

“Women
@ Work”

A **LAWWORKS** Pocket Series

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LawWorks is a partnership between the National Trades Union Congress and The Law Society of Singapore that aims to educate employees on their legal rights, and to promote the interests of employees generally. This booklet is part of a **LawWorks** Pocket Series intended to provide a guide to particular areas of employment law, provide a checklist of key considerations, and point the way to avenues for further advice and assistance.

Regular legal clinics and periodic legal primers will be conducted under **LawWorks**. For more information on legal awareness and assistance for employees, please contact the National Trades Union Congress at: LawWorks@ntuc.org.sg or The Law Society of Singapore at: LawWorks@lawsoc.org.sg.

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This booklet incorporates all the relevant laws as at 1 March 2017

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1. INTRODUCTION

Many women in the Singapore workforce face the difficult challenge of balancing their careers with traditional roles at home. In addition, working women are also vulnerable to other issues such as sexual harassment and discrimination because of their gender.

This guide seeks to help you gain a better understanding of your rights and entitlements under the law which may help you achieve a better work-life balance, as well as empower you so that you may protect yourself in the event that you encounter undesirable behaviour at your workplace.

2. CHILD-RELATED EMPLOYMENT BENEFITS

In addition to your annual leave entitlement, if you have children, you may be entitled to other child-related benefits, such as maternity, childcare and infant care leave, provided you meet the requirements as set out in the relevant laws and statutes.

