

aware

Reimagining Equality

Prevent
Workplace Harassment
& Bullying

**A Policy Wishlist From
The Community**

July 2021



Contents

| | |
|---|-----------|
| Introduction | 1 |
| The Current Situation | 2 |
| Challenges Faced by Participants & Policy Wishlist | 4 |
| What More Can Be Done? | 10 |
| Conclusion | 11 |

Introduction

In the first half of 2021, AWARE held a series of discussions with 24 workers from multi-national corporations (MNCs), small and medium-sized enterprises (SMEs) and start-ups who had experienced workplace harassment and bullying.¹ These workers were keen to share their ideas on how these issues might be addressed in the government's White Paper on improving gender equality.

Their common concerns included an overall lack of awareness of what constitutes harassment and available recourse options; fear of retaliation from superiors; and the inability of the Tripartite Alliance for Fair and Progressive Employment Practices (TAFEP) and the Tripartite Alliance for Dispute Management (TADM) to enforce company compliance. Workers from SMEs and start-ups highlighted further issues, such as the absence of distinct HR departments and the lack of proper reporting and investigative procedures.

Together with AWARE's Workplace Harassment and Discrimination Advisory (WHDA) and a team from Catalyse, AWARE's corporate training arm, the participants brainstormed a variety of policy recommendations to tackle harassment and bullying in Singapore's workplaces.

¹ Workplace bullying was defined by unreasonable (and in some cases, repeated) behaviour by one or more perpetrators: abusive conduct that is uninvited or unwanted, whether physical, verbal or non-verbal, threatening, humiliating and/or intimidating in nature, including work interference and/or sabotage that prevents work from being performed. Examples included (but not limited to) yelling or shouting, exhibiting anger by pounding the desk or throwing office supplies at colleagues, purposefully excluding someone from decision-making conversations and work-related events, deliberately delaying or blocking someone's work, stealing credit for someone's else work and/or making demeaning jokes.

The Current Situation

A survey on workplace sexual harassment conducted by AWARE and Ipsos in January 2021 found that two in five respondents had been sexually harassed at the workplace in the past five years, with only one-third of harassment victims choosing to report the incidents to an authority.

The same survey also showed that many people did not understand what constituted workplace sexual harassment in the first place. When respondents were asked "Have you been sexually harassed in the workplace within the last five years?", only one in five responded in the affirmative. However, when specific harassment situations were described to them, two in five reported having experienced such behaviours—indicating a major gap in understanding of what constitutes sexual harassment.

Close to a third of the cases handled last year by AWARE's WHDA pertained to workplace bullying. The majority of these clients also felt reluctant to report their incidents to authorities.

The Current Situation

Current Legislation and Guidelines

The Protection from Harassment Act (POHA) criminalises harassment-related behaviour and lists penalties for different offences, some of which may be applicable in a workplace context. However, POHA has limited applicability for workplace harassment cases. It does not provide an employee protection from retaliation in the workplace, nor does it impose any legal responsibilities on employers to prevent harassment or take action against workers who may have committed an offence.

The Tripartite Advisory on Managing Workplace Harassment (TA-MWH) presents a series of general suggestions and recommendations for companies to deal with workplace harassment, from adopting principles and core values to implementing a harassment prevention policy and reporting and response procedures. However, TA-MWH is an advisory and is not legally enforceable.

The Ministry of Manpower (MOM) does not track how many companies have adopted the measures suggested in the various advisories (including those in TA-MWH). As such, the effectiveness of TA-MWH in reducing incidences of workplace harassment (and poor handling of such) is not currently measurable. Without government oversight, there is little incentive for companies to enforce the guidelines.

Challenges Faced by Participants & Policy Wishlist

A. Participants raised the following challenges relating to understanding their legal rights and the lack of legal recourse:

- Lack of awareness of what constitutes workplace bullying, e.g. how it differs from workplace harassment and whether or not perpetrator intent matters
- Lack of clarity surrounding available recourse options, both internal and external (such as TAFEP's recourse centre, TADM and POHA)
- Hesitation to approach external recourse centres and/or take legal action against harassers due to concerns of retaliation, professional/financial consequences and lengthy legal processes. Women felt more vulnerable to such repercussions and were thus more likely to not report their harassment
- Companies not enforcing TA-MWH

Lack of awareness on what constitutes harassment, and barriers to reporting:

After graduating from a polytechnic, Bharathi*, a 23-year-old, was hired by an SME. Her direct supervisor constantly remarked upon Bharathi's attire and (lack of) make-up, which escalated to questions about her marital status and sexual preferences as well as continuous racist remarks.

When she finally realised this constituted harassment, Bharathi decided to leave the company. Since her harasser was also the HR Manager, she did not consider reporting it internally or externally. After she resigned, her supervisor continued to threaten her, telling her she would "never get a better job than this". He also repeatedly tried to sabotage her prospects of getting a new job.

Challenges Faced by Participants & Policy Wishlist

1

Recommendations

Introduce national legislation on workplace harassment, which should include:

- Clearer definition of workplace harassment than what is set out in the TA-MWH. It should:
 - Include an expansive definition of workplace bullying;
 - Provide clear examples and illustrations of different forms of workplace harassment, including less common types of harassment and bullying;
 - Emphasise the gendered nature of workplace harassment;
 - Be accompanied by public education campaigns and programmes that reinforce the definition of workplace harassment to employers, employees and students;
- Legal obligations on employers to prevent and address harassment in their workplaces, including instituting anti-harassment policies and procedures, training staff on the above and properly managing workplace harassment complaints;
- Protection for workers from retaliation when reporting cases of harassment, with recourse to an external authority in the event that the retaliation is by the employer;
- A specified time frame for TAFEP or MOM to respond to workplace harassment complaints.

