SEXUAL HARASSMENT POLICY

2013
Sexual Harassment policy

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1. ACRONYMS

HOD:    Head of Department
HR:     Human Resource
LEDET:  Limpopo Department of Economic Development, Environment and Tourism
MEC:    Member of the Executive Council

2. INTRODUCTION

LEDET recognizes that sexual harassment is a human right violation. Everyone has inherent dignity and has the right to have his or her dignity respected and protected. This policy prohibits sexual harassment against any employee, job applicant and other persons that have dealings with LEDET, regardless of their rank, gender, sexual orientation or race, and sets out guidelines to be followed when such person believes that a violation of this policy has occurred. Violations will also include knowingly making false information regarding a complaint.

3. PURPOSE AND OBJECTIVES

The purpose and objectives of this policy are the following:

3.1 To create appropriate guidelines and procedures for employees in dealing with reported cases of sexual harassment.

3.2 To create a working environment in which the employer and employees respect one another's integrity, dignity, privacy and rights to equality in the workplace.

3.3 To ensure that all employees possess knowledge regarding sexual harassment and related behavior.

3.4 To ensure that both the victim or aggrieved party and the alleged harasser are not victimized in any way by either management or co-workers.

3.5 To deal with sexual harassment cases in a very sensitive, prompt, unbiased and confidential manner.
4. AUTHORITY OF THE POLICY

This policy is issued under the authority of the MEC as the Executive Authority and the HOD as the Accounting Officer for LEDET.

5. LEGAL FRAMEWORK


5.2 Labour Relations Act, 1995.

5.3 Public service Act, 1994.

5.4 PSCBC Resolution No. 01 of 2003: Disciplinary Code and Procedures for the Public Service.

5.5 PSCBC Resolution No 14 of 2002: Grievance Rules for the Public Service.


6. SCOPE OF APPLICATION

This policy is applicable to all employees of the Department of Economic Development, Environment and Tourism, Limpopo Province.

7. DEFINITIONS.

For the purpose of this policy, unless the context otherwise indicates:

7.1 “employer” means the department of Economic Development, Environment and Tourism in Limpopo Province;

7.2 “Innuendo” means an allusive and suggestive remark with a double meaning which is disparaging;
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7.3 "Perpetrator" means any person who is alleged to have committed an act of sexual harassment;

7.4 "QUID PRO QUO" means the intentional act of harassment as an abuse of authority by employer, supervisor or any member of management who has the power to employ or dismiss or change the working condition of an employee by a suggestion of sex in return for a job, salary increment, application or threatened application of unfair disciplinary measures; and

7.5 "Sexual harassment" means unwanted or unwelcomed sexual tendencies, and request for sexual favours from one employee to the other that creates an intimidating, hostile or offensive environment for the recipient of the offending conduct and includes inappropriate gestures, innuendos, advances, suggestions or hints to touching, comments, statements or remarks without consent and at worst, rape.

8. POLICY PRONOUNCEMENTS

8.1 FORMS OF SEXUAL HARASSMENT

Sexual harassment can take various forms ranging from slight attention to the worst forms of violence, such as rape, but is not limited to the following examples:

8.1.1 QUID PRO QUO

This act of harassment occurs where any member of management, supervisor or co-employee influences the process of employment, promotion, training, discipline, dismissal, salary increments or other benefits of an employee or job applicant in exchange for sexual favours. This can be done by suggestion of sex in return for a job, salary increment, application or threatened application of unfair disciplinary measures.

8.1.2 PHYSICAL FORMS

Physical conduct of sexual nature includes all unwanted physical contact, ranging from touching to sexual assault or rape, and includes but not limited to fondling breasts, pinching buttocks, sexual patting and strip search by or in the presence of the opposite
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sex. This form also relates to people of the same sex and also refers to instances where unconventional sexual orientations are maintained.

8.1.3 VERBAL FORMS

These forms of sexual harassment include unwelcomed innuendoes, suggestions, hints, sexual advances, comments with sexual overtones, sex related jokes, insults or whistling directed at individual or group of individuals.

8.1.4 NON VERBAL FORMS

These forms include unwelcomed gestures, indecent exposure and display of sexual explicit pictures and objects, leering and winking.

8.1.5 STALK

This is the behavior that includes pursuit of sexual harassment through telephone, cell phone text messages, e-mail and note pad by giving unwanted and obsessive attention to the recipient thereof.

8.2 ROLES AND RESPONSIBILITIES

8.2.1 VICTIM

The victim has the following responsibilities:

8.2.1.1 Make the perpetrator aware through objecting to the action or displaying the discomfort resulting from the unwanted sexual harassment committed either alone or in the company of a witness.

