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DIRECTORATE: HUMAN RESOURCE MANAGEMENT

POLICY TITLE : SEXUAL HARASSMENT

POLICY REF : S1/P/SEXUAL HARRASMENT

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 is constitutes unfair discrimination and as a result no form of harassment shall be tolerated including among others, harassment for the following reasons:- Race, Gender, Religion, Sexual orientation, Age, Disability, Culture, Belief, Language and Place of origin.

2. DEFINITION OF SEXUAL HARRASMENT

- 2.1** Sexual harassment is unwelcome/unwanted sexual advances, requests for sexual favours, and /or other verbal or physical conduct of sexual nature, when submission to or rejection of this conduct explicitly or implicitly affects a person's employment, unreasonably interferes with a person's work, and /or creates an intimidating, hostile or offensive working environment.
- 2.2** Harassment that is not sexual in nature but is based on gender, sex stereotyping, or sexual orientation is also prohibited. Whilst discrimination based on these factors may be distinguished from sexual harassment, these types of discrimination may contribute to the creation of hostile working environment.

3. FORMS OF SEXUAL HARASSMENT

Sexual Harassment may include unwelcome physical, verbal or non- verbal conduct, but is not limited to the examples listed as follows:

- 3.1** 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.
- 3.2** 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 or group of persons.
- 3.3** Non verbal forms of sexual harassment include unwelcome gestures, indecent exposure, and the unwelcome display of sexually explicit pictures and objects.
- 3.4** 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 employee or job applicant, in exchange for sexual favours.
- 3.5** Sexual favouritism 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 salary increases.

3.5 EXAMPLES OF SEXUAL HARASSMENT ARE:

- i. Unwelcome sex related jokes, or gestures of a sexual nature.
- ii. Unwelcome displaying of sexually suggestive objects or pictures.
- iii. Unwelcome flirting.
- iv. Repeated and unwanted sexual advances.
- v. Touching and unwanted body contact, impending or blocking movement.

4 PURPOSE AND OBJECTIVES

The purpose of this policy is to ensure that:

- 4.1** All forms of harassment are prohibited including sexual harassment committed by either senior managers, line managers, employees, stakeholders or visitors.
- 4.2** A user friendly environment is created whereby all employees shall Respect one another in terms of integrity, dignity, privacy, freedom and the right to equality.
- 4.3** Appropriate procedures in dealing with the problem and the prevention of its re-occurrence are provided.

5 LEGISLATIVE FRAMEWORK

- 5.1** The constitution 108 of 1996 and the Bill of Rights
- 5.2** Labour Relations Act 66 of 1995
- 5.3** Employment Equity Act 55 of 1993.
- 5.4** Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000.
- 5.5** Occupational Health and Safety Act of 85 of 1993
- 5.6** Public Service Regulation, 2001 as amended

6. SCOPE OF APPLICATION

- 6.1** This policy is applicable to all the employees in the Department, stakeholders and visitors.
- 6.2** IT may include incidents between any employees of the Department. It may be occurring in hierarchical relationships or between peers, or between persons of the same sex or opposite sex.

7. POLICY STATEMENT

- 7.1** Visitors and Departmental clients will not be subjected to any form of sexual harassment by management, line managers or employees

- 7.2** Any employee who has been subjected to sexual harassment has a right to lodge grievance, and that allegations be dealt with seriously be expedited, be taken sensitively and confidentiality be exercised.
- 7.3** Complaints shall be protected against victimization, retaliation and false accusations for lodging a grievance for providing information about sexual harassment.
- 7.4** Any employee, line manager or senior manager who is found to have violated the provisions of this policy will be subjected to appropriate disciplinary action.
- 7.5** Management shall take appropriate action when cases of sexual harassment are brought to their attention.

8. POLICY PRINCIPLES

- 8.1** As part of the Departments' commitment to providing harassment-free working environment, this policy shall be disseminated widely among the Departmental employee,
- 8.2** This policy prohibits retaliation and/or victimization against a person who reports sexual harassment, assists someone with a report of sexual harassment, or participates in any manner in an investigation or resolution at a sexual harassment report. Retaliation/Victimization includes threats, intimidation, reprisals and /or adverse actions related to employment.
- 8.3** Retaliation/Victimization against an employee filing a sexual harassment complaint constitutes an offence that would lead to disciplinary measures being metered out against the perpetrator.
- 8.4** Ignorance of the policy shall not be an excuse to perpetrate sexual harassment in the workplace.

