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North West Provincial Government
Republic of South Africa

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POLICY TITLE : SEXUAL HARASSMENT POLICY AND PROCEDURE

POLICY REF : S2/ P/ SEXUAL HARASSMENT

1. PREAMBLE

- 1.1 The Department of Public Works and Roads is committed to create a working environment that optimally supports effective and efficient service delivery which is simultaneously sensitive to the circumstances and wellness of its employees and customers.
- 1.2 Sexual harassment constitutes unfair discrimination and as a result no form of harassment shall be tolerated.
- 1.3 Sexual harassment allegations shall be dealt with expeditiously, sensitively and with confidentiality.
- 1.4 Complainants shall be protected against victimization and or retaliation.
- 1.5 False allegations of sexual harassment shall not be tolerated and whoever acts in bad faith or violates this policy will face disciplinary action.

2. PURPOSE

The purpose of this policy is to promote a workplace that is free of sexual harassment, sexual favours, intimidation and victimization, where the employer and employees respect one another's integrity, dignity, privacy and the right to equality in the workplace.

3. OBJECTIVE

- 3.1. To educate employees on sexual harassment in the workplace.

3.2. To provide guidelines and procedure on the effective management of sexual harassment complaints within the department.

3.3. To ensure that all employees and clients of the department are treated with respect and dignity;

3.4. To create an enabling and barrier free workplace that is non-sexist and non-discriminatory.

4. LEGISLATIVE FRAMEWORK

4.1 Constitution of the Republic of South Africa 108 of 1996

4.2 Public Service Act, No 103 of 1994, as amended

4.3 White Paper on the Transformation of the Public Service, 1995

4.4 Labour Relations Act 66 of 1995

4.5 Employment Equity Act 55 of 1993

4.6 White Paper on Affirmative Action in the Public Service, 1998

4.7 Promotion of Equity and Prevention of Unfair Discrimination Act 4 of 2000.

4.8 Occupation Health and Safety Act of 85 of 1993

4.9 Public Service Regulation, 2001 as amended

4.10 Compensation for Occupational Injuries and Diseases Act (No. 130 of 1993)

5. SCOPE OF APPLICATION

5.1 This policy is applicable to all the employees in the Department, stakeholders and visitors.

6. DEFINITION OF SEXUAL HARASSMENT

6.1 Sexual harassment is unwelcome sexual attention from a person who knows or ought to have reasonably know that such attention is unwelcome;

6.2 Unwelcome explicit or implicit behavior, 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;

6.3 Implied or expressed promise of reward for complying with a sexually oriented request; or

6.4 Implied or expressed threat of reprisal or actual reprisal for refusal to comply with a sexually oriented request.

7. FORMS OF SEXUAL HARASSMENT

7.1 **Physical conduct** of sexual nature includes all unwanted physical contact, ranging from touching to sexual assault and rape, includes a strip search by or in the presence of the opposite sex.

7.2 **Verbal forms** of sexual harassment includes 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 or group of persons.

7.3 **Non-verbal form** of harassment includes unwelcome gestures, indecent exposure, and the unwelcome display of sexually explicit pictures and objects.

7.4 **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 benefits of the employee or job applicant, in exchange for sexual favours.

7.5 **Sexual favoritism** exist 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 promotions, merit rating or other forms of recognition.

7.6 Types of conduct that may be Construed as Sexual Harassment

- 7.6.1 Unwelcome sex related joke, or gestures of a sexual nature.
- 7.6.2 Unwelcome display of sexually suggested objectives or pictures and posters
- 7.6.3 Repeated and unwanted sexual advances.
- 7.6.4 Touching and unwanted body contact, impending or blocking movement
- 7.6.5 Staring, leering, and whistling of sexual nature.
- 7.6.6 Persistent dress codes of an offensive nature.
- 7.6.7 Any communication of sexual favours.
- 7.6.8 Persistent request for dates and sexual favours.
- 7.6.9 Suggestive remarks about a person's appearance, body or clothing
- 7.6.10 Physical contact and or conduct.
- 7.6.11 Obscene gestures, indecent exposure.

8. Role of managers/ supervisors

- 8.1. Refrain from sexual harassment in the workplace.
- 8.2. Take all reasonable steps to create and maintain an environment that is free from sexual harassment.
- 8.3. Respond appropriately to a complaint of sexual harassment from employees.
- 8.4. Take appropriate action when instances of sexual harassment occur and act in accordance with the reporting and disciplinary procedures.
- 8.5. Prevent retaliation against any employee making a sexual harassment complaint.
- 8.6. Treat all complaints serious, impartially and with confidentiality.

9. Role of Employee Health & Wellness Unit shall;

- 9.1. Provide relevant counselling and support when required.
- 9.2. Encourage employees who may report incidents of sexual harassment to them, to report such complaints to their managers immediately verbally or in writing.
- 9.3. Maintain confidentiality for all sexual harassment matters reported to them.

10. Role of employees

- 10.1. Refrain from sexual harassment of others in the workplace.
- 10.2 Report incidents of sexual harassment
- 10.3 Refrain from lodging false allegations as this may lead to disciplinary action.
- 10.4. Treat fellow employees with respect and dignity, and
- 10.5. Know and understand this policy

11. LODGING A SEXUAL HARASSMENT COMPLAINT

INFORMAL PROCEDURE

- a. The affected employee must explain to the person engaging in the unwanted conduct that the behaviour in question is not welcome, that it is offensive and makes him/her uncomfortable and interferes with his/her work.
- b. The affected employee may (if unable to confront the person engaging in the unwanted/unwelcome behaviour) approach his/her supervisor who will immediately investigate the allegations with a view to mediate between the parties involved and assist in reaching an informal settlement.
- c. If the complainant is not satisfied with the outcomes of the informal approach, he/her may then follow a formal procedure.

12. FORMAL PROCEDURE

- 12.1. The complainant can take the option of formal proceedings to resolve a sexual harassment complaint if the harassment could not be resolved through an informal procedure.
- 12.2. The complainant can also choose to resolve the complaint through this process without firstly using the informal procedure.
- 12.3. In dealing with the matter the complainant must first lodge a formal grievance in accordance with PSCBC Resolution 14 of 2002. The statement reporting sexual harassment must include:

- a. The name of the respondent
 - b. Date when incident occurred
 - c. Where it occurred
 - d. Details of how the actual sexual harassment occurred
- 12.4. Employees must file sexual harassment complaints with supervisors or the senior to the supervisor if the supervisor is the respondent. A copy of the grievance must be submitted to the Labour Relations office so that it can be noted and the speedy resolution of the problem can be tracked.
- 12.5. Sexual Harassment cases must be strictly handled within the stipulated timeframes for handling grievances, i.e. 30 days.
- 12.6. Employees may also (if so required) talk to employee Wellness Counsellors, their peer educators and or senior employee that they feel comfortable with and who may assist in reporting.

13. MONITORING AND EVALUATION

- 13.1. The Head of the Department, his or her delegate shall monitor and ensure adherence to all policy provisions and report on specific cases as and when required to do so.
- 13.2. The policy shall supersede the policy with Ref: S1/P/Sexual Harrasment.

APPROVED


MR P.J. MOTHUPI
HEAD OF DEPARTMENT


DATE