



health

Department of Health
NORTHERN CAPE

Policy on the Management of Sexual Harassment in the Workplace

This is to certify that this policy has been reviewed according to the
agreed timeframe

Version control

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Abbreviations / Definitions

“Sexual Harassment” – is defined as any behaviour of a sexual nature that affects the dignity of woman and men, which is considered as unwanted, unacceptable, inappropriate and offensive to the recipient and that creates an intimidating hostile, unstable or offensive work environment (ILO 2015).

“Disciplinary Sanctions” Shall be the penalty given to the one found guilty of sexual harassment as recommended upon after matter is concluded.

“Formal procedure” – Done according to prescribed process e.g. constituting a hearing

“Informal procedure” – Not done according to a prescribed procedure

“Immediately” – In instances of sexual harassment, immediately shall mean as soon as is reasonably possible in the circumstances and without undue delay taking into account the nature of sexual harassment, including that it is a sensitive issue, that the complaint may fear reprisal and the relative positions of the complaint and the alleged perpetrator in the workplace.

“Impartially” Treating all parties involved equally.

“Non-Employee” Refers to the person such a business associate and not appointed under the post establishment of the NCDoh.

“Quid pro quo” (this for that) sexual harassment is committed when an employer, supervisor, manager or co-worker undertakes or attempts to influence the process of recruitment, promotion, training, discipline, dismissal, salary increment or other benefit of an existing staff member or job applicant in exchange for sexual favour (ILO 2015)

“Workplace” – refers not only to the specific location where work is being performed such as an office or factory, but also to locations where work-related business may be conducted. These could include, but not limited to;

- Work related social activities such as reception organised by the enterprise for staff or client/s;
- Conference and Training Sessions;
- Official Business travel;

- Business meals;
- Work related telephone conversations and;
- Work related communication through electronic media.

"CCMA" – Commission of Conciliation, Mediation and Arbitration.

"Prima Facie" – if the evidence presented is sufficient for a conviction.

"PSCBC" – Public SERVICE Coordination Bargaining Council.

1. Policy Aim

- 1.1. The policy aims to promote a sexual harassment free zone work environment where integrity, dignity, privacy and a right to equity to all (employer, employee, public and the vulnerable) is provided.

2. Policy Scope

- 2.1. This policy applies Employees and business associates of the Northern Cape Department of Health.

3. Policy Statement

- 3.1. The promotion of a sexual harassment free environment for all remains a top priority within the Northern Cape Department of Health. It is the Policy of the Northern Cape Department of Health that:
- 3.1.1. The policy shall be under pinned by the following guiding principles:
- a) The creation and maintaining of a working environment that protects the dignity of all employees.
 - b) Ensure that all employees of the Northern Cape Department of Health refrain from sexual harassment.
 - c) All employees to commit in reducing sexual harassment.
 - d) At all times provide protection to those exposed to any form of dealings within the department.
 - e) Put in place appropriate measures to address any form of harassment brought to the department attention.
 - f) Ensure that reported allegations to be treated with the necessary confidentiality, expeditiously, sensitively and seriously.
- 3.1.2. Treat all within the health establishment, including those with business dealings with the necessary dignity as enshrined in the constitution of the country.
- 3.1.3. Ensure that all understand that sexual harassment will not be tolerated, permitted and condoned within the department.
- 3.1.4. Capacitate those affected with the necessary knowledge in order to be brave enough to raise a grievance resulting from any form of inappropriate behaviour.

- 3.1.5. Ensure appropriate action is taken to whoever he/she is who has conducted him/herself in and appropriate manner.
- 3.1.6. Disciplinary steps to take place immediately after evidence of non-compliance to policy is presented to management.
- 3.1.7. Capacitate all employees on the standard operating procedure in a sexual harassment for effective handling.
- 3.1.8. Provide protection to the victim to avoid victimisation, retaliation and eventually withdrawing the matter.
- 3.1.9. Treat Sexual harassment as a criminal offense, which is a form of sexual discrimination that violates the rights of individuals and undermines the integrity of the employment relationship.
- 3.1.10. Upon investigation, false allegations of sexual harassment shall not be tolerated.
- 3.1.11. All investigations seen as false shall be treated as a serious misconduct which could result in the implementation of disciplinary steps against the complainant.
- 3.1.12. All disclosures shall be treated with the highest level of confidentiality as outlined in the labour Relations Act of No. 66 of 1995.
- 3.1.13. Allegations against the Head of Department must be handled will be tasked to handle the matter further.
- 3.1.14. Provide all victims with options that will be solely depended on choice by the affected in resolving the problem and/or formal/informal procedure.
 - a) To resolve the problem internally.
 - b) Follow a formal procedure.
 - c) Follow an informal procedure.
- 3.1.15. The complainant will not be limited to the above-mentioned options, as he/she may press separate criminal charges and /or civil claims against the respondent if they so wish.
- 3.1.16. All alleged sexual harassment complaints should be investigated within thirty (30) working days, failure to resolve may result in matter be referred to the CCMA.
- 3.1.17. The aggrieved shall be referred for support to the departmental wellness centre for continuous support.

