

SEXUAL HARASSMENT GUIDE 2nd Edition
For the South African audiovisual industry
Provided to you by SWIFT



SWIFT
Sisters Working in Film & TV

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ABOUT OUR MISSION

INTRODUCTION

This Guide is here to assist and act as a resource to use should there be an incident of any kind of sexual harassment. It explains what sexual harassment is and what options are available to a complainant of the sexual harassment should they wish to report, including what rights are available before the law. It also discusses why asking for help dealing with this experience is important, and how to find the right support structures.

Although SWIFT deals mainly with womxn involved in the film and television industry, this Guide is for anyone – womxn, men, gender non-conforming and gender fluid people – who experience sexual harassment across any industry.

It is important to note that being on the receiving end of sexual harassment, sexual assault or rape, is not the complainant's fault. We're going to say that again: it's not your fault. And you are not alone.

The information provided in this Guide aims to empower complainants, and the organisations listed at the back are available to provide the medical, legal, psychological and emotional support that may be needed.





NO VS KNOW

WHAT IS SEXUAL HARASSMENT?

Sexual harassment refers to a wide variety of unwanted or unwelcome sexual advances that violate the dignity and rights of an individual and create barriers to true equity in different working relationships. These can be requests for sexual favours, or any physical, verbal or non-verbal conduct of a sexual nature that makes the recipient of the conduct feel uncomfortable, intimidated or threatened. The sexual harassment does not have to be persistent occurrences as a single incident may still constitute sexual harassment.

This behaviour can be direct and overt, and it can be indirect and subtle. The perpetrators of sexual harassment can be people who are the same gender and people who are not. Sexual harassment can happen to anyone; it does not depend on race, class, gender, sexual orientation, gender identity, marital status, or cultural and religious beliefs.

Sexual attention can become sexual harassment when it is unwelcome; when the recipient of the attention indicates their discomfort through verbal or non-verbal cues such as walking away or not responding; and even when conduct that was previously welcome becomes unwelcome at any stage.

The crux of sexual harassment is that the conduct is sexual in nature, unwanted and impedes on the dignity of the individual receiving the sexual harassment.

WHAT ARE THE DIFFERENT FORMS OF SEXUAL HARASSMENT?



Sexual harassment can take many forms and all of them are equally important.

Verbal forms of sexual harassment include an array of **unwanted** or inappropriate comments and noises. These can include sexual innuendoes and overtones, jokes or insults of a sexual nature, unwelcome and graphic remarks about a person's body made in their presence or directed towards them or another individual, or inappropriate and unwelcome questions about a person's sex life, their sexual orientation or gender identity, as well as whistles, grunts or other sounds.

Sexual harassment can also include *non-verbal* conduct such as unwelcome gestures, staring at a person's body leeringly, sharing sexual images or videos, and sending suggestive emails or text messages are also forms of sexual harassment.



Sexual harassment includes **physical actions**, too. These can range from unwelcome touching, groping, pinching, patting and fondling, to having someone rub up against the recipient on purpose or exposing their body to the recipient **without permission**. Sexual harassment can also include strip searches performed by and/or in the presence of the opposite sex and can lead to, sexual assault and rape. Sexual assault refers to the violation by an individual of another sexually without consent. Rape is the non- consensual penetration, however slight, of the vagina, anus or mouth by a penis, any other part of the body or an object.



In the workplace, "this for that" or "**quid pro quo**" harassment refers to the linking of sexual advances with specific employment benefits. A recipient of sexual harassment might be pressured or forced to perform sexual favours, or to accept unwanted sexual attention and actions from a superior in exchange for work-related benefits like a promotion, training opportunity or salary increase. This far too frequent form of sexual advances happens often in the casting stage of production, with actors being the most vulnerable. Casting directors or agents often ask for talent to show extra "motivation" to "guarantee" them a place on the production. It is important to note that this practice has always been wrong and is no longer tolerated.



This also includes *sexual favouritism* where a person who is in a position of authority rewards only those who respond to his/her sexual advances, whilst others who are deserving, and who do not submit themselves to any sexual advances are denied bonuses, promotions, merit ratings, salary increases and/or other forms of monetary or other reward for work performance.



