

Regulations on sexual harassment in the workplace

Version: **2.0**
Date: **20.08.2019**
Author(s): **C. Abegglen**
Classification: Confidential
Status: **Final**

Change history

Version	Date	Author(s)	Remarks
1.0	03.11.2017	C. Abegglen	
1.0	15.03.2018	C. Abegglen	Minor corrections
2.0	20.08.2019	C. Abegglen	Adaptations for international use

Table of Contents

1	Introduction	4
2	Policy	4
3	Sexual harassment	5
3.1	What is sexual harassment?	5
3.2	When is it sexual harassment, and when not?.....	6
3.3	Why does sexual harassment occur?.....	6
4	Prevention.....	6
5	Those affected – what to do?	6
5.1	Documentation of incidents.....	6
5.2	Make use of support	6
6	Informal and formal procedures	7
6.1	Informal procedure	7
6.2	Formal procedure.....	7
7	Penalties.....	8
8	False accusations	8
	Appendix.....	9

1 Introduction

FAIRMED is continuously committed to gender equality and to ending gender discrimination within the organisation and at the same time in the community. FAIRMED regards this as an overarching issue worldwide and has therefore committed itself in all areas in which it operates to develop a gender-equitable and women-friendly environment to end all forms of gender-specific violence and ensure the empowerment of women.

Combating the sexual exploitation, abuse and harassment (SEAH) of the people we support and sexual harassment in the workplace is an important part of FAIRMED's organizational development worldwide to protect vulnerable populations and employees.

These regulations on sexual harassment in the workplace apply to cases of harassment and sexual misconduct between FAIRMED personnel. The prevention of sexual exploitation, abuse and harassment of the people we support is defined in the separate Regulations for the Prevention of Sexual Exploitation, Abuse and Harassment (PSEAH).

Sexual and sexist harassment can severely negatively impact the personal and professional lives of those affected. The potential repercussions on the working atmosphere and the quality of work, as well as on performance, motivation and the number of absences, also harm the organisation as a whole.

To ensure a good working atmosphere for all employees, FAIRMED advocates a climate that is free of harassment. Nevertheless, if sexual or sexist harassment does occur, these regulations provide clarity for all concerned: affected persons know who to contact and where to file a complaint, and those perpetrating harassment can understand the penalties that they can expect for their unwanted behaviour. Such penalties cannot prevent sexual and sexist harassment, but they are essential if we hope to protect people from abuse and for FAIRMED to fulfil its legal obligations as an employer.

2 Policy

Discrimination through sexual harassment is prohibited for FAIRMED employees. Local laws (such as the prohibition of discrimination through sexual harassment regulated in Switzerland under the Federal Law on Gender Equality) must be observed.

In its Mission Statement and Codes of Conduct, FAIRMED lays out the fundamental values to which it is committed. The values defined in the Codes of Conduct and the applicable legal requirements form the basis for these regulations.

FAIRMED does not tolerate sexual harassment or sexist attitudes or actions in the workplace worldwide. In the case of any violation of these principles, all employees have the right and duty to turn to a trusted confidant:

- HR managers
- Line managers
- Managing Director or internal reporting hotline (Director, the Head of Finance, Human Resources & Administration, or the Head of the Program Division)
- President of the foundation

Employees can feel confident that they will receive support in the event of a violation of these principles, and they do not have to fear reprisals or the loss of their job. FAIRMED encourages employees to actively defend themselves against sexual harassment and to be prepared to stand up if they observe anything of this nature. Affected persons are encouraged to set appropriate limits and to report cases where these have been overstepped. Established limits must be respected by all employees, both nationally, i.e. in FAIRMED's base of operations in Switzerland, and internationally in the case of employees working or based abroad.

3 Sexual harassment

3.1 What is sexual harassment?

In the workplace, the term sexual harassment includes any sexual or gender-related behaviour that is unwanted on one side and which violates a person's dignity. Harassment can occur during work or during occasions relating to the work of the organisation. It can be perpetrated by employees, by members of partner organisations or by other persons who have an instructing contractual relationship with FAIRMED.

Sexual harassment can take the form of words, gestures or deeds. It can be perpetrated by individuals or groups. More specifically, this refers among others to:

- Suggestive and/or lewd remarks about the appearance of employees.
- Sexist comments or jokes about the sexual characteristics, sexual behaviour or sexual orientation of women or men.
- Pornographic material being shown, hung up or distributed in the workplace.
- The receipt by employees of unwanted overtures with clear intent.
- Unwanted physical contact.
- Stalking of employees inside or outside of the organisation.
- Advances including promises of favours or the threat of detriment to another person.
- Sexual assault, coercion or rape.

3.2 When is it sexual harassment, and when not?

There is a straightforward rule for assessing whether an observed behaviour constitutes harmless flirtation, an emerging relationship between co-workers or a case of sexual harassment: The deciding factor is not the intention of the person doing the harassing, but how their behaviour affects the person concerned and whether they feel it is wanted or unwanted.

