

SEXUAL
HARASSMENT
AT WORK



**Public Service Alliance
of Canada**

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PREFACE

Sexual Harassment At Work was written and published originally by the National Union of Provincial Government Employees. We thank them for permitting us to reproduce the booklet, with revisions, to suit the requirements of our members.

This edition includes special references to the Public Service Alliance of Canada's policy on personal/sexual harassment, which guides the way we deal with complaints of harassment. Details are included on redress mechanisms for Alliance members and case studies are presented to illustrate the types of actual cases that have been dealt with under federal jurisdiction.

SEXUAL HARASSMENT: WHAT IS IT?

Sexual harassment is any sexual advance that threatens a worker's job or well-being. It is usually an expression of power made by someone in authority.

Most victims of sexual harassment are women, primarily because most people in powerful or authoritative positions in our society are men. They are able to use their authority to take sexual advantage of their female employees.

Sexual harassment can be expressed in a number of ways. It includes, but is not limited to the following:

- Unnecessary physical contact such as touching or patting;
- Suggestive remarks and other verbal abuse or threats;
- Leering at a person's body;
- Demands for sexual favours;
- Compromising invitations;
- Unwelcome remarks, jokes, innuendos or taunting;
- Displaying of pornographic or other derogatory pictures;
- Condescension or paternalism which undermine self-respect;
- Physical assault.

All of these may or may not be accompanied by direct or implied threats to the victim's job or career.

Sexual harassment means being treated as a sex object rather than a worker. It means being judged on physical attributes rather than skills and qualifications when seeking a job, a promotion, a raise or training.

Sexual harassment should not be confused with workplace flirtation, which is generally based on mutual consent and attraction. Sexual harassment is coercive -- it may be

accompanied by threats, promises or abuse. Sexual harassers bring sex into the workplace to use it as a tool of control or abuse.

PERSONAL HARASSMENT

This booklet is addressing itself to the problem of sexual harassment. However, it is well recognized that harassment other than for reasons of sex, are equally problematic and widespread. It is for this reason that the Alliance passed a dual policy to cover instances of sexual as well as personal harassment.

The Alliance adheres to the principle that every individual has the right to dignity and respect. Our policy defines personal harassment as "any behaviour by any person that is directed at and is offensive to an individual or endangers an individual's job, undermines the performance of that job or threatens the economic livelihood of the individual".

Personal harassment is often the result of an abuse of authority where individuals use their position and power to intimidate or coerce other individuals. The behaviour is directed against a person for such reasons as race, colour, religion, disability, personality conflicts, physical appearance or union involvement. It can include such actions as imposing unclear and unreasonable job demands or demeaning job assignments, ridicule, giving unjustifiably poor performance appraisals and references, blocking promotional, transfer or training opportunities and enforcing strict working conditions.

The Alliance policy also recognizes the fact that personal harassment occurs between co-workers. The

guidelines contained in the policy are equally applicable to both personal and sexual harassment. It is the intention of the Alliance to deal with all complaints of harassment regardless of the perpetrator.

THE EFFECTS OF SEXUAL HARASSMENT

Sexual harassment is not harmless and it is not fun. It can have serious effects on the victim's working and personal life.

HEALTH

Victims of sexual harassment suffer tension, anger, fear and frustration. These psychological effects often manifest themselves in such physical ailments as headaches, ulcers, and other nervous disorders. In some cases these ailments are so serious they may require medical treatment and even hospitalization.

JOB PERFORMANCE

The psychological and physical effects of sexual harassment may have a negative effect on job performance. The victim's work can suffer to such an extent that the employer may begin to question her abilities. The employer may even fire the victim without seeking the real cause of her deteriorating performance.

Women who work in non-traditional, male-dominated occupations are often victims of sexual harassment. Fellow workers may use sexual harassment as an intimidation tactic to discourage women from applying for, and working in, traditionally male bastions. When women quit, the reaction is often "I told you so"! However, it is frequently not the job the women can't handle,

but rather the constant pressure that goes with being the only female in a male-dominated workplace.

ECONOMIC SECURITY

Most incidents of sexual harassment occur between an employee and a supervisor. If the victim reports the incident, or refuses to comply, the harasser often has the power to affect her working conditions, training and promotion opportunities, and job security. Even after firing her, the harasser may jeopardize the victim's future job opportunities by giving her bad references.

A worker who quits because of sexual harassment may have difficulty convincing the Unemployment Insurance Commission that harassment is "just cause" for leaving a job.

The conditions that contribute to women's vulnerability in the labour force -- high unemployment and restricted employment opportunities -- make quitting a job to avoid sexual harassment (or risking dismissal for reporting it), a step most women cannot afford to take.

The problem of sexual harassment does not end when a woman is fired or quits her job. Harassers are often repeaters. The next woman hired to fill the victim's position may soon become a victim herself, as may other women in the same workplace.

WHY DOES SEXUAL HARASSMENT PERSIST?

TRADITIONAL SEX ROLES

Historically, males have been sexual aggressors in our society, while passivity has been the female's role. From an early age,

women learned that their sexual and reproductive capabilities were to be exchanged for economic security in the marriage market place.

To a certain extent, these values still exist. When they are transferred to the work environment, inappropriate behaviour often results. For example, women may try to use their sexuality to get jobs or promotions from their boss, and men may see their role as economic provider and expect sexual favours from their female employees. Attitudes created by traditional sex roles contribute to the persistence of sexual harassment.

WOMEN'S POSITION IN THE LABOUR FORCE

Over 54% of Canadian women are in the paid labour force, but they do not enjoy the same opportunities as men in the workplace:

Women are not yet recognized as being "bread winners."

- o Yet 40 percent of women in the Canadian labour force are single, divorced or widowed, and are therefore self-supporting or sole supporters of a family.

Women work in job "ghettos," where wages and status are low.

- o In 1981, over 60 percent of women workers were concentrated in three occupations -- clerical, sales, and service.(1)
- o In 1981, women earned only 58 percent of what men earned, and this gap is widening.(2)

Women suffer higher unemployment rates.