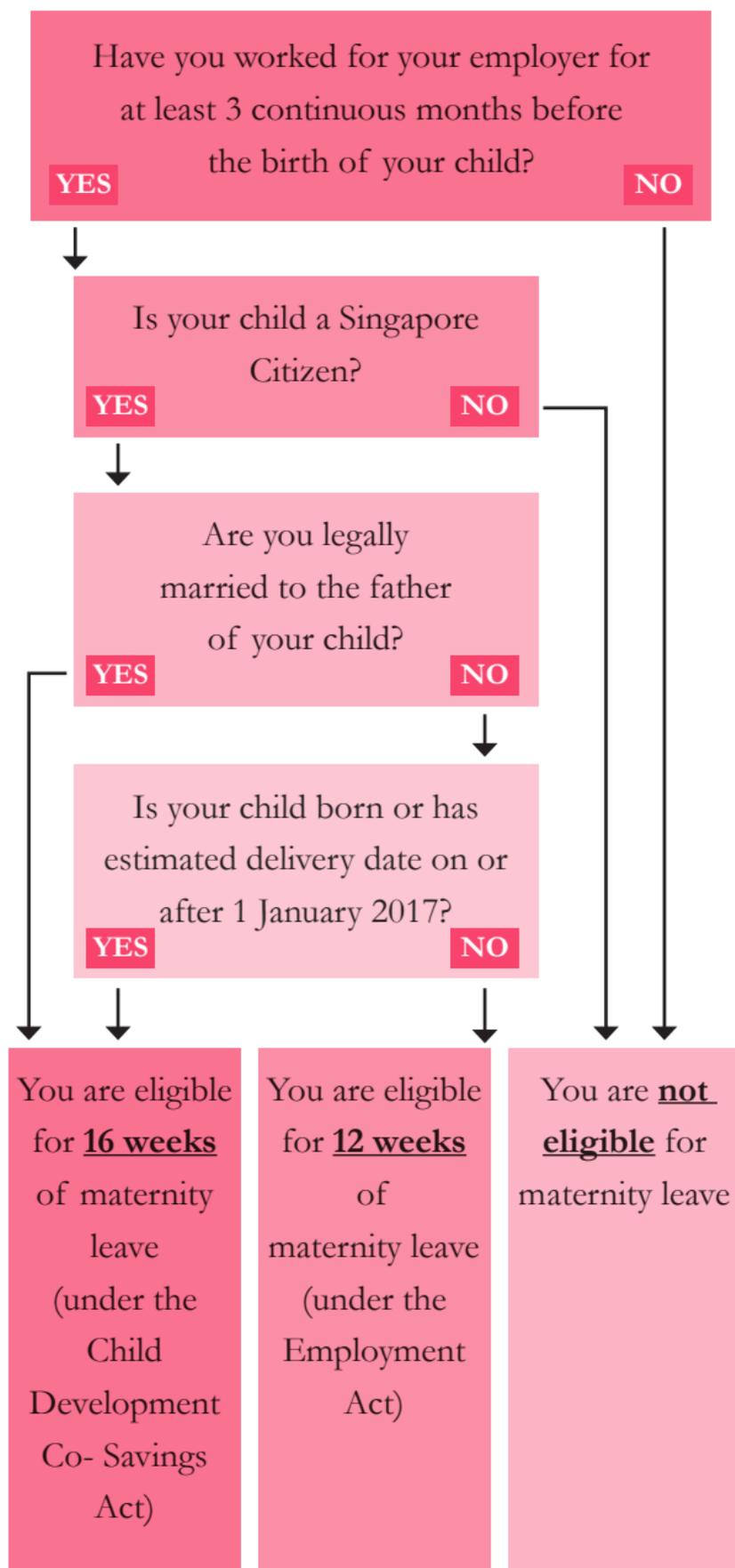
■ 2.1

Maternity Leave

Your maternity leave entitlement depends on several criteria, including:

- The length of your employment;
- The citizenship of your child; and
- Whether you are legally married to your child's father (if your child is born before 1 January 2017).

Are you entitled to maternity leave?



Maternity Leave under the Child Development Co-Savings Act

If you fulfil the following requirements, you are entitled to 16 weeks of paid maternity leave under the Child Development Co-Savings Act:

- You have worked for your employer for at least 3 continuous months before the birth of your child;
- Your child is a Singapore Citizen; and
- You are lawfully married to your child's father (unless your child is born or has estimated delivery date on or after 1 January 2017).

You will be paid your usual monthly salary by your employer during the leave period. Your employer can then claim reimbursement from the Government under the Government-paid maternity leave scheme.

For the first and second births, the first 8 weeks of your salary will be paid by your employer and the Government will reimburse your employer for the last 8 weeks.

For the third and subsequent births, the Government will reimburse your employer all 16 weeks of your salary.

Adoption Leave under the Child Development Co-Savings Act

If you are an adoptive mother, you are entitled to 4 weeks of Government-funded adoption leave (capped at S\$10,000) if you fulfil the following requirements:

- If your adopted child is below the age of 12 months at the point of formal intent to adopt, which means:
 - i) the time when you file the court application to adopt (if the child is Singaporean), or
 - ii) the time when in-principle approval is granted for a Dependant's Pass (if the child is a foreigner);
- If the child is a foreigner, he/she must become a Singapore Citizen within 6 months of adoption;
- You are lawfully married to your child's father (unless your formal intent to adopt is on or after 1 January 2017);
- You have worked for your employer for at least 3 continuous months before your formal intent to adopt; and
- The adoption order is passed within 1 year from your formal intent to adopt.

Do note that your adoption leave must be utilised before the child's first birthday.

With the new amendments to the Child Development Co-Savings Act, if your formal intent to adopt is on or after 1 July 2017, adoption leave will be extended to 12 weeks.

Shared Parental Leave under the Child Development Co-Savings Act

Currently, you may share 1 week of your maternity leave with your husband under shared parental leave.

However, with the new amendments to the Child Development Co-Savings Act, if your child is born on or after 1 July 2017, you may share up to 4 weeks of your maternity leave with your husband.

Maternity Leave under the Employment Act

If you are covered under the Employment Act, but not under the Child Development Co-Savings Act, you will be entitled to 12 weeks of maternity leave (of which 8 weeks are paid leave). Payment beyond the first 8 weeks is voluntary and subject to contractual agreement between you and your employer.

