

SEXUAL AND OTHER HARASSMENT POLICY 2021/22

Summary

Publication Date	
Review Date	September 2021
Related Legislation/Applicable Section of Legislation	<ul style="list-style-type: none"> • Basic Conditions of Employment Act, 1997 • Constitution of the Republic of South Africa, 1996 • Employment Equity • Labour Relations Act 1995 • Public Service Act, 1994 • Municipal Systems Act 32 of 2000 • SALGBC Collective Agreements • Municipal regulations
Related Policies, Procedures, Guidelines, Standards, Frameworks	
Replaces/ Repeals (whichever is relevant, if any)	
Policy Officer (Name/Position)	MW Mxekezo
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Policy Sponsor (Name/Position)	
Department Responsible	Corporate Services
Unit responsible	Human Resources
Applies to	All employees
Key Words	
Status	Review

Council approval date	
Version	1



REVISION RECORD

Date	Version	Revision Description



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1. TITLE

Sexual and other harassment policy

2. PURPOSE

2.1 To make known the Ngqushwa Local Municipality's concern for the well-being of its employees and its commitment to providing a work environment free of any form of harassment. It outlines the procedure for dealing with harassment situations and seeks to increase employee awareness by creating credible and even-handed mechanisms

2.2 To eliminate any form of harassment at the workplace

2.3 To provide appropriate procedures to deal with problems of harassment and prevent its recurrence

2.4 To encourage and promote the development and implementation of policies and procedures that will lead to creation of the workplace that is free of any form of harassment where the Municipality and its employees respect one another's integrity, privacy and the right to equality at the workplace.

3. SCOPE

- The policy shall apply to all municipal functionaries and staff irrespective of the nature of attachment to the Municipality
- This policy shall also apply to the functionaries of the associates of the Municipality
- This policy shall be operative on date which it is approved by the Council

4. PROCEDURE DETAIL

4.1 EXPLANATION OF HARASSMENT

4.1.1 Sexual Harassment

Sexual Harassment may be broadly defined as constituting unwanted sexual attention or any unwanted pressure involving one's sexuality and/or unwanted, unsolicited and unreciprocated conduct of a sexual nature which substantially interferes with an employee's work performance, and/or has a detrimental effect on the terms and conditions of employment, and/or create an intimidating, hostile or offensive work environment. Although sexual harassment encompasses a broad range of conduct it usually falls into two broad categories, that is **power relationships and a hostile working environment**

A power relationship is where a person in authority coerces a subordinate to render sexual favours as an implicit term or condition of employment:-

- If the employee accedes to the request, tangible job benefits follow

- If the employee refuses he/she may face adverse job related consequences which may range from assignment change, transfer, demotion, denial of promotion or withholding confirmation from probationary status and finally to dismiss or threat of dismissal

A **hostile working environment** is where a co-employee and/or subordinate's conduct has the purpose or effect of interfering with an employees work performance or creates a sexually intimidating or hostile or offensive work environment which negatively affects the victim's psychological health:-

- This often manifests in degrading, isolating and/or undermining female authority (although it is not restricted to female authority)

4.1.2 It is the Ngqushwa Local Municipality's belief that employees should be able to work in an environment that is free of all forms of harassment, particularly those involving:-

- Unwelcome, unwanted, unsolicited and unreciprocated sexual advance/attention in return for money, promotions, or other workplace opportunities
- Workplace decisions affecting an individual's employment when the same individual believes that these were made because of his/her reactions to those kinds of advances
- A hostile, intimidating or offensive work environment because of the actions of the other
- Other sexually harassing conduct in the workplace that may create an offensive work environment, whether it be in the form of physical, verbal or visual harassment by supervisors, co-workers and/or non-employees

4.1.3 Should any of these become a concern, the municipality has a need to know about the circumstances that are affecting the employee's performance or making him/her uncomfortable at work

