



Sexual harassment and the board's role

#timesup

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As high-profile instances of sexual harassment in the workplace continue to dominate news headlines, directors need to take note: you are accountable for sexual harassment in the organisations you govern. Boards are tasked with ultimate responsibility for organisational culture and performance.

Examples from overseas and here in New Zealand highlight how important it is that boards know what is happening within their organisations and deal with issues consistently.

How organisations talk about sexual harassment and assault in the workplace is rightfully changing, and boards need to evaluate how their organisation addresses this misconduct. There needs to be a safe zero tolerance culture that ensures harassment does not happen, and if it does occur, that employees, volunteers and contractors feel they can raise the issue, and that there will be appropriate action taken.

Culture

It is the role of the board to set the tone for healthy organisational values, standards and culture, including safety, respect, and conduct. This includes addressing unwanted comments or physical contact, persistent and unwelcome social invitations, and less than professional conversations and behaviours, including smutty jokes, and inappropriate material and language. Boards should hold management to account by requiring regular reports of complaints, investigations and outcomes. Just 40% of boards received comprehensive reporting on ethical matters and the actions taken to address them (2017 IoD/ASB Director Sentiment Survey).

Questions the board should ask:

- **How are values and standards communicated throughout the organisation?**
- **What ethical framework is in place? Is it regularly reviewed? Does the board perform cultural health checks with external or independent advisors?**
- **What reporting does the board receive on conduct and behaviour? Does the board receive reporting on complaints and investigations?**
- **What process is in place for a sexual harassment complaint against senior executives? Do complaints about senior executives go to the board? Does the board investigate? Is there board-only time to discuss culture, complaints and employee feedback?**

Legislation

Sexual harassment is covered by both the Employment Relations Act 2000 and the Human Rights Act 1993, with 90 days and 12 months as the respective timeframes under which a grievance can be raised. The Health and Safety at Work Act 2015 also covers behaviours in the workplace that have the potential to cause harm, including harassment.

Questions the board should ask:

- **Does the board understand its legal obligations?**
- **Does the organisation have a sexual harassment policy?**
- **Is sexual harassment treated consistently with other forms of misconduct, ie physical assault or verbal abuse?**

Speak Up provisions

Speak Up policies and provisions help promote and support an ethical workplace culture, and the board can set the tone for ethical conduct by reinforcing and communicating a Speak Up culture. However, only 32% of directors had discussed how to make Speak Up provisions more effective (2017 *IoD/ASB Director Sentiment Survey*).

Questions the board should ask:

- **How is a Speak Up culture promoted in the organisation? Are employees encouraged to raise concerns? How are Speak Up procedures reviewed?**
- **What processes exist for Speaking Up on sexual misconduct? What avenues and protections exist for those who Speak Up? What are the consequences for retaliation against them?**
- **How does the board communicate outcomes of complaints and investigations to the wider organisation?**

KEY RESOURCES

Harassment in the workplace - MBIE

Sexual harassment: What you need to know
– Human Rights Commission

Prevention and Response to Sexual Harassment Policy Guideline – State Services Commission

NZ leaders and businesses: Time's up

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