You are covered under the Employment Act provisions relating to maternity leave if you have entered into or work under a contract of service with an employer and are not (i) a seaman, (ii) a domestic worker, (iii) employed in a managerial or executive position and earning a basic monthly salary of more than \$4,500, or (iv) statutory board employee or civil servant.

FAQs on Maternity Benefits:

When do I have to inform my employer about my maternity leave?

A: You must inform your employer at least 1 week before you commence your maternity leave and also inform your employer of the date of delivery of your child as soon as possible. If you do not give the notice, you will only be entitled to half pay unless you have good reason for not giving the notice.

However, you should inform your employer as early as possible, so that they have time to make the necessary arrangements for your absence.

What if I am a contract, part-time or temporary employee?

A: You will be entitled to maternity leave if you satisfy the conditions under the Child Development Co-Savings Act or Employment Act. If you are eligible for paid maternity leave, you will be paid at the gross rate of pay for each day that you would normally have been required to work under your contract of service.

What if I fall sick during maternity leave?

A: You are not entitled to paid sick leave while on maternity leave.

Can my employer ask me to forgo my maternity leave?

A: Maternity leave is your entitlement and it is illegal for your employer to ask you to forgo your maternity leave.

Can I resign during my pregnancy?

A: Once you voluntarily leave employment, your employer will not be required to provide you with any maternity benefits.

Can I use my maternity leave to offset the notice period when I decide to leave my job?

A: No. You cannot use any portion of your maternity leave to offset your notice period. Your maternity benefits will cease once you leave employment.

How can I claim my Government-Paid Maternity Leave? (“GPML”)

A: Step 1: Discuss your maternity plans with your employer.

Step 2: Fill in and submit Form GPML1 or your employer’s declaration form to your employer with all the necessary supporting documents.

Step 3: Apply for maternity leave in accordance with your employer’s procedures. Your salary will be credited to you, as per your normal arrangements.

Note: Submit your claims online to the GPL Portal within 3 months from the last day of your maternity leave. Late claims will not be entertained.

For more information on how to submit your claim, please visit the Ministry of Manpower's website: <http://www.mom.gov.sg/employment-practices/leave/maternity-leave/maternityleave-disputes>