Any unwelcome and sexually motivated behaviour that makes the work environment unpleasant and hostile, and that affects the ability of individuals to work properly, also falls under sexual harassment. This often creates a sense of "I can't take it anymore" or "hostile environment" which can destroy a workplace's atmosphere, making it impossible for people to feel comfortable or relaxed, or to be productive. This might mean that an individual is not the direct target of the unwanted behaviour or attention, but that it still negatively affects the space in which they work.



"Punishment" tactics may also be used by perpetrators. These could include a sudden change in working hours (either cutting or extending), a change of role (either a demotion, or being given more responsibility than trained or paid for), and sometimes complete avoidance and the recipient's role on the production becomes unclear. The recipient's position, job or safety might also be threatened if there is a refusal of the sexual advances which qualifies as a form of **victimisation**, which is also a form of sexual harassment.

It is important to remember that the experience of the individual receiving the unwanted and sexual conduct is what matters. Regardless of what the offender says about their intentions – if they say they were "only joking" or that it was "a harmless comment" – if the recipient of the unwanted and sexual conduct experiences their behaviour as unwelcome or offensive and sexual in nature, then it is sexual harassment.

Non-verbal

Staring at someone leeringly
 Sending emails of a sexual nature
 Distributing sexually suggestive images or posters

SEXUAL HARASSMENT

Physical

Brushing up against someone inappropriately
 Touching someone inappropriately or sexually suggestively
 Forced fondling

Verbal

Sharing sexual stories or jokes
 Repeating asking someone out
 Whistling at someone

Harassment is also not limited to sexual harassment. It can also refer to prejudice and discrimination against someone based on their race, sexual orientation or gender identity. Workplace bullying is another related issue and includes teasing, humiliation and constant or unfair criticism. It is important that you recognize all of these and speak up when you feel unfairly treated.

Sexual harassment does not mean the same thing to everyone. But by being aware of – and, if you can, reporting – situations that make you feel uncomfortable, offended, abused or violated is an important step in bringing an end to these incidents.

HOW TO REPORT SEXUAL HARASSMENT?

LEGAL RIGHTS

It is important to know the legal rights applicable when reporting an incident of sexual harassment.

YOUR LEGAL RIGHTS

Sexual harassment is covered under different legislations in South Africa however the Labour Relations Act 66 of 1995 and Employment Equity Act 55 of 1998 provide a Code of Good Practice on Handling Sexual Harassment in the Workplace which aims to promote workplaces that are free of sexual harassment and where employers and employees respect each other's right to dignity, equality, and privacy.

The Code covers all forms of employment relationships that exist, as well as those relationships not specifically forming an employment relationship such as suppliers, clients, contractors, freelancers and any other third party who has dealings with the company at which the harassment takes place. Any non-employees who are sexually harassed by any employee of the company have the right to lodge a grievance with the harasser's employer, with or without the assistance of the harasser's employer. Despite the protections of the Code, there is no obligation imposed by this Code on any employer to take any disciplinary action against harassers who are not their employees.

Individuals are entitled to work in a space where they feel that any sexual harassment complaints made will be treated seriously, confidentially, and quickly; and that protection against any form of retribution for reporting exists. This means that a complainant cannot be punished nor victimised for reporting an incident of sexual harassment. It is important to report incidents of sexual harassment as it assists in eliminating any unwanted conduct in the workplace.

YOUR LEGAL RIGHTS



Despite the legislation above specifically relating to workplaces, there are protections against sexual harassment contained in the Domestic Violence Act 116 of 1998 and the Protection from Harassment Act 17 of 2011 respectively. Protections contained in these legislations can be imposed by using protection orders and/or filing a criminal complaint with the South African Police Services. There are also protections contained in the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 which reviews broad protections against unfair discrimination to which sexual harassment falls. This would involve seeking relief in the form of an order from the Equality Court.

If you are the target of sexual harassment, or you witness an incident taking place, it is up to you to report this behaviour. Although this might be daunting and scary, reporting sexual harassment, assault and rape can help to ensure that the offender's behaviour is dealt with and to prevent similar incidents from happening again.