9. PROCESS OF ADDRESSING REPORTED CASES

- 9.1** Responsible supervisors/managers shall promptly investigate reported cases or other appropriate official designated to review and investigate cases of such nature.

- 9.2 Prompt and effective responses such as early resolution, counselling, formal investigation, and/or targeted training or educational programmes shall be provided to reports of sexual harassment.
- 9.3 Upon findings of sexual harassment, the Department may offer remedies to the individual or individuals harmed by the harassment consistent with applicable grievance and disciplinary procedures.
- 9.4 Any member of the Department who is found to have engaged in sexual harassment consistent with applicable grievance and disciplinary procedures.
- 9.5 Any manager, supervisor or designated employee responsible for reporting or responding to sexual harassment who knew about the harassment and took no action to stop it or failed to report the prohibited harassment may also be subjected to disciplinary action.
- 9.6 Lack of corroborating evidence or "proof" should not discourage individuals from reporting prohibited sexual harassment.
- 9.7 Individuals who make reports that are later found to have been intentionally false or made maliciously without regard for truth, may be subjected to disciplinary action. This provision does not apply to reports made in good faith, even if the facts alleged in the report cannot be substantiated by an investigation.
- 9.8 This policy shall be implemented in a manner that recognizes the importance of rights of all employees.
- 9.9 Responsible supervisors/managers or other appropriate officials designated to review and investigate sexual harassment cases shall promptly review/investigate reported cases.
- 9.10 Where an employee's existing sick leave entitlement has been exhausted, the employer should give due consideration to the granting of additional sick leave in the case of serious sexual harassment where an employee on medical advice requires trauma counselling.

10. PROCEDURE FOR FILING AND HANDLING COMPLAINT

10.1 INFORMAL PROCEDURE

10.2 The affected employee must initially 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.

10.3 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.

10.4 In the event the provision made in clause 10.2 and 10.3 above has not provided a satisfactory outcome or the unwanted conduct continues, the affected employee may embark upon a formal procedure.

11. FORMAL PROCEDURE

11.1 A complainant may file a formal complaint immediately after an incident or may do so after efforts to reach an informal settlement regarding the allegations prove unsuccessful. A complainant should be preferably within at least a month to 3 months of the occurrence.

11.2 A complainant must state clearly and concisely the complaint's description of the incident and indicate the remedy sought of. The grievance procedure forms should be used for a formal complaint.

11.3 Employees must file sexual harassment complaints with supervisors or the senior to the supervisor if the supervisor is the respondent. A copy of the complaint must be submitted to the Human Resource Manager as well as the Labour Relations office so that it can be noted and the speedy resolution of the problem can be tracked.

11.4 Sexual Harassment cases must be strictly handled within the stipulated timeframes for handling grievances, i.e 30 days.

- 11.5** 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.
- 11.6** Responsible supervisors/managers shall promptly investigate reported cases or other appropriate official designate to review and investigate such cases of nature. Everything possible within the power of these officials should be done to resolve the case within one month of receipt of the complaint.
- 11.7** Supervisors must promptly establish whether the reported conduct constitutes sexual harassment taking into consideration the record of the conduct as a whole and the totality of the circumstances, including the context in which the conduct occurred.
- 11.8** In line with 11.7 above, Supervisors shall promptly report cases they established to qualify as of sexual harassment nature to the Labour Relations office for handling in line with the applicable grievance and disciplinary procedures.
- 11.9** Supervisors/Managers should never compromise confidentiality with an employee when the information reported to them relates to sexual harassment.
- 11.10** The Supervisor and/ the Labour Relations Unit should always document the results of any sexual harassment complaint or investigation.
- 11.11** After the dispute is resolved, Supervisors and/or delegated employees should conduct a follow up to ensure that no one has suffered retaliation and/or victimization.
- 11.12** Supervisors should follow up on any corrective action so that it can be documented if the employee fails to take advantage of any corrective

action that is provided to prevent sexual harassment from occurring in the future.

11.13 A victim of sexual assault has the right to press separate criminal and/or civil charges against an alleged perpetrator, and the legal rights of the victim are in no way limited by this policy.

12. ROLES AND RESPONSIBILITIES

12.1 All Departmental employees have joint responsibility in creating a user friendly work environment that is free of any form of sexual harassment.

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. As and when this policy or provisions thereof are amended, the amended policy will therefore supersede the previous one.

APPROVED


MR. P.J. MOTHUPI
HEAD OF DEPARTMENT


DATE