

Department:
Community Safety & Transport Management
North West Provincial Government
REPUBLIC OF SOUTH AFRICA

SEXUAL HARASSMENT POLICY

NORTHWEST PROVINCE:
DEPARTMENT OF COMMUNITY SAFETY AND TRANSPORT MANAGEMENT
HUMAN RESOURCES POLICY

POLICY NO. : HR2016/001
NAME OF POLICY : SEXUAL HARASSMENT POLICY
EFFECTIVE DATE : MAY 2016
DATE OF REVIEW : APRIL 2019

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PREAMBLE

The Department of Community Safety and Transportation Management views sexual harassment as a violation of the constitutional founding principles and equality of the person subjected to it and-

BELIEVES that the attainment of substantive equality in the Department can only be achieved if the rights of both women and men are promoted and protected equally and that no one is subjected to sexual harassment.

Recognises that the harm caused by sexual harassment is often extreme, including humiliation, loss of dignity, psychological (and sometimes physical) injury, and damage to professional reputation and career and that sexual harassment impedes the promotion of the victims.

Acknowledges that sexual harassment is rife within its ranks, and sexual harassment complaints have not always been given the appropriate weight they deserved.

Commits itself to implement measures to eradicate sexual harassment and ensure a safe environment that protects and promotes the human dignity of all employees and clients through the implementation of this policy which seeks to:

- Eradicate sexual harassment of others in the Department through the implementation of this policy;
- Provide accessible enforcement mechanisms that take into account the sensitive nature of sexual harassment;
- Create environment that is not intimidating, humiliating, hostile or offensive to anyone regardless of the gender or sexual orientation and that shall ensure that no one is subjected to sexual harassment;
- Provide a clear definition of sexual harassment and credible grievance procedures for victims that seek to treat each case on its merit;
- Ensure that victims of sexual harassment who report it are not further victimised by the alleged perpetrator or the committee that shall be handling the grievance procedure;
- Provide for victims' recourse and support; and
- Facilitate training of all the Department's employees on Sexual Harassment.

1. PURPOSE

The purpose of this policy is to:

- (a) Promote a workplace that is free of sexual harassment, where the employer and the employees, supervisors and subordinates respect each other's integrity, dignity, privacy and right to equity;
- (b) Eliminate all forms of sexual harassment in the Department;
- (c) Provide a systematic and consistent approach to managing sexual harassment and to prevent its occurrence or recurrence.
- (d) Prescribe timelines for all actions to ensure a swift resolution process; and
- (e) Determine the appropriate recourse for the victim if alleged perpetrator is subsequently found guilty.

2. OBJECTIVES OF THE POLICY

- (a) The policy is developed in order to educate employees on sexual harassment activities in the workplace;
- (b) The policy is developed to provide guidelines and procedures on the effective management of sexual harassment complaints within the Department;
- (c) The policy is developed to ensure that all people involved in complaints, including the complainant, the alleged perpetrator and witnesses, are treated fairly, with respect to their dignity and privacy;
- (d) The policy is developed to create an enabling and barrier free workplace that is non-sexist and non discriminatory;

3. SCOPE OF APPLICATION

- 3.1 This Policy applies to all employees within the Department of Community Safety and Transport Management.
- 3.2 While the Department has no jurisdiction over third parties who are not employees of the Department, The Department encourages all people who work in or have dealings with the Department to uphold and respect this policy and other related policies.

4. LEGISLATIVE FRAMEWORKS

- 4.1 Constitution of the Republic of South Africa, Act No. 108 of 1996;

- 4.4 Labour Relations Act (LRA) No. 66, of 1995;
- 4.5 Employment Equity Act (EEA) No. 55, of 1998;
- 4.6 White Paper on Affirmative Action in the Public Service, 1998;
- 4.7 Code of Good Practice on the Handling of Sexual Harassment Cases, Notice 1367 of 1998;
- 4.8 Promotion of Equality and Prevention of Unfair Discrimination Act, No 4 of 2000;
- 4.9 National Policy Framework for Women Empowerment and Gender Equality, 2000;
- 4.10 Criminal Sexual Offences and Related Matters Amendment Act, No 32 of 2007;
- 4.11 Protection from Harassment Act No. 17, 2001;
- 4.12 Compensation for Occupational Injuries and Diseases Act, No 130 of 1993;
- 4.13 Disciplinary Code and Procedure for the Public Service (PSCBC Resolution 1 of 2003);
- 4.14 Policy and Procedure on Incapacity Leave and Ill Health Retirement (PILIR), 2009;
- 4.15 Gender Equality Strategic Framework for the Public Service, 2008;
- 4.16 Convention on the elimination of All Forms of Discrimination Against Women (CEDAW), 1995;
- 4.17 Beijing Platform for Action(BPA), 1995;
- 4.18 The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 2003;
- 4.19 Public Service Coordinating Bargaining Council (PSCBC) Resolution No. 7 of 2000 as amended by Resolution No. 5 of 2001.

5.1 ABBREVIATIONS

- 5.1.1 **BPA** "means the Beijing Declaration and Platform for Action;"
- 5.1.2 **EEA** "means the Employment Equity Act;"
- 5.1.3 **CEDAW** " means the Convention on the Elimination of all Forms of Racial Discrimination;"
- 5.1.4 **PSCBC** "means the Public Service Coordinating Bargaining Council;"
- 5.1.5 **LRA** "means the Labour Relations Act;"

5.2 DEFINITIONS

- 5.2.1 **Department** "means the Department of Community Safety and Transport Management;



- 5.2.2 **Head of Department** "means the Head of the Department, him/herself or his delegated authority or his/her designated office;"
- 5.2.3 **Employee** "means all employees of the Department employed in terms of Public Service Act of 1994, the Basic Conditions of Employment Act of 1998, as amended;"
- 5.2.4 **Complainant** "means the person alleging that conduct constituting sexual harassment as defined in this policy has occurred. The person may or may not be the victim and may not necessarily be an employee of the department;"
- 5.2.5 **Mediation** "means an informal and confidential process where parties can participate in a search for a fair and workable solution;"
- 5.2.6 **Perpetrator** "refers to the person who is alleged to have perpetuated sexual conduct;"
- 5.2.7 **Respondent** "refers to the person against whom the sexual harassment complaint has been logged and who is responding to the allegation;"
- 5.2.8 **Victim** "refers to the person against whom an act or acts of sexual harassment as defined in the policy have allegedly been perpetrated;"
- 5.2.9 **Victim's Charter** "refers to an important instrument for promoting justice for victims of crime in South Africa;"

6. DEFINITIONS OF PROTECTION FROM HARASSMENT

- 6.1 **This policy uses the definition of the Protection from Harassment as any:**
 - 6.1.1 Unwelcome sexual attention from a person who knows or ought reasonably to know that such attention is unwelcome;
 - 6.1.2 Unwelcome explicit or implicit behaviour, suggestions, messages or remarks of a sexual nature that have the effect of offending, intimidating or humiliating the complainant or related person would be offended, humiliated or intimidated;
 - 6.1.3 Implied or expressed promise or reward for complying with a sexual oriented request; or
 - 6.1.4 Implied or expressed threat of reprisal or actual reprisal for refusal to comply with a sexually oriented request.