8.2.1.2 Take a witness with him or her to inform the perpetrator of his or her feelings about the act committed.

8.2.1.3 Make a choice of having the offence resolved in a formal or informal way.

8.2.1.4 Report sexual harassment cases within 24 hours to the supervisor or the relevant Senior Manager, or Senior Manager: Transformation Services. The
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victim may lodge a grievance against the perpetrator within 90 days through the prescribed Grievance Rules for the Public Service.

8.2.1.5 Prospective employees, visitors, service providers or any other person who is having dealings with the Department can also be victims and have a right to lodge a complaint against an employee of the Department who is alleged to have sexually harassed them.

8.2.1.6 This policy does not limit the legal rights of the victim to press separate criminal and civil charges against an alleged perpetrator.

8.2.2 PERPETRATOR OR ALLEGED PERPETRATOR

8.2.2.1 If the perpetrator has been made aware of his or her offensive behavior, then such perpetrator has an obligation to avoid any form of retaliation whether direct or indirect.

8.2.2.2 Where a formal complaint has been lodged against a perpetrator, he or she may seek advice in order to understand his or her rights.

8.2.3 THE SUPERVISOR OR MANAGER

8.2.3.1 The supervisors or relevant Senior Managers are the custodians of this policy and must ensure adherence and compliance thereto.

8.2.3.2 The supervisors or relevant Senior Managers of victims or alleged perpetrators, who have observed sexual harassment taking place or have received a complaint from the victim of sexual harassment, should immediately report it to the HOD, who shall order internal investigation of the alleged conduct for possible disciplinary action as soon as possible.

8.2.3.3 The supervisor or relevant Senior Manager shall refer the victim to the Sub-Directorate: Employee Assistance Programme for emotional and psychological support.
8.2.4 COLLEAGUES OR THIRD PARTY OR WITNESS

A colleague or third party, who has observed or is aware of the sexual harassment that occurred in the workplace, and suspects or is aware of the victim's reluctance to report it either due to fear of intimidation or lack of emotional resilience, has a duty to bring the act to the attention of the Senior Manager: Transformation and the HOD.

8.2.5 SPECIAL PROGRAMMES UNIT

The Special Programmes Unit shall conduct education and awareness campaigns on forms of sexual harassment to all employees of the Department through activities such as workshops and information sharing sessions, electronic medium such as email, intranet and printed material.

8.2.6 EMPLOYEE ASSISTANCE PROGRAMME UNIT

The Employee Assistance Programme Unit shall provide a support structure and give advice to both the victim and the alleged perpetrator and also recommends appropriate measures to deal with the problem.

8.2.7 HEAD OF DEPARTMENT

The HOD or his or her delegate shall upon receipt of alleged acts of sexual harassment:

8.2.7.1 Appoint an investigation officer to establish facts regarding reported alleged acts of sexual harassment.

8.2.7.2 Designate a person to deal with cases of alleged sexual harassment.

8.2.7.3 Instruct that the necessary disciplinary action be taken against the perpetrator should there be sufficient grounds.

8.2.8 SENIOR MANAGER: EMPLOYEE RELATIONS

Senior Manager: Employee Relations shall ensure that disciplinary processes take place where necessary, while also ensuring a fair and just process is followed in dealing with the complaint without compromising the urgency and confidentiality it deserves.
8.2.9 SENIOR MANAGER: TRANSFORMATION

Senior Manager: Transformation shall ensure that all employees are made aware of all forms of sexual harassment and that all necessary emotional and psychological support is provided accordingly.

8.3. REPORTED FALSE ALLEGATION OF SEXUAL HARASSMENT

It is an act of misconduct for an employee to report a false act of harassment against any person, and such employee shall be subjected to a disciplinary process in terms of the Disciplinary Code and Procedure for the Public Service.

9. DEFAULT

An employee who fails to comply with the provisions of this policy shall be dealt with in terms of the Public Service Disciplinary Code and Procedures for the Public Service as amended.

10. INCEPTION DATE

The inception date of this policy is 30 days after approval by the Head of Department.

11. REVIEW

This policy shall be reviewed every twenty four (24) months.

12. TERMINATION

This policy shall remain in force until and unless it has been withdrawn and/or amended.

13. ENQUIRIES

Enquiries regarding this policy should be directed to the Senior Manager: Transformation
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14. APPROVAL

APPROVED BY:

[Signature]

HEAD OF DEPARTMENT: LEDET

DATE

16 | 09 | 2013