Challenges Faced by Participants & Policy Wishlist

B. Participants raised the following challenges relating to training on workplace harassment:

- Variable availability of anti-harassment programmes—especially in SMEs—for employers, employees and students (including those taking part in internships or newly entering the workforce, who are less likely to recognise unhealthy behaviours without guidance or support from leadership)
- Inability to accurately identify workplace harassment due to the lack of such training (again, impacting their decisions to speak up or report incidents)

Lack of knowledge on dealing with workplace harassment::

Chloe, a 40-year-old employee at an MNC, felt as if the responsibility in her workplace fell on each individual worker to search and educate herself on her rights. For her, this was an overwhelming and discouraging process.*

Challenges Faced by Participants & Policy Wishlist

2

Recommendations

Introduce mandatory harassment and bullying training for both employers and employees. This training should be designed by relevant stakeholders—such as government, civil society and HR professionals—and be provided by external third-party organisations or the companies themselves.

- HR professionals should be required to attend specialised harassment and bullying training programmes, possibly on an annual basis, to gain a better understanding of behaviours, the impact of harassment on employees and how to conduct investigations professionally and sensitively.
- Anti-harassment training programmes should focus on equipping employees with skills to recognise workplace harassment and bullying, and know what recourse options are available to them.
- Anti-harassment training programmes should also ensure that employees, particularly employees of SMEs, are aware of subsidised and government-funded confidential mental health resources.

Challenges Faced by Participants & Policy Wishlist

C. Participants faced the following challenges relating to TAFEP and other external resources:

- Lack of awareness of TAFEP as a recourse option and the support it is able to provide
- TAFEP not empowered enough to substantially improve victims' situations at work; one participant was told by TAFEP that she should instead seek private legal recourse
- Confidentiality concerns deter victims from approaching TAFEP; one participant working for an MNC described fears of retaliation
- Lack of recourse options and/or helplines where they could seek advice on their cases confidentially without pressure to make an official report. Participants wanted to be informed of the choices available to them and empowered to make their own decisions
- Lack of awareness of mental health resources

Tanvi, a 23-year-old working at a start-up, complained about the lack of resources available to SME employees. For example, her company's health insurance did not cover mental health services and she was uncertain of where to find government-funded counsellors.*

Limitations of TAFEP and lack of mental health resources:

Other SME employees echoed this sentiment, including Thea, a 34-year-old working in consulting. She had to pay for coaching sessions to talk through the shame and anxiety she developed as a result of workplace bullying. Thea also considered turning to TAFEP for assistance, but found that the website did not clearly state the rights and protections to which workers were entitled.*

Challenges Faced by Participants & Policy Wishlist

3

Recommendations

Update and streamline the websites for TAFEP and TADM to clearly state when and how the tripartite agencies can assist workers experiencing harassment and bullying.

4

Recommendations

Establish an external regulatory body to handle harassment investigations and audit HR policies and processes in companies, particularly in SMEs and start-ups:

- This regulatory body should have trauma-informed and legally-trained employees who are government-funded.
- All services provided by this external body should be confidential unless the victim consents to further action, such as investigation.
- An alternative to establishing a new regulatory body would be to expand the powers of TAFEP and TADM, allowing the tripartite agencies to fulfill this role.

5

Recommendations

Increase availability of mental health support for workplace harassment and bullying victims. Alternatively, expand the roles of TAFEP/TADM to provide this.

What more can be done?

1. Legislative protections for workplace harassment should also be extended to job applicants, interns, volunteers and self-employed persons (SEPs).
 - In Australia, New Zealand and the United Kingdom, the protections for workers are also afforded to other individuals associated with an employer, including job applicants and interns. For example, New Zealand's Employment Relations Act 2000 includes protections for workers who have been sexually harassed at the workplace by someone who is not also a member of the same organisation. Employers can be held liable if they have not taken the necessary practicable steps to prevent the harassment from reoccurring.
2. The legislation should also specify the potential liability for employers in cases where an employee has been harassed by a client or customer of their employer during the course of work.
 - For example, New Zealand's Employment Relations Act 2000 includes sections that allow workers to make a complaint to their employer if they have been sexually or racially harassed by a client or customer. The employer who has received such a complaint is required to inquire into the facts and make practicable changes to prevent the harassment from reoccurring. If the employer does not make any practicable changes, then, for the purposes of the Act, the worker is deemed to have a grievance against the employer as if the employer were the one that committed the act of harassment.
3. The government should increase the tracking of workplace harassment data and cases, including but not limited to investigation processes, outcomes and punishments for perpetrators.

Conclusion

On the whole, statutes in commonwealth countries such as Australia, New Zealand and the United Kingdom primarily criminalise various forms of harassment and related behaviours. These countries differ from Singapore in that they specifically outlaw workplace harassment and bullying, in either the statutes listed above or in the country's employment legislation. This provides much more comprehensive protection for workers in these countries.

The government's efforts to aid women's development must include addressing the lack of protections and policies for women experiencing harassment, both in the workplace and beyond. We urge the government to consider the policy recommendations made in this wishlist in the forthcoming White Paper.