

**FREQUENTLY ASKED QUESTIONS - TRIBUNAL FOR ANTI-SEXUAL
HARASSMENT (TAGS)**

1. What is the jurisdiction of TAGS?

TAGS has the jurisdiction to hear and determine any complaints of sexual harassment as defined in section 2 of the Anti-Sexual Harassment Act 2022 (Act 840).

2. What is sexual harassment?

Sexual harassment refers to any unwanted sexual behavior, in any form, whether verbal, non-verbal, visual, gestures, or physical, directed at an individual that is reasonably considered offensive or humiliating or constitutes a threat to their well-being.

3. Does TAGS have legal authority to investigate a complaint?

TAGS does not have the authority under Act 840 to investigate any complaints. TAGS provides an alternative channel to the civil courts to handle sexual harassment complaints expeditiously and in a simple manner at a minimal cost for the victim to take action against the perpetrator with the objective of obtaining compensation for losses suffered by him/her as a result of the said act.

4. Can the complainant initiate civil action in court as well as with TAGS on the same sexual harassment issue?

No.

5. Can the complainant file a sexual harassment complaint with TAGS if the respondent has been charged in criminal court for the same issue?

Yes.

6. Who can file sexual harassment complaints with TAGS?

- i. victims of sexual harassment;
- ii. if the victim is under the age of 18, he/she may be represented by his/her next friend or guardian *ad litem*; or

iii. if the victim is a person with a disability, he/she may be represented by his/her next friend or guardian *ad litem*.

7. What is the maximum limit of compensation that can be claimed at TAGS?

The maximum amount that can be claimed is RM250,000.00.

8. When was Act 840 fully enforced?

8 March 2024.

9. Can a sexual harassment complaint be lodged with TAGS if the incident happened before 8 March 2024?

No. Complaints can only be lodged for acts of sexual harassment that occurred on or after 8 March 2024. However, a civil action may be filed in court, subject to the Limitation Act 1953, Sabah Limitation Ordinance and Sarawak Limitation Ordinance.

10. How can a victim of sexual harassment file a complaint with TAGS?

Any victim or his/her next friend/guardian *ad litem* for a victim under the age of 18 or with a disability can file a sexual harassment complaint with TAGS by filling in the complaint form using Form 1. Form 1 can be obtained at TAGS' counter or downloaded from the KPWKM's website. The complainant should fill in four (4) copies of Form 1 and submit the copies at TAGS' counter.

Counter

Tribunal for Anti-Sexual Harassment (TAGS)

Level G, Ministry of Women, Family and Community Development
No. 55, Persiaran Perdana Presint 4,
62100 PUTRAJAYA
Tel. No : 03-8323 2279

Counter operating hours:

Monday – Friday : 9.00 am – 4.30 pm

Break :

Monday – Thursday : 1.00 pm – 2.00 pm

Friday : 12.15 pm – 2.45 pm

11. Is there any fee required when submitting Form 1?

A fee of RM30.00 is chargeable during submission of Form 1.

12. What are the follow up actions taken by TAGS upon receiving Form 1?

- i. Form 1 will be sealed, dated, and signed upon receipt;
- ii. two (2) sealed copies of Form 1 will be returned to the complainant. One (1) copy is for the complainant's record and the other copy is to be served by the complainant on the respondent; and
- iii. two (2) copies of Form 1 will be kept by TAGS.

13. What should the complainant do upon receiving the sealed copy of Form 1?

The complainant must serve Form 1 on the respondent within 14 working days from the date of receipt of sealed Form 1, by way of the following methods:

- i. by hand. Proof of service for this method includes providing a copy of the acknowledgment receipt/ signature/ receipt stamp/ photos and the date of service; or
- ii. via registered post with acknowledgment receipt addressed to the respondent's address. Proof of service for this method includes the returned AR card; or
- iii. affixing Form 1 on the main part of the respondent's last known address. An example of proof of service for this method is a clear photograph showing the affixed document and the respondent's premise.

14. Does the respondent have the right to defend himself/herself?

Yes. The respondent shall file a Statement of Defence via Form 2 in four (4) copies within 14 working days from the date of receipt of Form 1 at TAGS' counter with a filing fee of RM10.00.

