

Mpumalanga Provincial Government



Department of Public, Works Roads and Transport

DRAFT SEXUAL HARASSMENT POLICY

Revision Date:.....None
Issue:1.0
Responsible Section.....Employees health and Wellness
Approval Date.....

8

TABLE OF CONTENTS

Item/ Topic	Pages
Abbreviations and Definitions	2
1. Introduction	3
2. Objectives	3
3. Regulatory Framework	3
4. Scope of Application	3
5. Policy Statement	4
6. Monitoring and Evaluation	7
7. Policy Review	7
8. Approval	7

ABBREVIATIONS



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ABBREVIATIONS

PWR&T	:	Public Works Roads and Transport
EAP	:	Employee Assistance Programme

DEFINITIONS

SEXUAL HARASSMENT

Sexual behavior that is unwanted, unwelcome and not mutual. Although sexual harassment has undertones of behaviour that is persistent, a single incident can constitute sexual harassment.

STAKE HOLDERS

Stake holders shall mean general visitors, contractors, job applicants, clients and suppliers of the department.

DEPARTMENT

Department shall mean the Mpumalanga department of Public Works, Roads and Transport

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1. INTRODUCTION

The Department of Public Works, Roads and Transport is committed to the elimination of sexual harassment in the workplace. It is important that the work environment be free of sexual harassment where both the employer and employees respect one another's integrity and dignity, their privacy and their right to equity.

2. OBJECTIVES

The objectives of this policy shall be to:

- 2.1. Create and maintain a climate in which the victims of sexual harassment will not feel that their grievances are ignored or trivialized, or cause them to fear reprisals.
- 2.2. Ensure that Management and employees refrain from committing acts of sexual harassment.
- 2.3. Articulate the role that Management and employees have to play in contributing towards the creation and maintenance of a work environment in which sexual harassment is unacceptable.
- 2.4. Ensure that their conduct does not cause offence and they should discourage unacceptable conduct on the part of others.
- 2.5. Conscientise Management of the role they have to play in ensuring that persons such as customers, suppliers, job applicants and others, who have dealings with the Department, are not subjected to sexual harassment by the employer or employees.
- 2.6. Inform management of their duty to take disciplinary action in accordance with this policy when instances of sexual harassment, which occur within the workplace, are brought to their attention.

3. REGULATORY FRAMEWORK

- 3.1. Labour Relations Act No. 66 of 1995 (as amended).
- 3.2. The Disciplinary Code and Procedure for the Public Service (Annexure A of PSCBC Resolution 2 of 1999).

4. SCOPE OF APPLICATION

This policy shall apply to employees and Management within the Department and other stake holders.

5. POLICY STATEMENT

5.1. FORMS OF SEXUAL HARASSMENT

- 5.1.1. Unwanted physical contact like touching, sexual assault, rape, and a strip search by or in the presence of the opposite sex.
- 5.1.2. Verbal sexual harassment, like comments with sexual undertones, sex related jokes, unwelcome whistling, unwelcome graphic comments about a person's body, sexual advances.
- 5.1.3. Non-verbal harassment like indecent exposure, unwelcome display of sexually explicit pictures or objects.
- 5.1.4. Attempts or undertakings to influence employment processes like appointment, promotion, salary increment through sexual favours.

5.2. PRINCIPLES OF SEXUAL HARASSMENT

- 5.2.1. Sexual harassment incidents must be reported to Labour Relations unit where the aggrieved may need to confide in a person outside of line management.
- 5.2.2. The aggrieved person may as well confide in Employee Assistance Programme or any person with whom she/he is comfortable though the individual chosen should have to liaise with the Labour Relations unit.
- 5.2.3. A non-employee who has been subjected to sexual harassment by an employee of the Department in the workplace should lodge a grievance with the Department and appropriate action will be taken against the perpetrator.
- 5.2.4. The department has no authority to take disciplinary action against a perpetrator who is a non-employee, but legal action can be instituted.