Maternity Protection

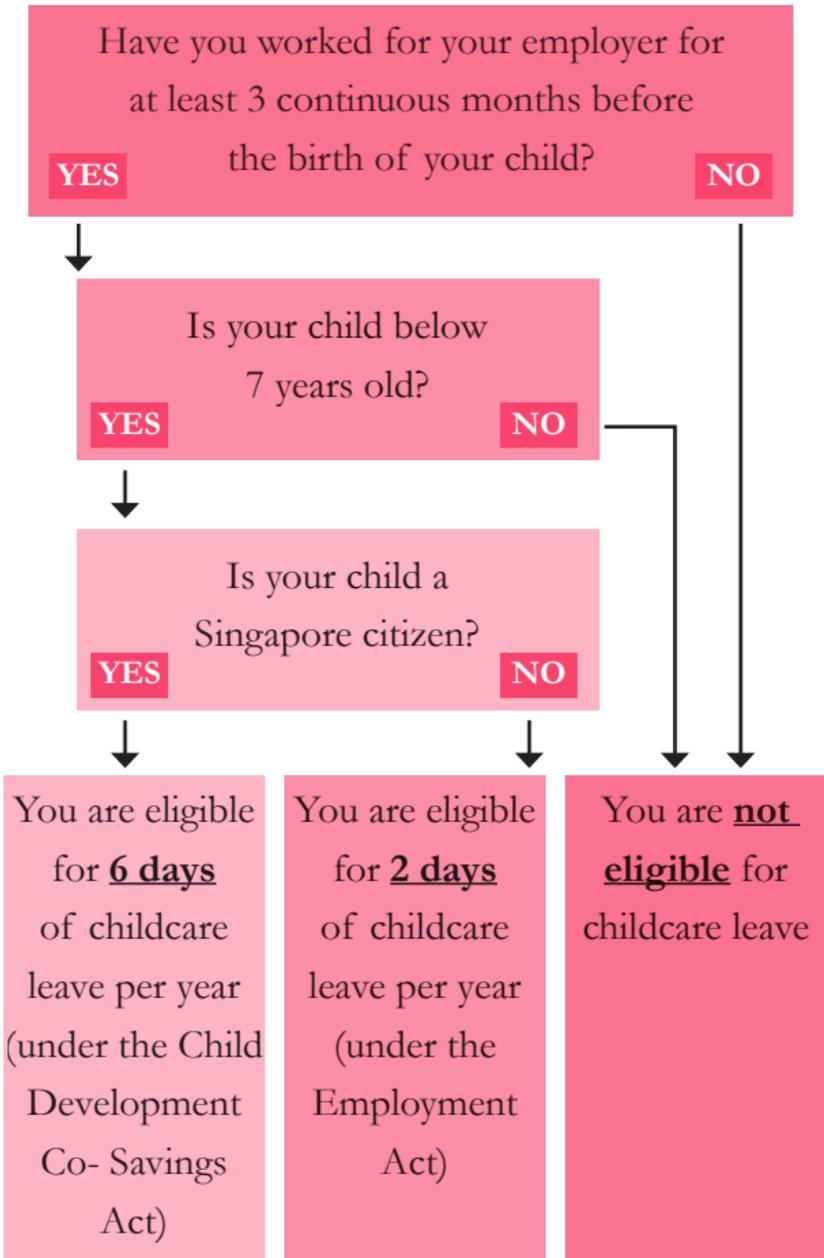
If you are eligible for maternity benefits under the Employment Act or Child Development Co-Savings Act, you are protected from retrenchment and dismissal without sufficient cause during your pregnancy, provided:

- You have worked for your employer for at least 3 months before receiving the notice of dismissal or retrenchment; and
- You were certified pregnant by a medical practitioner before receiving the notice of dismissal or retrenchment.

If your employer dismisses you without justification or retrenches you while you are pregnant, your employer is obliged to pay the maternity benefits that you are entitled to.

If you believe you have been dismissed without sufficient cause, you may wish to submit an appeal in writing to the Minister for Manpower after the dismissal and within 2 months of the birth of your child.

Are you entitled to childcare leave?



For more information, please refer to the Ministry of Manpower's website.

■ 2.2

Childcare Leave

Government-Paid Childcare Leave under the Child Development Co-Savings Act

If you fulfil the eligibility requirements of the Child Development Co-Savings Act, you and your spouse are each entitled to 6 days per year of childcare leave until the year your child turns 7 years old. This is regardless of the number of children you have.

The first 3 days of childcare leave are employer-paid and the last 3 days are Government-paid and is capped at S\$500 per day (including CPF contributions).

An employee shall not be entitled to:

- (i) more than 42 days of childcare leave in respect of any qualifying child;
- (ii) more than 12 days of extended childcare leave in respect of any qualifying child; and
- (iii) more than a combined total of 6 days of childcare leave and extended childcare leave during any relevant period.

Childcare Leave under the Employment Act

If you are covered under the Employment Act, but not under the Child Development Co-Savings Act, you and your spouse are each entitled to 2 days per year of childcare leave until the year your child turns 7 years old. This is regardless of the number of children you have. The 2 days of childcare leave are employer-paid.

FAQs:**What if I am a contract, part-time or temporary employee?**

A: Fixed-term contract/temporary/part-time/probationary employees are entitled to childcare leave, provided an employee has served the employer for a period of not less than 3 months.

