

**SECTION C**

DEVELOPING A MODEL  
TO MANAGE SEXUAL  
HARASSMENT IN THE WORKPLACE

## CHAPTER 4

# DESIGNING A HOLISTIC MODEL TO MANAGE SEXUAL HARASSMENT IN THE WORKPLACE

### 4.1 INTRODUCTION

The negative organisational consequences of sexual harassment in the workplace (see chapter 2) make the effective management of this problem imperative. Brewster et al (2000:29) define “managing” as a process of creative problem solving that works in a system and involves procedures, controls and regulations. Accordingly, managing sexual harassment is a twofold process aimed at preventing its occurrence and at controlling any existing manifestation thereof in the interests of both the employees and the company.

To effectively manage sexual harassment requires a policy, the involvement and commitment of top management, the establishment of a complaint procedure, an investigation process, disciplinary sanctions, communication and the regular training of all staff (see chapter 3).

There is a need for a formal model to use in South Africa in the management of sexual harassment. Accordingly, this chapter examines the characteristics and types of models in order to put forward a design to meet South African requirements.

### 4.2 CHARACTERISTICS AND TYPES OF MODELS

Hanneman and McEwan (1975:23) define a model as “a structure of symbols and rules relating to those symbols with a set of points (data or theoretic) in an existing structure or process”, and state further that “it is accepted that all models are speculative by nature, and will take on the form of theories and statements concerning laws and principles”. Marx and Goodson (1976:244) concur, stating that

“a model may be viewed as a conceptual framework, or structure that has been successfully developed in one field and is then applied, primarily as a guide for research and thinking in some other usually less well-developed field”. Robbins (2001:19) maintains that a model may also be defined as “different forms of abstractions of reality at a given time through a simplified representation of a particular real-world phenomenon”. Thus, a model can be viewed as a conceptual framework or structure developed in a particular field.

Ehlers (2002:53) points out that a model can be especially useful if it has been found to possess an acceptable level of predictive validity, since it may then be used to make predictions that will enable researchers to make inferences without having to laboriously observe and test the phenomena in future. The predictive function further enables researchers using a model to predict alternative outcomes of behavioural events with a higher probability than would be the case without a model (Hanneman & McEwan, 1975:424&428).

Models have certain advantages. For example, converting abstract or physical phenomena into a structured theoretical model enables researchers to represent and explain the components and actions in a system. This leads to a closer relationship between theory and practice (Ehlers, 2002:58). A model is only a representation of a real phenomenon, and the actual behaviour in the phenomena may differ from that represented and explained by the model. Models may also lead to generalisation or oversimplification which, in turn, may lead to ineffective decisions or actions directly related to the phenomena (Ehlers, 2002:57). Nevertheless, a model still holds considerable benefits for research in behavioural sciences and for this reason the researcher decided to develop a model to manage sexual harassment in the workplace.

#### **4.2.1 Types of models**

Achinstein (1968:209) identifies three types of models, namely the representational, the theoretical and the imaginary model.

- ***The representational model***

The representational model comprises a three-dimensional physical representation of an object (Achinstein, 1968:209). By examining the model, it is possible to determine various facts about the object that the model represents. The representational model represents a prototype and thereby enables a researcher to gain greater insight into the properties or characteristics of the object being portrayed by the model. Since this type of model portrays the characteristics of a “physical object”, it will not help in the construction of a model for the management of sexual harassment in the workplace.

- ***The theoretical model***

A theoretical model is a set of assumptions about some object or system (Achinstein, 1968:212). It is different from diagrams or pictures. This model describes a system according to the mechanisms that make up the actual system. By examining the properties of the model, it is possible to describe what would happen at a macro-level, should the model be applied there. The theoretical model thus serves as a simplified approximation of various properties at a micro level which it can be said will occur or apply at a macro level. This model is a representation of a system – that exists through the mutual interaction of the parts that make up that particular system. Examples of systems are an atom, molecule, cell, organ, person, community, state, nation, the world, galaxy and universe. Aspects of this model will be used in designing the proposed model to manage sexual harassment in the workplace.

- ***The imaginary model***

The imaginary model describes an object by a set of assumptions (Achinstein 1968:218). Proponents of the model do not commit themselves to the truth. Accordingly, a holistic model to manage sexual harassment in the workplace constitutes an imaginary model.

When designing the model it is important to gain inputs from management, supervisors and employees, which then involves group model building.

### 4.3 GROUP MODEL BUILDING

In group model building, the process of building a model starts from the perceptions of the various participants (Vennix, 1996:3). According to Vennix (1996:3), people's mental models are limited by human information processing capabilities, but it is possible to integrate the individual mental models into a holistic view of a problem through a system dynamics process and, in so doing, arrive at a holistic solution to a problem.

People generally tend to think causally and have difficulty in identifying interconnections between different elements of a problem. Vennix (1996:3) states that a system dynamics process helps create a more adequate problem description by eliciting hidden causal assumptions and integrating them into a more complete problem representation. For this reason the researcher used a system dynamics process to integrate the managers', supervisors' and employees' views into a holistic organisational model.

In group model building team members exchange their perceptions of a problem and explore such questions as (Vennix, 1996:3):

- What exactly is the problem?
- How did the problem originate?
- What are the underlying causes of the problem?
- How can the problem be addressed (solved) effectively?

Group model building is an organisational intervention process which consists of "coming between or among persons, groups or objects for the purpose of helping them" (Vennix, 1996:5). This process requires decision-making, which involves the communication and testing of mental models to develop a shared definition and solution to a problem. According to Vennix (1996:5), group model building is a learning process with the goal of creating a shared social reality that results in a

shared understanding of the problem and potential solutions, and is a means to support strategic decision-making. Applying group model building to sexual harassment in the workplace will create an understanding of the unacceptability of this form of behaviour among employers and employees (shared social reality), foster a common understanding among them of what constitutes sexual harassment and the negative consequences thereof (shared understanding of the problem), and enable them to jointly devise mechanisms to prevent and manage the occurrence of this form of reprehensible behaviour (potential solutions).

#### **4.4 SYSTEM DYNAMICS**

System dynamics is an effective mechanism to promote systems thinking in an organisation. To embark on group model building using system dynamics, it is necessary to understand the various stages in the process.

Vennix (1996:49) distinguishes seven stages in system dynamics:

- problem identification
- system conceptualisation
- model formulation
- testing
- model evaluation
- policy analysis
- model use or implementation

**(1) *Problem identification***

In determining which elements to include in a model, the focus is on the problem. In other words, the problem is the starting point of model building. The process, therefore, commences with the problematic behaviour, which in this study is the occurrence of sexual harassment in the workplace.

**(2) *System conceptualisation***

According to Vennix (1996:51), an important step in conceptualising a system for system dynamics model building is to settle on the system boundary. A boundary will determine what belongs to a system and what is excluded from that specific system. In determining a system boundary, one has to answer the following question: “if the element is omitted, will its omission destroy the purpose of the study or misrepresent the problematic behaviour?” (Vennix 1996:52). If the question is answered in the negative, then the system boundary can be drawn more narrowly. Having defined the boundary, it is possible to visually conceptualise the system. Vennix (1996:52) states that two types of diagrams are used in system conceptualisation, namely, a flow diagram and the causal loop diagram. The flow diagram, as its name suggests, consists of levels with accompanying flows (Vennix 1996:46). For example, the levels in a company could be the stock of raw material. This stock will increase with the inflow of material and decrease with the outflow of finished goods. The causal loop diagram depicts the causal relationship between variables. For example, there is a greater likelihood of the prevalence of sexual harassment in a company if there is an increase in the number of female employees in traditionally male dominated positions within the company.

**(3) *Model formulation***

Model formulation refers to specifying mathematical equations for each relationship in the model. Vennix (1996:69) states that the relationships found in a model relate to two types of flows, namely material and information. Material flows refer to goods that move from one point in the model to another,

and information flows refer to information from some point in the system that is used to produce a decision elsewhere in the model (Vennix, 1996:78). In the case of sexual harassment in the workplace, the actual form of the harassment influences a decision elsewhere in the holistic model of how to deal with that specific type of harassment. Model formulation requires that equations be designed to the identified problem. Therefore, in determining the type of action to be taken once sexual harassment has occurred, the following equation could be used:

$$\text{Severity of the disciplinary action} = \text{Frequency of the harassing behaviour} \times \text{Severity of the harassing behaviour}$$

The more frequent or the more severe the sexual harassment, the harsher the disciplinary action instituted by the company.

#### (4) **Testing**

An important step in system dynamics is the testing of the model. The focus of testing a model is to gain increased understanding of the model behaviour, and gaining greater insight into the system under study (Vennix, 1996:86). Vennix (1996:87) states that prior to actually testing a model, one should predict the outcome of the test because conducting a test without previously estimating what will happen will be useless since in retrospect the outcome is quite logical leading to the view that one “knew all along that this behaviour would result”.

Part of the testing process is a sensitivity analysis which determines how sensitive the model behaviour is to changes in parameter values (Vennix, 1996:88). In the case of developing a holistic model to manage the occurrence of sexual harassment in the workplace, the sensitivity analysis would involve a process of varying the severity of the harassing behaviour in order to establish whether or not the holistic management model is capable of adapting and dealing with such changes.

