexual in nature and unwelcome.
- b. Nonverbal sexual harassment includes the distribution, display of any written or graphic material, including calendars, posters and cartoons that are sexually suggestive; leering, staring, whistling, obscene gestures, content in letters, notes, facsimiles, e-mails, photos, text messages, tweets and internet postings, or other forms of communication that are sexual in nature and offensive.
- c. Physical sexual harassment includes unwelcome, unwanted physical contact, including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling, stroking, and sexual assault.

Sexual harassment can involve one or more incidents, and may include:

- i. Commenting on somebody's appearance or gender in an objectifying way, or in a way that makes them uncomfortable.
- ii. Flirting at an inappropriate time, for instance in a team meeting, even if these advances would have been welcome in a different setting.
- iii. Flirting with or pursuing someone persistently against his/her will.
- iv. Repeated, unwelcome requests for dates.
- v. Using coarse or obscene comments, gestures, pranks, and jokes that degrade or offend somebody.



- vi. Proposing, demanding, or insinuating sexual favours.
- vii. Creating or posting sexually offensive materials in the workplace.
- viii. Sending or displaying sexually explicit objects or messages.
- ix. Invading somebody's personal space, for example by touching them inappropriately.
- x. Threatening, coercing, stalking, or intimidating somebody to pressure them to engage in sexual acts.

Sexual harassment may also take place both inside and outside work premises and includes, but not limited to:

- a demand by a person in authority for sexual favours in exchange for employment benefits including promotion, training, salary increase, discipline, termination of appointment or other benefits of an employee or job applicant which creates a hostile, intimidating or humiliating environment for the recipient.
- when a person undertakes or attempts to influence the process of employment, promotion, training, salary increase, discipline, termination of appointment or other benefits of an employee or job applicant in exchange for sexual favours which creates a hostile, intimidating or humiliating environment for the recipient.
- when sexual conduct unreasonably interferes with a person's work performance or creates an intimidating or hostile working environment.

## 8. Preventing Sexual Harassment

The Commission commits to implementing measures to create a workplace that prevents and deters sexual harassment, including:

- a. conduct regular training on sexual harassment for all staff and, in line with international best practice, include an overview of the legal framework on sexual harassment, a review of the sexual harassment policy, gender policy, code of conduct for public officers and privacy and confidentiality policy;

- how to intervene to prevent sexual harassment, how to contribute to a culture in which all staff are treated as equal and employees treat one another with respect and unequivocally reject sexual harassment, holding each other accountable to high standards within the workplace;
- b. include an adherence to the Commission's values including sexual harassment, commitment to gender equality and non-discrimination in performance reviews;
  - c. include sexual harassment questions in exit interviews;
  - d. publicize whistleblowing and other confidential reporting channels where any staff and non-staff can report any incidents of concern;
  - e. ensure that the Commission has posters and other materials visible at vantage points that convey the Commission's commitment to preventing sexual harassment and promoting equality;
  - f. Commission members, departmental, regional and district directors, unit heads and supervisors shall take steps to reinforce adherence to the sexual harassment policy to all staff and visitors; and
  - g. all staff, interns, fellows, national service personnel, consultants, suppliers, contractors, et cetera would be expected to sign the policy to confirm that they have read and would abide by the sexual harassment policy.

## 9. What to do when harassed

- a. Anyone can be a victim of sexual harassment regardless of sex or gender or age and that of the offending party.
- b. Any person who believes or perceives that he or she is the target of sexual harassment should communicate clearly and firmly to the offending party, irrespective of the person's position or status that the conduct is offensive and needs to stop. The victim may also communicate to his/her supervisor or a trusted person within the department or a friend.
- c. If the communication to the perpetrator is unsuccessful, the victim should promptly report the matter for investigation.

- d. It is the policy of the Commission that sexual harassment should not be overlooked, but promptly reported for appropriate action.

## 10. Reporting Harassment

Complaints of sexual harassment may be lodged with Ethics & Compliance Unit or Human Resources and Administration Department by electronic mail or in person. In all cases the complaint will be documented for investigation and appropriate action. All complaints will be treated as confidential.