- o In 1981, the unemployment rate for men was 7.1 percent; for women it was 8.3 percent.(3)
- o The existence of job "ghettos" limits job opportunities available to women seeking employment.

Women face a myriad of problems in the Federal Public Service where they comprise 41 percent of the workforce.

- o In 1983, 64 percent of all women employees were concentrated in the Administrative Support Category.
- o Within that category, 82 percent of the workers were women, in contrast to their 6 percent composition in the Management category and 12 percent inclusion in the Technical category.
- o While 38 percent of women employees earned less than \$20,000 in 1983, only 11 percent of all men earned less than that amount.(4)

High unemployment rates, a widening wage gap, and limited labour force opportunities combine to keep women in a vulnerable position in the labour force. Sexual harassment persists because of this vulnerability. Sexual harassment will only be reduced or eliminated when the conditions which ensure its perpetuation -- traditional sex roles and women's second class status in the labour force -- are changed. Traditional sex roles must be expanded to allow women the option of full participation in all aspects of social and economic life. Women must demand to exchange their labour for compensation without bartering their sexuality. Women must achieve equal opportunities and full participation in the labour force.

Women must not isolate themselves in fighting for these demands. The problems identified here -- high unemployment, limited labour force opportunities, and restrictions on the right to exchange labour for compensation -- affect all workers. These are problems for all trade unionists regardless of sex, and we must use our united strength to solve them.

SEXUAL HARASSMENT: THE SOLUTIONS

Ignoring sexual harassment doesn't work. An American study found that for three-quarters of the cases that tried to ignore sexual harassment, the harassment continued or became worse. (5)

Concrete solutions are necessary to combat the problem.

WHAT CAN I, AS A UNION MEMBER, DO?

SUPPORT THE VICTIM

If you see a co-worker being harassed, approach her and offer some support. Let her know that you sympathize with the problem. Just talking about it can help. Management and co-workers may interpret your silence to mean you condone the harasser's actions. Too often, the victims of sexual harassment are ostracized by fellow workers who blame the victim. Don't fall into that trap. Remember that sexual harassment is a social problem. Tell the victim that solutions are available and refer her to the union steward.

DISCUSS AT MEETINGS

Raise the issue at local union meetings. If you find there is

concern, organize those concerned and use the union structure to raise the issue at the policy-making level.

APPROACH UNION OFFICERS

Tell your elected officers you are concerned about sexual harassment and want your union to do something. Those officers are elected by you to be responsive to your problems and concerns. They want to know what the issues are so they can do their job better. If they don't respond, find another route but remember their attitude at election time!

EQUAL RIGHTS OR EQUAL OPPORTUNITY COMMITTEES

The Public Service Alliance has a National Equal Opportunity Committee comprising of one member from each Component. It reports to the National Board of Directors and can make recommendations on what action the union can take to solve problems of sexual harassment.

AT NEGOTIATIONS TIME

Suggest and seek support for a protective clause against sexual harassment in collective agreements. Recommendations for bargaining must come from the local level. If you are not sure how to get an item to the table, consult your steward or staff representative. The Alliance has drafted a model clause on sexual harassment which is printed on pages 10 and 11 of this booklet.

WHAT IF I'M THE VICTIM?

DON'T IGNORE IT!

Sexual harassment does not go away if it is ignored. Too often your attitude may be interpreted as compliance. Seek help. Your union steward should be your first step.

APPROACH YOUR STEWARD

Your steward can help you. S/he can act as a mediator and approach the harasser on your behalf. The steward can assess if the action is grievable and can initiate the grievance process. S/he can conduct an investigation and attempt to resolve a complaint under the Alliance harassment policy.

KEEP A RECORD

Maintain a record of each incident of harassment -- where, what time, what was said or done. This can be used in confronting the harasser and/or building a case for a grievance.

APPROACH OTHERS

Harassers are often repeaters. Mention the problem to other people you work with -- they may also have been harassed. At this point, discuss the issue in a general way, without naming the specific person, to avoid false rumours or accusations. Try to contact previous employees and ask them why they left their jobs. If, for example, three secretaries quit because of harassment over a six-month period, a pattern of abuse by the harasser can be established. Because of the expense of the recruiting process, it is in management's interest to discipline the harasser.

SAFETY IN NUMBERS

If a number of women in your workplace are victims of harassment, seek the co-operation of your steward in organizing them to seek a solution. Confronting the harasser or lodging a grievance is much less threatening in a group than as an individual, and the more evidence you have the stronger the case for disciplinary action will be.

ARM YOURSELF

Make a record of your work -- compliments, accomplishments -- in case of reprisals. Harassers often use the excuse of poor work for firing an employee who will not comply with their sexual demands.

DON'T FEEL GUILTY

Sexual harassment is an expression of power. Studies have shown that it is usually practiced with little regard for age, appearance or marital status. Harassers may accuse you of enticing dress or actions in order to justify their aggressive behaviour. But remember: in sexual harassment cases it is the harasser who is wrong, not the victim.

WHAT'S MY ROLE AS STEWARD

LISTEN

When a worker comes to you with a complaint of sexual harassment, the first step is to listen to the complaint. Remember that it is often difficult for a victim to report the incident.

REASSURE THE VICTIM

Victims fear they will be blamed, publicly shamed or threatened with reprisals. Let the victim know that you are concerned, and that the union wants to help solve this kind of problem.

BUILD A CASE

Under the Alliance policy, it is your responsibility to record the details of the complaint and conduct a thorough investigation. You must provide assistance and representation to the complainant according to the procedures set by your Component.

If you think the incident is grievable, begin to build a case. Encourage the victim to make a record, including time, place and details of the incidents.

Try to get witnesses. This may be difficult because most harassment occurs in private.

Inquire discreetly to see if there are other victims at the workplace.

MAINTAIN CONFIDENTIALITY

Remember, the victim may still have guilt feelings, however unjustified.

