



## SEXUAL HARASSMENT

<b>File Name</b>	<b>Human Resources Policies</b>
<b>Original Author</b>	<b>Department of Culture, Sport and Recreation</b>
<b>Review Date</b>	<b>1 April 2018</b>

SA

## 1. PURPOSE

This policy is developed in order to create a conducive working environment while promoting each other's integrity, privacy and right to equity. It also promotes and maintains good employee relations as well as minimise prejudice and disruptions of affected employees. It provides a systematic and consistent approach to managing sexual harassment and steps to be taken when sexual harassment occurs.

## 2. SCOPE OF APPLICATION

This policy applies to all employees of the Department of Culture, Sport and Recreation, service providers and visitors.

## 3. OBJECTIVES

- 3.1 To create an enabling and barrier free workplace that is non –sexist and no discriminatory.
- 3.2 To ensure that all employees and clients of the Department are treated with respect and dignity.
- 3.3 To provide guidelines and procedures on effective management of sexual harassment complaints within the Department.

## 4 APPLICABLE LEGISLATION

- Constitution of the Republic of South Africa Act No 108 of 1996
- Labour Relations Act No 66 of 1995
- Employment Equity Act no 55 of 1998
- White Paper on affirmative Action in the Public Service ,1998
- Promotion of Equality and Prevention of Unfair Discrimination Act No 4 of 2000.
- Criminal Sexual Offences and Related Matters Amended Act No 32 ,2007
- Disciplinary code and procedure for the Public Service
- Protection from Harassment Act no 17, 2011.
- Policy and procedures on the Management of Sexual Harassment in the Public Service 2013.

## 4 DEFINATION

51

4.1 In terms of the Protection from Harassment Act (no 17 of 2011) sexual harassment is defined as any:

- 4.1.1 Unwelcome explicit or implicit behaviour, suggestions, massages or remarks of a sexual nature that have the effect of offending , intimidating or humiliating to the complainant
- 4.1.2 Unwelcome sexual attention from a person who knows or ought reasonably to know such attention is unwelcome.
- 4.1.3 Implied or expressed promise of reward for complying with sexually related oriented request.
- 4.1.4 If an employee is subjected to such behaviour and if his or her employment is in some way conditioned upon submitting to that behaviour, or his or her working environments becomes so intolerable that it interferes with his or her job performance, then that employee is probable a victim of sexual harassment.

## 5 FORMS OF SEXUAL HARRASSMENT

- 5.1 The DCSR does not and will not tolerate sexual harassment of its employees whether unwelcome physical conduct, verbal, non-verbal conduct, sexual favouritism or Quid pro quo harassment. The examples listed below are not intended to be exhaustive but merely to act as a guide:
  - 5.1.1 **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 the person's body made in their presence or directed toward them, unwelcome and inappropriate enquiries about the person's sex life and unwelcome whistling directed at a person or group of persons.
  - 5.1.2 **Non-verbal forms of sexual harassment** include: unwelcome gestures, indecent exposure and the unwelcome display of sexual explicit pictures and objects
  - 5.1.3 **Physical Conduct of a sexual nature** include: all unwanted physical contact, ranging from touching to sexual assault and rape, strip search by or in the presence of the opposite sex or persistent dress code of an offensive nature.
  - 5.1.4 **Sexual Favouritism** exist when a person who is in the position of authority rewards those who respond to his/her sexual advances, whilst other deserving employees who do not submit themselves to any sexual advances are not recognised.
  - 5.1.5 **Quid pro quo harassment** - occurs where an employer, member of management supervisor or co-employee undertakes or attempts to influence the processes of employment, promotion, training, discipline dismissal, or other benefits of employees

51

- 5.2 Refusal to submit to sexual advances or harassing behaviour may not be used as a basis for a decision adversely affecting an employee's employment with the department including performance evaluation, wages, career development, assigned duties or any terms, conditions or benefits of employment.
- 5.3 Likewise, no person shall confer, promise or imply to confer employment opportunities or benefits upon an employee in return for submitting to sexual advances , intimidating or harassing behaviour.
- 5.4 Moreover, no person shall coerce or abuse an employee or otherwise engage in behaviour which creates an intimidating, hostile or offensive working environment

## **6 CORRECTIVE ACTION**

- 6.1 The Department will take immediate corrective action against any person, including non-employee, who is found to have engaged in the above behaviour, These actions Includes pursuing sanctions on non-employees, and imposing disciplinary measures Including termination on employees.
- 6.2 Because of the seriousness which the department views sexual harassment and of the Severity of penalties which may be imposed on offenders, false accusations will not be tolerated, however this statement is not intended to encourage employees from lodging sexual harassment complaints.
- 6.3 If false accusations are established the department shall immediately constitute disciplinary action against the accuser.
- 6.4 Each manager or supervisor has the responsibility to maintain a workplace free of sexual harassment , this includes discussing this policy with employees and assuring them that they will not have to endure insulting , degrading or exploitative sexual treatment or intimidating or harassing behaviour.
- 6.5 Each manager or supervisor should also identify offensive behaviour in violation of this policy and bring it to the attention of the Head of Department or Human Resources Management.