There are several steps that can be followed to report sexual harassment. The decision on which steps to follow may depend on the incident, on the processes that are in place at the company or production, and whether the recipient feels they need to ask an outside organisation for help or lay a criminal charge. The route taken is up to the recipient of the conduct and no one can pressure the complainant into choosing any particular approach. Reporting the incident is also not obligatory however it is advisable that assistance and support should still be sought to assist in dealing with any mental or emotional trauma that may be present.

Choosing not to report an incident of sexual harassment does not invalidate the experience nor any trauma that may be present as a result.

How to report sexual harassment?



The informal approach:

If an individual receives someone's behaviour as inappropriate or offensive, the alleged perpetrator may be approached directly by the complainant to ask them to stop any of the offensive or inappropriate conduct. Sometimes simply making someone aware of their actions is enough to resolve the situation. However, if the complainant is not comfortable discussing the issue with the person concerned, the use of a third party to facilitate conversations with the harasser may be used even where an election to remain anonymous has been made by the complainant. If the harassment continues, or the outcome is not satisfactory to the complainant, a formal complaint may be lodged.

The formal approach:

A formal complaint usually involves reporting the incident to a Safety Contact Officer (SCO)(if one has been appointed on set), or a superior, supervisor, producer, line producer or someone with authority in the company. SWIFT has recently launched the Safety Contact Officer (SCO) These are independent contractors who are placed on sets to assist any complainants with reporting sexual harassment by providing information on the possible avenue available to the complainant whether it be in terms of reporting the matter, receiving trauma support or referring complainants, and any other individual affected by sexual harassment, to the most appropriate intervention. They are trained in understanding sexual harassment and reporting procedure, as well as psycho-social skills. Ask if one has been appointed to your production.

Once a complaint of sexual harassment has been reported to the production company, producer, line manager or any other designated person, they are required to launch a full and fair investigation into the matter and, if the conduct is found to have constituted sexual harassment, take the necessary steps to resolve it.

THE FORMAL APPROACH:

A written report about the incident, together with any proof of same may need to be submitted when reporting. This information will also be useful if the complainant decides to open a criminal case or elect to pursue the matter in civil courts. The report of sexual harassment should try and be as detailed as possible, and answer as many of the following questions it can:

- Who was the offender?
- What was the date, time and place?
- Has it happened before or was it a once-off incident?
- What were the events that took place?
- What conduct are you complaining about?
- How did you react?
- Were there any witnesses?
- What are their names and designations?
- Did they say or do anything to help or intervene?
- Was there any physical evidence of the incident, such as bruises or marks on your body or any digital evidence such as text messages?
- Is there any video footage?
- How would you like this situation to be resolved?

If the complainant feels that the company did not deal with the complaint properly, there are other organisations that can help. The audiovisual industry is not a unionised environment, so it is important that the escalation mechanisms that are available within a production are used. Dispute resolution organisations can help in facilitating resolution of a dispute of sexual harassment through the use of alternative dispute resolution practices such as mediation, facilitation, arbitration, much in the same way that the CCMA does for employees. Production companies and employers and/or producers may look into referring matters requiring formal investigation or resolution of disputes to a private dispute resolution agency such as Tokiso. The Safety Contact Officers (SCO) are trained and familiar with the ways in which to refer a matter to Tokiso and may be called upon for assistance in doing so. The Centre for Gender Equality also has a complainant-driven portal one could access either directly or on behalf of someone else. For more gross violations, the Human Rights Commission can be contacted. You can find all the contact details for these organizations in the Resource section of this booklet.



LAYING A CRIMINAL CHARGE



If there has been sexual assault, rape or any other sexual offences, the Criminal Law (Sexual Offences and Related Matters) Amendment Act applies. In this instance, it is important that a recipient / complainant report the incident to the police so that a criminal case can be opened. This can be done either at a police station or by calling 10111. Remember that a complainant cannot be turned away because the incident took place in another police station's area or if it happened a long time ago. For details on your nearest police station, visit www.saps.gov.za/contacts.