If the harasser feels threatened by accusations of sexual harassment, he may consider suing for libel.

Also remember that the harasser may not be aware his actions are offensive. Part of your job will be to show him that his actions are threatening and destructive.

GRIEVANCE SETTLEMENT

The tendency may be for management to solve the problem by transferring the victim. Depending on the victim's wishes, you should insist that if anyone is to be moved, it should be the harasser, not the victim. If the victim requests a transfer, you should demand that the job be of equal status and pay.

It should be emphasized that transferring the harasser may only create an harassment situation in another workplace. Other forms of discipline should be examined (e.g. suspension(s) or possibly dismissal if he sexually harasses again).

TRAINING

Take advantage of training courses offered by the Alliance. Training in dealing with sexual harassment cases will help you be more effective in presenting grievances, building a case, etc.

EDUCATION

Part of your role as union steward is to educate the members. Introduce the topic at coffee break, for example. Distribute any educational pamphlets or materials supplied by the Alliance and other unions or organizations. A solution to sexual harassment in the workplace begins with an understanding of the problem.

WHAT CAN THE UNION DO?

Sexual harassment is a problem that affects the health and well-being of many union members. It is a subtle and divisive form of discrimination that persists throughout the workforce. Surveys

have indicated that up to 80 percent of women workers have experienced some form of sexual harassment during their working lives.

For these reasons, the Alliance as well as other unions are taking up the fight against sexual harassment and taking active steps to control it.

Unions are committed to the long-term goals of ensuring better working conditions and ending discrimination in the workforce. The realization of these long-term goals will contribute to the solution of the problem of sexual harassment. Meanwhile, there are short-term solutions that can be used.

POLICY

The Public Service Alliance has a policy on sexual harassment that defines the problem and outlines procedures to deal with it. This policy is reproduced in full commencing on this page.

EDUCATE MEMBERS

The distribution of accurate, up-to-date information helps to dispel the myths surrounding the topic of sexual harassment, and encourages members to use their union to solve the problem.

The Alliance encourages the following actions at all levels of the organization:

- o Develop and distribute educational material to inform members of the nature and prevalence of the problem, and what to do if they become victims of sexual harassment.

- o Include articles on sexual harassment in newsletters, bulletins and other publications.
- o Encourage discussion of the topic at local and executive meetings.
- o Sponsor seminars.
- o Include the topic of sexual harassment at women's conferences.

PERSONAL/SEXUAL HARASSMENT POLICY of the PUBLIC SERVICE ALLIANCE OF CANADA

The Public Service Alliance of Canada believes that every individual has the right to dignity and respect both within the union and in the workplace. Therefore, the PSAC strongly emphasizes any behaviour which falls within the Personal/Sexual Harassment definitions stated below is totally unacceptable and intolerable regardless of the perpetrator.

"Personal Harassment" is any behaviour by any person that is directed at and is offensive to an individual or endangers an individual's job, undermines the performance of that job or threatens the economic livelihood of individual.

"Sexual Harassment" is comprised of offensive sexual comments, gestures or physical contact that may be deemed objectionable or offensive, either on a one-time basis or in a continuous series of incidents, however minor. Sexual Harassment is behaviour of a sexual nature that is deliberate and unsolicited.

Sexual harassment is coercive and one-sided and both males and females can be victims of it.

"Sexual Harassment" includes, but is not limited to the following:

- Unnecessary physical contact such as touching and patting;
- Suggestive remarks and other verbal abuse or threats;
- Leering at a person's body;
- Demand for sexual favours;
- Compromising invitations;
- Unwelcome remarks, jokes, innuendos or taunting;
- Displaying of pornographic or other derogatory pictures;
- Condescension or paternalism which undermines self-respect;
- Physical assault.

As an on-going campaign to support this policy, the PSAC will ensure, wherever feasible, that education courses and/or seminars contain references to this policy as well as available information on harassment. The PSAC will attempt to achieve clauses in all collective agreements outlining the Employer's responsibility to maintain a harassment-free environment and the referral of harassment grievances to the final level only.

The following guidelines are provided to assist all concerned when a complaint of Personal/Sexual Harassment is received. The guidelines are built upon the principles of confidentiality, expediency, fair and due process for both the complainant and respondent.

Because of the sensitive nature of this problem, all avenues of assistance should be open to a member who is being harassed. Because it can be a complex situation which Local Stewards and Officers may have difficulty

approaching, they should immediately contact or liaise with a person designated by the Component. The following steps, however, would be the basic steps that a Steward would normally follow.

1. When a complaint is received from an individual, the Local Steward/ Officer must record the details of the complaint and conduct a thorough investigation to obtain any available information concerning the complaint. All information must be treated on a confidential basis, except to the extent that is necessary to complete the investigation.
2. After completion of the investigation (within a reasonable period of time which will normally be within the twenty-five (25) day grievance time limit), the Local Steward/ Officer must record the results of the investigation and should attempt to obtain the signature of individuals concerned on their portion of the fact sheet only.
3. Unless the member's (the complainant) case is acknowledged by the alleged harasser (the respondent), the Local Steward/Officer should have the matter reviewed by the Local Executive or Local Committee designated for this function.
4. Where there is evidence that harassment has occurred or may have occurred, the Local Steward/Officer must provide assistance and representation to the complainant. Where a complaint cannot be substantiated, the Local Steward/Officer must inform the complainant accordingly with reasons for the recommendation not to proceed with the complaint.