**(5) *Model evaluation***

An important question in the process of model building is that of the adequacy of the model. Vennix (1996:89) points out that validation takes place on two levels, namely at the macro level, which concerns epistemological questions, and at the micro level, where the focus is on the actual test of model validity. The ultimate test or evaluation of a model is whether it is capable of replicating the behaviour to which it refers. For example, the validity of a holistic model to manage sexual harassment in the workplace is determined by whether it succeeds in preventing sexual harassment, and is capable of managing sexual harassment once it has occurred.

Vennix (1996:89) states that there is no absolutely valid model; in other words, which perfectly represents a system under study. Therefore the researcher used a requisite decision model as the basis for developing a holistic model to manage sexual harassment in the workplace. A requisite decision model is one whose form and content are sufficient to solve a problem. Thus, it is built for the specific purpose of solving a particular problem (Vennix, 1996:89). The validity of the holistic model then, will be determined by whether its policies and procedures ultimately manage sexual harassment in the workplace.

**(6) *Policy analysis***

System dynamics is important to test a variety of policies aimed at ultimately improving the performance of the system (Vennix, 1996:94). Policy analysis focuses on the decision points in the model and their effects on certain outcomes. In the model for managing sexual harassment, the various interventions aimed at prevention and management will be analysed to determine whether they achieve the desired outcome of a sexual harassment-free working environment.

**(7) *Model use or implementation***

Once a model has been constructed, the next phase is the implementation of the model's results. Vennix (1996:97) states that if the model that has been built reveals that a particular policy produces significant improvements, and the

policy itself is robust, the next step is to implement the policy. Consequently once the holistic model designed to manage sexual harassment in the workplace has been tested in the environment for which it was designed, it should be possible to introduce it into a wider area of application.

Besides the various stages of system dynamics, there are four hierarchical levels of the process, namely the closed boundary, the feedback loop as the basic system component, levels or accumulations in the system, and the desired state/action (Vennix, 1996:45). Vennix (1996:45-48) describes the four hierarchical levels as follows:

**(a) *The closed boundary***

The underlying premise in system dynamics is that the behaviour of a system is determined by the characteristics of the whole and not of its individual parts. System dynamics starts from the point of view of a closed boundary. This does not mean however, that nothing crosses the closed boundary but rather that what crosses the boundary is not essential in creating the causes and symptoms of the behaviour being examined (Vennix 1996:45). From a sexual harassment perspective, the closed boundary is the particular workplace/organisation being examined. Influences from outside the workplace will not necessarily create the causes or the symptoms of the sexually harassing behaviour in the workplace because sexual harassment is more about the imbalance of power than deviant behaviour.

**(b) *The feedback loop as the basic system component***

The behaviour of the system is determined by interacting feedback loops within the closed boundary. These feedback loops serve as the means for the parties within the closed boundary to change because of their experiences over time. The system, therefore, behaves in a particular manner as a result of the internal feedback loop structure and not because of external factors. These feedback loops may be positive (i.e. reinforce a particular behaviour) or negative (i.e. lead to stabilising the behaviour). From a workplace perspective,

the feedback loops will determine how employers and employees respond to the occurrence of sexually harassing behaviour. If the holistic model for managing the occurrence of sexual harassment in the workplace rewards non-harassing behaviour, employers and employees will reinforce such non-harassing behaviour in the working environment.

**(c) *Levels/accumulations***

In system dynamics, any feedback loop contains at least one level. Levels simply mean the accumulations in the system, which in a workplace would be the number of employees at a given time. The bigger the workforce, the greater the propensity for sexually harassing behaviour than in a small workforce.

**(d) *Goals, observed conditions, discrepancy between goals and observed conditions and desired action***

Any feedback loop will contain at least one level. If a negative feedback loop is observed, a discrepancy will be detected in the desired state, and a formal decision must be taken to close the gap between the perceived and the desired state. Once the formal decision has been implemented, the system will once again be reviewed to ascertain whether the desired state has been achieved. If not, the process will be repeated. This process can also be applied as follows to the development of a holistic model to manage the occurrence of sexual harassment in the workplace

- The ultimate aim (desired state) is the existence of a harassment-free work environment.
- Feedback is received that sexual harassment is occurring in the workplace, which constitutes a discrepancy in the desired state of a harassment-free work environment.

- Formal processes are introduced into the workplace in order to eliminate the occurrence of the sexually harassing behaviour and, in so doing, revert to the desired state.
- The workplace environment is reviewed to determine whether the introduction of the formal processes has had the effect of restoring the desired state.

The researcher took group model building, particularly the stages and hierarchical levels in system dynamics, into account in designing a holistic model to manage sexual harassment in the workplace.

#### **4.5 PROPOSED HOLISTIC MODEL TO MANAGE SEXUAL HARASSMENT IN THE WORKPLACE**

Any organisation's workforce does not constitute a homogeneous unit. The workforce is made up of people from different cultures who bring their own belief system and values with them to the working environment. This is true in the South African context. People's belief-systems are shaped by their socio-cultural background and affect the way they interact, and in turn, determine how they respond to certain forms of conduct to which they are exposed. Their socio-cultural background furthermore determines how individuals will react in a power-charged relationship. Accordingly, since sexual harassment is not only a question of conduct, but of a power imbalance that exists between the perpetrator and the victim, individuals from socio-cultural backgrounds will have perceptions of what constitutes sexual harassing behaviour. This, among other things, makes it difficult to manage sexual harassment. The proposed holistic model illustrated in figure 4.1 (page 4-14), is thus intended to enable companies to execute this task effectively. It is proposed that the model be implemented in the organisation through a sexual harassment committee, consisting of a chairman (this will be the head of HR in the company), a legal advisor, the head of the employment assistance programme, union representatives, the head of training and an industrial psychologist.

#### **4.5.1 Company specific audit**

The first step of the model is to carry out a company specific audit. As mentioned earlier, South African organisations have a unique employee composition. Accordingly, an organisation that is sincere in its attempt to manage the occurrence of sexual harassment in the workplace must be sensitive to the socio-cultural background, ethnic and racial origin, and gender of its employees.

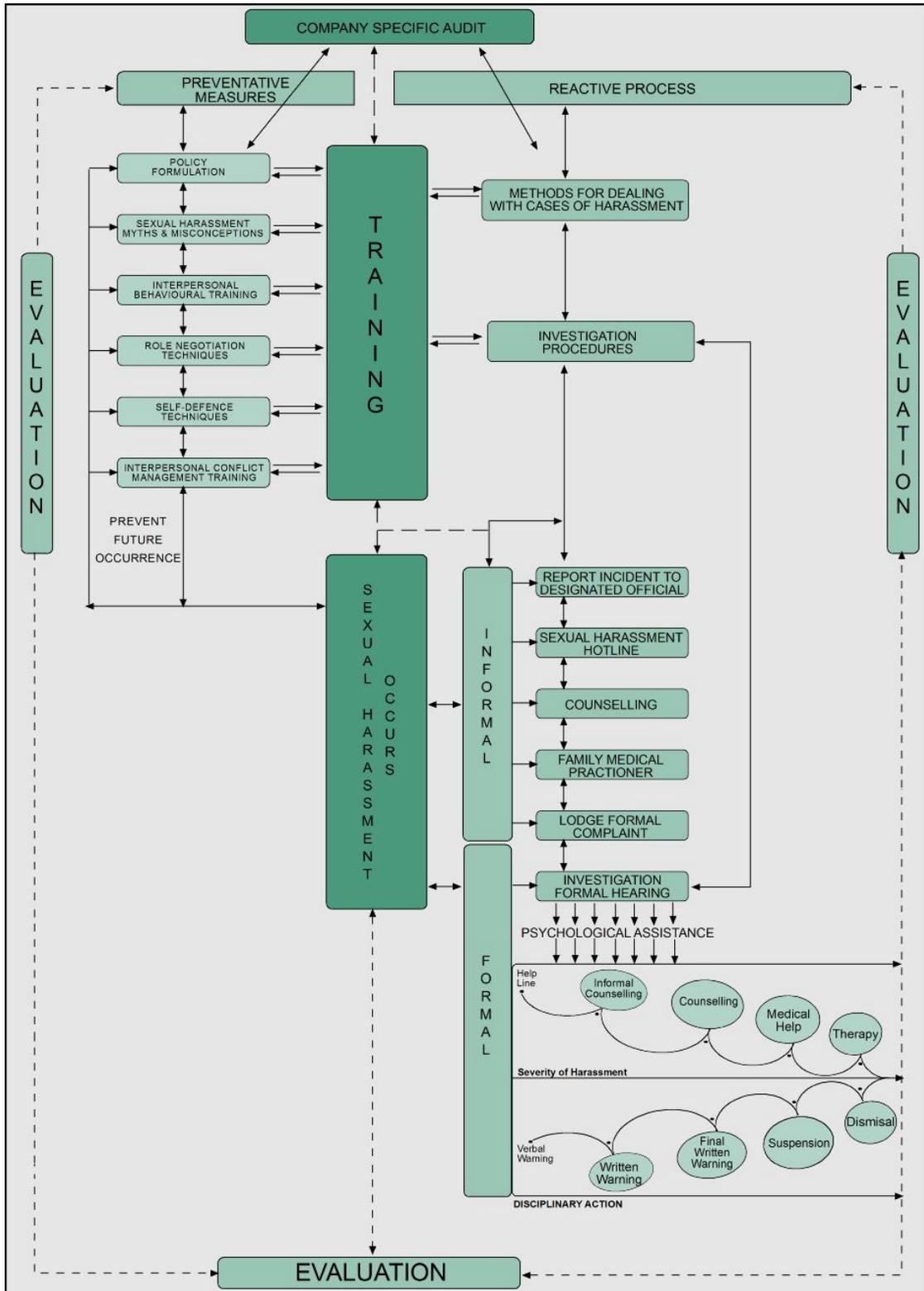
The heterogeneous composition of the South African workforce means that individuals have different perceptions of what constitutes sexual harassment and what interventions are required to prevent and manage such behaviour. The company audit is specifically designed to determine what the individual members of the workforce regard as sexual harassment and how they would react should they become a victim. Failure to conduct such an audit, and developing a policy based on the organisation's views could result in employees, rejecting the policy. In other words, the policy ultimately developed would not be based on the perceptions of those it was intended to help. The correct method is to ensure "buy-in" by all the members of the workforce. Conducting a company-wide audit of perceptions, will determine what people perceive as sexually harassing behaviour. Diagram 4.1 (see pages 4-15 - 4-17), presents an example of a questionnaire for such an audit.