If the incident happened within the first 24 hours, it is recommended to go directly to a hospital or clinic and ask them to open a rape kit. If a police station is visited directly instead, insist on a rape kit being opened. It is important to remember that an individual cannot be turned away when seeking to open a case. When opening a case, the complainant will receive a medical exam to assess physical health and mental and emotional state. Even though this process may not be easy, it is important that it takes place as soon as possible after the incident. A second medical visit for further assessment may be required in some cases. Government hospitals and clinics, as well as all Netcare hospitals, assess rape victims for free. To find the nearest Netcare hospital to you, visit www.netcare.co.za/hospitals

Remember that a complainant can ask for the team that assists at the police station and at the hospital be made up entirely of womxn or men. It is important to speak to the investigating officer about what is required. What matters most is that a complainant feels as comfortable as possible during a process of reporting. If possible, it is advisable to have support for this important stage of disclosure and reporting.

A complainant is also entitled to ask for a religious or spiritual leader to be present and to await their arrival before commencing with any reporting or process. The only part of the investigation that they are not allowed to be present for is the medical exam. If there is a Safety Contact Officer (SCO) on set, they are also able to provide their support should a complainant wish to be accompanied to the police station to open a case against the harasser.

Why ask for help?



Being the target of any kind of sexual harassment, assault or violence is serious, and the complainant may experience a number of different reactions in the days, weeks, months and years that follow. These reactions differ from person to person and can take various forms.

They can include feelings of shame, anger, fear, low self-esteem, self-blame, self-loathing, and self-pity. They can manifest as nightmares, anxiety, depression, addiction, and self-harming behaviour, and they can affect relationships with family, friends, partners and colleagues.

Although many people feel the need to isolate themselves as they cope with these experiences, this can lead to further distress. Rather, in whatever way makes sense to the complainant and at their own pace, reach out to family, friends, support groups or a therapist. These support systems are important in ensuring complainants do not feel alone and receive as much support through the process.

Remember that a working environment should never be based on unhealthy or destructive power dynamics, and a job should never be threatened because of a refusal of someone's sexual advances or demands. The security of a position should depend on skills and merit alone. If it does not, there are resources available that provide advice and support.

Sadly, particularly in the audiovisual industry, the prevalence of sexual harassment and sexual impropriety is so widespread that complainants feel like nothing can be done. However, after the dawn of the global #MeToo Movement, the local #ThatsNotOkay campaign lead by SWIFT, and continued conversations around stopping gender-based violence, we have found that the more voices that are added to the cause, the less likely that perpetrators are able to continue hurting people. So far, people who have been found guilty of sexual harassment have lost jobs, sponsors, and other sources of income; and in some extreme cases, they have been arrested.

What happens after reporting?

Reporting an incident of sexual harassment can often be an emotionally taxing exercise. The road towards equality may not be an easy one and a complainant may need to continuously look after their emotional and psychological well-being. There are a few things that can be done to prepare for the process:

What to do as a complainant?

Ensure that a trained professional who deals with trauma is contacted if this is needed, such as Lifeline on 0861 322 322.

Find a confidant outside of the work environment that can be spoken to about the progress of the complaint. Individuals respond in different ways: colleagues may react in unpredictable ways, some new friends may be made, and those who were once close might suddenly choose to withdraw. Keep talking to a confidant. The distance from the situation could also assist in coping.

Where a Safety Contact Officer (SCO) has been made available, ensure that as much information as possible is given to ensure rights are protected. The investigation may vary in length, so it is best to prepare for the possibility of a long investigation. The investigation may only conclude, or even begin after the production has wrapped. In the meantime, the SCO can act as a liaison for the complainant. In extreme cases, where the perpetrator works in close proximity to the complainant, the Producer may have to make a swift decision without an investigation as to how to proceed with the production in the face of the complaint. However, an investigation may be requested afterwards.

It is important for the complainant to also be clear on the desired outcome. What would that look like? This could vary depending on the level of harassment. In some cases, a written apology and corrective action is all that is needed. However, in severe cases, the perpetrator may need to be removed from the production all together. This would depend on the severity of the harassment and the impact on the complainant's ability to work. The SCO or an external trusted professional is there to guide the complainant through these options.