5. Where the Local Steward/ Officer has not recommended that the complaint be proceeded with and the complainant believes he/she has a valid complaint, he/she may refer the matter to the appropriate Component Officer or Component National President for review. In these situations, the appropriate officers concerned will action the matter as quickly as is practical and advise the complainant of the action to be taken.
6. Should it be decided to proceed with a complaint, the complainant should be advised of the various options available, such as: the Collective Agreement Grievance Procedure, the Departmental Complaint Procedure and the Anti-Discrimination Directorate of the Public Service Commission Complaint Procedure where applicable, or the Human Rights Commission Complaint Procedure. The Public Service Alliance of Canada recommends the Collective Agreement Grievance Procedure, however, unless it is an on-going occurrence, time limits may require use of another procedure.
7. Where a complaint is upheld and the respondent receives a disciplinary penalty, at the request of the respondent, the PSAC will review the disciplinary penalty and where it is deemed the penalty is unjust, will provide the respondent with representation on a subsequent grievance.
8. In a situation where it appears that the complainant may have a valid complaint, however insufficient factual information exists and the complainant

wishes to proceed, the complainant should be referred to the Anti-Discrimination Directorate of the Public Service Commission or the Human Rights Commission for an independent review and investigation. And in such situations, the PSAC will assist the complainant in filing a complaint.

Any member of the Public Service Alliance of Canada who is found guilty of Personal/Sexual Harassment may be disciplined in accordance with PSAC Regulation 19 and Section 20, Sub-section 4(m) of the PSAC Constitution.

NEGOTIATE PROTECTION

There is a need for collective agreements to contain both no discrimination and sexual harassment clauses. There is some discussion as to whether a no-discrimination clause is effective protection against sexual harassment. In some cases, arbitrators or adjudicators may not consider sexual harassment as discrimination and may disallow the grievance on this basis. There are two approaches to this problem:

- (1) Have a no-discrimination clause that specifies: "sexual harassment shall be considered discrimination under this article."
- (2) Include a separate clause on sexual harassment in addition to the no-discrimination clause.

Prevalence of the problem would seem justification enough for a separate clause.

The Alliance has proposed that the following clauses be negotiated into all collective agreements:

NO DISCRIMINATION

There shall be no discrimination, interference, restriction, coercion, harassment, intimidation or any disciplinary action exercised or practiced with respect to an employee by reason of race, national or ethnic origin, colour, creed, religion, age, sex, marital status, conviction for which a pardon has been granted, physical or mental handicap, family relationship, sexual orientation, native or familial language, membership in or activities on behalf of the union, organizations and associations, or political affiliation.

SEXUAL HARASSMENT

- (1) The Alliance and the Employer recognize the problem of sexual harassment may exist in the workplace and agree that all grievances regarding such complaints will be referred to the Final Step of the grievance procedure.
- (2) Sexual harassment shall be defined as:
 - (a) persistent sexual solicitation or an advance made by a person who knows, or ought to know, it is unwelcome or
 - (b) a reprisal by some person after a sexual advance is rejected
 - (c) sexual harassment shall include but not be limited to:
 - i) inappropriate touching, including touching which is expressed to be unwanted;
 - ii) suggestive remarks or other verbal abuse with a sexual connotation;
 - iii) compromising invitations;
 - iv) repeated or persistent leering at a person's body;
 - v) demands for sexual favours;
 - vi) sexual assault.
- (3) Grievances involving sexual harassment shall be treated in strict confidence by both the Alliance and the Employer.
- (4) The Employer undertakes to discipline any person employed by the Employer engaging in the sexual harassment of another employee.
- (5) In cases of sexual harassment, the employee being harassed has the right to discontinue contact with the alleged harasser without incurring any penalty, pending determination of the grievance. In cases where sexual harassment may result in the transfer of an employee, where possible, it shall be the harasser who is transferred. The employee who is harassed will not be involuntarily transferred.
- (6) (a) An alleged offender under this clause shall be entitled
 - i) to be given notice of the substance of a grievance under this clause, in sufficient detail to defend against the allegations;
 - ii) to be given notice of and to attend, participate in and be represented at any adjudication hearing which is held as a grievance under this clause.

- (b) An Adjudicator, hearing a grievance under this clause, shall have authority to:
 - i) dismiss the grievance;
 - ii) determine the appropriate level of discipline; and
 - iii) make such further order as may be necessary to provide a final and conclusive settlement of the grievance.
- (c) An alleged offender under this clause shall not be entitled to grieve disciplinary action taken by the Employer which is consistent with the Award of the Adjudicator.

REDRESS MECHANISMS FOR PSAC MEMBERS

The following mechanisms can be used by members to resolve complaints of sexual harassment. In some cases, different actions can be initiated at the same time. For example, a complaint can be filed with the Canadian Human Rights Commission, while a grievance is being processed. The Commission might wait until the grievance decision has been rendered before initiating their investigation, but the complainant will have protected his/her time limits for filing a complaint.

It must be emphasized that complaints of sexual harassment must be brought to the attention of the union as soon as possible. It will then be possible to provide advice and representation from the beginning, and determine the best recourse mechanisms to be utilized.

Grievance Procedure

In order to achieve protection from sexual harassment, specific

articles must be negotiated into collective agreements. Articles proposed by the Alliance include provisions to ensure confidentiality and expediency, the ability to initiate grievances at the final level of the procedure, protection to the grievor from any recourse action, and appropriate disciplinary action for the harasser.

Members at Canada Post Corporation in the Office Equipment, Drafting and Illustration, and Clerical and Regulatory groups have negotiated articles on sexual harassment into their agreements. These articles cite the recognition of the employee's right to work in an environment free from sexual harassment and any employee who engages in sexual harassment of another employee will be disciplined by the employer. Grievances can be initiated at any step of the grievance procedure. The definition used is broad ranging and it states that "sexual harassment is defined as, but not limited to, any incident or series of incidents related to sexuality, that may be verbal, physical, deliberate, unsolicited or unwelcome."

Grievances can still be lodged without having articles included in the collective agreement, but they cannot be referred to adjudication/arbitration for resolution. This is essential in order to ensure referral to an impartial body, should an impasse occur at the final grievance level.

The grievance procedure is one of the best ways to deal with sexual harassment, as the grievor is ensured union representation and counsel throughout the difficult time involved. However, the grievance route might not be possible to use when the complaint concerns one union member against another.

Alternate approaches for such circumstances have been detailed in our harassment policy.