3.3.1.3. Non-Verbal which includes:

- a) Unwelcomed gestures.
- b) Indecent exposure and unwelcomed display of sexually explicit pictures and / or objects.

3.3.1.4. Quid pro quo (This for that) sexual harassment which include:

- a) Attempts by senior personnel in influencing employment processes (recruitment, promotions, trainings etc) processes.
- b) Unfair application in job allocation's.

3.4. Confidentiality

- 3.4.1. The identity of the aggrieved must all times be protected through the confidentiality clause sign by the handlers.
- 3.4.2. The hearing shall be constituted by only appropriate members of management as well as the aggrieved person, representative, alleged perpetrator, witnesses and interpreter.
- 3.4.3. The disclosed information should be reasonably when in preparation towards proceedings be kept confidential.

3.5. Lodging a Sexual Harassment Complaint.

- 3.5.1. An Employee who experienced a sexual harassment, must immediately report this to the Head of Department, Immediate supervisor and or Labour relations unit either verbally or in writing.
- 3.5.2. All complaints must be investigated upon receipt.
- 3.5.3. In some instances there might be a need to separate the aggrieved from the alleged, to avoid unpleasantness whilst investigation is going on.
- 3.5.4. All sexual harassment grievance investigation/s must be completed within fourteen (14) working days.

3.6. Sanctions

- 3.6.1. Should the respondent be guilty of the offence, the head of Department will impose a disciplinary sanction, within (3) three working days, which may include any of the following or a combination of them:
 - 3.6.1.1. Counselling;
 - 3.6.1.2. Verbal warning;
 - 3.6.1.3. Written warning;
 - 3.6.1.4. Final Written warning;
 - 3.6.1.5. Suspension / Fine;

3.6.1.6. Demotion; or

3.6.1.7. Dismissal.

4. Roles and Responsibilities

4.1. The Head of Department shall:

4.1.1. Report cases of sexual harassment to the Compensation Commission in terms of the Compensation for Occupational Injuries and Diseases Act (No. 130 of 1993).

4.1.2. Put systems in place that promotes respect and dignity of all.

4.1.3. Encourage staff to report violations of the policy.

4.2. The Change Manager shall:

4.2.1. Ensure training of managers, specific staff that are nominated and those appointed to handle sexual harassment cases;

4.2.2. Coordinate the implementation of recommendations within (5) five working days after conclusion of investigations of sexual harassment complaints;

4.2.3. Ensure that all handling sexual harassment cases sign a confidentiality clause.

4.2.4. Continuously monitor compliance with the policy;

4.2.5. Encourage all Trade Unions, within the employ of the Department, to include sexual harassment in their education and training programmes of members.

4.3. The Gender Focal Person shall:

4.3.1. The Gender Focal person serves as the first line of contact to the complainant of alleged sexual harassment. His/her role is to;

4.3.2. Explain the disciplinary procedure and time frames to the complainant and respondent in both formal and informal procedures;

4.3.3. Advise the complainant on the appropriate course of action and support available;

4.3.4. Advise the complainant on the two procedures available to follow, namely the informal and formal routes;

4.3.5. Provide guidance (if necessary) on how to complete the appropriate grievance form;

4.3.6. Issue a written notice of the complainant to the respondent and explain the protective measures available for the complainant;