## 11. Confidentiality

- a. All reports/complaints of sexual harassment shall be treated with strict confidentiality, and all persons who may handle such complaints including the Ethics and Compliance Unit, Human Resources and Administration Department, Directors, and supervisors, shall ensure that such reports/complaints are treated confidential.
- b. Investigation panels/mediators shall observe strict confidentiality in the proceedings of the panel or the mediation.
- c. Parties in an investigation including their representatives and witnesses shall be strongly advised to maintain confidentiality in order to protect the integrity of the investigation or mediation.

## 12. Investigation Process

- a. The Commission will:
  - i. Record the dates, times, and circumstances of the incidents.
  - ii. Ensure that the complainant understands the Commission's procedures for dealing with the complaint.
  - iii. Determine the remedies the complainant expects.
  - iv. Investigate the matter.

b. Based on the above:

- i. The Commission will contact the offending party and set up a meeting to explain the complaint and require him/her to respond to the allegation.
- ii. Depending on the preference of the complainant, the Commission will arrange for mediation between the complainant and the alleged perpetrator or conduct formal investigation into the matter.
- iii. Where the complainant prefers formal investigation, the Commission Members may appoint a three-member investigation panel to investigate the complaint and report its findings and recommendations to the Commission.
- iv. Any of the parties to an investigation may raise an objection to the membership of a panel with reasons and the Commission shall rule on the objection.
- v. A complainant may withdraw a complaint any time after lodging or during the process of investigation with or without reasons. Notwithstanding the withdrawal of the complaint, if there is independent evidence in support of the allegation the Commission may, in the public interest, direct that the investigation continues to its conclusion.

### 13.Evidence

The following may be considered as evidence in an investigation:

- a. Testimony of witnesses.
- b. Documents, audio-visual recordings, electronic communication including but not limited to e-mails, text messages and tweets.
- c. Expert or technical advice.
- d. Medical evidence.

- e. Any other relevant evidence.

#### 14. Action Against Offenders

- a. Staff who are found culpable of sexual harassment the first time (excluding sexual assault) may be:
  - i. Made to pay compensation<sup>2</sup>.
  - ii. Given a written warning.
  - iii. Transferred to another department or branch if necessary.
  - iv. Suspended for a period.
  - v. Denied promotion and/or salary increases for a period.
  - vi. Demoted
  - vii. Have appointment terminated where appropriate.
  - viii. The Commission may apply one or more of the above sanctions in a given case depending on the circumstances.
  - ix. The Commission may terminate the appointment of repeat offenders.
  
- b. Non-Employees or persons outside the Commission who are found culpable of sexual harassment the first time (excluding sexual assault) may:
  - i. Be made to pay compensation and render a written apology to the victim.
  - ii. Be made to pay compensation to the victim and given written warning.
  - iii. The Commission will blacklist repeat offenders.
  
- c. The Commission shall terminate the appointment of employees, and blacklist non-employees, found culpable of aggravated sexual harassment. In addition, the Commission may, with the consent of

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<sup>2</sup> Manso vrs. Norvor [1994-2000] CHRAJ 1-12; Commission on Human Rights and Administrative Justice (CHRAJ) vrs. Professor Frank Awuku Norvor [2001-2002] 1 GLR 78

victims, refer cases of sexual assault for criminal investigation and prosecution.

### 15. Appeal

A person who is dissatisfied with the decision of an investigation may apply to the Commission for review of the decision. The decision of the Commission on the application shall be final.

### 16. Support for Victims

The Commission will provide victims of sexual harassment the following support:

- a. Guidance from the Human Resources and Administration Department to explore their options.
- b. Access to in-house counseling (psycho-social support).
- c. Compassionate leave (in appropriate cases).

### 17. Non-Retaliation

- a. Retaliation against an individual for reporting sexual harassment or for participating in an investigation of a complaint of sexual harassment is a serious violation of this policy and, like sexual harassment itself, will be subject to disciplinary action. Acts of retaliation should be reported immediately for prompt investigation and necessary action.
- b. A person who perceived he or she is likely to be subjected or is subjected to retaliation including threats, intimidation, reprisals, or adverse employment actions or decisions for having made a complaint of sexual harassment or misconduct in good faith, or who assisted someone with a report of sexual harassment or misconduct, or who participated in any manner in an investigation or resolution of a report of sexual harassment or misconduct, may make a report of retaliation under this policy. The report of retaliation shall be treated as a report

of sexual harassment and misconduct and will be subjected to the same procedures.

