

# SEXUAL HARASSMENT POLICY

## 1. PREAMBLE

Sexual harassment, like rape, is a form of abuse of power, with often severe consequences for victims. These include: psychological damage, loss of self-esteem, chronic depression, loss of employment and financial hardship. Sexual harassment of employees by their supervisors may have a significantly negative impact on the employees' career and future. Blouberg Municipality (hereafter referred to as the Municipality) is therefore committed to the protection and promotion of the human dignity and future of its employees. Because matters associated with sexual harassment are sensitive, the policy described below shall be adhered to before the provisions of the disciplinary code and procedure are invoked

## 2. PURPOSE

The Municipality deems it appropriate to establish a formal policy on the handling of sexual harassment in the workplace and to utilize the *Code of Good Practice on the Handling of Sexual Harassment Cases* issued by NEDLAC.

## 3. OBJECTIVES

The objectives of the policy are to

- a) Eliminate sexual harassment if/where it exists and to establish appropriate procedures to deal with such cases should they arise;
- b) Create an environment which upholds the personal integrity, safety and freedom of the employees of the Municipality and all the other persons as listed under paragraph 4 herein infra;
- c) Discourage all forms of sexual discrimination and to detect and/or prevent all forms of sexual harassment in the workplace;
- d) Design a system for the reporting and investigation of cases of sexual harassment, which protects the human rights of all concerned, from victim to alleged perpetrator; and
- e) Create an environment where victims of sexual harassment are able to seek redress without fear of retribution and prejudice.

## 4. SCOPE

- 4.1. Although this policy is intended to guide the Council of Blouberg Municipality and its employees, the perpetrators and victims of sexual harassment may include:
  - a) Job applicants;



- b) Clients;
- c) Suppliers;
- d) Contractors; and
- e) Others have dealings with the Municipality.

4.2. A non-employee who is a victim of sexual harassment may lodge a grievance with the Municipality in the event with its employee being the harasser and provided that the alleged harassment has taken place in the workplace of the Municipality or in the course of the of the harasser's employment.

## 5. LEGAL FRAMEWORK

The Labour Relations and Employment Equity legislation place a responsibility on employers to "... create and maintain a working environment in which the dignity of employees is respected (such that) ... victims of sexual harassment will not feel that their grievances are ignored or trivialized, or fear reprisals ...

Section 60 of the Employment Equity Act, Act No 55 of 1998, regulates the extent that an employer may be held vicariously liable for the sexual harassment of an employee. Subsection (3) of the said section provides that "if the employer fails to take the necessary steps ( to eliminate sexual harassment) and it is proved that the employee has contravened the relevant section, the employer must be deemed to have contravened that section."

## 6. TIMEFRAMES

This policy comes into operation immediately upon its approval by the Council sitting of 30 November 2007 or at a date determined by the Council resolution. The Policy will thereafter be reviewed after every twelve months or earlier should it be necessary.

## 7. DEFINITIONS

3.1. **Sexual harassment** may include unwelcome physical, verbal, or non-verbal conduct including but not limited to:

3.1.1. Physical conduct of a sexual nature including all unprompted physical contact ranging from touching to sexual assault and rape, including also strip searches by or in the presence of a person of the opposite sex.

3.1.2. Verbal forms of sexual harassment including unwelcome innuendos, suggestions and hints, sexual advances, comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments about a person's body made in their presence or directed toward them, unwelcome and inappropriate enquiries about a person's sex life, life, and unwelcome whistling directed at a person or group of persons.



3.1.3. Non-verbal forms of sexual harassment including unwelcome gestures, indecent exposure, and the unwelcome display of sexuality explicit pictures and objects.

3.1.4. *Quid pro quo* harassment occurs where a supervisor, members of management or co-employee 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 sexual favors.

3.1.5. Sexual harassment can occur in relationships of unequal power or among peers. It is possible for women to be harassed by men or other women, and men to be harassed by women or other men.

3.2. **Sexual favoritism** exists occur where a person who is in a position of authority rewards only those who responds to his/her sexual advances, whilst other deserving employees who do not submit themselves to any sexual advances are denied promotion, merit rating or salary increases.

## 8. PRINCIPLES

- 8.1. Councilors, management and employees shall refrain from committing acts of sexual harassment.
- 8.3. Management shall take appropriate action in accordance with this policy, when instances of sexual harassment which occur are brought to their attention.
- 8.4. In every case of sexual harassment, the victim shall indicate clearly and immediately that he/she does not approve of what is being said, done or suggested.
- 8.5. The severity of the harassment is determined largely by the effect it has on the victim, not by the intention of the person who performed the harassment.

## 9. ROLES AND RESPONSIBILITIES

### 9.1. Management

Management shall ensure that

- a) All councilors and employees of the Council are aware of this policy;
- b) The policy is accessible to persons referred to in paragraph 4 herein supra;
- c) This policy is annually revised

### 9.2. Employees and other listed stakeholders

All persons referred to in paragraph 4 herein supra shall familiarize themselves with and comply with this policy



### **10.1. POLICY STATEMENT**

10.1.1. All employees, job applicants and other persons who have dealings with the Municipality have the right to be treated with dignity.