PSAC PERSONAL/SEXUAL HARASSMENT POLICY

The policy which was adopted by the National Board of Directors states that every individual has the right to dignity and respect both within the union and in the workplace. According to the policy, any behaviour which falls within the personal/sexual harassment definitions is totally unacceptable and intolerable regardless of the perpetrator.

Guidelines have been adopted to assist with complaints and grievances. The guidelines are built upon the principles of confidentiality, expediency, and fair and due process for both the complainant and respondent. They cover the first step when the complaint is received by the Local steward/officer, through to the investigation and the routes of redress. Although the Alliance recommends redress through the collective agreement grievance procedure, time limits may require other procedures.

Any member of the PSAC who is found guilty of personal/sexual harassment may be disciplined in accordance with the PSAC Constitution.

The policy is reproduced in full on pages 7 - 9.

TREASURY BOARD POLICY ON PERSONAL HARASSMENT AT THE WORKPLACE

In September, 1982, Treasury Board introduced a personal harassment policy to deal with cases of sexual, as well as other types of harassment, in the Public Service.

The policy states that the harassment of another employee constitutes a disciplinary infraction and will be dealt with severely. The use of authority or position to intimidate, coerce or harass is strictly forbidden.

The policy itself could act as a deterrent to harassment in some cases. However, the Alliance does not believe that complaints will be dealt with effectively, because of the procedures set out in the policy. For example, much of the onus for action in resolving a complaint rests with the victim. The policy specifies that employees have the responsibility to take assertive action if they feel they are being harassed. They are to take such steps as making their disapproval known to the harasser; keeping a written record of dates, times, nature of behaviour and witnesses; complaining to the supervisor; and ensuring that the harasser is advised of the steps taken. The department has the obligation to investigate complaints and render a decision.

Our criticism of the policy is due to the following specific concerns:

- The policy seriously downplays and deliberately bypasses the role of the union in providing counsel and representation to members.
- The policy does nothing to alleviate the present problem of having a person who is suffering from harassment, confronting the harasser or supervisor directly and alone.
- The onus should not be on the victim to advise the harasser of steps taken to resolve the problem as it could result in an unpleasant confrontation.

- The policy does not indicate the types of measures that will be taken to ensure that solid protection is provided to the victim and there are no guidelines on appropriate disciplinary actions that will be taken against harassers.
- There are no time limitations specified to ensure speedy resolutions.

Public Service Commission Appeals and Investigations Branch

The Appeals and Investigations Branch investigates complaints of discrimination in public service employment. As a result of an investigation, a written report with recommendations on the findings and corrective action is sent to the complainant and to the deputy head of the department concerned.

If a complaint is upheld, a negotiated settlement is reached which must satisfy the findings. The mechanism does not allow for third party intervention should an impasse occur.

The Canadian Human Rights Commission

On July 1, 1983, amendments were proclaimed to the Canadian Human Rights Act making sexual harassment and harassment because of any other prohibited ground, a discriminatory practice under the Act. This amendment removes any ambiguity of the Commission's authority to accept and handle harassment cases.

Any person coming under the jurisdiction of the Canadian Human Rights Act can file a complaint. It can refuse to deal with a complaint if other procedures seem more appropriate, if the complaint seems trivial, or if too much time has

elapsed since the alleged discrimination took place.

Once a complaint is accepted, it is investigated by the Commission and a conciliator may be appointed to attempt to reach a settlement of the case.

If a settlement is not reached, a Human Rights Tribunal consisting of not more than three members may be appointed to inquire into the complaint. If the Tribunal finds that the complaint is substantiated, it may order that the discriminatory practice cease and not recur and can award compensation to the victim. An appeal can be made against its decision to a Review Tribunal, if the Tribunal was composed of fewer than three members. Ultimately, Tribunal and Review Tribunal decisions can be appealed to the Federal Court of Canada and the Supreme Court.

Redress through the Canadian Human Rights Commission can be very effective in that they have strong investigative powers, and the power to make binding third party decisions. Although the Commission represents complainants throughout the process, including challenges before the court, complainants can also utilize support from their union. Advice can be given on the gathering and documenting of evidence and general representation can be provided.

The major disadvantage in utilizing this recourse measure is the amount of time it takes to resolve complaints. The process can take several years. In addition, tribunal hearings are public and can cause embarrassing publicity to both the complainant and the accused.

Canada Labour Code

An Act to amend the Canada Labour Code, including provisions giving employees the right to employment free from sexual harassment, was passed by Parliament on June 27, 1984 and is now awaiting proclamation. Once enacted, employers will be obligated to make every reasonable effort to ensure that no employee is subjected to sexual harassment. They will be responsible for issuing a policy statement concerning sexual harassment, after consulting with employees or their representatives. Special mechanisms will be devised by the employer to deal with complaints.

In essence, the provisions will be similar in nature to the Treasury Board policy on personal harassment, and our concerns for its effectiveness are the same. In order to be acceptable as a resolution mechanism, we would want unions to be included in the drafting of the policy, and the investigation and resolution of complaints. Furthermore, additional protections or procedures should be negotiated into collective agreements and the right to union representation at all levels of the complaint procedure including the Human Rights Commission must be ensured.

ADDITIONAL UNION RESOLUTIONS

COUNSELLING

Consideration may be given to having a counselling program established. Many harassers are repeaters and a counselling program may be one way to deal with "chronic repeaters."

TRAINING

Union stewards should be trained in how to deal with sexual

harassment cases on the job. The topic of sexual harassment is included in basic union courses and stewards should participate in Alliance courses on issues of discrimination and harassment.

MONITORING SYSTEM

A system for monitoring sexual harassment should be established in co-operation with union stewards. The purpose of the system would be to determine the nature and extent of the problem among the membership.

A contact person would be named who would compile statistics on reported cases. This contact would work in conjunction with the steward, logging the nature of incidents and grievance settlements, etc. Also, the contact could act as a resource person for those victims who seek information and advice but who wish to remain anonymous. Statistics compiled by these contacts could be used to justify demands for a protective clause in the agreement, special grievance provisions, etc.

