

Implementation Guidance No Harassment & Abuse (Malaysia)

Harassment and abuse is not tolerated – policies are in place and implemented to prevent and remediate harassment and abuse, including sexual harassment and abuse.

– TFT Respect of Workers 12 Principles, Principle 9

DEFINITION

Abuse and harassment can take many forms, and can be hidden. Harassment and abuse includes verbal, non-verbal, visual and physical elements. It can include creating negative work environments through bullying and intimidation, physical violence, sexual harassment, and other behaviours that harm an individual or group.

Harassment and abuse can harm individuals in many ways – both physically and psychologically. In some cases this can lead to loss of dignity and confidence, depression, anxiety, stress, reduced productivity, injuries and suicide and other forms of death.

For more information, refer: [TFT Fact Sheet on Harassment and Abuse](#).

LEGAL BACKGROUND

Harassment and Abuse

The Department of Safety and Health (DOSH) under the Ministry of Human Resources (MOHR) in Malaysia published in 2001 the [Guidance on the Prevention of Stress and Violence at Work](#).

In these guidelines violence is defined as:

“Incidents where employees are abused, threatened, assaulted or subject to other offensive behaviour in circumstances related to their work.”

Abuse of foreign workers can also be linked to human trafficking. Under Section 13 the offence of trafficking in persons by means of threat, force, etc. is defined as:

“Any person, who traffics in persons not being a child, for the purpose of exploitation, by one or more of the following means: (a) threat; (b) use of force or other forms of coercion; (c) abduction; (d) fraud; (e) deception; (f) abuse of power; (g) abuse of the position of vulnerability of a person to an act of trafficking in persons; or (h) the giving or receiving of payments or benefits to obtain the consent of a person having control over the trafficked person, commits an offence and shall, on conviction, be punished with imprisonment for a term not less than three years but not exceeding twenty years, and shall also be liable to fine.”

Sexual Harassment

In Malaysia, sexual harassment is covered by the Employment (Amendment) Act 2012, Sections 81A to 81G.

Sexual harassment is defined in the Act as:

“Any unwanted conduct of a sexual nature, whether verbal, non-verbal, visual, gestural or physical, directed at a person which is offensive or humiliating or is a threat to his well-being, arising out of and in the course of his employment.”

The Ministry of Human Resources published in August 1999 a Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace for employers to adopt. It encourages employers to establish a comprehensive in-house mechanism at the enterprise level to prevent, handle and eradicate sexual harassment in the workplace that should include at least the following elements:

- A policy statement prohibiting sexual harassment in the organisation;
- A clear definition of sexual harassment;
- A complaints/grievance procedure;
- Disciplinary rules and penalties against the harasser and against those who make false accusation;
- Protective and remedial measures for the victim; and
- Promotional and educational programmes to explain the company's policy on sexual harassment and to raise awareness of sexual harassment and its adverse consequences among the company's employees, supervisors and managers.

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