What to do as a Producer?



It is common for recipients of sexual harassment not to come forward and report the behaviour. Studies have found that the higher the profile of the perpetrator, the higher the likelihood of complainant victimization and recanting of their statement. This was not at all linked to the validity of their claims. Thus, whenever someone has pushed past their fears and have brought a serious allegation to the attention of a producer, HR or designated individual, it is important to provide an environment that enables the complainant to report a complaint and to be supported throughout the process of reporting and investigating the allegations.

If a complainant reports an incident of inappropriate behaviour, these are some of the steps that can be taken:

1. Treat the complaint with the required amount of sensitivity and confidentiality it requires.
2. Ask for help if unsure of the process to be followed. Either appoint a Safety Contact Officer (SCO) retrospectively or contact organizations like Tokiso for help.
3. Investigate the claims. Get to the bottom of things. Do not brush things away and hope for the best.
4. Neutralize the environment. If necessary, separate the complainant from the perpetrator until such time as the allegations have been investigated and resolved. Forcing them to continue working together will not only make things uncomfortable for them, but for the entire production around them.
5. Take preventative action. SWIFT resources include a Code of Good Practice that can be distributed to all in production companies. Sexual Harassment Impact Sessions are also available upon request.

By working together and taking collective responsibility on sexual harassment, the audiovisual industry can be transformed to be safer, respectful and more tolerant for everyone.

Available resources

The following organisations are available to help you.



SMS Line: 43101

Email: sco@swiftsa.org.za

Website: www.swiftsa.org.za

SWIFT works to empower womxn working in the film and television industry and advocates for gender and race parity. As part of SWIFT Advocacy work to transform the industry to a more equitable sector by advocating for safe working environments free from sexual harassment, SWIFT has developed the Safety Contact Officer (SCO) programme – independent and impartial trained professionals who are available to assist complainants and production companies. Resources such as the Code of Good Practice are available to download from the SWIFT website.

Lifeline offers a 24-hour crisis counselling line that is anonymous and confidential. You don't have to share any of your personal information. The counsellor helping you will offer emotional support, tell you about the options available to you and refer you to community resources in your area. You can also use Lifeline's WhatsApp number to make a booking for counselling sessions that can happen virtually, or in person.



24-hour counselling line: 0861 322 322

WhatsApp: 065 989 9238

Website: www.lifeline.co.za

Available resources

The following organisations are available to help you.



Telephone: 0800 20 50 26

Crisis Line: 0800 567 567

Website: <https://www.sadag.org/>

South African Depression and Anxiety Group. You might feel depressed and anxious for a while after you've reported sexual harassment. SADAG can connect you with support groups where others like you can get together and support each other through your experiences. They, too, offer an extensive list of counsellors that specialize in depression and anxiety. If you feel that you need support beyond Lifeline, contact SADAG for a longer-term support structure.

LAWYERS FOR HUMAN RIGHTS

Lawyers for Human Rights offer free legal advice to those in need.

Telephone: 011 339 1960

Website: www.lhr.org.za

Available resources

The following organisations are available to help you.



Telephone: 011 853 6300

Website: www.tokiso.com

STokiso is an independent dispute resolution organisation that can be accessed irrespective of employment status. It is an accredited private agency under section 127 of the Labour Relations Act with a panel of mediators, presiding officers, facilitators and arbitrators located across South Africa. They offer cost-effective mediation, arbitration, and contract disputes interventions. They are best for the freelance environment, where the objective is a suitable working relationship and they also provide certain training and coaching programmes.

The WISE Collective is an advocacy organization and social enterprise initiated by African women whose sole purpose is to bring innovative solutions to the market that will prevent and address challenges in advancing women's safety from gender-based violence and overall oppression from patriarchy.

Administration: Rethabile Madumise
retha@wise4afrika.org



Website: www.wise4afrika.org

Available resources

The following organisations are available to help you.



Commission for Gender Equality
A society free from gender oppression and inequality

Complaints Line: 0800 007 709

Website: www.cge.org.za/complaints/

Commission for Gender Equality

Established in terms of Section 187 of the Constitution of the Republic of South Africa in order to promote respect for gender equality and the protection, development and attainment of gender equality. The CGE shall advance promote and protect gender equality in South Africa through undertaking research, public education, policy development, legislative initiatives, effective monitoring and litigation.