The responses to the survey would indicate what behaviour constitutes sexual harassment for the employees. Consultation assures employees that cognisance has been taken of their views hence they would be receptive and willing to invoke company policies and procedures when an incident of sexual harassment occurred.

#### **4.5.2 Preventative measures**

The second step is to develop preventative measures, that is, interventions aimed at preventing the occurrence of behaviour that constitutes sexual harassment. In this step, the company explores the questions of what the underlying causes of the problem are and how the problem originated.

**FIGURE 4.1 A PROPOSED HOLISTIC MODEL TO MANAGE SEXUAL HARASSMENT IN THE WORKPLACE**



## DIAGRAM 4.1 SEXUAL HARASSMENT QUESTIONNAIRE

### SECTION A: Personal Particulars

Answer each question by ticking (✓) the appropriate shaded box or write down your response in the space provided.

A1 What is your **gender**?

• Female	1
• Male	2

A2 Which **ONE** of the following languages do you **MOSTLY** speak at home?

• Afrikaans	1
• English	2
• Ndebele	3
• Pedi	4
• Sotho	5
• Swati	6

• Tsonga	7
• Tswana	8
• Venda	9
• Xhosa	10
• Zulu	11
• Other	12

Please specify:

A3 What is your **age**?

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A4 What is your **highest** educational qualification?

• Less than Std 10 / Grade 12	1
• Std 10 / Matric / Grade 12	2
• Certificate (1 year)	3
• Diploma (3 years)	4
• B degree	5

• Honours degree	6
• Master's degree	7
• Doctor's degree	8
• Other	9

Please specify

A5 What is your **marital status**?

• Not Married	1
• Married	2
• Divorced	3
• Widowed	4

**SECTION B: Sexual Harassment**

Circle the best response listed after each question.

B 1 Which of the following do you feel constitutes sexual harassment? (Circle all the letters that apply.)

- |                                 |  |
|---------------------------------|--|
| a. Sexually offensive comments  | e. Sexual propositions                             |
| b. Sex-oriented jokes           | f. Rape  |
| c. Staring or leering           | g. Other forms of sexual harassment                |
| d. Touching, grabbing, pinching | h. None of the above constitutes sexual harassment |

B 2 Which of the following have you experienced on your job from co-workers or supervisors? (Circle all letters that apply.)

- |                                 |   |
|---------------------------------|---|
| a. Sexually offensive comments  | e. Sexual propositions                    |
| b. Sex-orientated jokes         | f. Rape                                   |
| c. Staring or leering           | g. Other forms of sexual harassment       |
| d. Touching, grabbing, pinching | h. Have not experienced sexual harassment |

B 3 How many times in the last 12 months have you personally experienced sexual harassment in the organisation where you are presently working?

- |              |                      |
|--------------|----------------------|
| a. None      | d. 5-6 times         |
| b. 1-2 times | e. More than 6 times |
| c. 3-4 times |                      |

B 4 How did you react to a co-worker or supervisor's sexual advances?

- |                       |                                      |
|-----------------------|--------------------------------------|
| a. Ignored it         | d. Reported it to a company official |
| b. Enjoyed it         | e. Have not received sexual advances |
| c. Asked them to stop |                                      |

B 5 If you reported sexual harassment to a supervisor or union representative, what do you think would most likely happen?

- |   |                           |
|---|---------------------------|
| a. Nothing  | d. I would be transferred |
| b. An investigation would be made, but no actual results obtained       | e. I would be fired       |
| c. An investigation would be made, and action would be taken to stop it |                           |

B 6 Have you ever used your sexual attractiveness at work for any of the following?

- |  |                               |
|--|-------------------------------|
| a. To gain a promotion                     | c. To obtain other advantages |
| b. To get into the supervisor's good books | d. Not applicable             |

B 7 How has sexual harassment affected you? (Circle all the letters that apply.)

- |                               |   |
|-------------------------------|---|
| a. Economically               | d. Self-esteem                                |
| b. Work opportunities         | e. Have not experienced any sexual harassment |
| c. Mental and physical health |   |

B 8 Would you hesitate to report sexual harassment for any of the following reasons?

- |  |                                    |
|--|------------------------------------|
| a. Feel it would not do any good                 | c. Would fear the publicity        |
| b. Would be afraid of being punished in some way | d. Would not hesitate to report it |

B 9 Which sex do you feel has a problem with sexual harassment?

- |                                  |                                       |
|----------------------------------|---------------------------------------|
| a. Women only                    | d. Mostly men and very few women      |
| b. Mostly women and very few men | e. Sexual harassment is not a problem |
| c. Women and men about equally   |                                       |

B 10 Which individuals in your organisation are most involved in sexual harassment?

- |   |   |
|---|---|
| a. An immediate supervisor harasses a subordinate           | d. An employee harasses another employee who is neither a subordinate nor a co-worker |
| b. A company representative harasses a prospective employee | e. A subordinate harasses a superior  |
| c. A co-worker harasses another co-worker                   | f. Sexual harassment is not a problem   |

B 11 To what extent do you consider sexual harassment a problem in your organisation?

- |   |   |
|---|---|
| <p>a. Sexual harassment is a frequent, troublesome part of the organisation's working environment. Organisational effectiveness is definitely affected by sexual harassment problems.</p> <p>b. Sexual harassment is an occasional problem, with sexual harassment situations occurring only periodically. Organisational effectiveness is affected only to a minor degree.</p> | <p>c. Sexual harassment is a minor problem, with sexual harassment situations occurring infrequently. Organisational effectiveness is affected hardly at all.</p> <p>d. Sexual harassment is not a problem in this organisation. It does not affect the organisation's effectiveness.</p> |
|---|---|

Please feel free to write down any additional comments you have on sexual harassment. We are particularly interested in learning about any situations in which you have personally experienced sexual harassment. Please do not sign your name. Thank you for your cooperation.

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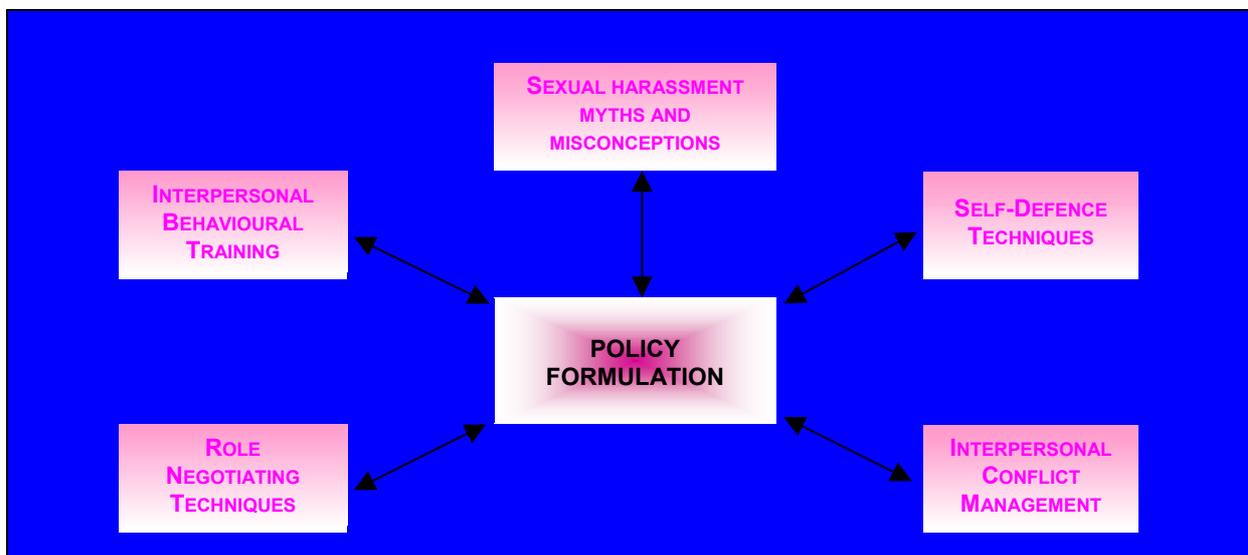


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**Source:** Adapted from Grobler, Wörnich, Carrell, Elbert and Hatfield (2002:58-59)

In this step it is thus important to concentrate on a number of issues namely: sexual harassment myths, role negotiation techniques, interpersonal conflict training, self-defence techniques and interpersonal behaviour training. These elements are combined into one overall preventative process and form the core of the company policy on sexual harassment as depicted in figure 4.2 below.