3.3 Why does sexual harassment occur?

The chief motive behind sexual harassment is the exercise of power and domination. Sexual harassment has nothing to do with eroticism or sexual attraction. More so, the sexualised approach is favoured because the victims are especially vulnerable in this area.

4 Prevention

People with managerial responsibilities are familiar with their obligations, rights and duties in accordance with the principles of these regulations. All employees are provided with a copy of these regulations at the time of recruitment. Moreover, new employees must be informed about these regulations by their superior in the course of their introduction.

5 Those affected – what to do?

Employees have the right to express their disquiet and to stand up for their personal integrity. They also have the right to a working environment in which they can feel comfortable. It should therefore be made immediately and absolutely clear to the person that is perpetrating the harassment that their behaviour is not wanted. If necessary, this request can be repeated in the presence of witnesses or in writing.

5.1 Documentation of incidents

For further discussions with supervisors or for any (formal) procedure, it is advisable to document the respective incidents and the ongoing procedure as precisely as possible. Involved person(s), witnesses, the precise course of events, date, time and place can be recorded in the manner of a diary or log.

5.2 Make use of support

Employees affected by sexual or sexist harassment can be assisted and advised by a confidant of their choice (Section 2). A formal procedure can also be initiated (Section 6).

6 Informal and formal procedures

6.1 Informal procedure

At any time, affected persons or third parties can seek advice and/or support, and they can turn to a confidant of their choice. At the request of the person seeking advice, the confidant can pursue a consensual resolution of the conflict with the involved parties. The contact with a confidant must not have any negative consequences for those seeking help.

The confidant:

- listens to the person or third party, and provides advice and support;
- develops an appropriate course of action with the affected person;
- informs the affected person on how to stop the sexual or sexist harassment;
- provides information about the regulations, the legal regulations and all internal possibilities, as well as about the formal procedure;
- with the consent of the affected person, may intervene with the accused person and/or his or her supervisor;
- is bound to confidentiality and does not pass on any information, unless this is required in the case of strongly prevailing interests such as the protection of potential further victims. In such cases, the obligation to give evidence to and/or report to any legal proceedings is reserved;
- does not take any steps without the consent of the affected person.
- If requested, the confidant can represent the affected person in any internal formal procedure at FAIRMED.

6.2 Formal procedure

If no solution can be found on an informal basis, the affected person must make a written or verbal complaint. With this complaint, the affected person gives his or her consent to initiate a formal procedure. A decision-making body will be put together for internal clarification. Both the affected person and the accused person are entitled to a fair process. Penalties will be imposed if the internal harassment concerns a case of sexual harassment. If no internal solution can be found, legal action must be taken. The legal basis for a conciliation body or for judicial proceedings must be clarified by each the country and made available for application (in Switzerland, for example, it is possible to appeal to the conciliation body prior to judicial proceedings).

If no internal solution can be found, the possibility exists to call upon a cantonal conciliation board or to consider legal proceedings.

7 Penalties

Any person who commits sexual or sexist harassment at work is violating his or her obligations as an employee. This offence will be subject to an appropriate penalty. Depending on the severity of the harassment, FAIRMED may impose the following penalties:

- Written apology to the affected person
- Oral and written reprimand
- Written warning and threat of termination
- Leave of absence
- Termination
- Summary dismissal

Employees who continue to harass other employees despite a one-time written warning will be dismissed without notice for good cause (legal bases must be clarified and kept available for application depending on the country; in Switzerland, according to Art. 337 of the Swiss Code of Obligations, dismissal without notice may be granted for important reasons). If FAIRMED is subject to a penalty because its employees have harassed their colleagues, FAIRMED will pursue remedies against the perpetrating individual.

8 False accusations

Employees who, against their better judgement, accuse colleagues of harassment even though they have demonstrably not carried out such harassment, must also expect to be terminated from their employment.

Appendix

Internet & legal sources

- <https://www.ebg.admin.ch/ebg/en/home/topics/work/sexual-harassment-in-the-workplace.html> (also in German, French and Italian available)
- <https://www.seco.admin.ch/seco/de/home/Arbeit/Arbeitsbedingungen/gesundheitschutz-am-arbeitsplatz/Psychosoziale-Risiken-am-Arbeitsplatz/Sexuelle-Belaestigung.html> (only in German, French and Italian available)
- <https://www.ebg.admin.ch/ebg/en/home/documentation/publications-in-general/publications-work.html> (also in German, French and Italian available)
- <https://www.ebg.admin.ch/ebg/en/home/topics/the-law.html>
- https://www.ilo.org/ilc/ILCSessions/108/media-centre/news/WCMS_711321/lang-en/index.htm (siehe Convention 190 und Recommendation 206)