Reporting Sexual Harassment In The Digital Age

Insights

4.02.18

In the wake of #TimesUp and #MeToo, the business world continues to reel over the seemingly shocking realization that sexual harassment is even more pervasive than most had imagined. This movement has forced employers across all industries to grapple with the real worry that sexual harassment may be problematic in their own workplaces. Victimized employees, too, are coming to realize that they are not alone. Those who have been harmed are building camaraderie with kindred spirits and may now have the courage to report harassment in light of so many others who are doing the same.

Yet the perceived pitfalls that prevent employees from reporting sexual harassment have not magically disappeared. Many employees still fear retaliation, being ostracized, and the general discomfort that may result from a complaint and investigation. Fear of reprisal, reputation loss, and general fallout often keep employees from enthusiastically claiming, "me, too!" But there may be a 21st- century solution to this age-old problem: yes, there is an app for that.

Reporting Harassment Has Never Been Easier
Smartphone apps such as STOPit and Callisto, along with web platforms AllVoices and tEQitable, work like amped-up employee hotlines, providing an avenue for employees to report instances of harassment with just a simple tap of the finger or a click of the mouse. Users simply describe the harassment they are facing and hit "send," launching their complaints into cyberspace.

But there are some key differences from the traditional telephone- based employee hotline. Most significantly, these tools are not necessarily designed to report harassment in the traditional sense. Rather, the reports are anonymous and the submitted instances of harassment are used for what amounts to data collection purposes. When employees lodge complaints, the data is aggregated to create a snapshot of the work environment. Therefore, the employer does not receive individualized reports of harassment that can be readily investigated, but can access a dashboard that tracks general trends in the work environment. This creates a type of reporting that exists somewhere in the middle, where the victim of harassment is able to come forward—in a sense—but maintains sufficient anonymity such that they avoid the stigma and fear that might come along with reporting in a more traditional sense.

The second way these apps and web platforms differ from reporting hotlines is that they are designed to deliver the dashboard of data to the C-suite executives at the company; the reports completely bypass the human resources department. The idea behind sending the information

completely bypass the human resources department. The idea behind sending the information straight to the top is to elevate, to the highest level possible, the severity of harassment problems. This function is meant to improve the chances that those in the highest positions will address harassment concerns in the work environment, or at least develop an awareness of the prevalence of harassment at their companies.

Should You Encourage Use Of These Digital Tools?
One of the hallmarks of the #MeToo movement has been a realization that employers need to do more to create an atmosphere that encourages employees to come forward with their stories. Only when employees identify insidious examples of harassment in the workplace can you truly root out the problem. To that end, you would think that encouraging your employees to make use of the new technology options as an alternative reporting mechanism would be a good thing; the more opportunities to report problems, the better—right?

However, given the built-in limitations described above, some serious problems might develop from app-generated reports of misconduct. If the information received is anonymous and so limited or vague in nature that it hamstrings your ability to investigate the problem effectively, you might be unable to take any meaningful action to address the problem. At the same time, the data collected by the app or web platform could be used against you in future litigation to demonstrate your direct knowledge of harassment in your workplace.

Three Steps You Should Follow
Although the goal of the technology discussed above is admirable, you should ensure that traditional best practices for reporting and investigating sexual harassment complaints are still central to combatting harassment in the workplace, even if you are eager to be innovative. Technology should complement your harassment reporting procedures, not replace them. Here are three steps we recommend if you decide to enter the digital age of harassment reporting:

1. **Training Is Key**
   Whatever your internal reporting process, you must ensure that those receiving complaints are trained to respond appropriately. Who will receive the dashboard of information from the app or web platform? Will they be trained to assess and investigate harassment complaints? Can they identify information that might need a more thorough review? The best way to ensure proper handling of such reports is by providing regular training to all of your management personnel.

2. **Investigations Should Be Prompt**
   While the technology provides aggregate data, some reports may be especially severe or provide specific details of harassment. Any time you receive a report of harassment, prompt investigation is a must. Let the affected employee(s) know that there will be a swift investigatory response and that you are committed to addressing issues before they infect other parts of the work environment. These are important aspects of resolving any harassment complaint.

   You could be missing important warning bells if the collected data is not reviewed regularly and with a keen eye. Often- times, the individuals at the top of a business have hectic schedules and

myriad priorities. What happens if the responsibility of reviewing the app slips through the cracks? What if an incident is reported and then goes days, weeks, or months before an investigation occurs? These are major concerns because of the fact that the programs are designed so that human resources personnel—who are attuned to the importance of immediate follow-up—do not receive the reports.

The anonymity of app- and web-based reports does not absolve you of your responsibility to investigate and promptly correct any report of harassment in the workplace. Take whatever steps are necessary to ensure a system is established that enables quick investigation of complaints.

3. **Resolve Complaints**

    Unaddressed harassment—no matter how small the incident—causes problems, whether it is the affected employee's individual productivity, a work center distracted by unchecked behaviors, decreased morale, or the fallout from rampant abuse by a lone individual. While the affected employee may feel some relief that they have at least "done something" to report harassing behavior by using a digital reporting app, they will not feel satisfied if their work environment remains pervaded with harassing behavior.

Unchecked behavior may cause employees to lose faith in your system and lead not only to costly lawsuits, but also to costly turnover. You should strive to create and maintain a culture where employees are not harassed or intimidated by their peers. Prompt investigation of all complaints helps to build that culture.

The Bottom Line

Especially in today's business environment, you should continue to be vigilant in your quest to eradicate harassment in your workplace. Finding new and innovative ways to accomplish this goal is admirable. However, you should thoroughly evaluate your processes and procedures, ensuring that the tools you implement provide a sufficient mechanism to allow you to investigate and promptly correct incidents of harassment.

For more information, contact the author at SWillis@fisherphillips.com or 803.740.7676.

Related People
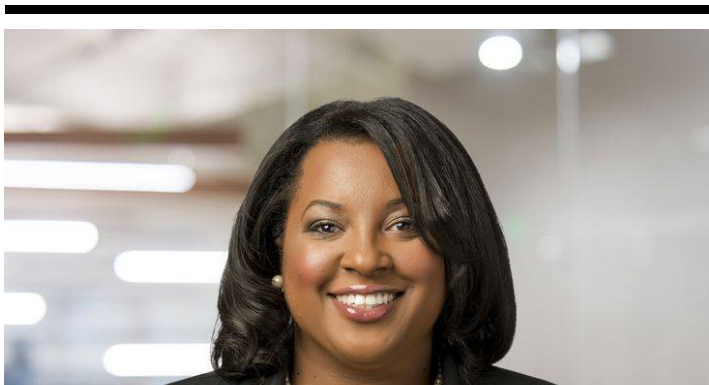
Sheila M. Abron
Partner
803.740.7676
Email