4.2 WHAT CONSTITUTES SEXUAL HARASSMENT

4.2.1 Any action or behaviour that involves:-

- verbal abuse;
- display of sexually offensive material (eg posters, magazines, cartoons, drawings etc)
- sexist or suggestive remarks regarding a person's clothing, body or private life
- sexual teasing and jokes
- obscene gestures
- indecent exposure
- patting or brushing up against another person
- leering, suggestive looks, whistling
- continued pressure for date and/or sexual favour
- letters or telephone calls of a sexual nature
- sexual demands or requests or propositions in return for hiring or promotion or as condition of employment

- employment decisions based on submission to or rejection of the request
- indecent assault
- rape

4.2.2 The following DO NOT constitute sexual harassment:-

- behavior acceptable to the recipients, such as occasional compliments
- the mutual attraction between employees, which is a private concern
- sexual harassment only refers to those behaviours which are unwelcomed, unsolicited, offensive and which continue despite being discouraged and/or declined

4.3 OTHER FORMS OF HARASSMENT

4.3.1 Harassment, in general is defined as behavior that is intimidating, humiliating and failing to respect the rights of others. Other forms of harassment include behavior based on the following:-

- Race, ethnic origin, nationality
- Gender
- Sexual orientation
- Group membership or non-membership (e.g. Trade Union)
- Physical disabilities and health
- Physical characteristics
- Age
- AIDS/HIV status
- Personal and religious beliefs

4.3.2 The above list is not exhaustive as many other factors can lead to harassment

4.3.3 This policy prohibits all forms of harassment in the workplace, whether committed by those in authority, co-workers or subordinates:-

The municipality recognizes that harassment and/or sexual harassment may not only be perpetrated by those in authority but also by co-workers, subordinates and even non-employees

Appropriate levels of disciplinary action may be taken up to and including dismissal depending on the findings of a hearing set up to handle the matter

4.4 PROCEDURE FOR DEALING WITH HARASSMENT

4.4.1 The municipality is committed to maintaining a work environment that is free from any form of harassment

4.4.2 Harassment is a disciplinary offence and an employee found guilty of such an offence will face disciplinary action which could result in dismissal

4.4.3 All complaints shall be treated in a fair and objective manner

4.4.4 False claims shall be viewed in a very serious light

4.4.5 To deal with these matters, Corporate Services Department will, in consultation with employee representatives appoint from amongst the employees, a male and a female and have them trained as proctors to deal with sexual and other harassment complaints

4.4.6 The municipality shall take any reasonable steps to ensure that it makes it easy and non-threatening for employees to bring harassment concerns to its attention through Corporate Services Department

4.4.7 Complainants shall lodge their complaints with one of the proctors and;

- Upon receipt of the complaint, the proctor shall interview the complainant and jointly agree whether the complaint is one which could be resolved informally or one which requires disciplinary action to be taken against the alleged harasser
- The choice of whether formal disciplinary action shall be taken against the alleged harasser will be made based on the severity of the allegations
- Where the complaint is required to be handled in an informal manner, the proctor will not gather any evidence but will either address a letter to the alleged harasser or call the alleged harasser to a private meeting and advise the alleged harasser of the complaint leveled against him/her and demand that the conduct complained of cease forthwith

4.4.8 Where the complaint is to be handled formally the normal procedures as provided for in the disciplinary procedures will be followed. The procedure to be adopted for disciplinary hearing on harassment shall be the following:-

- The proctor shall collect written statements from the complainant and his/her witnesses, if any
- The proctor/s together with Corporate Services Department shall draft any appropriate charge against the alleged harasser advising him/her fully of the complaint against him/her and provide the date, time and venue for the hearing, which hearing will take place within two (2) working days after the delivery of the charge sheet to the alleged harasser
- The proctor shall act as the prosecutor at the hearing
- The hearing shall be presided over by a Chairperson appointed by the Municipality
- The chairperson shall hear the evidence, evaluate same and arrive at a decision on a balance of probabilities
- The alleged harasser shall be entitled to be represented by his/her Trade Union representative or co-employee of his/her choice and shall also lead evidence in

his/her defence

- The hearing shall take place in camera
- The chairperson shall have the right to award an appropriate penalty as per the Disciplinary Code of the municipality
- Where the chairperson finds the alleged harasser not guilty of harassment, or finding the harasser guilty but does not consider dismissal to be the appropriate penalty, the Chairperson will, after making his/her decision, mediate between the parties to restore relationships and rectify the conduct complained about

