



# Protect Yourself and Preventing Sexual Harassment

29 September 2021



## Outline

1. Definition of sexual harassment
2. Case sharing
3. Roles of staff and students in preventing sexual harassment
4. What to do if you are sexually harassed



## Definitions of Sexual Harassment



## Anti-Discrimination Ordinances

- ① Sex Discrimination Ordinance (SDO), 1996
- ② Disability Discrimination Ordinance (DDO), 1996
- ③ Family Status Discrimination Ordinance (FSDO), 1997
- ④ Race Discrimination Ordinance (RDO), 2009



## Two Types of Sexual Harassment

Person to Person

Sexually Hostile or Intimidating Environment



## Person-to-Person SH

X sexually harasses Y if :

- X makes an **unwelcome** sexual advance, or an unwelcome request for sexual favors to Y; or
- X engages in other unwelcome conduct **of a sexual nature** in relation to Y

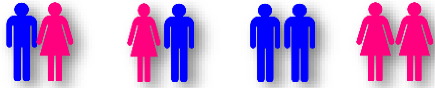
Subjective Test

- A reasonable person, having regard to all the circumstances, would have anticipated that Y would be **offended, humiliated or intimidated**.

Objective Test



## Person-to-Person Sexual Harassment



M vs F    F vs M    M vs M    F vs F



## What is “Conduct of a Sexual Nature”?



## Some Examples (1)

- Comments on somebody’s figure
- Questions of a sexual nature about a person’s private life or talk about personal sexual life
- Requests for kiss/hug/sex
- Sexual comments or jokes (including those via whatsapp/ line/ email)
- Staring or leering at a person / parts of a person’s body
- Displays of sexual materials such as photos



## Some Examples (2)

- Unwelcome physical contact such as brushing against another’s body
- Touching or fiddling with a person’s clothing
- Standing or sitting too close – invasion of personal space
- Taking photos of the sensitive parts of a person’s body
- Giving gifts with sexual overtone to a person



## Conduct of a Sexual Nature

Conduct with sexual element, overtone or implication. It can be:

- Physical
- Visual
- Verbal
- Electronic
- One-off or repeated incidents



## What is Unwelcome Behavior?

Is it necessary for one to say “no” to establish that the act is unwelcome?



## Unwelcome

- Unsolicited/uninvited
- Unreciprocated
- Undesirable

## Impact vs. Intent

- The law does not require intention on the part of the respondent but is concerned with the impact of the behavior.
- It is possible to offend, humiliate or intimidate someone without intending to do so.

## Who is the Reasonable Person?

Getting to know  
The “Reasonable Person”

## Reasonable Person Test

- Objective standard
- Reasonable person’s anticipation of reaction in the same or similar circumstances
- Stereotypical notions of acceptable behaviour cannot be considered

## Some Examples... Do you agree?

- She wears miniskirt = She doesn’t mind being touched.
- Women enjoy being sexually harassed because only attractive women would be sexually harassed.
- Sexual harassment? No, He / she is just too sensitive.
- Only pretty young ladies are victims of sexual harassment.

## Having regard to “all circumstances”

All relevant circumstances have to be taken into consideration:

1. Personal characteristics – gender, age, race, etc.
2. Relationship between the harasser and the victim
3. Context of the incident

## Hostile or Intimidating Environment

- The person, alone or together with other persons
- engages in conduct of a sexual nature
- creates a hostile or intimidating environment for that person.

## Examples

- Open discussion of sexual jokes
- Use of sexually explicit photos or pictures as computer wallpaper or screensaver
- Browse of sexually offensive websites
- Display of sexually offensive posters and calendars

## More Examples...

- Some female students comment the body figures of male students in a classroom.
- At a meeting, a group of colleagues hijack discussion and turn it to sexual topics.
- Anyone uses sexually suggestive cartoons in teaching a subject not related to sex.

