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POLICY ON SEXUAL HARASSMENT

MAY 2025

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Review Date	APRIL 2028
Description	This document defines the Department's position on Sexual Harassment in the workplace.
Coverage	This document is applicable to all employees of North West Department of Health.
Policy Number	SP25/P01/R28

TABLE OF CONTENTS

1. Policy Statement	4
2. Purpose.....	4
3. Objectives	5
4. Scope.....	5
5. Clarification of Terms.....	5
5.1. Sexual Harassment in the Workplace	5
5.2. Allegation	5
5.3 Behaviour	6
5.4. Complaint	6
5.5. Complainant.....	6
5.6 Discrimination	6
5.7 Non-Verbal Harassment.....	6
5.8 Physical Harassment.....	6
5.9 Respondent.....	7
6. Legislative and related prescripts Mandate	7
7. Forms of Sexual Harassment.....	8
8. Employer's liability for Sexual Harassment cases	9
9. Time frames	10
10. Structure required for policy implementation	11
11. Roles and responsibilities of the various parties:	12
12. Education and Training	15
13. Communication	15
14. Monitoring and Evaluation.....	15
15. Policy review and amendments	16
PART B: PROCEDURES	16
16. Lodging a Sexual Harassment complaint.....	16
17. Procedures.....	16
18. Lodging a formal complaint/grievance	17
19. Sanctions.....	17
20. When Managers are perpetrators	18
21. Accounting Officer as perpetrator.....	18
22. Criminal Charges and/or Civil Claims.....	18
23. Dispute resolution.....	19

23. Leave of absence	19
24. Sources/References	19
25. Policy approval:	19

1. Policy Statement

The North West Department of Health as a workplace is obligated to provide a safe, healthy and amicable working environment for its employees and shall take steps to maintain this, either by meeting legal obligations or in terms of what amounts to fair practice, therefore it shall neither permit nor condone Sexual Harassment. All employees including designated groups especially Women, Employees with Disabilities and other persons, who have dealings with the Department, have the right to be treated with respect and dignity. Sexual Harassment is a form of sex discrimination that violates the rights of individuals and undermines the integrity of employment relationships.

Allegations and complaints of Sexual Harassment shall be responded to promptly and dealt with seriously, expeditiously, fairly, sensitively and confidentially. Complainants shall be protected against victimization and/or retaliation. False allegations of Sexual Harassment shall not be tolerated and whoever acts in bad faith will face disciplinary action. All employees of the Department must be aware that violation of this policy will lead to serious disciplinary measures including dismissal.

2. Purpose

The purpose of this policy is to promote a workplace that is free of *Sexual Harassment, Sexual favours, Intimidation and Victimisation*, where the employer and employee respect one another's integrity, dignity, privacy and the right to equality in the workplace. It also provides a systematic and consistent approach to managing Sexual Harassment and steps to be taken when Sexual Harassment occurs within the course and scope of North West Department of Health.

3. Objectives

- a) To educate Departmental employees on Sexual Harassment in the workplace.
- b) To provide guidelines and procedures on the effective Management of Sexual Harassment complaints within the Department.
- c) To ensure that all employees and clients of the Department are treated with respect and dignity.
- d) To create an enabling and barrier-free workplace that is non-sexist and non-discriminatory.

4. Scope

This policy applies to all employees and all people who have dealings with the North West Department of Health.

5. Clarification of Terms

5.1. Sexual Harassment in the Workplace

An unwelcome or unwanted behaviour of a sexual nature by a colleague of same gender or opposite, gender which may be obvious or subtle, The behaviour usually causes the other person to feel offended. Depending on the extent of the behaviour, this can also cause distress in the person, which can lead to the emotional, physical and social discomfort or interfere with the person's work performance.

5.2. Allegation

A statement by a complainant that he/she believes an act of Sexual Harassment has occurred. An allegation is handled through the informal resolution process.

5.3 Behaviour

Includes actions of individuals or a group, and may involve using a system of work as a means of victimising, humiliating, undermining or threatening.

5.4. Complaint

A formal notification, either verbally or in writing, of the belief that Sexual Harassment has occurred. A complaint is handled through either the informal or formal process for resolving claims of harassment.

5.5. Complainant

Any person who alleges that he or she is being subjected to harassment; an employee, applicant for employment, or intern who believes that he or she has been the victim of Sexual Harassment, and submits complaint.