If you are a part-time employee, your childcare leave entitlement will be pro-rated based on your number of working hours, in accordance with the formula below, but subject to a minimum of 2 days:

$$\begin{array}{l}
 \text{Average} \\
 \text{number of} \\
 \text{hours a week} \\
 \text{which you are} \\
 \text{required to} \\
 \text{work} \\
 \hline
 \text{Average} \\
 \text{number of} \\
 \text{hours a week} \\
 \text{which a} \\
 \text{similar} \\
 \text{full-time} \\
 \text{employee is} \\
 \text{required to} \\
 \text{work}
 \end{array}
 \times
 \begin{array}{l}
 \text{Number of} \\
 \text{days of} \\
 \text{childcare} \\
 \text{leave} \\
 \text{that a similar} \\
 \text{full-time} \\
 \text{employee is} \\
 \text{subject to,} \\
 \text{based on his} \\
 \text{duration of} \\
 \text{employment}
 \end{array}
 \times
 \begin{array}{l}
 \text{Number of} \\
 \text{hours a day} \\
 \text{which a} \\
 \text{similar} \\
 \text{full-time} \\
 \text{employee is} \\
 \text{required to} \\
 \text{work}
 \end{array}$$

Do I need to provide my employer with my child's medical certificate?

A: No, your child's medical certificate is not required. You have full flexibility to use the childcare leave to spend time with your child. However, you should give your employer early notice of your intention to take childcare leave, and your leave is subject to your employer's approval.

Can I take childcare leave during my notice period?

A: While childcare leave cannot be used to offset your notice period for termination of employment, you can apply for childcare leave during your notice period.

Am I entitled to additional childcare leave if I have more than one child?

A: You are not entitled to more than a combined total of 6 days of childcare leave and extended childcare leave.

Is my spouse also entitled to childcare leave?

A: Yes. You and your spouse are each entitled to 6 days of childcare leave per year. However, childcare leave is not transferable between spouses. Further, unconsumed childcare leave for the year cannot be carried over to the next year.

How can I claim Government-Paid Childcare Leave (“GPCL”)?

A: To claim your GPCL, discuss your childcare plans with your employer. Fill in and submit Form GPCL1 or your employer’s declaration form to your employer with all the necessary supporting documents.

Note: Submit your claims online to the GPL Portal within 3 months from the last day of your childcare leave or the last day of the calendar year. Late claims will not be entertained.

■ 2.3

Extended Childcare Leave

Working parents are eligible for 2 days of extended childcare leave every year if your child is aged 7 to 12 years (inclusive) and is a Singapore citizen, provided you have served your employer for a continuous period of 3 months.

If you have children in both age groups (i.e. below 7 years and 7-12 years), the total paid childcare leave for each parent is a maximum of 6 days per year.

Extended childcare leave: <http://www.mom.gov.sg/employment-practices/leave/childcare-leave/extended-childcare-leave>

Ministry of Manpower’s childcare leave calculator: <http://www.mom.gov.sg/employment-practices/leave/childcare-leave/calculate-childcare-leave>

■ 2.4

Unpaid Infant Care Leave

You are entitled to 6 days of unpaid infant care leave per year if:

- Your child is under 2 years of age (including legally adopted children/stepchildren);
- Your child is a Singapore citizen; and
- You have served your employer for at least 3 months before your child's birth.

FAQs:

Am I entitled to additional infant care leave if I have more than one child?

A: No. The total infant care leave entitlement for each parent is 6 days per year.

Is my spouse also entitled to infant care leave?

A: Yes. You and your spouse are each entitled to 6 days of infant care leave per year.

Am I also entitled to paid childcare leave if I have an infant?

A: Parents of Singapore citizens under the age of 2 are entitled to both 6 days of paid childcare leave (if the requirements are fulfilled) and 6 days of unpaid infant care leave.

<http://www.mom.gov.sg/employment-practices/leave/unpaid-infant-care-leave>

Salary-related claims

From April 2017, if you have a salary-related claim arising from your statutory entitlements (e.g. benefits under the Employment Act or Child Development Co-Savings Act) or your employment contract, you may bring a claim under the new Tripartite Alliance for Dispute Management (“TADM”) and/or Employment Claims Tribunals (“ECT”).