7. PRINCIPLES

The Department shall create and maintain a working environment in which the dignity of employees is respected. The Department shall create and maintain a workplace climate in which victims of sexual harassment shall not feel that their grievances are ignored or trivialised, or fear reprisals. In order to achieve these ends, the following guidelines shall be implemented:

- 7.1 Managers or supervisors and employees are required to refrain from committing acts of sexual harassment, whether verbal or written, non-verbal, physical, visual or whatever form.
- 7.2 The Department shall ensure that all understand that they have a role to play in contributing towards creating and maintaining a work environment in which sexual harassment is unacceptable and that their standards of conduct should not cause offence and should discourage unacceptable behaviour on the part of others.
- 7.3 The Department shall ensure that persons such as customers, suppliers, job applicants and others, who have dealings with the Department, are not subjected to sexual harassment by the managers or supervisors and employees of the Department.
- 7.4 Managers or supervisors are required to take appropriate action in accordance with this policy, when instances of sexual harassment which occur within the workplace or in the course of employment are brought to their attention.
- 7.5 Equality and justice, including administrative justice, shall be upheld at all times.
- 7.6 The rights of victims and accused persons shall be balanced as provided for in the Victim's Charter.

8. POLICY STATEMENT

The Department bears the responsibility to prevent sexual harassment and commits itself to maintain an atmosphere of mutual respect, and to provide a safe and secure working environment that is conducive to promoting productivity. Accordingly, the kind of conduct characterised as sexual harassment will not be tolerated.

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9. FORMS OF SEXUAL HARASSMENT

For the purpose of this policy-

- 9.1 Physical conduct of a sexual nature, which includes all unwanted physical contact, ranging from touching to sexual assault and rape, and includes a strip search by or in the presence of the opposite sex.
- 9.2 Verbal forms of sexual harassment include unwelcome innuendoes, suggestions and hints, sexual advances; comments with sexual overtones; sex-related jokes or insults or unwelcome graphic comments about a person's 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.
- 9.3 Non-verbal forms of sexual harassment include unwelcome gestures, indecent exposure, and the unwelcome display of sexually pictures and objects.
- 9.4 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 observing do not submit themselves to any sexual advances are denied promotions, merit rating, salary increases or other forms of recognition.
- 9.5 *Quid pro quo* 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 for sexual favours.
- 9.6 The mutual attraction between two persons does not constitute sexual harassment, as this is a private matter between them. However, all employees of the Department are encouraged to act with a very high level of integrity when it comes to relationships of this nature. Such a relationship can lead to sexual harassment allegations if it later becomes unwelcome by either party.

9.7 TYPE OF CONDUCT THAT MAY BE CONSTRUED AS SEXUAL HARASSMENT

- 9.7.1 Sexual advances;
- 9.7.2 Requests for sexual favours in return for employment benefits (*quid pro quo*);
- 9.7.3 Verbal abuse or non verbal conduct with sexual overtones;
- 9.7.4 Innuendoes, including remarks or insinuations about a person's sex life or private life which has sexual overtones;

- 9.7.5 Suggestive remarks about a person's appearance, body or clothing;
- 9.7.6 Physical contact and or conduct;
- 9.7.7 Obscene gestures, indecent exposure;
- 9.7.8 Display of, or sending by electronic means or any other means which include but not limited to, short message service, multimedia message service or otherwise sexually offensive or explicit material, including posters, magazines, pictures or objects;
- 9.7.9 Staring, leering and whistling of a sexual nature;
- 9.7.10 Direct sexual proposition;
- 9.7.11 Victimisation with sexual undertones or in connection therewith;
- 9.7.12 Persistent request for dates and sexual favours;
- 9.7.13 Any communication of a sexual nature;
- 9.7.14 Any of the above as a form of coercion or blackmail for employment and or advancement, or lack of same or dismissal or any other occupational detriments if recipient refuses.
- 9.7.15 Any other unwelcome form of physical or verbal behaviour that has sexual overtones;
- 9.7.16 Persistent dress codes of an offensive nature;
- 9.7.17 Sex related jokes and or insults.

10. EMPLOYER'S LIABILITY FOR SEXUAL HARASSMENT CASES

- 10.1 Section 60 of the Employment Equity Act (No.55 of 1998) deals with the liability of the employer. The Head of the Department shall be liable for the actions of an employee, if the Head of the department fails to take corrective measures after an incident of sexual harassment has been reported or came to the employer's attention.
- 10.2 The Head of the Department is liable for medical expenses, assessment and treatment of an employee who has experienced sexual harassment as it is categorized as an occupational injury by the Compensation for Occupational Injuries & Diseases Act (No.130 of 1993)
- 10.3 The Head of the Department is obliged to take reasonable steps to assist a complainant of sexual harassment to claim compensation accordingly if the incident has resulted in the employee developing a medical condition, e.g a post traumatic stress disorder.

11. TIMEFRAMES

- 11.1 Complainants of sexual harassment are encouraged to report case as soon as it has occurred.

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- 11.2 The Head of Department shall ensure that a reported sexual harassment complaint is investigated and resolved within 30 working days, i.e form reporting to conclusion of investigation and feedback.
- 11.3 In the event 30 days expires before the investigation of the sexual harassment case is concluded, the Head of the Department shall consult the complainant with a written request for an extension of up to a maximum of 14 days to conclude the case.

12. STRUCTURES REQUIRED FOR POLICY IMPLEMENTATION

- 12.1 The Head of Department is responsible for the management of all sexual harassment cases.

12.2 Sexual Harassment Advisor (SHA)

- 12.2.1 The Head of the Department shall appoint a Sexual Harassment Advisor to deal with sexual harassment complaints in the department. This appointment may be per case or for a fixed period.
- 12.2.2 The Head of Department shall be guided by the following criteria in the appointment of a sexual harassment advisor:
 - a. Knowledge and understanding of general policy development and its implementation and knowledge of department policies.
 - b. Psychological and emotional stability.
 - c. Integrity.
 - d. Compassion.
 - e. Ability to maintain confidentiality.
 - f. Objectivity.
 - g. Good communication skills (verbal and writing).
 - h. Good listening skills.
 - i. Investigative skills.

13. THE SEXUAL HARASSMENT COMMITTEE

- 13.1 Members are nominated by the Head of Department.
- 13.2 This Committee is a support structure and is not mandatory.
- 13.3 The committee is recommended for larger departments and act as support to the Sexual Harassment Advisor.
- 13.4 The Committee is bound by the same rules of confidentiality as the Sexual Harassment Advisor.



- 13.5 The Committee should be equitably reflective of the demography of the department.