LEGAL ASSISTANCE

If the victim decides to take the harasser to court, the Alliance will aid the victim in compiling her case or refer her to a competent lawyer. Depending on the circumstances, consideration will be given to fighting the case on behalf of the victim and assuming the legal fees involved.

SOCIAL CHANGE

Unions, which have often led the fight for social change, should attack some of the sources of myths about women workers and sexual harassment. For example, letters to

the editors of newspapers, protesting sexist cartoons or advertisements that portray women workers as sex objects, can be effective. Campaigns can be launched to remove from schools any discriminatory literature that stereotypes women and creates distorted images of workers. Articles can be contributed to local newspapers on sexual harassment. The other media -- radio and television open-line programs and citizen's "forums," for example -- are other good possibilities.

QUESTIONNAIRE

A survey of the membership may be useful in helping determine the extent of the problem. This should be done in conjunction with an education campaign, to ensure that people understand what sexual harassment is before they are asked if they are victims. A better understanding of the issue -- and a clear statement on the importance the Alliance attaches to it -- will ensure a better response rate and give a better picture of the situation.

LEGISLATION

Sexual harassment is a prohibited practice under the Canadian Human Rights Act. This in itself will not erase this discriminatory behavior. Rather, it gives victims an avenue of recourse if they wish to lodge a complaint.

NATIONAL CAMPAIGNS

The Alliance will continue in its efforts to develop an awareness of the problem of sexual harassment and encourage Locals to deal with the problem at their level.

We have a policy which defines the problem and sets out guidelines to deal with complaints. We will continue to co-ordinate an exchange of information among our Components and assist in the development of training and educational material. We will participate with other unions in presenting sexual harassment as a national social issue and sensitizing both the membership and the public to the problem.

LEGAL CHANNELS

Victims who are threatened, physically assaulted or raped can bring charges under the Canadian Criminal Code. Women who are slandered as a result of non-compliance with a harasser's demand may sue for defamation of character in a civil suit.

The problems with trying to solve sexual harassment through legal channels are many and varied:

- o Legal action can only be taken after the fact. It can compensate for the act but cannot actually prevent the damage.
- o Legal penalties, however, may act as a deterrent to potential harassers.
- o Legal action is very expensive and time-consuming. Most victims do not have the financial resources to fight a sexual harassment case in the courts. The victim may have to take time off work to appear in court -- another financial hardship she may not be able to afford.
- o Sexual harassment cases, like rape cases, can often be emotionally traumatic. The

tendency may be to blame the victim for enticing the harasser's action.

- o Even if the legal approach is taken, there is no guarantee that legal precedents will be set.

CASE STUDIES

The following case examples, demonstrate the types of sexual harassment complaints involving Federal Public Service employees that have been dealt with by the Canadian Human Rights Commission or the Public Service Staff Relations Board.

Case 1

A human rights review tribunal ruled that a male cleaning staff foreman did sexually harass a female lead hand cleaner. This decision overturned a previous tribunal decision.

The complainant reported to an area foreman who in turn reported to the foreman. She was on probation at the time of the harassment and was the first woman to hold the position of lead hand cleaner. She complained to the Canadian Human Rights Commission that her foreman had made sexual advances to her and then tried to intimidate her once she rejected him.

The review tribunal cited evidence that the foreman "used his authority in a capricious manner. The facts clearly showed a pattern of sexual enquiry and innuendo and his awareness of the complainant's vulnerability as a probationer. The cumulative effect was to create a poisoned work environment."

The review tribunal also found that the employer (Treasury Board)

and the employing Department (Department of National Defence) were liable for the behaviour of its employees. It noted that a clearly defined policy against sexual harassment had not been communicated to the employees and the department did not investigate the complaint. Both Treasury Board and the foreman appealed the decision to the Federal Court of Canada.

Case 2

A tribunal decision under the Canadian Human Rights Act found a Manager of an Employment Centre and the Canadian Employment Immigration Commission (CEIC) responsible for the sexual harassment of two female employees.

The complaint itself was brought against CEIC and not the individual, as the purpose was to show the employer liable and to prove that the employer failed to provide a working environment free of harassment.

The tribunal found that the manager made repeated sexual advances against one of the women. He led her to believe that passing her employment probation depended on her positive response to his demands. He harassed the other woman by proposing sex to her while travelling together on business.

The tribunal ordered both the harasser and CEIC to pay the women damages. CEIC was also ordered to establish a policy on sexual harassment to prevent similar practices from occurring in the future.

Case 3

This case involved an adjudication decision by the Public Service Staff Relations Board concerning a

grievance against the employer for imposing a five-day suspension for harassing another employee.

The evidence presented showed that the grievor grabbed a female employee and took her to an office and closed the door. He told her that she turned him on and then pushed her against the wall. She banged on the wall to get somebody's attention and the grievor shouted, "help! help! help!" with a falsetto voice. He was grinning most of the time. Another employee heard the banging and opened the door. The man was laughing, while the woman was angry and flushed. The woman later submitted a formal complaint which resulted in the disciplinary action being grieved.

The Board dismissed the grievance and stated that female employees should not be put in situations where they have to submit to the unwanted advances of their co-workers. If the aggrieved employee had intended his actions to be a joke, it was a joke in very poor taste. This is a serious matter, particularly when it occurs in a work environment.

Case 4

This concerns another case under the Public Service Staff Relations Board and involved a grievance by an air traffic controller for a one-day suspension, because of a remark he made in front of four students, two of which were women.

During their conversation, the grievor made a statement to the effect that instructors had apparently gone out to get more female air traffic controllers into the system, and added, "all you have to do to get hired ... is to flash your tits." The grievor stated that the remark was intended as a joke and

was consistent with the language used in the control tower.

