

Harassment and the #MeToo Movement in the Private Club Industry

Management Steps to Avoid Potential Claims



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The recent heightened awareness to sexual harassment issues affects a wide range of industries, and has prompted employers to consider ways to get ahead of the problem. In order to reduce the risk of such complaints, private clubs may take a number of proactive steps.

Anti-Harassment Policy: Clubs should develop a zero-tolerance policy against harassment that includes, at a minimum, the following elements:

1. Expressly prohibit any sexually harassing or inappropriate behavior by staff or members toward employees, guests, members or patrons.
2. Define sexual harassment, making clear that it includes inappropriate relations, touching, and communication (i.e., emails, phone calls, text messages, or messages through social media).
3. Firmly state that any individual (staff or members) found to have engaged in sexually harassing behavior will be subject to discipline and/or immediate dismissal or expulsion.

Complaint Procedure: Clubs should *require* all employees—victims and bystanders—to report any instances of inappropriate behavior, sexual or otherwise, they experience or observe, and should encourage guests, members and patrons to do the same. The complaint procedure should be communicated to the employees, members, guests and patrons, and should include multiple channels to report a complaint of sexual harassment. This is because an individual may not be comfortable, in certain circumstances, making a report of harassment at all. (For example, an employee may be reluctant to approach his or her immediate manager because the manager may be the offending individual). Available avenues may include the general manager of the club, another designated manager who does not directly oversee or regularly interact with staff or members and guests, a human resources representative or a compliance officer.

No Retaliation: Clubs should state clearly in the policy they will not tolerate retaliation against any individual who makes a report of har-

assment, provides information concerning such actions or opposes any action that violates the zero-tolerance policy against harassment.

Training and Reinforcing Professionalism: Clubs should consider how to communicate that policy to their employees, members and guests. Clubs should make the anti-harassment policy and complaint procedure readily available for review. They should also train employees on workplace harassment, including explaining what sexual harassment is, affirmatively stating that employees have a right to a harassment-free workplace, and reviewing the zero-tolerance policy and complaint procedure. Training should be mandatory and provided to all employees at least on an annual basis; for managers, separate and more frequent training is important in order to educate managers and supervisors about how to identify sexual harassment and handle complaints or reports of harassment. With respect to nonemployees, clubs should maintain a policy requiring strict professionalism at all times, particularly in the context of private clubs, where a social setting may tempt employees, members or guests to engage or interact with each other in a more casual manner. Regularly reiterating that inappropriate jokes or comments, obscene gestures or insults and inappropriate touching are prohibited in all circumstances will help reinforce the zero-tolerance policy against harassment.

Swift and Effective: Clubs should take all complaints or reports of harassment seriously, regardless of how or from whom received, and should act promptly to review and thoroughly investigate all such complaints. If the investigation shows the complaint to be valid, the employer's response should be swift and effective.

There are variations on how any owner/operator chooses to address the risk of sexual harassment on its property. The above elements, however, are key steps clubs may take now to avoid the potential #MeToo firestorm from landing at their doorstep.

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