If you would like to bring a claim against your employer regarding your salary, you should first register your claim at TADM, where you and your employer will have to go through mediation.

If you fail to reach a settlement at TADM, you may then lodge a claim at ECT, which will hear and decide the case.

- The maximum claim amount is S\$20,000 (or S\$30,000 if you go through the Tripartite Mediation Framework or mediation with union involvement).
- If your claim exceeds the maximum amount, you may bring your case to ECT if you abandon the excess amount.
- The claim must be filed within 1 year from the date of the dispute, or if your employment has been terminated, within 6 months of the termination.
- Neither you nor your employer can be represented by a lawyer in the ECT.

3. FLEXIBLE WORK ARRANGEMENTS

Under Flexible Work Arrangements (“FWA”), you and your employer can agree to alternative work arrangements, such as varying your working hours or allowing you to work from home on some days. FWA allows you to reconcile your work and personal schedules so that you may continue to work without neglecting your family commitments. FWA can be on a temporary or long-term basis, depending on your needs as well as that of your employer.

Here are some common examples of FWA that you and your employer may consider¹ :

- Flexi-time/Staggered Work Hours: Vary the daily start and end times.
- Part-Time Work: Reduced hours on a regular basis, e.g. fewer hours a day or fewer days a week.
- Flexible Hours: Agreement to work a certain number of hours a week, no fixed times.
- Telecommuting: Working outside of the office, e.g. from home.

For more information on FWA, you may visit the TAFEP website: <https://www.tafep.sg/flexible-work-arrangement>.

4. WORKPLACE DISCRIMINATION

Workplace discrimination happens when an employee is treated unfavourably because of his or her personal traits unrelated to the nature and requirements of the work. Gender is one such example. However, Singapore does not have general anti-discrimination legislation that applies to employment in the private sector.

On 23 September 2013, the Ministry of Manpower (“MOM”) announced the implementation of the Fair Consideration Framework (“FCF”). Under the FCF, which applies to all companies in Singapore, all companies must comply with the Tripartite Guidelines on Fair Employment Practices (“TAFEP Guidelines”) and have fair employment practices that are open, merit-based and non-discriminatory.

5 Principles of Fair Employment Practices

The 5 principles of Fair Employment Practices² require companies to:

- i) Recruit and select on the basis of merit (such as skills, experience or ability to perform the job) regardless of age, race, gender, religion, marital status and family responsibilities or disability.

- ii) Treat employees fairly and with respect and put in place progressive human resource management systems.
- iii) Provide employees with equal opportunities to be considered for training and development based on their strengths and needs, to help them achieve their full potential.
- iv) Reward employees fairly based on their ability, performance, contribution and experience.
- v) Abide by labour laws and adopt the Tripartite Guidelines on Fair Employment Practices.

Simply put, you should not be unfairly treated at work just because of your gender. Any decision made by the employer in relation to its employees should be objective and based on merits rather than personal qualities unrelated to the nature of the job.

¹ <https://www.tafep.sg/sites/default/files/Publication%20-%20Flexible%20Work%20Arrangements%20for%20Better%20Business%20Results.pdf>

² *Tripartite Guidelines on Fair Employment Practices*

5. WORKPLACE HARASSMENT

Workplace harassment can take various forms, including abusive or insulting language, cyberbullying and stalking. Harassment can also take place in person or through modes of communication such as email, telephone or on social media.

In 2014 and 2015, the Association of Women for Action and Research (“AWARE”) received more than 120 complaints about workplace sexual harassment³. Sexual harassment typically involves unwelcome physical contact and advances, lewd and degrading remarks, showing of obscene images and requests for physical contact or sexual favours. If you (or someone you know) are encountering such behaviour at work, or other similar actions that make you feel disturbed or alarmed, do not be afraid to voice out your discomfort. You should make it clear to the perpetrator that his/her actions and/or words are causing you distress and firmly request that he/she stop the behaviour immediately.