10.1.2. Sexual harassment in the workplace will not be permitted or condoned.

10.1.3. Persons who have been subjected to sexual harassment in the workplace have the right to raise a grievance in accordance with the Municipality's Grievance Procedure and appropriate action will be taken by management.

10.1.4. Management shall take appropriate disciplinary action against employees who do not comply with this policy.

10.1.5 Allegations of sexual harassment shall be dealt with seriously, expeditiously, sensitively and confidentially.

### **10.2 CONFIDENTIALITY**

7.1 The identity of all people's party to a complaint of alleged sexual harassment shall be kept confidential.

7.2 Confidentiality will be maintained in any disciplinary process related to an alleged sexual harassment.

7.3 Management shall disclose to either party or to their representatives, such information as may be reasonably necessary to enable the parties to prepare for any proceedings in terms of this policy.

### **10.3 ADDITIONAL SICK LEAVE**

Where an employee's existing sick leave entitlement has been exhausted, the Municipality will give careful consideration to the granting of additional sick leave in cases of serious sexual harassment where the employee on medical advice requires trauma counseling or other remedial action.

### **10.4 PROCEDURES**

#### **10.4.1 Advice and Assistance**

The heads of the departments shall be designated as persons whom victims may approach for confidential advice and support on sexual harassment related



matters. For this purpose the heads of departments shall be properly trained and given adequate resources.

#### **10.4.2 Options to Resolve a Problem**

(a) Employees shall be advised that there are two options to resolve a problem relating to sexual harassment, the formal and informal options as herein below defined.

(b) Upon receiving the complaint, the head of the department concerned will evaluate the severity of the complaint and decide whether the matter can be resolved informally between the parties or must be pursued in accordance with the disciplinary process. Under no circumstances may the complainant be forced to accept the head of the department's view on the option to be followed.

##### **10.4.2.1 Informal Procedure**

(a) It may be sufficient for the employee concerned to have an opportunity, in the presence of a third party of his/her choice, where s/he can explain to the person engaging in the unwanted conduct that the behavior in question is not welcome, that it offends them or makes them feel uncomfortable, and that it interferes with their work and that s/he wants the alleged harasser to refrain from the unwelcome conduct. It is advised that the third party be the head of the department concerned or a mediator appointed by the head of the department as provided for herein below.

(b) At an informal meeting as described above, no formal record of the proceedings is kept or placed in the files of the parties concerned. The parties may however agree to keep minutes of the meeting for their own records, to be used at a later stage to clarify either the party's case should the harassment continue.

(b) The head of the department concerned may appoint mediator(s) to discuss and mediate. The informal process has twenty one (21) working days to resolve the complaint after which it will be referred to a formal process.

(c) Both the complainant and the alleged harasser may ask for further counseling by the mediating party or to be referred to an appropriate professional.

##### **10.4.2.2 Formal Procedure**

(a) The formal process will follow if

- (i) The informal process cannot resolve the matter within the prescribed period
- (ii) The complaint cannot be resolved to the satisfaction of the complainant



- (iii) It is found through discussion that the incidents warrant more serious action
- (iv) The informal procedure has not been successful in preventing further harassment
- (v) The complainant decides to forego the informal procedure
- (b) This procedure should be implemented in all cases of rape, sexual assault or criminal conduct of a sexual nature
- (c) A formal written complaint must be made to the head of the department concerned. The mediator(s) must submit a report to the head of the department who will as well formally invite the alleged perpetrator to state his/her case in writing.
- (d) A grievance may be lodged against the alleged offender per the Municipality's Grievance Procedure.
- (e) Disciplinary processes, as per the Disciplinary Procedure Collective Agreement of the South Africa Local Government Bargaining Council

#### **10.4.3 Criminal or Civil charges**

Particularly in cases of physical abuse the above procedures do not override the victim's right to lay criminal or civil charges against the alleged perpetrator. Cases of assault and rape are criminal activities And will in any event be referred immediately to the police by the municipality. If procedures of the Municipality fail in other instances, a victim can take the matter to a criminal or civil court

## **11. EVALUATION CRITERIA**

This policy will be evaluated every year to establish the following:

### **11.1 Impact**

The extent to which the Policy's desired results shall have been achieved.

### **11.2 RESPONSIVENESS**

Whether the policy, as it stands, is able to address the initially identified problem

### **11.3 Applicability**

Whether the Policy is still worth having.

## **12. ATTACHMENTS**

- 12.1 Code of Good Practice on the Handling of Sexual Harassment Cases
- 12.2 Disciplinary Procedure Collective Agreement
- 12.3 Municipality's Grievance Procedure



### 13. POLICIES REPEALED

This is a new policy.

Municipal Manager

Blouberg Municipality

Name : MACHABA MS

Signature: Mchaba MS

Date: