

good reviews on record. Colleagues who had once been sympathetic now didn't want to get involved. Others just stopped talking to me. Conversation would halt when I entered a room. So I sympathize with Jill when she wonders who will want to work with her if she brings a complaint. The answer often is no one.

And don't think that "nobody here has to find out." Long after I left my

company, I heard that people were gossiping about the financial settlement I had received—and this in spite of a gag order.

Like other victims of sexual harassment, Jill hopes that the problem will eventually go away. Unfortunately, sexual harassment doesn't stop on its own. It simply goes somewhere else, finds someone else—unless people like you step in.



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A mandatory investigation policy discourages reporting; Filmore Trust should offer some options.

People who feel harassed need options and choices—especially if they lack conclusive proof of the harassment. This case appears to present two unacceptable choices for manager Jerry Tarkwell and no desirable options for Jill McNair. Moreover, Filmore Trust's policy will not work in the company's interests either. No party's interests are served well here.

Let's start with the company. Filmore Trust needs an environment where sexual harassment is absent or at least rare. This will occur where employees can and do speak up and get incipient harassment stopped on the spot, where managers offer options so people who feel harassed have some control over what happens, and where reporting harass-

ment and asking for help will not damage someone's career.

My research and experience indicate that while a mandatory investigation policy may appear to be helpful to harassed people, it actually discourages reports of harassment. Mandatory investigation especially threatens careers when the only evidence is "he said/she said" (though more evidence might be found in the Filmore Trust case). This is because responsible managers hate to take action in such a case, so no one gets punished, and the alleged offender does not feel truly acquitted.

What about McNair's interests? They are the same interests I listed for Filmore Trust. In addition, McNair values her privacy and fears reprisal. Tarkwell's interests are probably similar.

How can Filmore Trust meet the interests of all parties? The company should offer four sets of options for dealing with harassment:

1. *Counseling for Direct Negotiation.* Filmore Trust should offer off-the-record counseling so that employees can learn to negotiate the problem effectively. With the help of an employee assistance program or an ombudsman, for example, McNair

might choose to learn how to confront the harasser directly and/or write that person a private letter. Drafting a clear, factual letter will help McNair think through her evidence, compose her mind and feelings, and help her select and pursue an option for action. Sending or hand delivering (and keeping a copy of) a letter is statistically likely to end the harassment, at no cost to privacy. It also provides more evidence, if harassment continues or the offender retaliates, that the alleged sexual approach actually happened and was unwelcome.

2. *Informal, Third-Party Intervention.* McNair should be able to seek informal assistance from a human resources manager or other appropriate person. The third party would intervene as a shuttle diplomat or mediator. Informal intervention usually does not include adverse administrative action. The third party could deliver a warning and write a memo to his or her own file.

3. *Formal Investigation and Action.* McNair should be able to request fact-finding and judgment. If she knows she has choices, she will be more likely to make a formal complaint, but this option should not be pursued against her wishes.

4. *Generic Approach.* McNair should be able to ask Tarkwell or another appropriate manager—off the record and without providing the name of the alleged offender—for a harassment prevention effort. This choice could trigger an apparently routine training program in the relevant department. Or McNair could ask that the department head send a departmental letter that includes examples of sexual harassment and a strong statement of company policy. If McNair has the option to ask for such action without anyone's name being used, then the harassment can be stopped at no cost to anyone's privacy or rights. In my experience, the generic approach will stop the alleged harassment about four-fifths of the time, and it helps to affirm company policy. It also fosters an atmosphere where people can feel comfortable taking a direct approach if they are harassed and where they will feel less afraid to ask for an investigation.

There should be no adverse administrative action against an alleged offender without a fair—probably formal—process. If any of the informal options are chosen by McNair, then

Tarkwell must follow up immediately, several months, and one year later to be sure that the alleged harassment has ceased and that there has been no retaliation.



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Jerry Tarkwell does not have to choose between respecting Jill McNair's privacy and putting a stop to sexual harassment. His accidental knowledge of McNair's harassment has given him, whether he likes it or not, the responsibility to do both.

It would be irresponsible to follow blindly "company policy" if to do so would undermine its original intent (presumably to help employees deal with harassment). Doing nothing, however, is also not an option. Sexual harassment involves the entire company, not just two people. Tarkwell therefore cannot let the issue go now that he knows something is going on.

As long as McNair refuses to report her case, Tarkwell will, by definition, be threatening her privacy in any attempts to talk to her about it. But McNair has already crossed the line between private and company life by using company equipment (e-mail) to tell her colleague about her sexual harassment. While Tarkwell must urge McNair to report her case, he

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must refrain from reporting it to the company's EEO until she assents.

Regardless of whether or not McNair ultimately reports her case, Tarkwell must make this his opportunity to attack the problem of sexual harassment and to raise company consciousness about it. Anything less would be shirking his responsibility of creating a safe working environment for his staff.

In Japan, on the other hand, a Jerry Tarkwell would have no cause to even mention his knowledge of Jill McNair's case to her, and the ethical problem presented by this situation would not have surfaced. Few Japanese companies have any sexual harassment policy in place.

Indeed, consciousness of sexual harassment here is so undeveloped that the very issue of the protection of privacy has yet to surface. For women, Japanese companies are still hotbeds of harassment.

The first sexual harassment suit filed in Japan was in 1989. The woman, who was being harassed by her immediate supervisor, complained to his boss, only to find that his boss condoned his actions and blamed her for inviting them. In other words, the men stuck together.

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Within such a context, a woman must go beyond those immediately involved in order to be heard. But once she does, the rest of the company eventually finds out, she is further harassed, and, generally, she ends up quitting.

If she does file suit, she will most likely do so more out of a desire for revenge than of a feeling that her rights have been violated. Japan has such a long history of male dominance that there is no collective belief that a woman should be the equal working partner of a man.

I endured two years of sexual harassment—though at the time I did not know the term—while I was employed at a large manufacturing company. The older female employees taught the younger women that it was a mark of "female maturity" to respond to harassment by smiling and ignoring it.

During my stay in the United States (1983 to 1988), I was shocked to learn that there was a name for such hateful behavior. In 1989, when I published my book *Single Mind*, I was able to introduce the term sexual harassment to Japan.

In the three years since, the term *seku hara* has gained currency as the media has legitimized its usage. (In fact, *seku hara* is a trivialization of the term sexual harassment, further proof of the widespread insensitivity to this issue.) There have been three sexual harassment suits filed in Japan that I have followed; two have been won, and the other is still pending. Though this sounds promising, and though anti-*seku hara* campaigns would seem to indicate substantial change, the situation is, in fact, far from progressive. In effect, the message is "Watch out, guys. We know women are emotional, so we will have to step lightly for our own protection."

Ultimately, sexual harassment is less an issue of company policy than one of personal responsibility in a management position. Tarkwell has shown that he takes the company's policy seriously; now he should follow through on his commitment by ensuring that McNair's situation is justly resolved and by raising office consciousness about harassment.