- c. Directors and supervisors who knowingly allow or tolerate sexual harassment or retaliation, including the failure to immediately report such misconduct to Human Resources and Administration Department or Ethics & Compliance Unit, would be in violation of this policy and will be subject to discipline.

## **18. False or Malicious Allegation or Complaint**

Whilst the Commission is committed to preventing sexual harassment in all its forms, the Commission will not countenance false or malicious complaints. False and malicious complaints of sexual harassment (as opposed to complaints that, even if mistaken, are made in good faith) may be subject to appropriate disciplinary action.

## **19. Obligation of Management and Staff**

Management and staff of the Commission shall ensure that the sexual harassment policy outlined in this document is regularly monitored to ensure compliance and adherence.

### **a. Management Obligation**

- i. Management shall ensure that all newly recruited staff are trained on the sexual harassment policy and institute refresher trainings to existing staff.
- ii. Management shall create an organizational culture in which all staff are treated equally, and employees are encouraged to treat one another with respect and sexual harassment is rejected unequivocally.
- iii. Management shall provide directives to protect individuals reporting breaches and/or possible breaches of this policy.

Procedures and mechanisms for safeguarding confidentiality of staff shall be instituted.

- iv. Management shall ensure every staff is aware of requirements and standards of behavior under the policy.
- v. Management shall ensure that policy is enforced and apply appropriate sanctions where there is a breach.
- vi. Management shall ensure that all employees, upon appointment, sign a sexual harassment agreement indicating that they will abide by the policy.

#### **b. Staff Obligations**

- i. Staff must familiarize themselves with this policy and seek clarification, support, and training in order to comply with the policy.
- ii. Staff must comply with this policy and any other related policies. Further, staff must be able to demonstrate that they are making every reasonable effort to comply with relevant standards.
- iii. Staff must treat one another with respect and unequivocally reject sexual harassment, holding each other accountable to high standards within the workplace.
- iv. In the event of a breach or foreseeable breach of the policy by colleague, staff should report to his or her supervisor who shall report the matter to the Human Resources and Administration Department or Ethics & Compliance Unit. Where the breach is on the part of a superior, staff should bring it to the attention of a Director or Commission member.

## **20. Monitoring and Evaluation**



- a. The Commission recognizes the importance of monitoring this policy and will ensure that it anonymously collects statistics and data as to how it is used and whether or not it is effective.
- b. The Human Resources and Administration Department and Ethics & Compliance Unit, and Directors, supervisors and those responsible for dealing with sexual harassment cases will report on compliance with this policy including the number of incidents, how they were dealt with, and any other recommendations made. This will be done on regular basis. As a result of this report the Commission will evaluate the effectiveness of this policy and make any changes needed.

## 21. Interpretation

- a. **Complainant:** A person who has filed a complaint under this Policy.
- b. **Hostile Environment:** Situation and/or influences created within the work environment, which are sufficiently severe or pervasive that they alter the conditions of employment in such a manner that a reasonable person would find it intimidating, uncomfortable or offensive.
- c. **Leering:** To look or smile in a way that suggests unpleasantly lustful or malicious intent
- d. **Offending Party:** A person whose alleged conduct is the subject matter of a complaint.
- e. **Panel:** Means the Investigation Panel appointed by the Commission to investigate and address sexual harassment complaints under this Policy.
- f. **Policy:** Sexual Harassment Policy of the Commission.
- g. **Respondent:** A person against whom a complaint has been lodged under this Policy.

- h. **Sexual Advance:** A welcome or unwelcome gestures made towards another person with the aim of gaining some sort of sexual favour or gratification.
- i. **Sexual Abuse:** Forceful engagement of another person in sexual contact which includes sexual conduct that humiliates or degrades the other person or otherwise violates another person's sexual integrity.
- j. **Sexual Assault:** This refers to a situation where an individual has or attempts to have sexual intercourse or contact with another individual without the latter's consent. Consent achieved through the use or threat of force or coercion or as a result of incapacitation is not classified as consent.
- k. **Stalking.** Stalking refers to the situation where an individual directs unwelcome attention of various sorts to another such that a reasonable person would begin to fear for his or her safety or wellbeing. Such unwelcome attention could include: following a person; leaving messages or items at locations that the person is known to frequent; making harassing phone calls; sending messages either by snail mail or electronically; vandalizing the property of another.