**FIGURE 4.2 ELEMENTS CONSTITUTING PREVENTATIVE MEASURES IN SEXUAL HARASSMENT**



#### 4.5.2.1 Policy formulation

Unless employees know what forms of behaviour are acceptable, they will not be able to modify their behaviour to conform to the company's acceptable norms of conduct. Thus, the company's policy must indicate what behaviour will be tolerated in the workplace. The policy statement must state clearly that action will be instituted against the offenders. The policy must include specific categories of unacceptable behaviour with examples. Table 4.1 below, illustrates such a behaviour grid and categorisation.

**TABLE 4.1 A SEXUAL HARASSMENT BEHAVIOUR GRID**

FORMS OF SEXUAL HARASSMENT				
B E H A V I O U R	VERBAL	VISUAL	WRITTEN	PHYSICAL
		<ul style="list-style-type: none"> <li>Sexually charged jokes</li> <li>Questions about one's sex life</li> <li>Smutty remarks regarding a person's gender/body</li> <li>Verbal requests for sexual favours</li> </ul>	<ul style="list-style-type: none"> <li>Posters of a sexual nature</li> <li>E-mails of               <ul style="list-style-type: none"> <li>- jokes</li> <li>- posters/pictures of a sexual nature</li> </ul> </li> <li>Hand/body gestures</li> <li>Staring at a person's body/undressing with one's eyes</li> </ul>	<ul style="list-style-type: none"> <li>Letters of a sexual nature</li> <li>E-mails of a sexual nature</li> <li>Written jokes/comments of a sexual nature</li> </ul>

**\*\*\* This grid should be given to all employees in the form of a plastic card to give them easy access to the information.**

In order to give effect to the Employment Equity Act 55 of 1998, the policy should be presented to the Employment Equity Committee established in terms of the Act for ratification. This would send a clear message to all employees of the company's intent and commitment to the policy and the legality of the policy in terms of the Act.

The company policy is aimed at providing maximum protection. To achieve this, a holistic model to manage and prevent sexual harassment in the workplace should

include what Orlov and Roumell (1999:45) term the “top ten list of any harassment policy”, namely a zero tolerance statement, definition of sexual harassment, examples of prohibited conduct, employees’ duty and responsibility, non-retaliation, complaints procedure, corrective action, confidentiality and training. A discussion of these elements follows.

In their book, *What every manager needs to know about sexual harassment*, Orlov and Roumell (1999:45-55) stress that the ten elements discussed below are essential for an effective sexual harassment policy.

- ***Zero tolerance statement***

The policy should commence with a zero tolerance statement to set the tone for what follows. Zero tolerance means that any form of inappropriate sexual conduct will not under any circumstances be tolerated. The statement must convey the message that each and every employee will be treated with respect and dignity, irrespective of status in the company. By upholding respect and dignity in writing and in practice as part of corporate philosophy and policy, the company is signalling clearly that it is not simply paying lip service to the prevention of sexual harassment and employment discrimination in general.

- ***Definition of sexual harassment***

Management has a duty to define this form of prohibitive workplace behaviour, stressing unequivocally the unwanted, uninvited, unsolicited, unencouraged nature of the conduct. Orlov and Roumell (1999:7) point out that in determining what constitutes sexual harassment, the emphasis is on the alleged victim, and not the alleged harasser’s intention. Therefore the fact that the harasser did not intend his/her behaviour to be perceived as sexually offensive has no bearing on the situation. The definition ultimately drafted should cover both “quid pro quo” and “hostile work environment” harassment. The definition should be drafted applying the “reasonable person standard” perspective and cover both objective and subjective factors of sexual harassment. According to

Orlov and Roumell (1999:10), the minimum objective factors include

- the frequency of the conduct
- the severity of the conduct
- whether the conduct is physically threatening or humiliating
- whether there is a job penalty directly linked to the conduct
- whether the conduct interferes with the victim's work performance.

Subjectively, the company needs to deal with the perceptions of whether the conduct is sexually hostile or abusive.

- ***Examples of prohibited conduct***

Sometimes people do not even realise that their behaviour could be construed by others as being offensive (Orlov et al, 1999:28). The inclusion of examples of prohibited conduct in the policy circumvents any possibility of a harasser raising the defence of "I did not know .....". Among other things, the examples set out in the policy should specify that

- suggestive remarks about someone's appearance or body parts will not be tolerated
- sexual graffiti, pictures, posters and other non-verbal behaviour are unacceptable
- physical touching or contact is grounds for disciplinary action.

The latest technological advancements of computers, facsimile and e-mail create what Orlov and Roumell (1999:47) term fertile grounds for sexually offensive behaviour. The examples of prohibitive conduct should, therefore, extend to these mediums stressing that their use is strictly for business and that using them to transmit any communication of a sexual nature can never be justified or tolerated, no matter what the circumstances (see table 4.1 on page 4-18).

- ***Duty and responsibility***

The policy should stress that every employee has a duty

- to report questionable sexual behaviour promptly
- not to engage in sexual harassing behaviour.

The duty therefore means that the alarm must be sounded “regardless of the offender’s position and even when the individual believes that the sexual conduct is harmless or not offensive to anyone” (Orlov et al, 1999:48). Although employees might regard this as encouraging snitching, tackling sexual harassment is a group effort and not merely management’s responsibility. Orlov and Roumell (1999:48) state that a company cannot take accountability for sexual harassment if the overall corporate culture accepts the attitude that “it isn’t my problem”.

- ***Non-retaliation***

Without a non-retaliation clause, a preventative policy is worthless. Employees should be guaranteed that no adverse action will emanate from incidents being reported. The guarantee must assure the employees that they will not face any repercussions for reporting, assisting or participating in investigations relating to sexual harassment issues. Employees would have difficulty in adequately dealing with sexual harassment in the absence of a non-retaliation clause.

- ***Complaints procedure***

The crux of preventative policy is a well-drafted complaints procedure setting out exactly what to do and where to go if employees witness/experience sexual harassment. Orlov and Roumell (1999:50) state that the complaints procedure should be

- hassle free
- cater for easy and direct access to management
- include multiple complaint lodging options (for example, formal as well as informal)
- eliminate obstacles to open communication.

- ***Investigation procedure***

The investigation procedure should clearly and unambiguously advise employees what happens once a complaint is lodged. This procedure should set out the

- details of the person who will conduct the investigation
- time period for investigations
- investigating mechanisms.

- ***Corrective action***

The corrective action component of the prevention policy should emphasise prompt remedial or corrective action in all cases of sexual harassment investigated. The philosophy of “zero tolerance” can only be achieved by

prompt discipline. In order to comply with the substantive requirements of discipline, namely that the punishment should always fit the crime, provision should be made for various disciplinary options, ranging from counselling in cases of “minor sexual harassment offences” to what Orlov and Roumell (1999:54) refer to as “workplace capital punishment of termination” in cases of gross harassment. Corrective action does not end with the disciplining of the harasser, but should offer victim counselling to assist the victim to deal with the effects of the harassment. The inclusion of punitive and counselling components in corrective action demonstrates the company’s concern for its employees and commitment to alleviating the effects of sexual harassment (Orlov & Roumell, 1999:55).

- **Confidentiality**

Most victims feel uncomfortable to talk about their sexual harassment experience (Orlov et al, 1999:55). Although total confidentiality cannot be guaranteed as this might hamper a thorough investigation, the policy must stress that sexual harassment complaints will be kept confidential and only be disclosed to the extent necessary to ensure adequate investigation.

- **Training**

Sexual harassment can only be effectively eradicated by training and this forms the focal point of the proposed model (see figure 4.1 on page 4-14). Participation in training sessions should therefore be compulsory for all employees, irrespective of rank, in order to assist in the prevention and identification of sexual harassment. According to Orlov and Roumell (1999:56)

*Without a training requirement and programme, a company’s sexual harassment prevention programme may be perceived by the workforce as nothing more than a paper tiger, without the muscle needed to make it effective.*

Primary topics for an effective sexual harassment training programme are depicted in diagram 4.2 on page 4-23 (see also chapter 3: figure 3.3 on page 3-29).