If the perpetrator continues to harass you, you should collect evidence of his/her behaviour, such as any written correspondence via email or text messages or even CCTV footages, if available. You should also take note of persons who were

present at the time of the incident who may be your witnesses.

Protection from Harassment Act 2014 (“POHA”)

If you feel that you are being bullied or harassed at your workplace, and wish to take legal action against the perpetrator, you may consider one of the remedies provided under POHA.

Under POHA, harassment constitutes both a criminal offence as well as a civil wrong. This means that you may file a police report, take the perpetrator to court, or both.

Here are some examples of behaviour which amount to harassment under POHA⁴ :

Causing harassment, alarm or distress (sections 3 and 4, POHA)

- At the workplace, Alex loudly and graphically describes to the other co-workers his desire for a sexual relationship with Betty in an insulting manner. As a result, Betty is distressed.
- Calvin gets into a disagreement at work with Daphne over the way a project is run. Calvin is unhappy with Daphne and writes demeaning and untrue things about Daphne on his Facebook page, accusing Daphne of being “incompetent, stupid and lazy”. The post is seen by all of Calvin’s Facebook friends, including their co-workers. As a result, Daphne is distressed.

- However, in both of the above instances, the penalty would depend on whether the perpetrator intended to cause the victim distress.
 - Did Alex know Betty was within earshot and intentionally wanted Betty to hear him?
 - Did Calvin know Daphne would see the post because she is one of his Facebook friends? Or did someone else show the post to Daphne?

Fear or provocation of violence (section 5, POHA)

- Edwin verbally threatens to beat up Felicia in a manner which is likely to cause Felicia to take his words seriously. Felicia believes him and is alarmed and distressed.
- If, however, it was clear that Edwin meant it as a joke and there was no reason for Felicia to take it seriously, Edwin would not have committed harassment.

Unlawful Stalking (section 7, POHA)

- George may be guilty of unlawfully stalking Helen if he causes her harassment, alarm or distress by doing any the following:
 - Repeatedly sends emails to Helen with suggestive comments about her body;
 - Sends flowers to Helen daily even though she has asked him to stop doing so;
 - Repeatedly circulates revealing photos of Helen to other colleagues; or
 - Keeps Helen under surveillance.

Criminal penalties

If the perpetrator is found to be guilty of an offence under POHA, he/she may face the following punishment:

Offence under POHA	Punishment for first offence
Section 3 (Intentionally causing harassment, alarm or distress)	Fine not exceeding S\$5,000 or imprisonment not exceeding 6 months or both.
Section 4 (Harassment, alarm or distress)	Fine not exceeding S\$5,000.
Section 5 (Fear or provocation of violence)	Fine not exceeding S\$5,000 or imprisonment not exceeding 12 months or both.
Section 7 (Unlawful stalking)	Fine not exceeding S\$5,000 or imprisonment not exceeding 12 months or both.

Civil Remedies

A victim of harassment may also wish to sue the perpetrator for losses suffered as a result of the harassment. To succeed in a lawsuit for harassment, the claimant must be able to show that the perpetrator has committed harassment under POHA (e.g. sections 3, 4, 5 or 7 described earlier). Thus, it is very important to have evidence of the harassment.

If the claimant is successful, she may be awarded monetary compensation for the loss and distress suffered as a result of the harassment.

The Court may also make a Protection Order preventing further harassment, such as ordering the

perpetrator not to make further contact with the claimant or to stop the offending conduct.

Where the harassment involves the circulation of untrue, insulting or private content about a victim, such as revealing or degrading photographs, the Court may make an Order directing the perpetrator to take down the offending content. This is known as a “Non-Publication Order”.