5.6 Discrimination

Means any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by Men and Women, irrespective of their marital status, on a basis of equality of Men and Women, of Human Rights and fundamental freedom in the Political, Economic, Social, Cultural, Civil or any other field.

5.7 Non-Verbal Harassment

Sexual gestures, e.g., obscene gestures such as hand or Sign Language to denote sexual activity, sexual looks such as leering and ogling with suggestive overtones; and derogatory gestures or facial expressions of a sexual nature.

5.8 Physical Harassment

Sexual innuendoes; cornering, impeding or blocking movement, touching that is inappropriate in the workplace such as patting, pinching, stroking, or brushing

up against the body, mauling, attempted or unwanted actual kissing or fondling; assault, coerced sexual intercourse, attempted rape or rape.

5.9 Respondent

An individual or entity that answers in a complaint alleging harassment or the person accused of alleged harassment.

6. Legislative and related prescripts Mandate

- a) Constitution of the Republic of South Africa, Act No. 108 of 1996.
- b) Public Service Act, No. 103 of 1994, as amended.
- c) White Paper on the Transformation of the Public Service, 1995.
- d) Labour Relations Act No. 66, of 1995.
- e) Employment Equity Act No. 55, of 1998.
- f) White Paper on Affirmative Action in the Public Service, 1998.
- g) Code of Good Practice on the Handling of Sexual Harassment Cases, Notice 13671998.
- h) Promotion of Equality and Prevention of Unfair Discrimination Act No. 4 of 2000.
- i) National Policy Framework for Women's Empowerment and Gender Equality, 2000.
- j) Criminal Sexual Offences and Related Matters Amendment Act No. 32, 2000.
- k) Gender Equality Strategic Framework for the Public Service, 2008.
- l) Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), 1995.
- m) Beijing Platform for Action, 1995.
- n) The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 2003.
- o) Protection from Harassment Act No. 17, 2011.
- p) Public Service Coordinating Bargaining Council (PSCBC) Res. 7 of 2000 as Amended by Res. 5 of 2001.
- q) Compensation for Occupational Injuries and Diseases Act No. 130, 1993.

- r) Policy and Procedure on Incapacity Leave and ILL Health Retirement (PILIR), 2009.

7. Forms of Sexual Harassment

- 7.1** Physical conduct of a sexual nature, which includes all unwanted physical contact, ranging from touching to sexual assault and rape, and includes a strip search by or in the presence of the opposite sex.
- 7.2** Verbal forms of sexual harassment include unwelcome innuendoes, suggestions that 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 and unwelcome whistling directed at a person or group of persons.
- 7.3** Non-verbal forms of sexual harassment include unwelcome gestures, indecent exposure, and the unwelcome display of sexually explicit pictures and objects.
- 7.4** Sexual favouritism exists where a person who is in a position of authority rewards only those who respond to his/her sexual advances, whilst other deserving employees who do not submit themselves to any sexual advances are denied promotions, merit rating, salary increases or other forms of recognition.
- 7.5** Quid pro quo Harassment occurs where an Employer, Supervisor, member 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 favours, (N.B.) Quid pro quo is an intentional act of harassment which is an abuse of authority by supervisor or any member of Management and or employees who have the power to employ/dismiss or change the working conditions of an employees.

7.6 Types of conduct that may be construed as Sexual Harassment:

- 7.6.1 Sexual advances.
- 7.6.2 Requests for sexual favours in return for employment and or employment benefits (quid pro quo).
- 7.6.3 Verbal or Non-verbal conduct with sexual overtones.
- 7.6.4 Innuendoes, including remarks or insinuations about a person's sex life of private life which has sexual overtones.
- 7.6.5 Suggestive remarks about a person's appearance, body or clothing.
- 7.6.6 Physical contact and or conduct.
- 7.6.7 Obscene gestures, indecent exposure.
- 7.6.8 Staring, Leering, and Whistling of a sexual nature.
- 7.6.9 Display of, or sending by electronic means or any other means which include but not limited to, short message service, multimedia message service or otherwise sexually offensive or explicit material, including posters, magazines, pictures or objects.
- 7.6.10 Direct sexual propositions.
- 7.6.11 Victimization with sexual undertones or in connection thereof.
- 7.6.12 Persistent request for date and sexual favours.
- 7.6.13 Any communication of a sexual nature.
- 7.6.14 Any of the above as a form of coercion or blackmail for employment and or advancement, or lack of same or dismissal or any other occupational detriments if recipient refuses.
- 7.6.15 Any other unwelcome form of physical or verbal behaviour that has sexual overtones.
- 7.6.16 Sex related jokes and or insults.