However, the Board ruled that the remark was not shop-talk, but was a sexist remark, unfitting at any time. It was a slur against women and against the employer's efforts to hire more women into a traditionally male position. His remarks suggested a poor appreciation of a woman's educational, intellectual and moral qualifications. The grievance was therefore dismissed.

CONCLUSIONS

Sexual harassment is not a new problem for women workers, yet it is only recently that people have started to seek effective solutions.

Legal solutions are expensive and time-consuming and can only come after the damage has been done. They can, however, provide compensation for the victim.

Union solutions are designed, in part, to be preventative solutions. For example, sensitizing members to the issue may encourage them to take lobbying action for adequate legislation; and protective provisions in the collective agreement will force employers to end the harassment or face the consequences of violating the agreement.

The most viable solution is a workplace approach, where management is made aware of the problem, employees are sensitized to the issue (and are aware of their rights under the legislation and their collective agreement), and local stewards are trained to deal with the problem under a collective agreement that protects the members.

FOOTNOTES

¹Women's Bureau, Labour Canada.

²Women's Bureau, Labour Canada.

³Statistics Canada

⁴Public Service Commission of Canada
Annual Report, 1983.

⁵Sexual Harassment at the Workplace,
Alliance Against Sexual Coercion,
1977.

CONCLUSIONS

Sexual harassment is not a new
problem for women workers. For it is
only recently that people have
started to view it as a serious

social problem. The fact that it is
now being recognized as a social
problem is a sign of progress.

It is important to recognize that
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BIBLIOGRAPHY

Achiron, Marilyn, "Sexual harassment on the job," Mademoiselle, October, 1979, p. 116-118.

"AFSCME (American Federation of State, County and Municipal Employees) suggests employees eschew courts, take sex harassment complaints to unions," Daily Labor Report, Vol. 69, No. A2-A3, April 8, 1980.

Albert, Jane, "Tyranny of sex in the office," Equal Times, August 1977.

Alliance Against Sexual Coercion, Fighting Sexual Harassment: An Advocacy Handbook, Cambridge, Mass. A.A.S.C., 1979.

American Federation of State, County and Municipal Employees, Sexual harassment: What the Union can do, Washington, D.C., 1979.

Anderson, Patricia, "Sexual harassment and the working woman," Financial Times of Canada, June 8, 1979, pps. 10-11.

Association of American Colleges, Project on Status and Education of Women, Sexual Harassment: A Hidden Issue, Washington, D.C., 1978.

Backhouse, Constance, and Cohen, Leah, The Secret Oppression: Sexual Harassment of Working Women, Toronto, MacMillan of Canada, 1978.

Bularzik, Mary, "Sexual harassment at the workplace: Historical notes," Radical America, Vol. 12, No. 4, July-August, 1978, pps. 25-43.

Campbell, Leslie, "Sexual Harassment of Women Workers," Bridges, Winnipeg YWCA publication.

"Civil rights, sexual advances by male supervisory personnel as actionable under Title VII of the Civil Rights Act of 1964," Southern Texas Law Journal, 1976, p. 409.

Clark, Jil, "Women charge sexual harassment at University," Gay Community News, Vol. 7, No. 15, November 3, 1979, p. 1, 8.

Commerce Clearing House, "Adrienne E. Tomkins, Appellant, v. Public Service Electric and Gas Company et al, Appellees, U.S. Court of Appeals, Third Circuit, Dkt. no. 77-1212, November 23, 1977," Employment Practices Decisions, Vol. 15, 1977-1978, pps. 6758-6762.

Curtis, Joan, "Sexual harassment: What is it; How to deal with it successfully," Business & Professional Women, Vol. 36, No. 6, January 1980, pps. 4-6.

"EEOC interim interpretive guidelines on sexual harassment," White Collar Report, Vol. 1192, March 14, 1980, p. C1-C2.

Etzcorn, Pamela, "Dealing with sexual harassment," Women's Work, Vol. 5, No. 5, September-October 1979, p. 11-14, 15.

Evans, D., "Sexual harassment: Woman's hidden occupational hazard," in The Victimization of Women, edited by J.R. Chapman and M. Gates, Beverly Hills, Cal., Saga, 1978.

Farley, Lin, Sexual Shakedown: The Sexual Harassment of Women on the Job, New York, McGraw-Hill Co., 1978.

"Fighting lechery on campus," Time, February 4, 1980, p. 65.

Fleming, Joyce Dudney, "Shop talk about sex," Working Woman, Vol. 4, No. 7, July 1979, pps. 31-34.

Ginder, Charles E., "Factors of sex in office employment," Office Executive, February 1961.

Ginsburg, Gilbert J., "Sexual advances by an employee's supervisor: A sex-discrimination violation of Title VII?", Employee Relations Law Journal, Vol. 3, No. 1, Summer 1977, p 83-93.

Goodman, Jill Laurie, "Women's work: Sexual demands on the job," Civil Liberties Review, March-April, 1978.

"Harassed on job, woman gets \$7,500," Windsor Star, February 27, 1980.

Harragan, Betty L., Games Mother Never Taught You, New York, Rawson, 1977.

Henley, Nancy M., "Power, sex and nonverbal communication," in Language and Sex: Difference and Dominance, edited by B. Thorne and N.M. Henley, Rowley, Mass., Newbury House, 1975.

Ion, Sam, "Sexual harassment fought by women," Ottawa Journal, December 21, 1979.

Kelber, Mim, "The UN's dirty little secret," MS. Magazine, Vol. 6, No. 51, November, 1977, p. 79.

Legal Protection Against Sexual Harassment in Employment. Brief presented by the Status of Women Action Committee, Calgary, to the Alberta Human Rights Commission, December, 1977.

Lewis, Debra, "Sexual harassment is an issue for 1980," Kinesis, November, 1979, p. 9.

Lindsey, Karen, "Sexual harassment on the job and how to stop it," MS. Magazine, November, 1977.

List, Wilfred, "CLC takes up cause of women on sexual harassment at work," Toronto Globe and Mail, January 7, 1980, p. B6.