**DIAGRAM 4.2 PRIMARY TOPICS FOR AN EFFECTIVE SEXUAL HARASSMENT TRAINING PROGRAMME**

- Outline the legal definition of sexual harassment with specific examples of “quid pro quo” and “hostile environment” conduct.
- Stress the concept of “unwelcome” sexual advances. Discuss the possibility of managers’ being held personally liable for sexual harassment.
- Clarify the organisation’s existing sexual harassment prevention policy, and offer suggestions for improvement. Review all other related organisational policies, such as those on grievance procedures, discipline, and company rules.
- Reinforce the organisation’s commitment to and top management’s support of maintaining a workplace free of sexual harassment. Highlight the meaning of “zero tolerance” and identify inappropriate behaviours that should be banned even if they do not rise to the level of legal sexual harassment.
- Emphasise each individual employee’s personal responsibility for following the organisation’s sexual harassment policy and maintaining a workplace free of sexual harassment.
- Explain retaliation issues, and give examples of how they can occur and how to avoid them.
- Heighten awareness and understanding of what is and what is not appropriate conduct through the use of role-playing exercises that build interpersonal sensitivity and awareness of how others wish to be treated and teach individuals how to monitor their own behaviour. Underscore the importance of treating people in a respectful and professional manner.
- Use additional role-playing exercises to develop skills for identifying, preventing, and stopping sexually harassing behaviours and other inappropriate conduct in the workplace.
- Offer detailed guidance on how to avoid and how to handle being the target of sexual harassment.
- Carefully instruct on the proper procedures for reporting a sexual harassment complaint and a manager’s responsibilities in this regard. Listening skills should be stressed. Ensure that participants are familiar with all the organisation’s resources on this issue and how to access them for addressing questions and concerns and for reporting a complaint to the appropriate management officials.
- Clarify all sexual harassment complaint investigation procedures and the role of managers in investigating a complaint.
- Address corporate culture issues and how to change historical behaviours that may be inappropriate.
- Offer guidance for managers on how to address the issue of sexual harassment avoidance with subordinates through proper and effective communication skills.

- Improve techniques for implementing appropriate corrective action and how to treat all parties involved with respect and professionalism. Educate on the perils of managers' taking matters into their own hands.

**Source:** Orlov and Roumell (1999:197-198)

In drafting the policy, there are a number of common mistakes to avoid. Orlov and Roumell (1999:56) point out that the company should never

- issue one-paragraph policies which lack the minimum requirements
- fail to update policies that were developed years ago
- bury the policy in an employee handbook
- use a policy that is not tailored to the needs or structure of the company
- limit or restrict the distribution of the policy to only certain offices or groups of employees
- limit application of the policy to only the rank and file
- fail to issue a policy because the company is small
- tolerate behaviours that contradict the policy
- fail to give examples of sexual harassment in the policy
- fail to “walk the talk” by ignoring managers’ conduct or by not following through with complaints investigation and corrective action procedures
- ignore rude, obnoxious or abrasive behaviour that shows lack of respect for others even though it may not rise to the level of sexual harassment
- apply different standards for different employees, no matter who they are or how high they have climbed up the corporate ladder.

When drafting the policy, management should refer to a checklist of the essential points to be covered. The checklist should be referred to both before and after developing the policy to ensure that no pertinent points have inadvertently been omitted. In diagram 4.3 (on page 4.26), an example of a checklist for use in drafting a sexual harassment prevention policy is provided.

**DIAGRAM 4.3 CHECKLIST FOR DRAFTING A POLICY ON SEXUAL HARASSMENT**

*The following is a checklist of the essential points to be considered when drafting a policy on sexual harassment. Refer to this checklist both before and after developing a sexual harassment prevention policy to ensure that all the points have been covered.*

- Use plain and “user-friendly” language.
- State zero tolerance of any inappropriate sexual conduct.
- Prohibit all forms of discrimination.
- Prohibit all inappropriate sexual conduct.
- Provide examples of prohibited conduct.
- Explain the legal basis for sexual harassment.
- Give a clear definition of sexual harassment with EE (Employment Equity) guidelines.
- Define *unwelcome*.
- Stress employees’ duties and responsibilities.
- Encourage complaints.
- Guarantee non-retaliation.
- Explain complaint procedure.
- Describe investigation procedure.
- Emphasise corrective action.
- Explain confidentiality unless it would hamper investigation.
- State training requirements.
- Distribute to all employees.
- Arrange for senior executive to issue policy.
- Include employee acknowledgement form.

**Source:** Orlov and Roumell (1999:199)

#### **4.5.2.2 Sexual harassment myths and misconceptions**

The second element to deal with in the preventative measures (see figure 4.1, page 4-14) is sexual harassment myths and misconceptions about what behaviour constitutes sexual harassment. One of the reasons for this is what Vennix (1996) refers to as an individual's mental model. Based on their perceptions, individuals see what they expect to see (Vennix, 1996:14). Therefore, if people do not believe that certain behaviour is sexually harassing, they will not see it as sexual harassment at work. People's mental models are formed and shaped by their cultural upbringing, which determines how people interact with each other. This interaction will determine how men act towards women. Often sexual harassment is defended on the basis that the victims invited it, or brought it on themselves by their dress. Such misconceptions need to be dispelled in order to prevent people sexually harassing others simply because of their friendliness, dress or behaviour.

These myths and misconceptions should be dispelled by means of group discussions. The groups should be made up of men and women from different backgrounds so that diverse perceptions can be expressed and discussed. By exploring myths and misconceptions such as that a woman's friendliness constitutes sexiness and flirting therefore she was inviting sex; only physical conduct of a sexual nature constitutes sexual harassment; and for behaviour to constitute sexual harassment, the harasser must have intended the conduct to be harassing, employees are sensitised to the complexity of sexual harassment. Once employees are made aware of the myths and misconceptions surrounding sexual harassment through group sessions, they can no longer claim ignorance of what constitutes sexual harassment behaviour. This is a serious problem and reality in the South African working environment with its many cultures and languages and because people were not exposed to other cultures.

This preventative measure equips all the employees with a frame of reference to judge acceptable conduct and avoid sexual harassment. Through the process of group discussion therefore the company enables employees to modify their behaviour and prevent sexual harassment in the workplace.

#### **4.5.2.3 Interpersonal behaviour training**

The next step is interpersonal behaviour training which is vital in a heterogeneous workforce. As mentioned, employees from different racial, economic and socio-cultural backgrounds are brought together in a unit called the workforce. These employees bring with them their own values and belief systems which determine their expectations of other workers, the company and the job. People's expectations are expressed by their verbal and non-verbal conduct at work. The aim is therefore to equip employees to interpret others' expectations and not confuse them with their own.

This process of behavioural training is further complicated by the notion of sex-role spillover. People are conditioned in their cultural, ethnic, or racial groupings to perform certain roles based primarily on their gender. When they enter a workforce, a spillover of these roles occurs, and members of the workforce incorrectly expect other members to perform similar social roles at work. This sometimes leads to people confusing their own and others' sex-roles and work-roles. The primary focus of interpersonal training is, therefore, to prevent sex-role/work-role confusion. Once this is achieved, employees are able to interact acceptably.

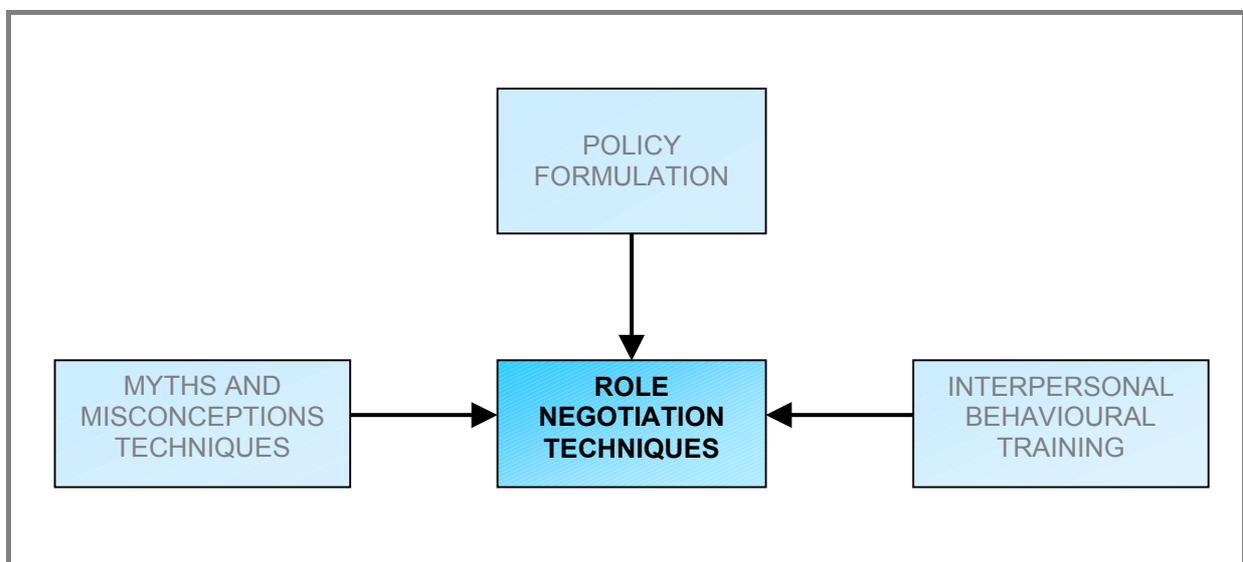
A further element of interpersonal behavioural training is interpersonal skills training. General management principles require employees to modify and adapt their behavioural patterns to meet the needs of their audience, that is, those who they work with and for and under them. Managers should be trained to identify various behaviour patterns and personalities in their subordinates, such as amiable, driven, analytical and expressive. When interacting with their subordinates, managers should modify their own behaviour to take cognisance of their subordinates' particular

behaviour style. This would ensure that the manager communicated effectively and achieved optimal commitment from the subordinate. Applying these general management behaviour skill techniques to the concept of sexual harassment, individuals would equip and enable acceptable interaction and prevent sexual harassment (also see chapter 3; paragraph 3.3.3.4, pages 3-24 - 3-28).

