

**LIMPOPO PROVINCIAL GOVERNMENT  
DEPARTMENT OF SPORT, ARTS AND CULTURE**

**POLICY ON SEXUAL HARASSMENT**

**1. PREAMBLE**

The Department is committed to maintaining a safe and cooperative working environment in which mutual respect and dignity for all employees exists. Harassment of any kind based upon sex is inconsistent with objectives of this policy and contrary to the laws of this country, which promotes equal rights without regard of age, sex, pregnancy, marital status, ethnic or social origin, colour, disability, sexual orientation, conscience, belief, race, religion, culture, language, and birth of the people of South Africa.

**2. PURPOSE**

This policy provides a general definition of sexual harassment, prohibits sexual harassment and sets out procedures to be followed when any member of the department believes that a violation of the policy has occurred. Violation will also include knowingly making a false complaint of sexual harassment or providing false information regarding a complaint.

**3. LEGAL FRAMEWORK**

- a) Constitution of the Republic of South Africa (Act 108 of 1996)
- b) Employment Equity Act, 1998 (Act No 55 of 1998)
- c) Labour Relations Act, 1995 (Addendum: Notice.1367 of 1998)
- d) Basic conditions of Employment Act, 1997 (Act No 75 of 1997)
- e) Public Service Act, 1994 (Proclamation No 103 of 1994) as amended.
- f) PSCBC Resolution No.2 of 1999
- g) Promotion of Equality and Prevention of Unfair Discrimination Act of 2000

**4. SCOPE OF APPLICATION**

- 4.1 The policy is intended to guide employer and employees, the perpetrators and victims of sexual harassment in the department and it includes:
  - a) Employer
  - b) Employees
  - c) Job applicants
  - d) Clients
  - e) Service providers
  - f) Others having dealings with a business

- 4.2 Nothing in the above confers the authority on employees to take disciplinary action in respect of non – employees. A non- employee who is a victim of sexual harassment may lodge a grievance with the employer of the harasser where the harassment has taken place in the workplace or in the course of the harasser's employment.

## **5. DEFINITION OF SEXUAL HARASSMENT**

- 5.1 For the purpose of this policy, sexual harassment is defined according to the Code of Good Practice on Handling of Sexual Harassment Cases, as any unwelcome and unwanted conduct of a sexual nature. The unwanted nature of sexual harassment distinguishes it from behaviour that is welcome and mutual.
- 5.2 Sexual attention becomes sexual harassment if:
- 5.2.1 The behaviour is persistent although a single incident of harassment can constitute sexual harassment and /or
- 5.2.2 The recipient has made it clear that the behaviour is considered offensive and / or
- 5.2.3 The perpetrator should have known the behaviour is regarded as unacceptable.

## **6. FORMS OF SEXUAL HARASSMENT**

- 6.1 Sexual harassment may include unwelcome physical, verbal or non- verbal conduct, but is not limited to the examples listed as follows:
- 6.1.1 Physical conduct of a sexual nature includes all unwanted physical contact, ranging from touching /pats and squeezes, sexual assault, rape, strip search by or in the presence, forceful kissing, brushing the body, coerced sexual approach, repeated brushing against someone's body, etc.
- 6.1.2 Verbal forms of sexual harassment include unwelcome innuendoes, suggestions and hints, sexual advance, comments with sexual overtones, sex- related jokes or insults or unwelcome graphic comments about a persons body made in their presence or directed towards them, unwelcome and inappropriate enquiries about a person's sex life and unwelcome whistling directed at a person or group of persons, repeated requests for dates, asking about personal/sex life, explicit sexual suggestions in return for reward, offensive written, telephonic communication ,uncomfortable greetings
- 6.1.3 Non – verbal forms of sexual harassment include unwelcome gestures, incident exposure (flashing) and the unwelcome display of sexual explicit pictures and objects, catcalls, smacking or kissing noises ,stalking, leering
- 6.1.4 Quid pro quo (this for that) harassment occurs where an owner , employer, supervisor, member of management or co-employee, undertakes or attempts to influence the process

of employment, promotion, training, discipline, dismissal, salary increment or other benefit of an employee or job applicant, in exchange of sexual favours.

- 6.1.5 Sexual favouritism exists where a person who is in a position of authority rewards only those who respond to his/ her sexual advances, whilst other deserving employees who do not submit themselves to any sexual advances are denied promotion.

## **7. ROLES AND RESPONSIBILITIES**

- 7.1 Management and employees are required to refrain from committing acts of sexual harassment.
- 7.2 Management and employees have a role to play in contributing towards creating and making an environment in which sexual harassment is unacceptable. They should ensure that their standards of conduct do not cause offence and they should discourage unacceptable behaviour on the part of others.
- 7.3 Management is required to take appropriate action in accordance with the Code of Good Practice on Handling of Sexual Harassment Cases, when instances of sexual harassment, which occur within the workplace, are brought to their attention.