8. Employer's liability for Sexual Harassment cases

- 8.1 Section 60 of the Employment Equity Act deals with the liability of the employer. Senior Managers, CEOs and Sub-district Managers will be liable for the actions of an employee, if the said Managers fail to take corrective measures after an incident of Sexual Harassment has been reported or came to the employer's attention.

8.2 The Department of Health shall be liable for medical expenses, assessment and of an employee who has experienced Sexual Harassment as it is categorised as an Occupational Injury by the Compensation for Occupational Injuries and Diseases Act.

8.3 Senior Managers, CEOs and Sub-district Managers are obliged to take reasonable steps to assist a complainant of Sexual Harassment to claim compensation accordingly if the incident has resulted in the employee developing a medical condition, e.g. Post-Traumatic Stress Disorder.

8.4 Senior Managers, CEOs and Sub-district Managers are responsible for the Management of all Sexual Harassment cases.

9. Time frames

- a) Prompt reporting of Sexual Harassment is in the best interest of all parties and enables Senior Managers, CEOs and Sub-district Managers to address and correct unacceptable behaviour and provide support to the complaint. Complainants of sexual harassment are therefore encouraged to report the case as soon as it has occurred (maximum of seven/7 days and the case should be resolved within thirty/30 working days).
- b) Senior Managers, CEOs and Sub-district Managers have an obligation to report any case of Sexual Harassment to the Compensation Commissioner within seven days of receipt of the complaint or becoming aware of the incident, (Compensation for Occupational Injuries & Diseases Act no. 130 of 1993, sec 38).
- c) Senior Managers, CEOs and Sub-district Managers shall ensure that a reported sexual harassment complaint is investigated and resolved within 30 working days, i.e. from reporting to the conclusion of the investigation and feedback.
- d) In the event that 30 days expire before the investigation of Sexual Harassment case is concluded, Senior Managers, CEOs and Sub-district Managers shall consult the complainant with a written request for an extension of up to a

maximum of 14 days to conclude the case. Contents should not be unreasonably withheld and should be in writing.

10. Structure required for policy implementation

The Department shall ensure that the following structures are established
In the Provincial Office and at District level:

10.1 Labour Relations Officers

- 1) Head of Department shall appoint the Provincial, Districts, Sub- Districts and Hospitals' Labour Relations Officers to deal with Sexual Harassment complaints in the Department who will report such cases to Managers in their respective areas.
- 2) Accounting Officer shall be guided by the following Criteria in the appointment of Labour Relations Officers:
 - a) Knowledge and understanding of general policy development and implementation and knowledge of Departmental Policies;
 - b) Relevant qualifications;
 - c) Psychological and emotional stability;
 - d) Integrity;
 - e) Compassion;
 - f) Ability to maintain confidentiality;
 - g) Objectivity;
 - h) Good communication skills (verbal and writing);
 - i) Good listening skills and
 - j) Investigative skills.

11. Roles and responsibilities of the various parties:

11.1 Accounting Officer

- a) Appoint Labour Relations Officers and announce this to the Department through all communication channels of the Department.
- b) Ensure training of Managers, specific staff that are nominated and those appointed to handle Sexual Harassment cases.
- c) Submit a report on Sexual Harassment cases dealt with to the DPSA on half yearly basis, using the template required by DPSA.
- d) Allocate resources (Human and Financial) to ensure that awareness raising and training programs for employees on Sexual Harassment is implemented.
- e) Encourage all Trade Unions within the employment of the Department to include Sexual Harassment in their Education and Training Programmes for members and Shop Stewards

11.2 Managers / Supervisors

- a) Encourage staff to report violations of the policy.
- b) Ensure that disciplinary measures applied are in accordance with Disciplinary Code and Procedures in the Public Service.
- c) Ensure implementation of recommendations within five (5) working days after conclusion of investigations of Sexual Harassment complaints.
- d) Promote a safe working environment that is free of Sexual Harassment.
- e) Create an atmosphere that promotes equality and gender justice.
- f) Support the Labour Relations Officers where necessary with the Investigation of complaints.
- g) Design/develop, with the Labour Relations Officers, mechanisms for registering complaints that are safe and accessible to all employees.
- h) Ensure that awareness workshops on Sexual Harassment are conducted for all employees at the Provincial Office, Districts, Sub-Districts and Hospitals.
- i) Refrain from Sexual Harassment in the Workplace.