#### 4.5.2.4 Role negotiation techniques

The next step in preventative management is role negotiation techniques (RNT) and is similar to interpersonal behavioural training as it focuses on equipping individuals with techniques to modify their behaviour. Notwithstanding the group discussions on interpersonal behaviour training, employees could still display gender-based behaviour which could be offensive to the recipient. Accordingly, integrating the principles of role negotiation techniques by Licata and Popovich (1987:35) (see chapter 3; paragraph 3.3.3.4, pages 3-24 - 3-28), into the preventative phase of the model will prevent the occurrence of sexual harassment. Instead of allowing potentially harassing behaviour to go unchecked and result in sexual harassment, the company trains individuals in role negotiation techniques, which can be regarded as drawing together the earlier preventative work. Figure 4.3 below illustrates the interrelationship between the policy and the preventative measures.

**FIGURE 4.3 THE INTERRELATIONSHIP BETWEEN POLICY FORMULATION, MYTHS AND MISCONCEPTIONS, INTERPERSONAL BEHAVIOUR TRAINING AND ROLE NEGOTIATION TECHNIQUES**



The focus of role negotiation techniques is on the individual members of the workforce for the purpose of advising others what type of conduct they wish to be exposed to while at work. A type of social contract is concluded by the employees which sets out acceptable norms of conduct. The social contract is the culmination of a process in which the employees examine each other's work-role expectations, and deals with their frustrations arising out of role conflict and ambiguity. At the conclusion of the process, each employee clarifies his/her role expectations and specifies the form of conduct he/she expects from others in order to meet the role expectation expressed. The role negotiation techniques emphasise specific behaviour that is expected, and in so doing, the employees answer the question of how the problem can be effectively tackled. Being aware of specific, objective and quantified behaviour required of them, employees are able to tackle the problem of sexual harassment by modifying their observable behaviour to prevent any behaviour that could be interpreted or perceived as sexual harassment.

#### **4.5.2.5 Self-defence techniques**

The next issue in the model is self-defence techniques. Despite the previous training, there is still a possibility that an employee's behaviour may still be found to be offensive. Even trivial and unintended behaviour if left unchecked, can permeate the workplace and ultimately become harassing. One method to overcome this problem is to train employees in self-defence techniques.

Self-defence techniques equip individual employees to draw fellow employees' attention to the fact that their conduct is bordering on sexual harassment and if unchecked, could develop into sexual harassment. Employees are trained to ask the potential harasser to stop a particular form of behaviour as it is becoming unacceptable. Should this not have the desired effect, employees can use more assertive techniques such as telling the person to stop or even threatening that person with a formal complaint. The employees are thus taught how to "tell the other

person to **STOP**" and explain why the behaviour is unacceptable. Potential harassers are made aware of their unacceptable behaviour and are able to modify it before it is regarded as sexual harassment in terms of the company policy (see also chapter 3; paragraph 3.3.3.1, pages 3-11 - 3-19).

#### **4.5.2.6 Interpersonal conflict management training**

The last step is interpersonal conflict management training. Victims of sexual harassment are confronted with a conflict situation when the type of behaviour that they expect to be exposed to at the workplace differs from the harasser's actual behaviour. According to Blalock (1998:9), many formal sexual harassment complaints begin with simple conflict situations. By including interpersonal conflict management training in the preventative phase of the model, the company will systematically breakdown the layers of bad habits that give rise to conflict. A motivated employee, who becomes a victim of sexual harassment, experiences a level of frustration at not being able to achieve his/her personal work goals as a direct result of the harasser's behaviour which blocks the employee's motivated drive. Luthans (1981:367) found that the frustration being experienced by the victim of sexual harassment will normally trigger defensive mechanisms of aggression, withdrawal, flight or compromise. The conflict situation leads to frustration that ultimately manifests itself as stress (see chapter 2; figure 2.3 on page 2-30). The primary aim of interpersonal conflict management training is to equip victims with the skills to deal with harassers' actual behaviour in order to limit the possibility of such behaviour becoming sexual harassment.

In the case of sexual harassment, the situation is made up of two individuals who hold polarised views on what behaviour is acceptable in the workplace. One method of dealing with the conflict is the self-disclosure and feedback approach known as the Johari window (Luthans,1981:377-378). The Johari window consists of a two-person interaction which states that there are certain things that a person knows about himself/herself and certain things that are not known to himself/herself and that the same principle applies to the other person. The victim of behaviour that could border on sexual harassing behaviour will prevent the situation developing into sexual harassment by decreasing the "hidden self" and increasing the "open self" through the

process of self-disclosure, whereby the unacceptability of the behaviour is made known to the “potential harasser”. The “potential harasser” by receiving this feedback is able to modify his/her behaviour before that behaviour actually becomes sexually harassing. Sexual harassment is, therefore, prevented. Companies should therefore train employees not only in self-disclosure and feedback techniques, but also in the interpersonal conflict reduction strategies of lose-lose, win-lose and win-win (Luthans, 1981:378) as follows:

- ***Lose-lose approach***

In the lose-lose approach, both the victim and the potential harasser lose. The victim may lose in that he/she reaches a compromise on the behaviour he/she is being subjected to and in so doing the unacceptable behaviour does not stop but at the same time does not become overt sexual harassment. The potential harasser in this situation may be threatened with disciplinary action and therefore modifies his/her behaviour slightly but does not completely cease with the type of behaviour. The harasser loses because of a threat of some punitive action and does not fully appreciate the need for change.

- ***Win-lose approach***

The win-lose approach, while preventing the potential harassing behaviour becoming actual sexual harassment, is only a short-term solution. This approach is dysfunctional as it ignores a co-operative and mutually agreed-upon solution. The harasser only changes his/her potentially harassing behaviour for fear of retribution, which will hang over his/her head like the sword of Damocles, making that person bitter and often vindictive (Luthans, 1981:379).

- ***Win-win approach***

The win-win approach is the most desirable approach to prevent potentially harassing behaviour actually becoming sexual harassment. The “victim” and “potential harasser” harness their energies and creativity to defuse the situation. The parties discuss the problem in a structured/controlled forum, and develop an understanding of what is expected/accepted by both parties. This process culminates in a social pact being concluded which regulates behaviour

for the benefit of both parties thereby preventing behaviour at work becoming sexual harassment.

Adopting the preventative measures discussed above enables employers to demonstrate that the organisation exercises reasonable care in avoiding sexual harassment occurring in the workplace. Despite guidelines for its prevention, however, sexual harassment does occur in the workplace and the way it is handled by the organisation will send a clear message to the employees in the company.

#### **4.5.3 Reactive process**

The reactive process of the proposed model has as its primary focus the expedient handling of sexual harassment once it has occurred in the workplace. The model advocates various constituent elements which, in combination, make up the reactive process, including methods for dealing with cases of harassment and investigating procedures.

##### ***4.5.3.1 Methods for dealing with cases of sexual harassment***

There are various formal and informal methods for dealing with sexual harassment. Notwithstanding the need to determine what the employees deem as the appropriate method of dealing with sexual harassment, the company has a moral and ethical obligation to create a “safe haven” free of sexual harassment. This moral and ethical obligation is further strengthened by the requirements of the Employment Equity Act, 55 of 1998, which states that harassment of an employee is a form of unfair discrimination and is prohibited. The Act states further that discrimination, as envisaged under harassment, includes discrimination based on sex. The Act addresses harassment based on sex, thereby implicitly prohibiting sexual harassment. The company thus has a legal obligation to act should it become aware that sexual harassment has occurred in the workplace.

To assist employees in this regard, a form indicating various methods could be used as a guideline during a training session to inform employees of the company's procedures for dealing with cases of sexual harassment. This is the first step in the reactive process of the model (see figure 4.1 on page 4-14). Table 4.2 (page 4-34) illustrates methods for dealing with sexual harassment.

Even if the victim does not wish to complain, the company has a moral, ethical and legal obligation to eradicate this type of behaviour, and accordingly, action will take the form of a company-initiated disciplinary action against the harasser.