4.3.7. Investigate the complaint and bring to the attention of the Head of Department;

- 4.3.8. Keep record of confidential statistics and narrative reports on all sexual harassment cases reported and handled;
- 4.3.9. Avoid unreasonable delays during the investigation and conclusion of any sexual harassment complaint.
- 4.3.10. Provide a neutral, confidential and supportive environment for employees who report to have been sexually harassed;
- 4.3.11. Protect the complainant from victimisation as a result of reporting the matter.
- 4.3.12. Develop and submit quarterly reports on all cases reported; resolved and pending to the Head of Department.
- 4.3.13. Participate in the development, co-ordination, implementation of educational programmes and awareness raising activities meant to prevent and manage sexual harassment matters in the Department;
- 4.3.14. Advocate for research and other resources on sexual harassment to improve expertise on the issue;

4.4. The Sexual Harassment Committee shall:

- 4.4.1. Promote a safe working environment that is free of sexual harassment;
- 4.4.2. Advocate for protection of the right of sexual harassment complaints;
- 4.4.3. Create an atmosphere that promotes equality and gender justice;
- 4.4.4. Work with the Gender Directorate to ensure that the programmes for gender equality and sexual harassment are implemented;
- 4.4.5. Support the sexual harassment advisor where necessary with the investigation of complaints;
- 4.4.6. Design / develop, with the Sexual Harassment advisory, mechanisms to keep register complaints safe and accessible.
- 4.4.7. Develop programmes that educate all employees about sexual harassment and its consequences in the workplace and;
- 4.4.8. Together with the Sexual Harassment advisor, actively promote the provisions of the policy through the development and distribution of multimedia educational materials.

4.5. The Immediate Supervisor shall:

- 4.5.1. Create a working environment that is free from sexual Harassment;
- 4.5.2. Ensure that policy is implemented without prejudice.
- 4.5.3. Capacitate employees on the implementation of policy;

- 4.5.4. Respond appropriately to complaints of sexual harassment from employees;
- 4.5.5. Prevent retaliation against any employee making a sexual harassment complaint;
- 4.5.6. Treat all complaints seriously, impartially and with confidentiality.

4.6. The **Employee** shall:

- 4.6.1. Refrain from conducting any act associated to sexual harassment in the work.
- 4.6.2. Treat fellow employees with respect and dignity place.
- 4.6.3. Report any alleged harassment to relevant structures.

4.7. The **Aggrieved** shall:

- 4.7.1. Ensure that he/she reports any suspected sexual harassment act.
- 4.7.2. Be bold enough to say **NO** to the harasser and tell him/her that their actions are unwanted and the behaviour is offensive.
- 4.7.3. In case of the persistent behaviour, report the harassment immediately and keep record thereof.
- 4.7.4. Co-operate with the investigation and avail him/herself for hearing.

4.8. The **Alleged perpetrator** shall:

- 4.8.1. Be granted a fair hearing.
- 4.8.2. Keep distance from the aggrieved / complainant.
- 4.8.3. Corporate with the investigation and avail him/herself for hearing/s

5. Review and Distribution

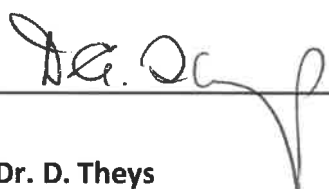
- 5.1. The **Director of Change Management** is the responsible manager for this Policy and to ensure its review.
- 5.2. This Policy will be reviewed after 3 years from last publication date. If necessary an updated version will be issued, if not a formal cover letter will be issued to supplement the cover of this policy.
- 5.3. The **Director for Policy and Planning** will distribute updated versions to;
 - 5.3.1. The **Member of the Executive Council** for Health.
 - 5.3.2. The **Head of Department of Health**,
 - 5.3.3. All Chief Directors, Directors and Deputy Directors (who will in turn distribute to their staff as appropriate).

6. Acknowledgements and Sources

- 6.1. Labour Relations Act No.66 of 1995
- 6.2. Basic Conditions of Employment Act, 1997
- 6.3. Compensation of Occupational injuries and Diseases Act, 1993
- 6.4. Public Service Regulations, 2001
- 6.5. Code of good practice on the handling of sexual harassment cases Notice 1367 of 1998
- 6.6. Protection from Harassment Act (No.17 of 2011)
- 6.7. Employment Equity Act No. 55 of 1998)
- 6.8. Public Service Health and Safety Association 2013
- 6.9. Notice 1367 of 1998, develop clear procedures to deal with sexual harassment cases

Approved by the

Acting Head of Department:


Dr. D. Theys

Date:

08/01/21