- j) Communicate the policy to all employees, including newly appointed employees.
- k) Undergo workshops on the Sexual Harassment Policy and related topics.
- l) Prevent retaliation against any employee making a Sexual Harassment complaint.
- m) Treat all complaints seriously, impartially and with confidentiality.
- n) Compile and submit reports on Sexual Harassment cases dealt with to the Head of Department through Special Programmes Directorate on a quarterly basis.
- o) Report cases of sexual harassment to the Compensation Commission in terms of the Compensation for Occupational Injuries and Diseases Act.
- p) Continuously monitor compliance with the policy.

11.3 Labour Relations Officers

Labour Relations Officers serve as the first line of contact to complainants of alleged Sexual Harassment. Their roles are to:

- a) Explain the disciplinary procedure and time frames to complainants and respondents in both formal and informal procedures.
- b) Advise the complainant on the appropriate course of action and support available.
- c) Advise the complainant on two procedures available to follow, namely the informal and formal route.
- d) Provide guidance (if necessary) on how to complete the appropriate grievance form.
- e) Issue a written notice of the complaint to the respondent and explain the protective measures available to the complainant.
- f) Provide the respondent with a copy of this policy and any relevant document on disciplinary rules and procedures of the Public Service and the Department.
- g) Once appointed, investigate the complaint and bring to the attention of relevant Managers.
- h) Maintain confidential statistics and narrative reports on all sexual harassment cases reported and handled.
- i) Avoid unreasonable delays during the investigation and conclusion of any sexual harassment complaint.

- j) Provide a neutral, confidential and supportive environment for employees who report to have been sexually harassed.
- k) Protect the complainant from victimization as a result of reporting the matter.
- l) Monitor and submit quarterly reports on all cases reported, resolved and pending to the relevant Managers. Such reports should use non-identifying statistical information to maintain confidentiality.
- m) Contribute to the development, coordination, implementation of educational programs and awareness-raising activities for prevention and Management of sexual harassment in the Department.
- n) Advocate for research and other resources on sexual harassment to improve expertise on this issue.

11.4 Employee Health and Wellness Units

- a) Provide relevant counselling and support when required.
- b) Encourage employees who may report incidents of Sexual Harassment to them, to report such complaints to the Labour Relations Officers.
- c) Maintain confidentiality for all Sexual Harassment matters reported to them.

11.5 Employees

- (a) All employees should refrain from Sexual Harassment of others in the workplace
- (b) If sexually harassed, every employee has a right to say NO to the harasser and tell him/her that the actions are unwanted and that the behaviour is offensive. Where possible, it is encouraged that this should be done in writing and a record of such correspondence be kept.
- (c) If the behaviour persists, the harassment should be reported immediately; Treat fellow employees with respect and dignity and
- (d) Know and understand the Departmental Sexual Harassment Policy.

12. Education and Training

- 1) Continuous education and training is necessary to ensure that employees know and understand this policy and are able to prevent and report Sexual Harassment when it occurs.
- 2) Labour Relations Officers should undergo regular training to increase their knowledge on Sexual Harassment, to enhance their skills in Investigation, Communication, Conflict Resolution, Mediation and Legal Developments related to Sexual Harassment.

13. Communication

- 1) All Managers shall take all reasonable steps to communicate this policy to all employees and other persons who have dealings with the Department on a regular basis. This is to raise awareness and to prevent Sexual Harassment.
- 2) The names and contact details of Labour Relations Officers must be widely publicised in the Department.
- 3) This policy must be distributed to all employees within North West Department of Health and to the new staff members including Interns and Learnerships during induction.

14. Monitoring and Evaluation

- 1) Special Programmes Directorate shall coordinate the Departmental report for approval by the Accounting Officer and submit to the Department of Public Service and Administration (DPSA) through the Organisational Directorate in Office of the Premier annually on or before 3 April.
- 2) Special Programmes Directorate is responsible for Monitoring and Evaluation of this policy.