**TABLE 4.2 METHODS FOR DEALING WITH SEXUAL HARASSMENT**

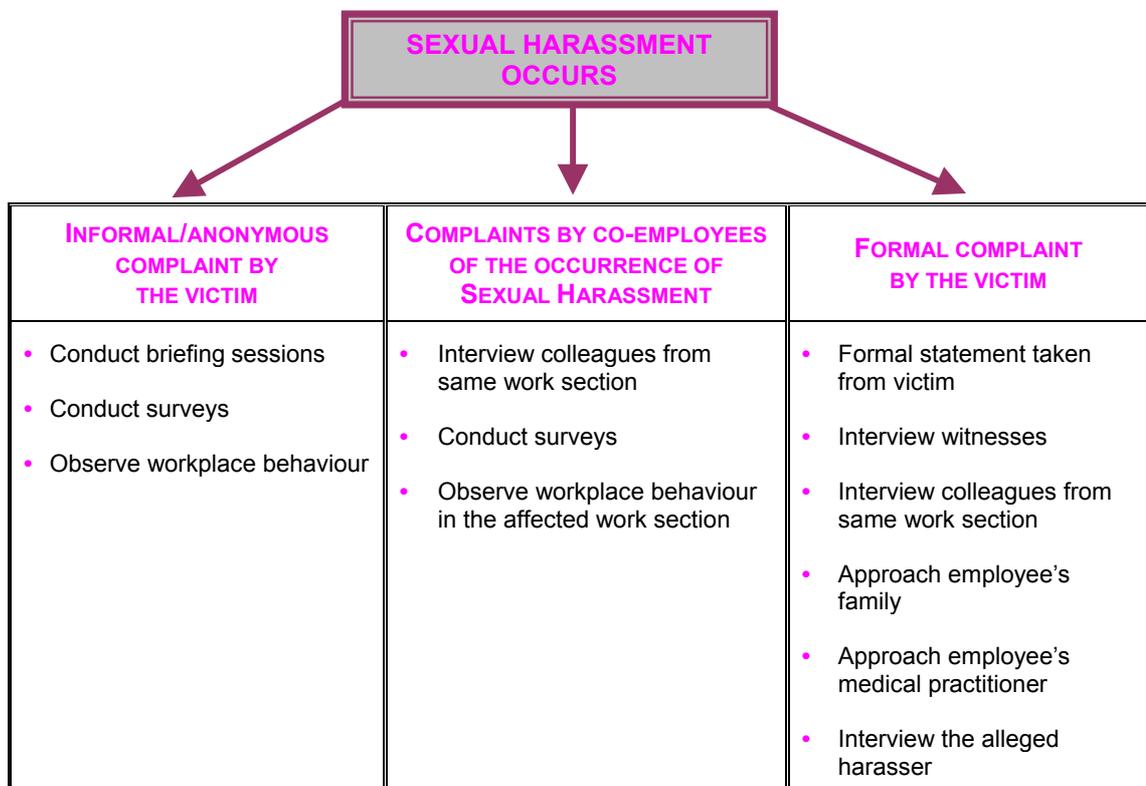
METHOD	TYPES OF SEXUAL HARASSING BEHAVIOUR					
	VISUAL	VERBAL	WRITTEN	TOUCHING	THREATS	FORCED BEHAVIOUR
Anonymous (verbal/written) Reporting (Informal)	X	X	X			
Telephone hotline (Informal)	X	X	X			
Personal reporting to the Human Resource Department (Formal)	X	X	X	X		
Intervention by the Human Resource Department separately with victim and harasser	X	X	X	X		
Formal grievance being lodged	X	X	X	X	X	
Company-initiated disciplinary action					X	X

#### **4.5.3.2 Investigation procedures**

An investigating procedure is a vital component of the process of dealing with sexual harassment. It is important that the employees be informed how this process will work; for example, that it will be quick, confidential and unbiased as well as that there will be no retaliation towards the complainant.

The investigation process is one of the most crucial elements of the reactive process for if handled incorrectly, victims might refrain from drawing the company's attention to such workplace behaviour. Consequently sexual harassment would go unchecked and the company would be in breach of Section 6 of the Employment Equity Act, 55 of 1998. In accordance with the Employment Equity Act, 55 of 1998, an organisation has a legal obligation to deal with sexual harassment. The process set out in table 4.3 below, provides a framework for conducting an investigation into complaints of sexual harassment.

**TABLE 4.3 SEXUAL HARASSMENT INVESTIGATION PROCESS**



As can be seen in table 4.3 above, the investigation process involves informal or anonymous victim complaints, co-worker complaints, and formal victim complaints.

**(1) *Informal/anonymous complaint by the victim***

The inclusion of the informal complaint mechanism in the proposed model is necessary to enable employees to draw management's attention to the presence of sexual harassment. Blalock (1998:9) maintains that any process aimed at managing sexual harassment should include an informal complaint mechanism since only a small fraction of employees ever do anything about

the harassing behaviour. By introducing the informal mechanism, more employees will react to sexual harassment.

When an informal/anonymous complaint is lodged, the organisation must establish whether there is any substance to the complaint. This could take place by means of employee briefing sessions during which management could make statements about the sexual harassment and ask employees to comment on them. For example, management could state that although no formal complaint about sexual harassment had been received, they were of the opinion that some employees had displayed behaviour which could be tantamount to sexual harassment. The responses to this statement could be recorded and then analysed. Should there be any indication that something was wrong, the next step would be to distribute a questionnaire to the employees. The questionnaire should include questions such as

- ▶ Are employees telling smutty jokes?
- ▶ Are crude/demeaning posters being distributed?
- ▶ Do you find that fellow employees ask you, either directly or indirectly, questions of a sexual nature?

The actual questions would depend on the nature of the complaint received. Since responses to the questionnaire would be anonymous, employees would be less reluctant to complete it as their views could not be traced.

The final step after the briefing session and the survey is for designated management representatives to physically observe the behaviour on the floor. By means of "management by walk about" these representatives will be able to observe the general conduct and thereby get a feel for the workplace behaviour. This observation will either support the information forthcoming from the briefing session and survey or not. Based on all the information gathered, management will be in a position to determine whether sexual harassment did (and does) occur in the organisation and the actual type of sexual harassment. Management will therefore be in a better position to determine the appropriate course of action to be taken. Since the complaint was informal/anonymous, the focus is not on retribution or even punishment.

Management should therefore reinforce the view that sexual harassment is prohibited at work by means of articles on notice-boards, group training and reaffirming the company's anti-sexual harassment policy. A list of do's and don'ts for taking a sexual harassment complaint is given in table 4.4 (page 4-37). The list applies to formal and informal complaints and the procedure is the same.

**TABLE 4.4 DO'S AND DON'Ts WHEN TAKING A SEXUAL HARASSMENT COMPLAINT**

**DO'S**

- √ DO treat all sexual harassment complaints seriously.
- √ DO assume that the complainant believes he or she is telling the truth.
- √ DO show respect and sensitivity to the complainant even if you personally believe there is no merit to the claims.
- √ DO listen carefully.
- √ DO take accurate notes and document the full conversation, including statements that you made to the complainant.
- √ DO allow the complainant to tell the full story.
- √ DO ask follow-up and probing questions to get as many facts as possible.
- √ DO give assurances of confidentiality on a need-to-know basis, no retaliation, and a commitment to keep the complainant advised of the progress of any investigation.
- √ DO ask the complainant if there is anything he or she believes should be done on an interim basis (e.g. job transfer, shift schedule changes) and that you will convey his/her request to senior management.

**DON'Ts**

- x DON'T fail to recognise a complaint of sexual harassment.
- x DON'T promise absolute confidentiality.
- x DON'T agree with the complainant that sexual harassment has occurred or disclose your own personal opinions, impressions, or feelings.
- x DON'T ever ask questions about the employee's sex life, sexual history, or sexual proclivities.
- x DON'T suggest that the complainant is being overly sensitive or taking the matter too seriously.
- x DON'T make excuses for or defend the alleged perpetrator.
- x DON'T delay reporting the complaint to senior management or the investigation team.
- x DON'T retaliate or give the impression of retaliation.
- x DON'T criticise, debate, or argue with the complainant.

- x DON'T suggest that the complainant should address the problem on his/her own.
- x DON'T take any action on your own in terms of an investigation or remedial action unless you are given direct orders to do so.

**Source:** Orlov and Roumell (1999:116-117)

- ***Co-worker complaints***

Co-workers who observe sexual harassment might complain on the basis that should the harassment go unchecked, it would have the effect of polluting the workplace. The employer has an obligation in such instances to prevent employees from being exposed to a sexually charged working environment. Bearing in mind that the victim had not complained, the company must be on its guard against malicious rumours from the victim's co-workers. It is important therefore that the company establish that sexual harassment did occur before acting on a co-worker's complaint.

The employer could commence by interviewing the workers from the same work section. The analysis of the individual reports could indicate whether or not sexual harassment did (and does) occur. To circumvent the possibility of a conspiracy by disgruntled employees against another employee for whatever reason, the employer should also conduct a survey (similar to the previous one) in the work area concerned. Depending on the results obtained, the employer should observe the behaviour in the workplace to confirm or refute the allegations.

If the conduct complained of is found to be sexually harassing, the parties to such conduct are guilty of indirect sexual harassment. The victim of the behaviour complained of by the co-workers might not regard the conduct as sexual harassment. However, others regard the effects of the behaviour as unacceptable as it intrudes upon their right to work in a workplace free of any sexual overtones. Although the complaint by co-workers is not a formal complaint, the appropriate course of action would be for management to counsel the two parties, namely the alleged harasser and the alleged victim on the unacceptability of their behaviour.

