

# **HARASSMENT POLICY**

## **CONTENTS.**

1. POLICY.
2. LEGAL FRAMEWORK.
3. SCOPE OF APPLICATION.
4. DEFINITION
5. GRIEVANCE PROCEDURE.
6. DISCIPLINARY PROCEDURE.
7. OTHER CONSIDERATIONS.
8. FORMS OF HARASSMENT.
9. CRIMINAL AND CIVIL CHARGES.

## **1. POLICY**

The Municipality is committed to creating and maintaining a climate where all employees, job applicants and other persons who have dealings with the business are treated with dignity and respect. To meet these ends the Municipality has formulated the following policy statements:

- Harassment in the workplace will not be permitted or condoned under any circumstances.
- Persons who have been subjected to harassment in the workplace have the right to raise a grievance in respect of such harassment.
- Grievances raised in respect of harassment will be dealt with timeously, sensitively and confidentially.
- No person who raises a grievance about harassment will be victimised.
- All persons will be protected against false accusations of harassment.
- Perpetrators will be severely disciplined.
- All managers responsible for dealing with grievances will be appropriately trained to deal with sensitive grievances such as harassment.
- Handling of harassment cases will be underpinned by consistent, fair and non-discriminatory practices and procedures.
- Any form of harassment of a fellow employee and/or non-employee will constitute a serious act of misconduct. Therefore any allegations of sexual harassment will be dealt with seriously, expeditiously, sensitively and confidentially.

## **2. LEGAL FRAMEWORK.**

It is the policy of the Municipality to provide a conducive working environment for its employees that is free from all forms of discrimination, harassment or discrimination.

The Policy is taken from Legislation regarding harassment. These include:

- Constitution of the Republic of South Africa.
- Employment Equity Act, 1998 Act 55 of 1998.

- Labour Relations Act 65 of 1995 and as amended.
- Basic Conditions of Employment Act, No 75 of 1997

### **3 SCOPE OF APPLICATION.**

This policy shall apply to all employees, as defined in the Labour Relations Act and as amended and shall include job applicants, suppliers, clients, contractors and all members of management.

### **4. DEFINITION.**

4.1 Sexual harassment is defined as unwanted conduct of a sexual nature, which may include physical, verbal or non-verbal conduct. The unwanted nature of sexual harassment distinguishes it from behavior, which is welcome and mutual. Sexual attention becomes sexual harassment if:

- The behaviour is persisted in, although a single incident of harassment can constitute sexual harassment, and/or;
- The recipient has made it clear that the behaviour is considered offensive, and/or;
- The perpetrator should have known that the behaviour is regarded as unacceptable.

4.2 Other forms of harassment are defined as unwanted behaviour of any other nature, which may include physical, verbal or non-verbal conduct. The unwanted nature of behaviour distinguishes it from acceptable behavior, which is welcome and mutual. Unwanted behaviour becomes harassment if:

- The behaviour is persisted in, although a single incident of harassment can constitute harassment in it self, and/or;
- The recipient has made it clear that the behaviour is considered offensive, and/or;
- The perpetrator should have known that the behaviour is regarded as unacceptable.

- 4.3 In addition to the above the following is also to be noted: **Harassment is unwanted conduct or behaviour**, which may be of a sexual nature. However, it may also include unwanted conducted or behaviour directed at a person's race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language, birth.

## **5. GRIEVANCE PROCEDURE**

- 5.1 Employees who have been harassed are entitled, and are urged, to use the grievance procedure in place at the Municipality.
- 5.2 The harassed employee need not report the grievance to his/her direct superior, but may report it to any superior with whom they feel comfortable.
- 5.3 Harassment grievances must be dealt with by way of the formal grievance hearing process detailed in the grievance procedure.
- 5.4 As harassment is a serious grievance, the person with whom the grievance has been lodged must schedule a grievance hearing within 3(three) days of the grievance being lodged.
- 5.5 The outcome of the grievance hearing must be given to the employee within 3(three) days of the conclusion of the grievance hearing.
- 5.6 The employee has the right to appeal within 5(five) days of receiving such outcome if he/she is unsatisfied with the outcome of the Grievance Hearing.
- 5.7 The person with whom the appeal has been lodged must ensure that an appeal hearing is scheduled within 3(three) days of the appeal being lodged
- 5.8 The outcome of such appeal hearing must be given to the employee within 3(three) days of the conclusion of the appeal hearing.
- 5.9 If the employee is still dissatisfied with the outcome he/she must be advised of his/her right to refer the matter to the Bargaining Council.

## **6. DISCIPLINARY PROCEDURE**

- 6.1 If the chairman of the Grievance Hearing or Appeal Hearing believes that there are sufficient grounds to warrant further investigation he/she must ensure that the disciplinary process is instituted against the alleged perpetrator in accordance with the Municipality Disciplinary Code and Procedure
- 6.2 An employee who has victimised or retaliates against an employee who in good faith lodged a harassment grievance will also be subject to discipline.
- 6.3 An employee who lodges false grievances and/or abuses the Grievance Procedure will also be subject to discipline as the Municipality considers such grievances to be of a very serious nature.

## **7. OTHER CONSIDERATIONS**

- 7.1 If the harassed employee works in the same workplace or department as the alleged perpetrator the Municipality will make every effort, while the above mentioned procedures are being followed, to arrange that there is minimal or if necessary no contact between the said employee and alleged perpetrator.
- 7.2 The harassed employee, with medical certification, will be entitled to take paid sick leave in order to deal with the trauma.
- 7.3 The Municipality will, depending on the severity of the grievance and circumstances, offer counselling to employees who have been harassed in the workplace. The Municipality will bear the initial cost for consultations of employees undergoing counselling within reason and will be limited to three (3) sessions.

## **8. FORMS OF HARASSMENT.**

### **8.3 THE FORMS OF HARASSMENT INCLUDE BUT ARE NOT LIMITED TO.**

- 8.3.1. **Physical conduct of a sexual nature,**  
Which may cover any physical contact, touching, sexual assault, rape, a strip search by or in the presence of the opposite sex, forceful kissing etc.

- 8.3.2 **Verbal forms of sexual harassment** which cover, unwelcome suggestions, sexual advances, comments with sexual overtones, sex related jokes or insults, graphic comments about the persons body made in their presence or directed towards the person, inappropriate inquiries about a persons sex life, whistling directed at a person or group of persons, offensive written, telephonic or electronic communication, unwelcome sexual greetings, etc.
- 8.3.3 **Non verbal forms of sexual harassment** which may cover sexual gestures, indecent exposure, the display of sexually explicit pictures and objects, stalking etc.
- 8.4 **Quid pro quo harassment** (commonly known as “you scratch my back and I scratch your back”) occurs when any person 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 favors which are intended to or may be detrimental to any person/s on the basis of those grounds listed under point 1.1
- 8.5 **Favouritism** exists where a person who is in a position of authority rewards only those who respond to their undue influence, such as sexual advances, whilst other deserving employees who do not submit themselves to any sexual advances are denied promotions, merit ratings and salary increases etc.

## **9. CRIMINAL AND CIVIL CHARGES.**

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 the contents or procedures of this policy.