## **7 LODGING A SEXUAL HARASSMENT COMPLAINT**

- 7.1 Any employee who experiences sexual harassment should report immediately to his/ her immediate supervisor, unless the supervisor is involved, the employee shall report to the Human Resources Management or the Head of Department who will institute the departments' grievance and disciplinary procedure.

- 7.2 It is advisable to separate the respondent to the complainant to reduce the risk of tension and victimization.
- 7.3 If false accusations are established, the Head of Department shall immediately Institute disciplinary action.
- 7.4 The labour relations section shall serve as the first line of contact to complainants and institute the following procedures in dealing with sexual harassment cases:

**7.4.1 Informal procedure**

- 7.4.1.1 Informal procedure involves discussion/mediation after the matter has been reported to the Labour Relations section.
- 7.4.1.2 The informal procedure provides the complainant with the opportunity to explain to the responded that his/her behaviour is offensive /uncomfortable
- 7.4.1.3 If the complaint cannot be resolved through mediation or discussion or it is found to the accident warrants more serious action , the formal disciplinary procedure may be instituted against the respondent.

**7.4.2 Formal Procedure**

- 7.4.2.1 The complainant may apply for formal proceedings to resolve a sexual harassment if the complaint is not resolved through a informal procedure procedure, the complainant may opt to resolve the complaint through the formal procedure without using the informal route.
- 7.4.2.2 The complainant must first lodge a formal grievance according to the disciplinary code and procedures in the Public service.
- 7.4.2.4 A complainant of sexual harassment has the right to press separate criminal charges or civil claims against the respondent, however the department encourages employees to exhaust internal dispute resolution procedures.
- 7.4.2.5 Disciplinary action may be instituted in terms of the PSCBC resolution 1 of 2003 In an event where the responded is found guilty of sexual harassment.

**8 IME - FRAMES**

- 8.1 Employees /complainants are encouraged to report sexual harassment cases as soon as they occurred.
- 8.2 The Head of Department shall ensure that reported sexual harassment cases are Investigated and resolved within 30 working days. (from reporting to conclusion of investigation.
- 8.3. In an event that the 30 days expire before the investigation is concluded, the Head of

Department shall consult the complainant with the written request for an extension of up to a maximum of 14 days to conclude the case.

## **9 LEAVE OF ABSENCE**

- 9.1 The department may grant complainant special leave in cases where the complainant upon medical advice from the registered medical practitioner requires leave for medical related reasons.

## **10 ROLES AND RESPONSIBILITIES**

### **10.1 Head of Department**

- 10.1.1 Appoints the labour relations manager who must handle sexual harassment cases in the Department.
- 10.1.2 Allocate resources to ensure that awareness and training programmes are implemented.
- 10.1.3 Continuously monitor compliance with this Policy.
- 10.1.4 Submit reports on sexual harassment cases to DPSA BI –annually.
- 10.1.5 Ensure that disciplinary measures applied are in accordance with the Disciplinary Code and Procedures in terms of the PSCBC Resolution 1 of 2003.
- 10.1.6 Encourage staff report violations of this policy.

### **10.2 The Labour Relations Section**

- 10.2.1 Communicates this policy to all employees through regular awareness sessions, and education programmes.
- 10.2.2 Explain the disciplinary procedure and time frames to complainants and respondents in both formal and informal procedures.
- 10.2.3 Investigate a complaint and bring it to the attention of the Head of Department.
- 10.2.4 Provides a neutral, confidential and supportive environment for employees or non employees who report.
- 10.2.5 Monitors and submit quartley reports on all sexual harassment cases reported to

91

Head of Department.

10.3 The Employee Health and Wellness section

10.3.1 Provides relevant counselling and support when required.

10.3.2 Maintains confidentiality for all sexual harassment complaints reported them and report them to the labour Relations section or the Head of Department.

**10.4 Employees**

10.4.1 Treat fellow employees with respect and dignity.

10.4.2 Refrain from sexual harassment of others in the Department.

10.4.3 If an employee or non-employee is harassed must say No to the harasser and tell the harasser that his/her that their attention is unwanted and the behaviour is offensive. This may be done verbally or in writing.

10.4.4 Understands the contents of this policy.

**10.5 Managers / supervisor**

10.5.1 Take reasonable steps to create and maintain an environment that is free from sexual harassment .

10.5.2 Understands the contents of this policy.

10.5.3 Communicate this policy to all employees, including newly appointed employees.

10.5.4 Respond to employees of sexual harassment from employees.

10.5.5 Take appropriate action when instances of sexual harassment occur and act in accordance with grievance and disciplinary procedures.

10.5.6 Treat all employees' complaints seriously, impartially and with confidentiality.

10.5.7 Refrain from sexual harassment in the Department.

10.5.8 Undergo any training on sexual harassment or related topics.

SA

## 11 Policy Amendment

No amendment (s) may be made to any section of this policy without such amendment (s) duly approved and signed by the delegated official as per the Department's Delegation of Authority



**MR GS NTOMBELA**  
**HEAD: CULTURE, SPORT AND RECREATION**  
**DATE: 21/04/2018**