Lynne, Judy, "Sexual harassment -- reminding us who the boss is," Upstream, Vol. 3, No. 9, September, 1979, p. 13.

MacKinnon, Catharine A., Sexual Harassment of Working Women, New Haven, Yale University Press, 1979.

Marmo, Michael, "Arbitrating sex harassment cases," Arbitration Journal, Vol. 35, No. 1, March 1980, pps. 35-40.

Matusewitch, Eric, "Kyriazi v. Western Electric: Court fines five bosses for sexual harassment," MS. Magazine, Vol. 8, No. 10, April, 1980, p. 27.

Michigan University (Wayne State University), INstitute of Labor and Industrial Relations. Michigan Task Force on Sexual Harassment in the Workplace and Program on Women and Work, Sexual Harassment in the Workplace: Conference Report, Ann Arbor, October 27, 1979.

Montgomery, Charlotte, "Sexual harassment to be investigated," Toronto Star, April 17, 1980, p. A10.

Morgan, Joanna, "Sexual harassment," Chatelaine, Vol. 51, No. 8, August, 1978, p. 16, 18.

Mossman, M.J., and Fryer, Annette, "Sexual harassment in the workplace: An examination of legal remedies and alternative remedies," Women and the Law, York University, Toronto, 1978.

Newhall, Emily F. and others, "Abusing sex at the office," Newsweek, March 10, 1980, pps. 81-82.

Niehouse, Oliver L. and Doades, Joanne Ross Doades. "Sexual harassment: An old issue -- A new problem," Supervisory Management, Vol. 25, No. 4, April, 1980, pps. 10-14.

"90% of B.C. women experience sexual harassment on job: Study," Kingston Whig Standard, April 9, 1980, p. 37.

Ontario Legislature, An Act to Amend the Ontario Human Rights Code, Toronto, Queen's Printer, May 23, 1980. (Bill 83.)

"Organizing against harassment," Union Labor Report Weekly Newsletter, Vol. 170k, April 17, 1980, p. 8.

Pinkstaff, Marlene A., Women at Work: Overcoming the Obstacles, Reading, Mass., Addison-Wesley, 1979.

Preston, Patricia, "Give in -- He wins, Refuse -- You Lose," Branching Out, July/August, 1977.

Rivers, Caryl, "Sexual harassment: The executive's alternative to rape," Mother Jones, June, 1978.

Rovan, Rhonda, "Sexual Harassment," Chatelaine, August, 1979, p. 16, 18.

"A Redbook questionnaire: How do you handle sex on the job?", Redbook, January, 1976, pps. 74-75.

Sawyer, Sandra, "Sexual harassment: A form of sex discrimination," Personnel Administrator, Vol. 25, No. 1, January, 1980, pps. 36-38, 44.

"Sexual harassment challenged," Off our Backs, Vol. 9, No. 11, December, 1979, p. 8.

"Sexual harassment lands companies in court," Business Week, 2605:120, October 1, 1979, p. 122.

"Sexual harassment of federal female workers," Fair Employment Practices: Summary of Latest Developments, Vol. 383, No. 6, November 8, 1979.

Sexual Harassment: A Hidden Issue, prepared by The Project on the Status and Education of Women, Association of American Colleges, Washington, D.C., 1978.

"Sexual harassment on the job," Harper's Bazaar, August, 1976, p. 12.

"Sexual pressure on the job," McCalls, March, 1978, p. 43.

Seymour, W.C., "Sexual harassment: Finding a cause of action under Title VII," Labour Law Journal, Vol. 30, No. 3, March, 1979, pps. 139-156.

Shaikh, Farida, "Sexual harassment: The social disease and how to fight it," CUPE: Facts, Vol. 2, No. 7, March, 1980, pps. 107-109.

Shapiro, Eileen, "Some thoughts on counselling women who perceive themselves to be victims of non-actionable sex discrimination: A survival guide," in Leadership and Authority in the Health Professions, Berkeley, Cal., University of California Press, 1977.

Sisterhood, Vol. 2, No. 2, B.C. Federation of Labour, April, 1978.

Somers, Patricia A., "Sexual extortions in the workplace," Personnel Administrator, Vol. 24, No. 4, April, 1979, pps. 23-28.

"Speak up: Sexual harassment on the job," Canadian Labour Congress, Women's Bureau, Ottawa, 1979.

Stanley, Shelagh, "Sexual harassment: A problem of epidemic proportions," Kingston Whig Standard, April 19, 1978.

Thompson, Irene, "Sexual harassment on the job," Priorities, Vol. VI, No. 10, 1978.

Turner, Julia, "Professors told to keep students at arm's length," Toronto Globe and Mail, March 10, 1980, p. 1.

U.S. Congress, House Committee on Post Office and Civil Service, Subcommittee on Investigations, Sexual Harassment in the Federal Government, Washington, G.P.O., 1980.

Vyhnak, Carola, "Students complain of sexual advances by profs," Toronto Star, March 14, 1980, p. A13.

Wehrli, Lynn, Sexual Harassment at the Workplace: A Feminist Analysis and Strategy for Social Change, M.A. Thesis, Massachusetts Institute of Technology, December, 1976.

"What VSW (Vancouver Status of Women) is doing about sexual harassment," Kinesis, December, 1979-January, 1980, p. 3.

White, Shelby, "The office pass," Across the Board, Vol. XIV, No. 4, April, 1977.

Williamson, Jane, "Hotline: I'm being sexually harassed. What can I do?," Working Woman, Vol. 4, No. 11, November, 1979, p. 30.

Women's Legal Defense Fund, Legal Remedies for Sexual Harassment, Washington, D.C., 1980.

Women's Rights Committee and The Vancouver Women's Research Centre, Sexual Harassment in the Workplace, March, 1980.

"Women urged to involve union in fighting sexual harassment," Toronto Globe and Mail, April 14, 1980.

Working Women United Institute, Bibliography of Materials on Sexual Harassment, New York, WWUI, 1979.