5.3. PERPETRATORS AND VICTIMS OF SEXUAL HARASSMENT

- 5.3.1. Managers, Supervisors and Employees
- 5.3.2. Job applicants and general visitors
- 5.3.3. Clients, Suppliers and Contractors



5.4. PROCEDURE

The disciplinary procedure to address sexual harassment may be formal or informal. The aggrieved must be made aware that these two options are available and must not be forced to accept one or the other option.

5.4.1. Informal procedure

- 5.4.1.1. The aggrieved person, where he/she chooses so, be afforded an opportunity to explain to the perpetrator that the behavior was unwelcome, uncomfortable, offensive and interferes with their work.
- 5.4.1.2. The aggrieved person may voluntarily access the EAP for counseling or assistance to facilitate the employee's response to sexual harassment.
- 5.4.1.3. The severity of the sexual harassment may demand that it be addressed from the onset with a formal process, e.g. sexual assault, rape, etc.
- 5.4.1.4. If the matter does not get resolved through the informal procedure, then the next step would be the formal procedure.

5.4.2. Formal procedure

- 5.4.2.1. Management must implement the formal procedure as soon as the decision to embark upon this option is made in accordance with the Departmental Disciplinary Code and Procedure.
- 5.4.2.2. As a rule the alleged perpetrator must be given an opportunity to state her/his case after which the disciplinary action will be instituted.



5.5. Investigation and disciplinary action

- 5.5.1. During the investigation of a sexual harassment case, the aggrieved must not be disadvantaged and the alleged perpetrator must not be prejudiced.
- 5.5.2. The sanctions for first offences of sexual harassment of a less serious nature shall include verbal warnings, written warnings, or a demotion.
- 5.5.3. Serious sexual harassment cases and continued sexual harassment after repeated warnings will warrant dismissal in line with the Departmental Disciplinary Code and Procedure.
- 5.5.4. Retaliation by the harasser against an aggrieved person who lodges a grievance on sexual harassment will be viewed seriously and should warrant a dismissal sanction.
- 5.5.5. This policy does not in any way deny a victim of sexual harassment or rape his/her legal right to institute criminal/civil charges against the perpetrator.

5.6. Confidentiality

- 5.6.1. Investigations into grievances about sexual harassment will be handled in a manner that will ensure that the identities of the involved persons are kept confidential.
- 5.6.2. Only the involved and necessary parties will be allowed in the disciplinary enquiry.
- 5.6.3. Only relevant information that would be necessary for preparation will be disclosed to the parties to enable them to prepare for the proceedings in terms of this policy.
- 5.6.4. The limitations to disclosure of information in terms of section 16 of the Labour Relations Act will apply.

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5.7. Support to the parties in a sexual harassment matter

- 5.7.1. The aggrieved must be allowed sick leave in accordance with the Departmental leave policy to undergo any treatment as would be decided by the medical practitioner and/or including referral to the EAP should such intervention be required.
- 5.7.2. Should sick leave be exhausted and there is still a need for further treatment, the Department will allow victims of serious sexual harassment an opportunity to utilize special leave to achieve maximum recuperation.
- 5.7.3. The perpetrator will be referred for counseling, which may at the discretion of the employer be a formal referral to the EAP to reduce incidents of re-occurrence of a misconduct of this nature.

5.8. Dispute resolution

Disputes involving sexual harassment will be addressed in terms of the Dispute Resolution Procedures for the Public Service.

6. MONITORING AND EVALUATION

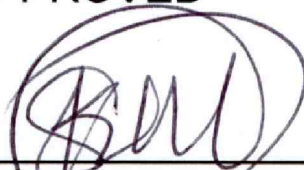
The Employees' Health and wellness section shall monitor the implementation of the policy and shall report any deviations to the Head of the Department in writing.

7. POLICY REVIEW

The policy shall be reviewed to factor in changes in legal frameworks, organisational development, political and economic trends, and envisaged outputs by the Medium Term Expenditure Framework as well as outcomes of monitoring and evaluation.

8. APPROVAL

APPROVED



KM MOHLASEDI
HEAD OF DEPARTMENT

DATE : 2012/2/22