14. ROLES AND RESPONSIBILITIES

14.1 The Head of Department's Responsibilities are to:

- 14.1.1 Communicate this policy to all employees, through regular awareness raising, training and education programmes;
- 14.1.2 Appoint a Sexual Harassment Advisor and announce this to the department through all communication channels;
- 14.1.3 Ensure training of managers, specific staff that are nominated and those appointed to handle sexual harassment cases;
- 14.1.4 Submit a report on sexual harassment cases dealt with to the DPSA on a half-yearly basis;
- 14.1.5 Encourage staff to report violations of the policy;
- 14.1.6 Allocate resources (human and financial) to ensure that awareness raising and training programs for employees on sexual harassment are implemented;
- 14.1.7 Ensure that disciplinary measures applied are in accordance with the Disciplinary Code and Procedures (PSCBC Resolution 1 of 2003) in the Public Service;
- 14.1.8 Ensure implementation of recommendations within five (5) working days after conclusion of investigations of sexual harassment complaints;
- 14.1.9 Treat all complaints as confidential;
- 14.1.10 Continuously monitors compliance with the policy;
- 14.1.11 Encourage all Trade Unions within the employ of the department to include sexual harassment in their education and training programmes of members and shop stewards;
- 14.1.12 Report cases of sexual harassment to the Compensation Commission in terms of the Compensation for Occupational Injuries and Diseases Act (No.130 of 1993);

14.2 ROLE OF SEXUAL HARASSMENT ADVISOR

The Sexual Harassment Advisor serves as the first line of contact to complainants of alleged sexual harassment. His or her role is to:

- 14.2.1 Explain the disciplinary procedure and time frames to complainants and respondents in both formal and informal procedures;

- 14.2.2 Advise the complainant on the appropriate course of action and support available.
- 14.2.3 Advise the complainant on the two (2) procedures available to follow, namely the informal and informal procedure;
- 14.2.4 Provide guidance (if necessary) on how to complete the appropriate grievance form;
- 14.2.5 Issue a written notice of the complaint to the respondent and explain the protective measures available to the complainant;
- 14.2.6 Provide the respondent with a copy of this policy and any relevant document on disciplinary rules and procedures of the Public Service and the Department;
- 14.2.7 Once appointed, investigate the complainant and bring to the attention of the Head of Department;
- 14.2.8 Maintain confidential statistics and narrative reports on all sexual harassment cases reported and handled;
- 14.2.9 Avoid unreasonable delays during the investigation and conclusion of any sexual harassment complaint;
- 14.2.10 Provide a neutral, confidential and supportive environment for employees who report to have been sexually harassed;
- 14.2.11 Protect the complainant from victimization as a result of reporting the matter;
- 14.2.12 Monitor and submit quarterly reports on all cases reported, resolved and pending to the Head of Department. Such reports should use non-identifying statistical information to maintain confidentiality;
- 14.2.13 Contribute to the development, coordination, implementation of educational programs and awareness raising activities for prevention and management of sexual harassment in the department;
- 14.2.14 Advocate for research and other resources on sexual harassment to improve expertise on this issue.

14.3 ROLE OF THE SEXUAL HARASSMENT COMMITTEE

(a) The Committee must:

- 14.3.1 Properly disseminate this policy throughout the Department;
- 14.3.2 Offer group training to all branches regarding sexual harassment and all matters connected thereto;
- 14.3.3 Attend to any enquiries of sexual harassment;
- 14.3.4 Provide sexual harassment complaint forms to any complainant covered under this policy;



- 14.3.5 Receive the sexual harassment complaints and forms;
- 14.3.6 Refer all complaints to the LRO;(advise all parties involved on the services rendered by the Employee Assistance Programme unit);
- 14.3.7 Mediate between the two parties if called to mediate by the Labour Relations Office;
- 14.3.8 Initiate and arrange special events within the Department; to highlight issues around sexual harassment;
- 14.3.9 Compile a comprehensive report on its activities on a quarterly and on an annual basis to the Head of the Department;
- 14.3.10 Monitor trends of sexual harassment within the Department; and advise senior management on preventative measure; and
- 14.3.11 The Labour Relations Officer and the Presiding Officer of a disciplinary hearing cannot dismiss a person found guilty, they only recommend to the Head of the Department who shall exercise his discretion.

(b) All members of the Committee shall be trained on and be conversant with the Sexual Harassment Policy and Complaints Procedure.

14.4 ROLE OF MANAGERS/SUPERVISORS

- 14.4.1 Refrain from sexual harassment in the workplace;
- 14.4.2 Take all reasonable steps to create and maintain an environment that is free from sexual harassment;
- 14.4.3 Know and understand this policy, and assume responsibility for its implementation;
- 14.4.4 Communicate the policy to all employees, including newly appointed employees;
- 14.4.5 Undergo training on the sexual harassment policy and related topics;
- 14.4.6 Respond appropriately to a complaint of sexual harassment from employees;
- 14.4.7 Take appropriate action when instances of sexual harassment occur and act in accordance with the reporting and disciplinary procedures of this policy;
- 14.4.8 Prevent retaliation against any employee making a sexual harassment complaint; and
- 14.4.9 Treat all complaints seriously, impartially and with confidentiality.



14.5 ROLE OF EMPLOYEE HEALTH AND WELLNESS UNIT SHALL:

- 14.5.1 Provide relevant counselling and support when required.
- 14.5.2 Encourage employees who may report incidents of sexual harassment to them, to report such complaints to the Head of Department immediately verbally or in writing.
- 14.5.3 Maintain confidentiality for all sexual harassment matters reported to them.

14.6 ROLE OF EMPLOYEE

- 14.6.1 All employees should refrain from sexual harassment of others in the workplace.
- 14.6.2 If you are sexually harassed, say NO to the harasser and tell him/her that their attention is unwanted and the behaviour is offensive. If able to, also do so in writing and keep a record of this correspondence.
- 14.6.3 If the behaviour persists, report the harassment immediately;
- 14.6.4 Treat fellow employees with respect and dignity; and
- 14.6.5 Know and understand this policy.

14.7 ROLE OF THE LABOUR REATIONS OFFICE

14.7.1 The LRO must:

- 14.7.1.1 Receive the sexual harassment complaints and forms from the complainant, supervisors or Sexual Harassment Committee;
- 14.7.1.2 Receive and record resolutions from informal dispute resolution/mediation for enforcement purposes if necessary;
- 14.7.1.3 Inform the alleged harasser in writing of the formal charge(s) against him or her;
- 14.7.1.4 Designate officials to investigate the allegations and to preside over the disciplinary action; and
- 14.7.1.5 Submit findings of the investigation to the Head of the Department and advice on the best approach.

15. REQUIRED DOCUMENTATION

- 15.1 Whether or not there is ultimately a finding of sexual harassment, the Sexual Harassment Committee must make a record of the incident, including:



- a. The names of the parties involved;
 - b. Any documents submitted or signed by the complainant, witnesses or person accused of sexual harassment concerning the nature of the alleged incident(s); and
 - c. Any documents submitted or signed by the alleged harasser concerning his or her response to the allegations, and the resolution of the complaint.
- 15.2 All criminal convictions arising from an incident of sexual harassment as set out in this policy must also be captured on a database.

16. RETALIATION

- 16.1 All reasonable action should be taken to ensure that no party, those testifying on behalf of another party or supporting any party, suffers retaliation or victimisation as a result of their involvement in the process.
- 16.2 Any attempt by any person covered under this policy to penalise, retaliate or victimise in any way against a person lodging a complaint of sexual harassment or against those testifying on behalf of the complainant, is prohibited and should be treated as a separate subject to the investigation.
- 16.3 Any person involved in these procedures who considers that he or she has been victimised or penalised in connection with a complaint may complain to the Sexual Harassment Committee.

17. WITHDRAWAL OF A COMPLAINT

- 17.1 The complainant has a right to withdraw the complaint or terminate the intervention undertaken by the Department; however, if the complainant decides to terminate the intervention or withdraws the complaint, this action shall not necessarily preclude an investigation by the Department if there is a reason to believe that the withdrawal was not voluntary.
- 17.2 Should a complainant decide to withdraw the complaint, '**Annexure B**' should be completed and submitted to the Sexual Harassment Committee which shall file it with the LRO.

18. DECISION TO LAY CRIMINAL CHARGES OR INSTITUTE CIVIL PROCEEDINGS

No person who seeks relief in terms of this policy is prohibited from also laying criminal charges or instituting civil proceedings.

The outcome of the criminal and civil proceedings shall not affect the labour relations process. The Sexual Harassment Committee must advise complainants of their remedies in this regard.

19. DISPUTE RESOLUTION

19.1 Informal and Formal Resolution of Complaints

(a) Informal resolution of complaint

This process may only be followed in instances where the complainant has specifically expressed his or her willingness and desire to participate in such an informal process. The following procedure is applicable:

- i. The LRO shall meet separately with the complainant and the alleged harasser within five (5) working days of the determination that this process should be followed. During these consultations possible violations shall be discussed as well as a possible process of mediation to establish satisfactory conditions for further interactions between the parties as well as a re-education process for both parties concerned.
- ii. No unilateral disciplinary action shall be taken during this process.
- iii. This process may not be followed in instances where the alleged incident(s) of sexual harassment could also constitute a crime.

(b) Mediation

- i. A Complainant may choose to resolve his or her complaint through mediation. Mediation requires the consent of both parties and suspends the complaint procedure for up to thirty (30) working days, which can be extended, at the discretion of the LRO in consultation with the Sexual Harassment Committee, upon consent of both parties.
- ii. By mutual agreement, the two parties may elect to have their concerns mediated by the Sexual Harassment Committee or any person or institution of their choice. Parties may agree to a resolution that is oral or embodied in a written agreement.



The final resolution is confidential; however, the parties may elect to file a written agreement with the Labour Relations Office or Sexual Harassment Committee should enforcement be necessary. Because mediation is a fully voluntary process, formal disciplinary action cannot be imposed against the accused. Once both parties reach an informal agreement, it is final and not appealable.

- iii. The mediator or either party may at any time, prior to the expiration of thirty (30) working days, declare that attempts at mediation have failed. Upon such notice, the LRO may proceed to an investigation.

(c) Formal resolution of the complaint

Where a decision has been made to follow a formal procedure, the following process is applicable:

- i. The parties must, where possible and until such time as the matter has been finalised, be accommodated in such a manner that they work apart in order to reduce tension, unpleasantness, intimidation or victimisation.
- ii. In appropriate circumstances, consideration must be given to the possible suspension of the alleged harasser.
- iii. The LRO must designate officials to investigate the allegations and preside over the disciplinary action. Both the presiding officer and the designated investigator may not have previous knowledge of the case and may not have been previously acquainted to either party.
- iv. The LRO must inform the alleged harasser in writing of the formal charge(s) against him or her. This must be done not later than five (5) working days before the disciplinary trial.
- v. Both parties may adduce written or oral evidence, call witnesses to testify on their behalf, cross-examine the other party involved and address the presiding officer on the merits of the case.
- vi. The presiding officer must decide on a balance of probabilities whether sexual harassment had, in fact, occurred.
- vii. The Presiding Officer may, if the alleged harasser (alleged perpetrator) is found guilty, before sentencing, take into consideration all extenuating, aggravating or mitigating factors to the case and may order that the guilty party must:
 - (a) formally apologise;
 - (b) be transferred to another Unit or Division or Office;
 - (c) be reprimanded and that such decision be placed in the guilty party's personnel file;



- (d) not be promoted and that the promotion be delayed for a fixed period;
 - (e) be demoted;
 - (f) be suspended without pay for a period not exceeding three (3) months;
 - (g) be referred for professional rehabilitative counselling; or
 - (h) be dismissed with immediate effect.
- viii. All proceedings must be recorded.
- ix. During all proceedings in terms of this policy, both parties may be accompanied and supported by one person each. The support person(s) shall be allowed to emotionally support the relevant party and to be present at all times but shall not be allowed to actively participate in the proceedings in any way.

19.2 Grievance and Disciplinary Procedures

(a) Grievance Procedure.

- i. All persons covered under this policy are strongly urged to lodge a complaint in regard to any grievance of sexual harassment that they may have. In order to facilitate and assist any complainant who may wish to lodge a complaint, guidelines are set out below that complainants are required to follow so that all complaints can be documented, investigated and resolved as soon as possible.
- ii. Any person covered under this policy who feels that he or she has been sexually harassed should complete a Sexual Harassment Complaint Form (*See Annexure A hereto*) within a reasonable¹ time of the occurrence of the conduct which gave rise to the complaint, and submit it to:
 - (a) The Sexual Harassment Committee, or
 - (b) Any of his or her supervisors; or
 - (c) The Labour Relations Office in the Department.
- iii. Any supervisor or member of the Sexual Harassment Committee who receives a sexual harassment complaint:
 - (a) Must refer the complaint and submit the complaint form to the LRO within twenty-four (24) hours of receipt of such complaint;



- (b) Is not allowed to conduct investigations, consult with either of the parties, consult with witnesses, make copies of the complaint form or deal with the complaint in any manner apart from merely referring it;
 - (c) May not discuss the complaint with anybody except the LRO;
 - (d) May immediately, even before submitting such a complaint to the LRO, refer the complainant to the EAP Unit, provided that this is done in consultation with the complainant and only if the complainant consents to such a referral; and
 - (e) Must treat the complaint with strict confidence and with respect for their dignity and privacy.
- iv. Any supervisor or manager or LRO or member of the Sexual Harassment Committee who fails to comply with any of the conditions as set out in paragraph 17.1 (c) above shall be disciplined.
 - v. The Sexual Harassment Committee must respond to the complainant within twenty- four (24) hours and must refer the matter to the Labour Relations Office within twenty-four (24) hours upon receipt of such complaint.
 - vi. The Labour Relations Office must inform the person against whom such a complaint has been lodged, of the complaint against him or her, within three (3) working days upon receipt of such complaint. The person accused of sexual harassment must be given an opportunity to respond to the allegations in writing within three (3) working days upon being informed of the complaint. If such a person fails to respond to the allegations within the prescribed period, the Labour Relations Office may assume that such a person waives his or her right to respond to the allegations. It is the duty of the LRO to inform such a person of the support and counselling services rendered by the EAP Unit, and such that services are available to him or her.

(b) Harassment by non-employees

- i. The Department shall endeavour to protect employees, to the extent possible, from harassment by non-employees such as customers, vendors, staff from other government departments and other parties who have workplace contact with persons covered under this policy and who are not themselves covered under this policy. The Department shall refer the employees to outside relevant institutions for assistance.



- ii. Any person covered under this policy who feels that he or she has been sexually harassed by a non-employee, should bring it to the attention of the Sexual Harassment Committee or supervisor or LRO within a reasonable time of such incident having occurred.
- iii. A member of the Sexual Harassment Committee must thereafter meet with such a complainant within three (3) working days upon receipt of such a complaint, to consult, advise and refer the complainant to the LRO. During such consultation, the Sexual Harassment Committee must also inform the complainant of the supporting and counselling services rendered by the EAP Unit.
- iv. The Sexual Harassment Committee must compile a report of such a complaint within five (5) working days of having met with the complainant. Such a complaint, as well as the report, must be filed in the Sexual Harassment Committee's filing system.
- v. The Sexual Harassment Committee must continue to assist such a complainant and must monitor the complaint until his or her external complaint has been finalised.

(c) Investigation of complaints

- i. The purpose of an investigation is to establish whether there is sufficient evidence to conclude that the violation in this policy that has been alleged by the complainant has indeed occurred.
- ii. The LRO (in conjunction with any such person or persons who might be appointed by the LRO to assist them in conducting the investigation) must investigate the complaint as follows:
 - (a) Any investigation must be conducted in a confidential manner.
 - (b) The LRO shall not assume consent or mutuality in any case.
 - (c) The LRO shall not disregard any complaint on the basis that the complainant is too sensitive.
 - (d) The LRO may make inquiries from people other than the complainant and the alleged harasser to obtain a full understanding of the facts.
 - (e) Any person being interviewed during an investigation is expected to be cooperative, honest and forthcoming. A breach of these expectations by such a person being interviewed may result in disciplinary action taken against him or her.

iii. During an investigation the LRO must take into account:

- (a) The circumstances under which the incident(s) of sexual harassment allegedly occurred;
- (b) The nature of the offensive conduct;
- (c) The context in which the alleged incident(s) occurred;
- (d) The frequency of the offensive conduct;
- (e) The severity of the conduct; and
- (f) The physical, psychological, emotional and financial impact that the alleged conduct has had on the complainant.

iv. The LRO must:

- (a) Make every effort to keep the complainant informed on the status of the investigation;
 - (b) Document all interviews held during such an investigation; and
 - (c) Endeavour to finalize such an investigation within ten (10) working days upon receipt of the complaint.
- v. The Department may investigate suspected sexual harassment situations even when individual complaints are not made, provided that good reason exists for the Department to believe that:
- (a) An environment of harassment exists or may arise; or
 - (b) Any other provision of this Policy is being violated.

(d) Decisions relating to complaint

The LRO must decide whether formal disciplinary action should be taken or not. In making this decision cognisance must be taken of the desired outcome of the complaint as indicated by the complainant in his or her Sexual Harassment Complaint Form. However, the LRO is not bound by any such indication but shall use its discretion.

(e) Dismissing the complaint

Such a decision shall not be taken lightly and only in instances where there is no sufficient evidence of sexual harassment. Such a decision must be taken in conjunction with the Head of the Department.



(f) Reporting of complaints

The LRO must compile a report of any complaint of sexual harassment and its results within five (5) working days of finalization of the complaint. This report shall be filed in the Sexual Harassment Committee's filing system. The outcome of the complaint, including any possible sanctions, shall be sent to the Human Resource Unit to be placed in the guilty party's personnel file.

19.3 Dissatisfaction with the outcome of the investigation

Should the complainant be dissatisfied with the outcome of the reported sexual harassment grievance, he/she may, within thirty (30) days of the outcome being made known to him or her, refer the matter to the Bargaining Council in accordance with the provisions of the Labour Relations Act.

19.4 Appeal

The person accused of sexual harassment may appeal the disposition of the matter according to existing departmental procedures. This includes the right of appeal against a finding of guilt and/or on the harshness of the penalty imposed.

20. EDUCATION AND TRAINING

- 20.1 Continuous education and training is necessary to ensure that employees and third parties know and understand this policy and are able to prevent and report sexual harassment when it occurs.
- 20.2 Sexual Harassment Advisor and members of the Sexual Harassment Committee should undergo regular training to increase their knowledge on sexual harassment, to enhance their skills in investigation, communication, conflict resolution, mediation and legal developments related to sexual harassment.

21. COMMUNICATION

- 21.1 The Head of Department shall take all reasonable steps to communicate this policy to all employees and other persons who have dealings with the public service on regular basis. This is to raise awareness and to prevent sexual harassment.
- 21.2 The names and contact details of Sexual Harassment Advisor and committee must be widely published in the department.

21.3 This policy must be distributed to all employees within the department and to new staff members during induction.

22. MONITORING AND EVALUATION, AND REVIEW

The Sexual Harassment Committee must monitor and evaluate the implementation of this policy and submit quarterly and annual reports to the Head of the Department and facilitate its review after a period of 5 (five) years from its commencement date.

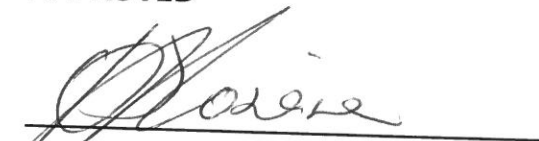
23. RELATED POLICIES

The policy on sexual harassment must be read with the Employment Equity Policy, the Code of Good Practice on Handling Sexual harassment Cases and the Comprehensive HIV/AIDS Care, Management and Treatment Plan for South Africa.

24. COMMENCEMENT OF THE POLICY

This policy shall be implemented by the Department with effect from the date of approval and signature by the HOD.

APPROVED



**OAGENG MOSIANE (MR)
ACTING HEAD OF DEPARTMENT**

SIGNED THIS DAY 06 OF JUNE 2016.

SECTION 2

ANNEXURE A: SEXUAL HARASSMENT COMPLAINT FORM

(This complaint form must be in the form of a sworn affidavit)

Complaint number: _____

PERSONAL DETAILS

COMPLAINANT

SURNAME : _____

FULL NAMES : _____

ID NUMBER : _____

PERSAL NUMBER: _____

TITLE : _____

UNIT / DIVISION : _____

OFFICE : _____

SUPERVISOR : _____

CONTACT NUMBERS: _____ (W)

_____ (C)

E-MAIL ADDRESS : _____

PERSON AGAINST WHOM COMPLAINT IS LODGED

SURNAME : _____

FULL NAMES : _____

ID NUMBER : _____

PERSAL NUMBER: _____

TITLE : _____

UNIT / DIVISION : _____

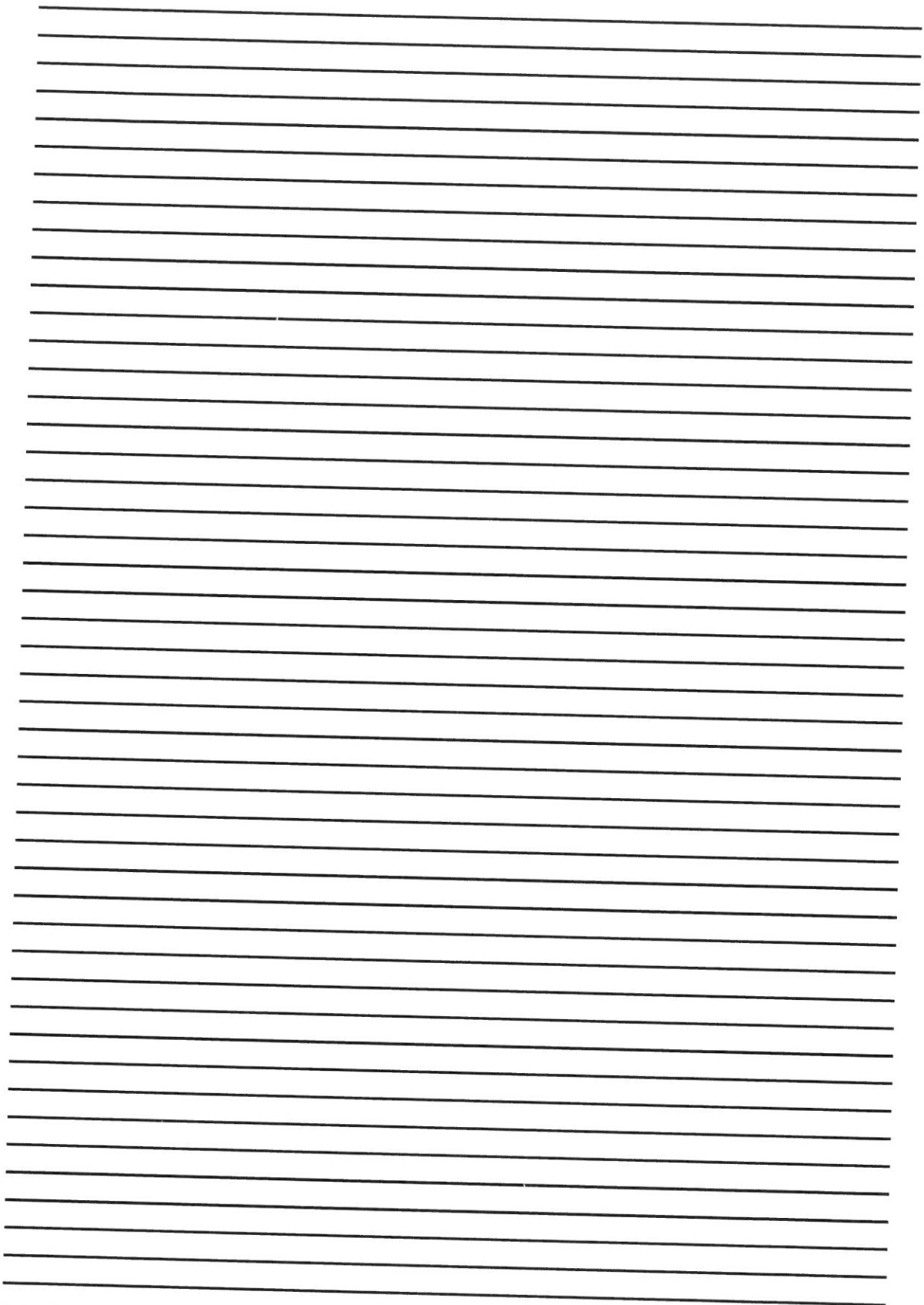
OFFICE : _____

SUPERVISOR : _____

CONTACT NUMBERS: _____ (W)

_____ (C)

E-MAIL ADDRESS : _____



PLEASE LIST THE NAMES AND CONTACT DETAILS OF ANY WITNESSES WHO MIGHT BE ABLE TO CORROBORATE YOUR ALLEGATIONS:

WITNESS NAME : _____
CONTACT NUMBER : _____
WITNESS NAME : _____
CONTACT NUMBER : _____
WITNESS NAME : _____
CONTACT NUMBER : _____
WITNESS NAME : _____
CONTACT NUMBER : _____

WHAT ARE YOUR IMMEDIATE NEEDS? FOR INSTANCE, COULD YOU BENEFIT FROM BEING GRANTED SPECIAL LEAVE OR BEING TEMPORARILY SHIFTED TO ANOTHER DIVISION?

WOULD YOU LIKE THE LABOUR RELATIONS OFFICE TO ATTEMPT AN INFORMAL RESOLUTION PROCESS (MEDIATION) OR WOULD YOU PREFER A FORMAL RESOLUTION PROCESS?

WOULD YOU LIKE TO BE ASSISTED BY THE EMPLOYEE WELLNESS PROGRAMME UNIT?

IS THERE ANY OTHER RELEVANT INFORMATION THAT YOU WOULD LIKE TO BRING TO THE ATTENTION OF THE SEXUAL HARASSMENT COMMITTEE? IF SO, PLEASE GIVE DETAILS.

DECLARATION

Do you know and understand the contents of the above declaration?

Answer: _____

Do you have any objection to taking the prescribed oath?

Answer: _____

Do you consider the prescribed oath to be binding on your conscience?

Answer: _____

I certify that the above questions were put to me and that the answers, as reflected above, were written down in my presence.

SIGNATURE OF DEPONENT

I certify that the deponent has acknowledged that he/she knows and understands the contents of this statement which was sworn to/affirmed before me and the deponent's signature was appended thereon in my presence.

COMMISSIONER OF OATHS

Full first names and surname: _____

Designation (Rank): _____

EX OFFICIO

Business Address: _____
(Street Address)

DATE: _____

PLACE: _____

ANNEXURE B: SEXUAL HARASSMENT COMPLAINT WITHDRAWAL FORM

(This complaint withdrawal form must be in the form of a sworn affidavit)

Complaint number: _____

PERSONAL DETAILS

COMPLAINANT

SURNAME : _____
FULL NAMES : _____
ID NUMBER : _____
PERSAL NUMBER: _____
TITLE : _____
UNIT / DIVISION: _____
OFFICE : _____
SUPERVISOR : _____
CONTACT NUMBERS: _____ (W)
_____ (C)
E-MAIL ADDRESS: _____

PERSON AGAINST WHOM COMPLAINT WAS LODGED

SURNAME: _____
FULL NAMES: _____
ID NUMBER: _____
PERSAL NUMBER: _____
TITLE: _____
UNIT / DIVISION: _____
OFFICE: _____
SUPERVISOR: _____
CONTACT NUMBERS: _____ (W)
_____ (C)
E-MAIL ADDRESS: _____

DECLARATION

Do you know and understand the contents of the above declaration?

Answer: _____

Do you have any objection to taking the prescribed oath?

Answer: _____

Do you consider the prescribed oath to be binding on your conscience?

Answer: _____

I certify that the above questions were put to me and that the answers, as reflected above, were written down in my presence.

SIGNATURE OF DEPONENT

I certify that the deponent has acknowledged that he/she knows and understands the contents of this statement which was sworn to/affirmed before me and the deponent's signature was appended thereon in my presence.

COMMISSIONER OF OATHS

Full first names and surname: _____

Designation (Rank): _____

EX OFFICIO

Business Address: _____

(Street Address) _____

DATE: _____

PLACE: _____

ANNEXURE C: SEXUAL HARASSMENT DISCIPLINARY PROCEDURE GUIDELINES

1. DISCIPLINARY PROCEDURES

1.1 Procedural steps to be followed:

- 1.1.1 Managers or supervisors or LRO should make the alleged perpetrator aware of the alleged sexual harassment complaint i.e. on one on one basis.
- 1.1.2 After the alleged perpetrator is made aware of the complaint he/she will be afforded a chance to state his or her side of the story.

1.2 Informal disciplinary action or enquiry

- 1.2.1 For less serious sexual harassment conduct, progressive discipline should be invoked.
- 1.2.2 Progressive discipline would include warnings and counselling.
- 1.2.3 Where the seriousness of the complaint warrants corrective counselling, the manager of the alleged perpetrator or the LRO must:
 - a) Bring the complaint to the alleged perpetrator’s attention;
 - b) Determine the reasons for the misconduct and afford the alleged perpetrator an opportunity to respond to the allegations;
 - c) Seek to get agreement from both parties on how to remedy the conduct; and
 - d) Take steps to implement the agreed course of action.
- 1.2.4 The issuing of the warnings as part of progressive discipline could take place in a meeting between the manager or LRO or Sexual Harassment Committee and the alleged perpetrator and his or her representative (if he/she so wishes to exercise the right to representation).
- 1.2.5 Written warnings should be in terms of annexure as contained in the PSCBC resolution 1 of 2003.
- 1.2.6 The warning must be kept in the alleged perpetrator’s personal file and remains valid for a period of six months.
- 1.2.7 The Employee Relations Officer or Sexual Harassment Committee should record such a meeting.

1.3 A guideline for the handling of sexual harassment complaints is as follows:

STEPS: WHAT SHOULD BE DONE?	IN TERMS OF WHICH PRESCRIPTS?	WHO IS RESPONSIBLE?	HOW SHOULD IT BE DONE?
Corrective counselling	Par. 5.1 of the disciplinary code and procedures	Manager/ Labour Relations Officer	<ul style="list-style-type: none"> • Manager/LRO should bring the complaint to the alleged perpetrator’s attention verbally/in writing; • Determine reasons for the conduct that led to the sexual harassment complaint verbally/in writing; • Give the alleged perpetrator an opportunity to respond verbally/in writing • Seek to get an agreement on how to remedy conduct from both parties– manager/LRO prerogative • Take steps to implement agreed/decided course of action – manager/LRO prerogative • <u>Services of the Employee Assistance Program may be utilized</u>
Verbal warning	Par. 5.2 of disciplinary code and procedures	Manager/ Labour Relations Officer	<ul style="list-style-type: none"> • Manager/LRO should bring the complaint to the alleged perpetrator’s attention verbally/in writing; • Determine reasons for the conduct that led to the sexual harassment complaint verbally/in writing; • Give the alleged perpetrator an opportunity to respond verbally/in writing • Manager/LRO give a verbal warning and inform the perpetrator that further misconduct such as this may result in more serious disciplinary action • Manager/LRO to note verbal warning in the presence of the

			<ul style="list-style-type: none"> perpetrator The perpetrator to acknowledge warning
Written warning	Par. 5.3 of the disciplinary code and procedures	Manager/ Labour Relations Officer	<ul style="list-style-type: none"> Manager/LRO should bring the complaint to the alleged perpetrator's attention verbally/in writing; [see roneo – 1. Rules of Administrative Justice (RAJ)] Give alleged perpetrator an opportunity to respond in writing within three (3) working days from the date of receipt of the complaint Annexure B of the disciplinary code to be used for written warning Manager/LRO must give written warning to the perpetrator who must acknowledge receipt of it/if perpetrator fails to acknowledge receipt, it must be given to him/her in the presence of another employee (rank higher than that of employee) or a member of the Sexual Harassment Committee Written warning must be filed on the perpetrator's personal file Written warning is valid for 6 months At expiry of 6 months, the written warning must be removed and destroyed by manager/LRO If during the 6 months, the perpetrator makes himself guilty on a same or related offence, the written warning may be taken into account in deciding on the appropriate sanction If the perpetrator wishes to appeal, he/she may appeal according to the Department's appeal procedures
Final Written warning	Par 5.4 of disciplinary code and procedures	Manager/ Labour Relations Officer	<ul style="list-style-type: none"> Manager/LRO should bring the complaint to the alleged perpetrator's attention verbally/in writing; (see roneo – 1.RAJ) Annexure C to be used for final written warning Manager/LRO must give final written warning to the perpetrator who must acknowledge receipt on it/if the perpetrator fails to acknowledge receipt, it must be given to him/her in the presence of another employee (rank higher than that of employee) or a member of the Sexual Harassment Committee Final written warning must be filed on the perpetrator's personal file Final written warning is valid for 6 months At expiry of 6 months, the final written warning must be removed and destroyed by manager If during the 6 months, the perpetrator makes himself/herself guilty on a same or related offence, the final written warning may be taken into account in deciding on appropriate sanction If perpetrator wishes to appeal, he/she may appeal according to the Department's appeal procedures

1.4 Formal disciplinary action or enquiry

1.4.1 for more serious sexual harassment complaints:

- a) Formal disciplinary action or enquiry should be invoked for more serious sexual harassment conduct.
- b) When applying formal disciplinary enquiry the Labour Relations Officer should apply the following steps:
- c)
 - (i) The matter be investigated in order to establish whether there are grounds to warrant a charge of misconduct;

- (ii) Should investigations reveal that there are grounds to lay a charge/s of misconduct, the Labour Relations Officer should facilitate a disciplinary enquiry in terms of *section 7.1 and 7.3 of the PSCBC resolution 1 of 2003* which inter alia provides that:
- (a) The employee must be given a notice of at least five (5) working days before the date of the hearing.
 - (b) A description of allegations of alleged sexual harassment complaint and main evidence, on which the employer will rely on, must be attached to the notice of enquiry.
 - (c) The alleged perpetrator must sign receipt of the notice. If the alleged perpetrator refuses to sign the receipt of the notice, it must be given to the alleged perpetrator in the presence of fellow employees (rank higher than that of employee) or a member of the Sexual Harassment Committee who shall sign in confirmation that the notice was conveyed to the employee.
 - (d) Where Prima Facie evidence exists, the manager could proceed with disciplinary hearing in terms of *section 7.3 of the Disciplinary Code*. Upon the manager receiving the outcome of the disciplinary hearing he/she should inform the employee.
 - (e) The manager could advise the employee on their rights to appeal in terms of the Disciplinary Code and Procedure.

2. SUSPENSIONS

2.1 Precautionary suspension can be affected where:

- (a) An alleged perpetrator is alleged to have committed a serious misconduct.
- (b) It is believed that the alleged perpetrator's presence at the workplace might jeopardize any investigation into the alleged sexual harassment conduct.
- (c) The well-being or safety of the complainant or witnesses.
- (d) The manager or LRO must meet with the alleged perpetrator to bring the allegation *his* or her attention and make him/her aware of the resolution to suspend him or her pending the investigation process and all the reasons that informed the decision.
- (e) It should be conveyed to the alleged perpetrator that the suspension does not constitute a judgment and that it is in full pay.
- (f) All this information must also be contained in a letter that will be given to the alleged *perpetrator* after the meeting, by the manager or LRO.
- (g) A disciplinary hearing of an alleged perpetrator so suspended or transferred must be *held* within thirty (30) or sixty (60) days, depending on the complexity of the matter and the length of *the* investigation, from the suspension, where after the chair of the hearing must then decide *on* any further postponement.

2.2 Suspension as a sanction

- (a) Suspension without pay may be pronounced as a sanction after a formal hearing was held *in* terms of the PSCBC resolution 2 of 1999, as amended.

- i. The manager or LRO must inform the perpetrator of the sanction pronounced by the Presiding officer; and
- ii. The manager or LRO must inform the perpetrator of his/her rights to appeal against the decision

2.3 Paragraph 7 of the Disciplinary Code

STEPS: WHAT SHOULD BE DONE?	IN TERMS OF WHICH PRESCRIPTS?	WHO IS RESPONSIBLE?	HOW SHOULD IT BE DONE?
Appoint Representative (Investigation Officer) to conduct a preliminary investigation where no prima facie case exist	Par. 6 of disciplinary code and procedures	Labour Relations Officer	<ul style="list-style-type: none"> • The Labour Relations Officer must prepare a letter to appoint Investigation Officer • Roneo 3ioprelim may be used • Chair of hearing must be higher in grade than representative who will be the investigation officer • Representative must be equal/higher in grade than the alleged perpetrator
Appoint Representatives (Investigation Officer and Chair Presiding Officer)	Par. 6 of disciplinary code and procedures	Labour Relations Officer	<ul style="list-style-type: none"> • The Labour Relations Officer must prepare appointment letters to Investigating Officer and Presiding Officer • Annexure F and G may be used • Chair of hearing must be higher in grade than representative (Investigation Officer) • Representative (Investigation Officer) must be equal/higher in grade than the alleged perpetrator
Description of the alleged sexual harassment conduct/charges (if necessary)	Par. 7.1 of disciplinary code and procedures	Labour Relations Officer	<ul style="list-style-type: none"> • Detailed description of charges to be drawn up by Labour Relations Officer or by the Representative (which ever is applicable) • The Labour Relations Officer must see to it that machines/equipment is available for the hearing
Prepare notice of hearing	Par. 7.1 of disciplinary code and procedures	Representative (Investigation Officer) to prepare and sign notice	<ul style="list-style-type: none"> • Annexure D to be used for notice • Representative to give notice to employee in presence of witness at least five (5) working days before the date of hearing • The alleged perpetrator must sign receipt on the notice/if he/she refuses to sign receipt, it must be given to him/her in the presence of another employee (rank higher than that of employee) or a member of the Sexual Harassment Committee • Representative (Investigation Officer) must see to it that hearing takes place within ten (10) working days after notice has been delivered to employee • Representative (Investigation Officer) to give copy of charges and notice to the Chair of the hearing and the Labour Relations Officer

Employer and employee charged with misconduct may agree that disciplinary hearing will be chaired by an arbitrator from the relevant sectoral bargaining council appointed by the council	Par. 7.3.c of disciplinary code and procedures	Labour Relations Officer	<ul style="list-style-type: none"> • Labour Relations Officer must obtain mutual consent from both the employer and employee charged • All provisions applicable to disciplinary hearings in terms of the disciplinary code and procedures will apply for purposes of these hearings • Employer will be responsible for the costs of the arbitrator
Conducting a disciplinary hearing	Par. 7.3 of disciplinary code and procedures	Chair (Presiding Officer) and Representative (Investigation Officer)	<ul style="list-style-type: none"> • The alleged perpetrator may be represented in the hearing by fellow employee or Representative of a recognized trade union • An interpreter may be present at hearing (if necessary) • Neither employer nor the alleged perpetrator may be represented by legal practitioner unless the alleged perpetrator is a legal practitioner or the representative or the employer is a legal practitioner and the direct supervisor of the employee charged with misconduct OR if the disciplinary hearing is conducted into paragraph 7.3.c • A person who is a member of a recognized trade union and who is admitted to practice as an advocate or attorney, may not represent an employee • The Chair (Presiding Officer) will give his findings and reasons at the end of the hearing or he/she may postpone it in order to give his/her findings and reasons • Before the Chair decides on a sanction, he/she must give the alleged perpetrator an opportunity to present mitigating factors • The Chair will communicate final outcome and sanction within five (5) working days after the hearing to the Labour Relations Officer in writing • In the case of dismissal the Chair can only make a recommendation, and it is therefore recommended that the Presiding Officer, on appointment be advised that, in the case of a recommendation of dismissal, a comprehensive report which contains the following information should be submitted: <ul style="list-style-type: none"> ◆ A summary of the proceedings; ◆ A summary of the evidence and comprehensive reasons for a finding of guilty;

ENQUIRIES

Date.....

To: NAME OF OFFICIAL

RE: CHARGE OF ALLEGED SEXUAL HARASSMENT CONDUCT

NAME OF OFFICIAL employed by the Department of Agriculture and Rural Development and stationed at (PLACE WHERE EMPLOYEE IS WORKING) and therefore being an employee of the Public Service of the Republic of South Africa are Hereby charged with a sexual harassment conduct in terms of the Department of Agriculture and Rural Development Sexual Harassment Policy and the Public Service Co-ordination Bargaining Council Resolution 1 of 2003, which is the Public Service Disciplinary code herein and after referred to as the Disciplinary Code.

Allegation 1:

That you are guilty of a sexual harassment conduct in terms of the Department of Agriculture and Rural Development Sexual Harassment Policy and the disciplinary Code which inter alia provides that an employee will be guilty of misconduct if he/she "STATE THE CHARGE" in that on

.....
.....
.....
.....

(DETAILS OF THE CHARGE)

Allegation 2:

That you are guilty of misconduct in terms of the Disciplinary Code which inter alia provides that an employee will be guilty of misconduct if he/she "STATE THE CHARGE" in that on

.....
.....
.....
.....

(DETAILS OF THE CHARGE)

DIRECTOR: KEY ACCOUNTS MANAGEMENT

DATE:

RECEIVED BY:

Enquiries

Date: _____

Attention:.....

RE: APPOINTMENT AS AN INVESTIGATING OFFICER/EMPLOYER REPRESENTATIVE

You are hereby appointed to investigate allegations of a sexual harassment conduct against (NAME)(OCCUPATION) stationed at, and to act as the employer representative, in terms of the Disciplinary Code and procedure (Resolution 1 of 2003). Terms of reference are as follows:

Allegation:

You are appointed as employer representative to investigate allegations of a sexual harassment conduct and any other matter that may come into your attention during your investigation and to determine whether there are sufficient grounds to lay a charge(s) of misconduct against the officer.

You are therefore authorized to:

1. Enter all buildings and offices occupied by the department or administration in which the officer works.
2. Inspect all relevant official documentation, which are to be found in the buildings and offices.
3. Take possession of such books, documents and objects relating to the case.
4. Interrogate any officer or employee whom in your opinion may have information at disposal relating to the case.
5. Designate if you deem it necessary, any officer employed in this department whom in your opinion has the necessary experience to assist you with the investigation.

After conclusion of the investigation you are requested to submit a written report with recommendations, within 30 calendar days from the day of the investigation, to the Labour Relations Officer, indicating whether or not in your opinion, the officer must be charged with misconduct. If you indicate that a charge of misconduct is appropriate, it would be appreciated if you could indicate what contents of charges should be and which officers/Officials may be used as witnesses, if any, during the possible disciplinary hearing. You are also requested to represent the employer should the need for a formal hearing arise.

You are requested to familiarize yourself with the provisions of the PSCBC Resolution no: 1 of 2003 (Disciplinary Code and Procedure).

Your co-operation will be highly appreciated.

Thanking you in advance

DIRECTOR: LABOUR RELATIONS OFFICE