



# Harvard Business Review

REPRINT R2003B  
PUBLISHED IN HBR  
MAY-JUNE 2020

## ARTICLE COLLECTION SPOTLIGHT

# Confronting Sexual Harassment

### **Why Sexual Harassment Programs Backfire**

*by Frank Dobbin and Alexandra Kalev*

### **Empower Managers to Stop Harassment**

*by Adrienne Lawrence*

### **"If Something Feels Off, You Need to Speak Up"**

*An Interview with Asha Santos*

### **What Happens When an Employee Calls the Ombudsman?**

*by Charles L. Howard*



day several employees went to HR and filed a complaint, but that didn't prevent the people at the table from having to go through this terribly awkward encounter. Someone's intervention could have prevented significant discomfort.

**If intervention is aimed primarily at disrupting an incident in progress, and that intervention leads people not to report it, is there an argument that intervening may inadvertently allow such incidents to recur?**

My experience is the opposite. Many of the claims I see result because some behavior started out relatively minor and was allowed to grow. I call this a *gateway behavior*. When people look the other way during an incident of low-level harassment, it allows the harassment to intensify over time. By intervening early, at the first sign of a red-flag moment, bystanders can break the cycle and prevent the problem from worsening.

**You and I are speaking during the Harvey Weinstein trial. His crimes went beyond sexual harassment—but have you considered how a bystander intervention might have made a difference in that case?**

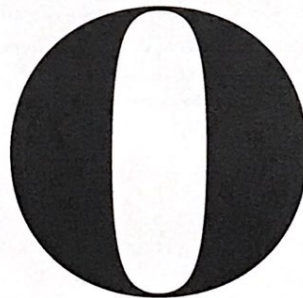
I would like to think that if bystander-intervention training had been popular 15 years ago, we would not have people coming forward with decades-old complaints about someone who has exhibited serial predatory behavior for many years. It is my hope that bystander-intervention training will empower people and make them feel comfortable stepping in before the inappropriate conduct intensifies and becomes a legal issue. ©

HBR Reprint R2003B

# What Happens When an Employee Calls the Ombudsman?



**Charles L. Howard**  
Executive director, International  
Ombudsman Association



OMBUDSMEN EXIST FOR one simple reason: to help people and organizations. They help employees by providing an individual (or a team) with whom to have confidential conversations, whether about someone who is taking bribes, a supervisor who's using drugs, sexual harassment, a personal conflict, or some other issue. Some employees see HR, compliance officers, and managers as agents of the company whose job is to protect it rather than employees'

interests. Like people who are reluctant to report something to the police, they don't know how an investigation will turn out, and they're afraid the law won't protect them. Yes, whistleblower-protection laws and anti-retaliation policies exist; but people know that far too often, whistleblowers are penalized, and retaliation occurs anyway. Thus they need a confidential, informal, neutral, and independent alternative to help deal with such issues. That's what an ombudsman provides.

The concept dates back to 18th-century Sweden. The role first appeared in the United States on university campuses in the 1960s, and corporations began embracing it in the 1980s, though corporate ombudsmen are not as common as they should be. Some companies forgo one because of the cost. This is tremendously shortsighted: An



## Spotlight

ombuds (now the more popular term), operating under a promise of confidentiality, may deliver a far greater return on investment than leaders ever know. The company can learn of issues and systemic problems that won't be raised through other channels, and problems are most often resolved effectively and confidentially. An ombuds office that helps avoid a single lawsuit may pay for itself several times over.

Typically, when an employee calls the office, the ombuds first describes how the program works, with an emphasis on confidentiality. Then the ombuds and the employee discuss possible responses to the problem. Sometimes the employee just wants information—say, whether something the boss is doing is against company policy. The ombuds will take action only with the employee's permission; in many cases the entire discussion focuses on options and potential consequences. Although people in this role are always neutral, favoring neither the employee nor the company, they needn't be passive. The ombuds may consult a supervisor or HR about an issue, but the process can also be more creative. I've seen one help an employee draft an anonymous letter to HR. I recall a case in which another arranged for an article highlighting the employee's concern to be published in the company newsletter—subtly sending a message and exposing a problem.

What happens when someone experiencing sexual harassment contacts an ombuds? Every case is different. Here are three real-life examples:

A female postdoc working in a lab under a renowned male scholar—someone who could make or break her

career—approached a university ombuds office. She called the office multiple times over several months without disclosing her name or even the issue she was calling about; such “check out the process” calls aren't unusual, and callers may take a while to trust in the confidential nature of the relationship. Eventually she said the professor was sexually harassing her. She didn't want to engage in any formal process with HR, but she wanted the harassment to stop. After much discussion, she decided she wanted to move to another lab. In the research world, leaving a postdoc fellowship early is unusual and requires a recommendation from one's current supervisor, so this could be complicated. At the woman's request, the ombuds had a confidential, informal, and frank conversation with the professor—who realized that it would be in everyone's best interest for him to enthusiastically support her leaving. She found a new lab where she flourished.

In another case, an employee called a corporate ombuds after a manager commented in front of several employees that their work area “smelled like a whorehouse.” After discussing various options, the employee gave permission for the ombuds to report the incident—but not the employee's identity—to HR. The company conducted an investigation, which confirmed that the incident had occurred. The manager was disciplined, and HR provided additional harassment training to the entire unit.

In a third instance, a female employee who had previously filed a formal complaint about a male employee's sexual harassment of her called the ombuds some time later. After her formal complaint, the male employee had been reprimanded and moved to another location, and she had been given protection, including an escort to her car at the end of each workday. But now she had heard that the same man was engaged in the same inappropriate conduct with a female employee in the new location.

The original victim didn't want to make a formal complaint, because her information was secondhand and she was not the victim this time. But she wanted to protect other women from what she had experienced. After talking through the options, she permitted the ombuds to contact HR and report that an anonymous employee had concerns—but no direct proof—that the harasser was at it again. HR investigated and confirmed that harassment was taking place, and the male employee was terminated.

The success of these programs depends in part on getting the right person for the role. A good ombuds is a superb listener who knows how to establish trust in people at all levels. He or she needs to be especially skilled at thinking through solutions to problems. Some in this role have a legal background, but that's not necessary—and many good ones aren't lawyers. The person must also have the respect of senior executives and be comfortable taking issues to the CEO or the board if necessary. Understanding the corporate culture and who has influence is also important—which is why many capable people in this role are promoted from inside the company.

I'm optimistic that more companies will embrace this model in the future. An ombuds serves as a knowledgeable sounding board for people experiencing difficulties at work, a supplement to formal channels for reaching those who have the authority to act, and a unique resource for expanding management's insights into the company's work life and culture. Our society and its organizations would be better off if such programs were ubiquitous. © HBR Reprint R2003B



**CHARLES L. HOWARD** is the executive director of the International Ombudsman Association and author of *The Organizational Ombudsman: Origins, Roles, and Operations—A Legal Guide* (American Bar Association, 2010). From 1984 to 2018 he was a partner at the law firm of Shipman & Goodwin.