The South African Human Rights Commission is the national institution established to support constitutional democracy. It is committed to promote respect for, observance of and protection of human rights for everyone without fear or favour.

Website:

<https://www.sahrc.org.za/index.php/what-we-do/lodge-complaints>



Available resources

The following organisations are available to help you.



Emergency number: 10111
Police stations:
www.saps.gov.za/contacts
Crime Stop: 08600 10111

A sexual offense can be reported by calling 10111 or by visiting any police station. It doesn't have to be reported in the same area where the incident took place. You have the right to have a friend or family member with you and a spiritual or religious leader. You may also choose whether you would like the team assisting you to be made up of womxn or men. You will need to explain what happened, and medical, psychological and legal help will be made available to you.

POWA offers shelter, counselling, and legal advice to female survivors of violence and their children. While POWA's in-person counselling and support groups are only available to residents in Gauteng, victims from outside the province can receive counselling over the phone and a referral to a relevant organisation in their area.



Telephone: 011 642 4345
Website: www.powa.co.za

Available resources

The following organisations are available to help you.



This is a Cape Town based organization that will help you make a claim, help you to find medical help, and guide you on your road to recovery. The Rape Crisis centre is committed to justice for rape survivors and can assist with advice on the legal aspects of your claim. They have a 24-hour helpline and can assist with social workers on site.

Telephone: 021 447 9762

Website: <https://rapecrisis.org.za>



Thutuzela Crisis Centre

These are one stop shops for reporting rape, as well as receiving counselling. There are over 50 sites throughout South Africa and are equipped with experts in dealing with the psycho-socio impact of rape, as well as the health impacts. If you have one near you, go there immediately and ask them to open up a rape kit and report the incident.

Website: www.gov.za/tcc

Available resources

The following organisations are available to help you.



Telephone: 0800 428 428

Text: "Help" to 31531

Please call me: *120* 7867#

Website: www.gbv.org.za

Gender-based Violence Command Centre
This newly launched command centre is a 24-hour/7-day a week call centre where womxn can call in for advice. This is specific to violence and harassment towards womxn. They are equipped with trauma counsellors and social workers around the clock that can talk you through the process of reporting. They can be contacted a number of different ways:

The TEARS Foundation guides you through the entire process from the sexual assault event to the prosecution. They will assist with emergency help, as well as follow up with the police station on your behalf. They have counsellors who can connect you with other women who have been through something similar and can talk you through the process of getting a Protection Order, if necessary. They have help available 24/7

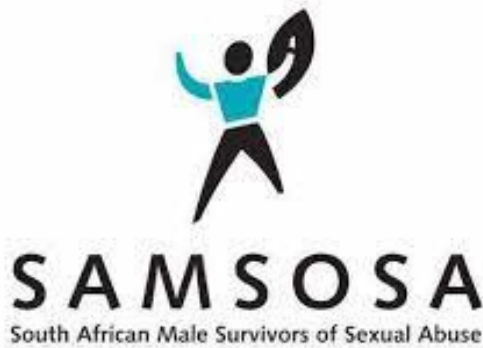


Telephone: *134*7355#

Website: www.tears.co.za

Available resources

The following organisations are available to help you.



South African Male Survivors of Sexual Abuse (SAMSOSA)

SAMSOSA provides information and peer-to-peer support for men who were sexually abused as children or have experienced any kind of sexual assault as adults. This support is provided in person, telephonically or via video call.

Telephone: 071 280 9918

Website: www.samsosa.org/wp



Brothers for Life focus on the behaviour of men. They also offer workshops and a hotline number where men can call in to either manage their own behaviour or to get advice when dealing with a friend, colleague or family member who display elements of rape culture and toxic masculinity. The idea behind their mantra is prevention is better than cure; and they recognize that speaking up is often not as easy as it seems.

Telephone: 0800 428 428

SMS: "Help" 31531

Website: www.brothersforlife.org

Acknowledgements

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