## **8. PROCEDURES**

### **8.1 Advice and assistance**

- 8.1.1 Sexual harassment is a sensitive issue and a victim may feel unable to approach the perpetrator, lodge a formal grievance or turn to colleagues for support. As far as is practicable the department should designate a person outside of line management whom the victims may approach for confidential advice.
- 8.1.2 Such a person:
- a) Could include persons employed by the department to perform inter -alia such a function, a trade union representative or co –employee, or outside professionals.
  - b) Should have the appropriate skills and experience or be properly trained and given adequate resources.
  - c) Could be required to have counseling and relevant labour relations skills and be able to provide support and advice on a confidential basis

### **8.2 Options to resolve a problem**

- 8.2.1 Employees should be advised that there are two options to resolve a problem relating to sexual harassment. Either an attempted can be made to resolve the problem in an informal way or a formal procedure can be embarked.

- 8.2.2 The employee should be under no duress to accept one or the other option.

### **8.3 Informal procedures**

- 8.3.1 It may be sufficient for the employee concerned to have an opportunity where he/she can explain to the person engaging in the unwanted conduct that the behaviour in question is not welcome, that it offends them or makes them uncomfortable and that it interferes with their work.
- 8.3.2 If the informal approach has not provided a satisfactory outcome, if the case is severe or if the conduct continues, it may be more appropriate to embark upon a formal procedure. Severe cases may include: sexual assault, rape, strip search and quid pro quo harassment.

### **8.4 Formal procedures**

When a formal procedure has been chosen by the aggrieved, a formal procedure for resolving the grievance should be available and should:

- 8.4.1 Specify to whom the employee should lodge the grievance.
- 8.4.2 Make reference to timeframes, which allow the grievance to be dealt with expeditiously.
- 8.4.3 Provide that if the case is not resolved satisfactorily. The issues can be dealt with in terms of the dispute resolution procedures.

## **9. INVESTIGATION AND DISCIPLINARY ACTION**

- 9.1 Care should be taken during any investigation of a grievance of sexual harassment that the aggrieved person is not disadvantaged, and that the position of other parties is not prejudiced if the grievance is found to be unwarranted.
- 9.2 The range of disciplinary sanctions to which employees will be available should be clearly stated and it should be made clear that it will be a disciplinary offence to victimize or retaliate against an employee who in good faith lodges a grievance of sexual harassment.

## **10. DISPUTE RESOLUTION**

Should a complaint of alleged sexual harassment not be resolved by the internal procedures set out above, either party may within 30 days of the dispute having arisen, refer the matter to the Commission on Conciliation, Mediation and Arbitration (CCMA) for conciliation. Should the dispute remain unresolved either party may refer the dispute to the Labour Court within 30 days of receipt of the certificate issued by the Commissioner.

## **11. CONFIDENTIALITY**

- 11.1 The employer and employees must ensure that grievances about sexual harassment are investigated and handled in such a way that identities of the persons involved are kept confidential.
- 11.2 In cases of sexual harassment management, employees and parties concerned must endeavor to ensure confidentiality in the disciplinary enquiry. Only appropriate members of management as well as the aggrieved person, representative, alleged perpetrator, witness and interpreter if required, must be present in the disciplinary enquiry.
- 11.3 The Department shall disclose to either party or to their representatives, such information as may be reasonably necessary to enable the parties to prepare for any proceedings in terms of this policy.

## **12. GRANTING OF SPECIAL SICK LEAVE FOR COUNSELLING**

Where an employee's existing sick leave entitlement has been exhausted, the Department should give due consideration to the granting of additional sick leave, in cases of serious sexual harassment where the employee on medical advice requires trauma counseling.

## **13. MONITORING, EVALUATION AND REPORTING**

The sub-branch Human Resource Management and Development will be responsible for monitoring implementation of this policy and providing support service to management and to produce reports as and when required.

## **14. POLICY IMPLEMENTATION**

The policy shall come into effect on the first date of the month following the month which the Executing Authority approved it.

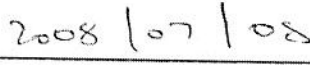
15. AMENDMENT OF POLICY

This policy shall be reviewed annually and as and when necessary and it shall follow the initial process of policy development.

Recommended/~~Not recommended~~


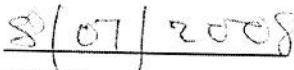


HEAD OF DEPARTMENT



DATE

Approved /~~Not Approved~~:

  
MEMBER OF EXECUTIVE COUNCIL  
DATE