15. What is the next process after Form 2 is filed?

- i. TAGS will seal, date, and sign Form 2.
- ii. one (1) copy of the sealed Form 2 will be returned to the respondent;
- iii. one (1) copy of Form 2 will be served on the complainant by TAGS; and

- iv. two (2) copies of Form 2 will be kept by TAGS.

16. How is the hearing conducted before the Tribunal?

After TAGS has issued the Notice of Hearing, parties are required to appear before the Tribunal on the date and time fixed for the hearing. Parties are allowed to submit any evidence or call any witnesses to support their respective complaint and defence. Sexual harassment complaints will be heard in a closed hearing before the Tribunal consisting of three (3) Tribunal members, chaired by a Chairperson.

17. Are the parties allowed to be represented by lawyers during the hearing?

Not allowed, unless in the opinion of the Tribunal, the matter in question involves complex issues of law.

18. Are the parties allowed to negotiate for a settlement?

Yes, subject to the agreement of both parties and the settlement agreement will be recorded before the Tribunal.

19. Is it permissible for someone else to attend and act on behalf of the complainant/respondent during the hearing?

No, unless the complainant/respondent is under the age of 18 or with a disability, he/she may be represented by his/her next friend or guardian *ad litem*.

20. What decisions can the Tribunal make at the end of a sexual harassment complaint hearing?

- i. If a sexual harassment complaint is successfully proven on the balance of probabilities, the Tribunal will issue an award in accordance with section 20 of Act 840, which may contain one or more of the following orders:
 - a) the respondent to issue a statement of apology to the complainant;
 - b) the respondent to publish a statement of apology to the complainant (if the complaint related to any act of sexual harassment which was carried out in public);

- c) the respondent to pay any compensation or damages not exceeding RM250,000.00 for any loss or damage suffered by the complainant in respect of the act of sexual harassment;
- d) parties to attend any programme as the Tribunal thinks necessary.

ii. If a sexual harassment complaint fails to be proven on the balance of probabilities, the Tribunal will dismiss the complainant's complaint.

21. Does TAGS have the authority to conduct investigations and impose penalties for non-compliance with awards issued by TAGS under Act 840?

No. Non-compliance with the award is a criminal offence under section 21 of Act 840. The investigation will be conducted by the police (PDRM) and only the courts have the authority to decide and impose penalties upon conviction.

22. Will the President and Vice President of TAGS be involved in the decision-making by a Tribunal in a hearing that is not chaired by either one of them?

No, the President and Vice President of TAGS shall not be involved in determining the decision of sexual harassment complaints heard before other Tribunal members.

23. Is the award binding on the parties?

The award (decision) issued by the Tribunal is final and binding on the parties and deemed to be a court order.

24. What actions can be taken if any party fails to comply with the award issued by the Tribunal?

If the award is not complied within 30 days from the date of its issuance, two (2) actions can be taken by the affected party against such non-compliance:

i. Civil action

The award may be enforced through a civil action by filing an application in court for execution of the order and shall be managed by the parties.

ii. **Criminal action**

The aggrieved party due to the non-compliance with the award may lodge a police report to enable a criminal investigation against the defaulting party. Non-compliance with the award is a criminal offence under section 21 of Act 840, which provides as follows:-

- a. a fine of twice the amount of compensation or damages, or imprisonment not exceeding two (2) years, or both; or
- b. if no compensation or damages is awarded by the Tribunal, the fine shall not exceed RM10,000.00, or imprisonment not exceeding two (2) years, or both; and
- c. if the non-compliance with the award continues, in addition to the penalties stated above, the person may be liable to a fine not exceeding RM1,000.00 for each day or part thereof during which the offence continues after conviction.

25. Can the award be challenged by the parties?

Yes, provided that there is a serious irregularity that affects the Award. This may be done by filing an application for judicial review at the High Court under Order 53 of the Rules of Court 2012.

26. Can the award be amended after it has been issued?

The award is final and cannot be amended except for editorial errors.

27. Can the execution of the award be stayed or suspended?

TAGS does not have the power to stay or suspend the execution of its award. Any stay or suspension of the execution of the award can be ordered only by the High Court in a judicial review application.

28. How parties can make inquiries to TAGS?

Any inquiries can be made via email to care.tags@kpwkm.gov.my or by calling Talian Kasih at 15999.