

## **CHAPTER 13: POLICY ON SEXUAL HARASSMENT**

### **13.1. DEFINITION**

Sexual harassment is:

Unwanted conduct of a sexual nature where:

- (i) the recipient has made it clear the conduct is unwelcome; and
- (ii) the behaviour is persistent in; and / or
- (iii) The perpetrator should have known the conduct is regarded as unacceptable.

### **13.2. LEGAL FRAMEWORK**

The Employment Equity Act, 1997

The Code of Good Practice on Sexual Harassment

### **13.3. STATEMENT OF COMMITMENT**

The department is committed to create a working environment that is safe and conducive for all its employees and intends, through this policy, to deal with the scourge of sexual harassment in which manner and however is manifesting itself in the workplace or during official functions of the department or associated with the work and activities of the department.

### **13.4. POLICY OF THE DEPARTMENT**

- 13.4.1.** It is the policy of the Department that all employees shall be treated fairly and with dignity, irrespective of gender and sexual orientation.
- 13.4.2.** The Department recognizes that the law protects employees from harassment and unfair discrimination, especially sexual harassment (section 6 of the EEA).
- 13.4.3.** Department recognizes that one of the all too common forms of harassment is sexual harassment; hence the government saw fit to enact the Code of Good Practice on Sexual Harassment in the Workplace ("the Code").
- 13.4.4.** The Department recognizes that the Code sets out to ensure integrity, dignity, privacy and right to equity in the workplace. It recognizes that the following persons, amongst others, could be perpetrators or victims of sexual harassment:
  - (a) employees;
  - (b) managers;
  - (c) supervisors;

- (d) job applicants;
- (e) clients;
- (f) suppliers;
- (g) contractors.

**3.4.5.** The Department hereby sets out to protect its employees against all forms of sexual harassment including, for example, unwelcome physical contact, comments, advances, jokes, insults, references to the person's body, gestures, suggestive whistling, indecent exposure, display of explicit pictures, images and objects, request for sexual contact in return for employment-related favours, offers of reward in return for sexual favours, strip search by or in the presence of a member of the opposite sex, assault or rape.

**3.4.6.** The policy applies equally whether the act of sexual harassment is perpetuated:

- (a) against men or women;
- (b) by men or women;
- (c) across the same or opposite genders.

### **13.5. MEASURES TO BE EMPLOYED AGAINST SEXUAL HARASSMENT**

**3.5.1.** Managers and employees at all levels will receive training in:

- (a) the legislation on sexual harassment;
- (b) the implementation of this policy.

**3.5.2.** Disciplinary steps shall, as a matter of rule, be taken against perpetrators and if found guilty a sanction of dismissal shall be peremptory.

**3.5.3.** False claims of sexual harassment and making public falsely and for ulterior motives allegations of sexual harassment are discouraged. However, this does not mean an employee may not raise allegations of sexual harassment if they genuinely believe that they are a victim.

**3.5.4.** Employees who feel that they may be the victims of sexual harassment are strongly encouraged to report this discreetly and in confidence to Senior Management, the Human Resource Manager or person responsible for human resources matters (Labour Relations, Employee Health and Wellness). All such reports will be treated with strict confidence and sensitivity.

**3.5.5.** Labour Relations Unit is responsible for disciplinary and grievance aspects of the sexual harassment and Special Programmes Unit is responsible for employee assistance / health and wellness aspects of the sexual harassment.

- 3.5.6.** Where the allegation is reported to any person other than mentioned in above, that person must report the matter to the HR Manager or Senior Management.
- 3.5.7.** No employee shall be victimized for making such a report.
- 3.5.8.** The victim of the sexual harassment will be provided with advice and assistance. He / she will be advised and assisted to exercise options available to him or her. For instance the employee may elect to handle the matter informally, through intervention of the Head of Department, or formally through disciplinary or grievance processes.
- 3.5.9.** With the consent of the employee making the report, an investigation will be conducted without delay, and the appropriate action, as identified by the investigation will be taken.

### **13.6. RESPONSIBILITIES OF THE MANAGEMENT**

- (a) Create a conducive working environment for all employees;
- (b) Desist from possible acts of sexual harassment;
- (c) Lead by example.

### **13.7. RESPONSIBILITIES OF THE EMPLOYEES**

- (a) Report allegations of harassment as soon as possible;
- (b) Refrain from making false accusations;
- (c) Where possible make it known to the perpetrator that the conduct is unwelcome.

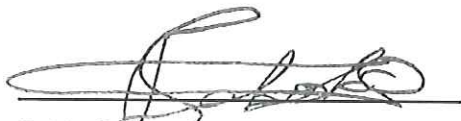
### **13.8. EMPLOYEES HAVE THE RIGHT TO**

- (a) Institute private civil and criminal proceedings against perpetrators;
- (b) Use the Department's formal Grievance Procedure to report alleged sexual harassment;
- (c) Approach HR division informally instead of using the formal procedure;
- (d) See the matter is fully investigated and to be kept informed of progress;
- (e) Refer the matter to the CCMA for conciliation, and further to the Labour Court should the dispute remain unresolved.

### **13.9. APPLICABILITY OF THIS POLICY TO EXTERNAL PARTIES**



- (a) Applicability of the policy is to clients, suppliers, contractors, members of the public and other government employees.
- (b) The policy applies *mutatis mutandis* where clients, suppliers, contractors, member of the public and other public servants are affected and in the course of duty of the alleged perpetrator.
- (c) Allegations of sexual harassment by the employee of the department against the clients, suppliers, contractors, members of the public and other public servants will be treated with the same seriousness and sensitivity and the department will insist on investigation and feedback from the affected institutions and / or individuals

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