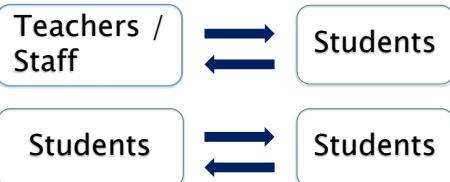
## Application

## Scope

- Education
- Provision of goods, facilities and services
- Employment
- Disposal or management of premises
- Others
- ✘ Private activities

## Relationships Governed

### Education



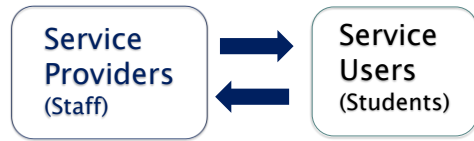
## Provision of Goods, Facilities and Services (GFS)

- GFS providers, such as: restaurants, department stores and shops...
- Unlawful if a GFS provider sexually harasses his/her customers/clients

Paid or Unpaid GFS

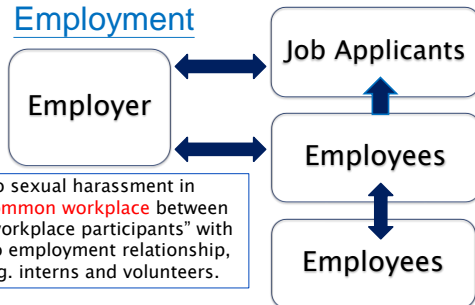
## Relationships Governed

### Provision of GFS



## Relationships Governed

### Employment



No sexual harassment in common workplace between "workplace participants" with no employment relationship, e.g. interns and volunteers.

## Preventing Sexual Harassment

## Roles of Staff and Students

- **Law:** understand the EO Ordinances
- **Policy:** know the anti-sexual harassment policy of your organization
- **Attitude:**
  - Respect differences of each other
  - Try to stop sexual harassment if you witness the behavior

## The University of Macau Guidelines for Handling Sexual Harassment and Sexual Bullying Cases (RTO.04/201509/001.r05)

- Effective Date: August 2021
- Content:
  - General Principles
  - Sexual Harassment, Sexual Bullying or other Behaviours Violating Gender Equity
  - Applicability
  - ...
  - Processing of Complaints

## General Principles

- ✓ The Guidelines aim to effect gender equity in the **academic and working environment** of the University.
- The University has **zero tolerance** of sexual harassment, sexual bullying or other behaviours violating gender equity and will **apply disciplinary punishment or take legal action** if the case is substantiated after investigation.

## Definition & Applicability

- **Sexual harassment** – forcing others to endure sexual physical contact, or forcing others to engage in such behaviour with the perpetrator or a third person to harass others, regardless the contact is made with a certain part of the body or an object.
- **Sexual bullying or other behaviours violating gender equity** – behaviours that are unwelcomed or unaccepted and related to sex
  - Apply to the **staff and students** of the University

## Committee on Gender Equality

- To **promote gender equity** in the University by way of publicity, education or any other means.
- To **monitor the situation of gender equity** in the University and assist in the investigation and handling of complaints when necessary.
- To **devise, review and modify the guidelines**, for handling the gender equity issues or any other related guidelines.
- To assist in **instating and implementing** the University's gender equity initiatives.

## The Processing of Complaints

- The complainant can lodge a complaint –
  - when **he or she** has been or is being subjected to sexual harassment or sexual bullying, etc.; or
  - lodge a complaint **as a third party** when any staff member or student has been or is being subjected to sexual harassment or sexual bullying, etc.
- The **accused** shall be **staff member or student** of the University

## The Processing of Complaints

- Submit the **Investigation Application Form** to the Gender Equity Officer
- Lodge within **12 months**
- Principles: confidentiality, protection, fairness
- Complaint in bad faith

## What to do if you are sexually harassed?

1. Say **"NO"** to the harasser
2. **Write down what happened: date, time, place, details of the incident**
3. Discuss with the persons you trust
4. **Lodge a complaint with the University**
5. Take legal action

## Equal Opportunities Commission



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