Do note that each of these remedies involve different proceedings and costs, and you should decide which remedies are most suitable in your case. You may wish to pursue a mix of remedies, e.g. make a police report and apply for a protection order at the same time. Subsequently, if need be, you may start a lawsuit to obtain monetary compensation from the perpetrator.

For more information on the procedures involved for the various remedies, you may refer to section 2.3 of the LawWorks Pocket Series 3 on “Workplace Bullying”.

³ <http://www.channelnewsasia.com/news/singapore/advisory-issued-to-help/2371538.html>

⁴ *Reproduced from LawWorks Pocket Series 3 “Workplace Bullying”.*

6. SEEKING HELP

Ministry of Manpower

If you are unsure of your employment rights and entitlement, you may wish to visit the Ministry of Manpower's website, which contains useful information and resources on a wide range of employment-related topics.

Human Resource Department

The company's human resource department may be the first stop to lodge a complaint regarding any workplace-related issues, whether it is a dispute over your leave entitlement or incidents of harassment or discrimination. In most of the MNCs and larger SMEs, they may have established policies to deal with complaints of such nature and their resolution.

Association of Women for Action and Research (“AWARE”)

If you are a victim of sexual harassment at your workplace and wish to speak to a professional counsellor, you may wish to call the AWARE Helpline for a confidential and private consultation.

- Contact number: 1800 774-5935
(Monday to Friday, 3pm to 9:30pm)

Tripartite Alliance for Fair and Progressive Employment Practices (“TAFEP”)

If you have encountered discrimination while searching for a job or at your workplace, you may wish to approach TAFEP for advice and assistance.

- Tel : 6838 0969
- Website : <https://www.tafep.sg/report-discriminatory-practices>

Police

For more serious cases of workplace harassment which is causing you alarm or making you fear for your life or actual physical violence was used against you, you should lodge a police report. The police will investigate the incident complained of and may charge the perpetrator under POHA and/or the Penal Code for those offences.

For More Assistance/Information

If you are a union member, you may:

- contact your Union representative for assistance
- approach U PME Centre at NTUC Centre, 1 Marina Boulevard, B1-01 One Marina Boulevard, Singapore 018989;
- visit PME Portal at www.ntuc.org.sg/pme
- email: pme@ntuc.org.sg

You may also approach The Law Society of Singapore's Pro Bono Services Office

- General hotline: 6536 0650
- Email: ProBonoServices@lawsoc.org.sg

For more assistance and information on the Law Society's Community Legal Clinics, please visit: <http://probono.lawsociety.org.sg/Pages/Community-Legal-Clinic.aspx>.

Do note, however, that the lawyers at these clinics cannot subsequently act on your behalf in court proceedings.

7. CHECKLIST

1. Have you (or your co-workers) encountered the following behaviour at work, whether in person or online?

- Unwelcome physical contact
- Lewd and degrading remarks about your gender
- Showing of obscene images
- Request for physical contact or sexual favours
- Stalking and/or surveillance
- Any other similar behaviour, action or communication that is making you uncomfortable

2. Did anyone witness the harassment?

- Yes
- No

3. Do you have any evidence of the harassment (e.g. screenshots, CCTV footages)?

- Yes
- No

4. Are there established HR policies and procedures to address harassment, including sexual harassment, at your workplace?

- Yes
- No

5. Have you reported the harassment incident to your line manager or the human resource department? Was any action taken against the harasser?

- Yes
- No

6. Are you getting external help from your general practitioner, psychologist or psychiatrist to deal with the effects of being harassed?

- Yes
- No

If you have ticked “yes” to the above, you will probably have a stronger case.

The following are possible actions that you may wish to take:

- Check if there are established HR policies and procedures to address harassment, including sexual harassment, at your workplace.
- Report the harassment incident to your line manager or human resource department, providing evidence of the harassment where possible.
- If you are a union member, report the harassment incident to your Union.
- Get external help from your general practitioner, psychologist or psychiatrist to deal with the effects of being harassed.

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