- ***Formal complaint***

When a formal complaint is lodged, the onus is on the company to investigate whether sexual harassment did occur, and to determine the appropriate action to be taken. The first step is to obtain a statement from the victim, indicating when, where and how the harassment occurred.

In order to corroborate the victim's version, statements need to be taken from other witnesses as well. To prevent the possibility of fabricated accusations of sexual harassment and the collaboration of friends in support of the claim, the company must also interview co-employees from the same work area. Although co-employees might not be aware of actual incidents of harassment, they should nevertheless be able to provide an unbiased version of both the victim's and harasser's general work conduct and attitude towards each other.

Victims of sexual harassment often suffer from stigmatic and psychological negative effects. By approaching the victim's family and medical practitioner the employer should be able to determine whether there has been any change in the victim's physical and/or psychological behaviour that would support the victim's complaint of sexual harassment. The alleged harasser should also be interviewed.

An analysis of the information gathered during the investigation should indicate what psychological assistance to give to the victim. According to Solomon (1998:57), after a sexual harassment complaint has been settled, the workplace still does not return to normality. The inclusion of procedures to assist victims in the model, anticipates the long-term after-effects of sexual harassment and establishes practices up front that recognise the psychological effects of sexual harassment. Finally, the information gathered during the investigation enables management to determine the appropriate disciplinary sanction that should be imposed.

Depending on the circumstances; one or more of the following types of discipline may be appropriate to punish a sexual harasser:

- demotion
- denial of prospective promotion
- denial of prospective pay increases
- job transfer
- shift reassignment
- pay reduction
- instructions not to be alone with or talk to the victim
- mandatory sensitivity training or counselling
- a formal apology to the victim.

Table 4.5 below represents a continuum of penalties according to the type of sexual harassment.

**TABLE 4.5 CONTINUUM OF DISCIPLINARY PENALTIES**

VERBAL WARNING	1 <sup>ST</sup> WRITTEN WARNING	2 <sup>ND</sup> WRITTEN WARNING	FINAL WRITTEN WARNING	SUSPENSION	DISMISSAL
<ul style="list-style-type: none"> <li>• Smutty jokes</li> <li>• Posters</li> </ul>	<ul style="list-style-type: none"> <li>• Sexual comments directed at the victim</li> </ul>	<ul style="list-style-type: none"> <li>• Letters/pressure for sexual favours</li> </ul>	<ul style="list-style-type: none"> <li>• Touching</li> <li>• Pinching</li> </ul>	<ul style="list-style-type: none"> <li>• Groping</li> <li>• Forced kissing</li> </ul>	<ul style="list-style-type: none"> <li>• Forcing oneself on the victim</li> <li>• Rape</li> </ul>

The pre-investigation phase is important in investigating a formal complaint. Here the investigator must make sure that he/she understands the overall mission and that it can be accomplished with professionalism, expediency and

fairness. The following checklist will be of assistance in this regard (Orlov et al, 1999:133):

- ◆ Know when to investigate. Is it sexual harassment?
- ◆ Investigate regardless of the complainant's cooperation.
- ◆ Begin the investigation immediately (within twenty-four hours).
- ◆ Focus on objectivity and impartiality. Give no opinions or approval.
- ◆ Ensure confidentiality on a "need-to-know" basis.
- ◆ Recognise the objective: a reasonable, good-faith effort to decide.
- ◆ Get organised with labelled folders, checklists, and outlines.
- ◆ Write down everything said or done and retain in a file.
- ◆ Remember that you may be called as a company witness someday.

Orlov and Roumell (1999:140) state that other important aspects an investigator needs to know include

- ◆ the identity of the alleged harasser
- ◆ how the incident occurred (e.g. what the individuals were doing or talking about when the alleged sexual harassment took place)
- ◆ precisely what was said and done by each individual, (as if describing a scene in a movie)

- ◆ whether the incident was isolated or part of a pattern or practice of conduct
- ◆ how the complainant reacted to the accused and how the accused reacted to the complainant (both at the time of the incident and afterwards)
- ◆ The effect of the incident on the complainant (both at the time of the incident and afterwards)
- ◆ all witnesses to the incident
- ◆ whether the complainant or the accused had spoken to anyone else about the incident, even non-co-workers, and the details of those conversations
- ◆ whether there was any documentation or physical evidence of the incident, such as calendars, diaries, notes, photos, or recordings
- ◆ whether any witness was aware of other individuals who had been subjected to unwanted sexual conduct in the workplace.

From the discussion it is clear that the most important witness in any sexual harassment case is the complainant. The complainant's interview can set the tone for the entire investigation and lead to additional witnesses and evidence. If it is not handled properly, the whole process will suffer (see appendixes B & C) for guidelines on interviewing the victim and the accused). Once the interviews have been completed, the investigator has to work through the evidence and compile his/her final report. Investigators sometimes face the problem of who to believe. The following factors may help the investigator to determine the credibility or lack of trustworthiness of a witness (Orlov et al, 1999:148-149):

- ◆ the witness's demeanor during the interview (e.g. blushing, nervous gestures, irregular speech patterns, fidgeting)
- ◆ failure to make eye contact during the interview
- ◆ blanket denials and/or short, clipped denials
- ◆ motives to lie (e.g. the alleged victim is trying to get revenge on the harasser; the victim is using a claim to effect a change in employment denied earlier by the company; an alleged harasser on probation who recognises that admission of behaviour would result in termination)
- ◆ changing story when confronted with conflicting evidence from other sources
- ◆ catching the individual in a lie or a proved history of lying
- ◆ stating facts that the investigator knows cannot be true
- ◆ the accuracy of the witness's account measured against other facts
- ◆ inconsistencies in the witness's own story, particularly after a second interview when rebuttals or new information had been presented.

Besides this problem, the investigator may fall into a trap during the investigation process. Table 4.6 (see page 4-44), outlines how to avoid making mistakes during the investigation.

Finally when the report is completed, it is important to review it with the appropriate decision-makers and decide how, and by whom the recommendations will be implemented. Any corrective action against the alleged harasser must be taken promptly and the alleged victim should be

notified of that action. However, should the investigation prove that the complaint was false, disciplinary action should be taken against the complaining employee to discourage him/her from making future false reports (see also chapter 3, figure 3.2 on page 3-20).

**TABLE 4.6 HOW TO AVOID THE MOST COMMON MISTAKES DURING INVESTIGATIONS**

- x DON'T tell the complainant not to let the offensive conduct bother him or her.
- x DON'T tell the complainant that dealing with the complaint may cause embarrassment, hurt his or her career or reputation, or cause harm and embarrassment to someone else.
- x DON'T tell a female complainant that she should expect this kind of behaviour from a workforce consisting primarily of men.
- x DON'T tell a female complainant that she might have misunderstood what the accused harasser intended.
- x DON'T tell the complainant that the accused harasser "is just like that sometimes", or "just a joker", or "doesn't really mean anything by it".
- x DON'T discount the complainant's credibility simply because he or she has had disciplinary problems or has made unsubstantiated complaints of sexual harassment in the past.
- x DON'T discount the complainant's credibility because he or she is known to be sexually provocative, promiscuous, or flirtatious with co-workers.
- x DON'T discount the complainant's credibility because of a delay in reporting the incident.
- x DON'T fail to follow-up with probing interviews of the witnesses mentioned by both the complainant and the accused harasser.
- x DON'T tell the accused harasser to stay away from or avoid the complainant as a substitute for investigating whether the alleged acts occurred.
- x DON'T tell the complainant that the alleged facts are "awful" or that the accused harasser "should never have done anything like that" or "has done things like that before".

- ✘ DON'T fail to keep both the complainant and the accused harasser advised that the investigation is in process and that they will be notified of the results when completed.

**Source:** Orlov & Roumell, (1999:149-150)

#### 4.5.4 Evaluation

The final step in the proposed model is evaluation. After all the steps have been taken, the company must regularly be able to evaluate whether its efforts are proving effective. For this purpose, management could measure the number of

- informal sexual harassment complaints in the company during a specific period
- informal sexual harassment complaints per employee during a specified period
- formal complaints filed during a specific period
- informal/formal complaints resolved during a specific period before they become external charges
- action settlements made and cases lost during a specific period.

#### 4.6 CONCLUSION

This chapter discussed the design of a holistic model to manage sexual harassment in the workplace, including group model building, and system dynamics. The model consisted of preventative measures and a reactive process, and included a company specific audit, policy formulation, dispelling sexual harassment myths and misconceptions, interpersonal behaviour training, role negotiation techniques, self-defence techniques, interpersonal conflict management training, methods for dealing with cases of sexual harassment, investigation procedures and evaluation. Having

developed the model, the researcher needed to investigate the present situation regarding the management of the phenomenon of sexual harassment in the workplace in the manufacturing industry. The researcher therefore conducted a survey of managers in the manufacturing companies affiliated to SEIFSA in chapter 6. However, before this issue is addressed, chapter 5 describes the research methodology, including the data-collection techniques used for this purpose.