4.4.9 All concerns and complaints on sexual (and/or any other form) of harassment shall be kept confidential, and no retaliatory action shall be taken against an employee as a result of lodging a complaint

4.4.10 Unauthorized disclosure of facts or opinions is prohibited and has disciplinary action consequences

4.5 PREVENTION STRATEGIES

4.5.1 Training

Councillors, Managers, workers

- basic information on harassment
- knowledge of rights and personal responsibilities
- expectations of interpersonal behavior
- knowledge of the procedure and the names of the proctors

4.5.2 Proctors

- in depth knowledge of the policy and procedure
- Investigation and fact-finding skills

4.5.3 Distribution and the communication strategy around the policy statement

- The policy must be made available from the Corporate Services Department upon request by any affected party

4.5.4 Appropriate occasions should be used to re-inforce the policy

- employee orientation
- appropriate information sessions

4.5.5 Treat the policy as need-to-know for all, especially managers

- Senior management is expected to mention the policy and the Municipality's commitment to an appropriate and natural way especially at management meetings
- Managers must avoid discussing specific cases or situations

4.5.6 If the party concerned is not satisfied with the interpretation, a dispute may then

be pursued with the South African Local Government Bargaining Council or Arbitration

4.6 COMMUNICATION

Circulars, messages and notices on notice boards will be utilized in order to inform all employees of the availability of the policy. Copies of the policy will also be distributed to the parties that took part in the consultation process

4.7. REVIEWAL OF THE POLICY

It will be the responsibility of the Corporate Services Department to consider the provisions of this policy on annual basis. The Corporate Services Department shall request all Departments to submit their proposed changes for submission to Council for approval.

5. ROLES AND RESPONSIBILITIES

Role	Authority
Create, evaluate, review and adopt the Sexual and other Harassment Policy .	Council
<ul style="list-style-type: none"> • Implement and enforce this policy • Establish and control the administration necessary to fulfil this policy, and report efficiently and regularly to the Committee in this regard. 	Municipal Manager
<ul style="list-style-type: none"> • Ensure that there is compliance with the Sexual and other Harassment Policy 	Director Corporate Services

6. MONITORING, EVALUATION AND REVIEW

A report detailing the progress with the Sexual and Harassment Policy with specific reference to achievement of this policy has to be compiled every year by the person with the responsibility for implementation and monitoring. The policy must be made available to all consulting parties for perusal and comment and must be circulated to all staff members by means of circulars, notices and notice boards.

7. DIFINITIONS AND ABBREVAITIONS

Term	Meaning
Advance	to give active support to a person, cause or plan
Brushing	graze or touch in passing
Coerces	persuade or restrain an unwilling person by force
Conduct	behavior in Its moral aspect
Degrading	causing a loss of self-respect
Employee	for the purpose of this polcy, the meaning of an employee shall include a functionary and an employee of an associate
Functionary	a person acting In an official capacity or In a organization
Harassment	annoy continually and repeatedly
Hostile	unfriendly or opposed
Indecent	offending against recognized standards
Intimidate	to frighten, overawe, subdue or influence
Isolating	cutting or separating off from others
Leering	look slyly or maliciously
Obscene	offensively indecent by offending accepted sexual morality
Offensive	an aggressive action, forceful action in pursuit of a cause
Patting	a sign of affection by striking gently with the Inner surface of the hand
Proctor	a member of staff designated to assist In handling harassment cases
Suggestive	conveying a suggestion of an indecent or improper remark
Unsolicited	not asked for given or done voluntarily
Un-reciprocate	offer or give something In return

8. SUPPORTING DOCUMENTS

None

9. REFERENCES

None

10. APPENDIX

None


11. ADOPTION AND APPROVAL OF THE POLICY BY COUNCIL

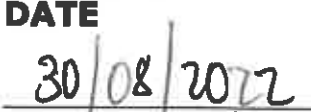
This policy is adopted and approved by the full Ngqushwa Local Municipality Council for Implementation



MUNICIPAL MANAGER


MAYOR



DATE


DATE