15. Policy review and amendments

- 1) This policy will be subjected to periodic review to ensure that it remains aligned to all Department of Public Service and Administration (DPSA) prescripts.

PART B: PROCEDURES

16. Lodging a Sexual Harassment complaint

- 1) An employee who experiences Sexual Harassment, He/She must immediately report this to the Labour Relations Officers either in writing or verbally.
- 2) The Labour Relations Officers shall commence with the investigation and report back within the set time frames.
- 3) It might also be advisable to separate the respondent and the complainant to reduce the risk of tension, unpleasantness, or victimization.
- 4) If a false allegation is established, responsible Managers should immediately institute disciplinary processes against the accuser.

17. Procedures

17.1 Informal procedure

- 17.1.1 The informal procedure involves discussion and/or mediation after the matter has been brought to the attention of the Labour Relations Officer.
- 17.1.2 If the complaint cannot be resolved and/or it is found through discussion that the incident warrants more serious action, a formal disciplinary procedure may be instituted against the respondent.
- 17.1.3 The informal procedure should provide the complainant with an opportunity to explain to the respondent that the behaviour in question is not welcome, that it offends the complainant or makes him/her uncomfortable and/or it also interferes with her/his work.

17.1.4 If the complainant is not satisfied with the outcomes of the informal approach, he/she may then follow a formal procedure.

17.2. Formal procedure

- 1) Complainant can take the option of formal proceedings to resolve a Sexual Harassment complaint if the harassment could not be resolved through an informal procedure.
- 2) The complainant can also choose to resolve the complaint through this process without firstly using the informal route.
- 3) In dealing with the matter, the complainant must first lodge a formal grievance according to the Disciplinary Code and Procedures in the Public Service.
- 4) The complainant must ensure that the provisions of Grievance procedures are exhausted before triggering the next process.

18. Lodging a formal complaint/grievance

The Sexual Harassment complaint must be reported to the Labour Relations Officer in writing, and the statement must include:

- (a) The name of the respondent;
- (b) Date when incident occurred;
- (c) Where it occurred;
- (d) Details of how the actual sexual harassment occurred.

In the event where the grievance procedures have been finalized and Management is of the view that there is a prima facie case against the responded, disciplinary steps must be instituted as per the provisions of the Disciplinary Code and Procedures in the Public Service.

19. Sanctions

1) Should the respondent be found guilty of the offense, the responsible Manager will impose a disciplinary sanction which may include any of the following or a combination of them:

- (a) Counselling
- (b) Verbal warning
- (c) Written warning
- (d) Final written warning
- (e) Suspension/fine
- (f) Demotion (as an alternative to dismissal)
- (g) Dismissal

20. When Managers are perpetrators

- 1) Where Managers are perpetrators, the Accounting Officer becomes the authority that appoints Labour Relations Officers and makes decisions on the case.
- 2) Once the Labour Relations Officers have been appointed, all terms and procedures set out in the policy for subsequent action shall apply without exception, read with the necessary changes.

21. Accounting Officer as perpetrator

- 1) Where the Accounting Officer is the perpetrator, the Executive Authority becomes the authority that appoints Labour Relations Officer and makes decisions on the case.
- 2) Once Labour Relations Officer have been appointed, all terms and procedures set out in the policy for subsequent action shall apply without exception, read with the necessary changes.

22. Criminal Charges and/or Civil Claims

- 1) A complainant of Sexual Harassment has the right to press separate Criminal charges and/ or civil claims against the respondent if they so wish. The legal rights of the complainant are in no way limited by this policy.

23. Dispute resolution

- 1) Should a complaint of alleged Sexual Harassment not be resolved through the Departmental internal procedures, the complainant may within 30 days of the dispute having arisen, refer the matter to the CCMA for conciliation in accordance with the provisions of the Labour Relations Act.

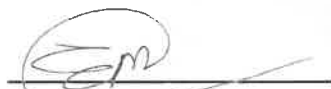
23. Leave of absence

- 1) The Department may give due consideration to the granting of special leave in cases of sexual harassment where the complainant, upon medical advice from a registered medical practitioner, requires leave for medical or related reasons.

24. Sources/References

- 1) Policy and Procedures on Management of Sexual Harassment in the Public Service, 2013.

25. Policy approval:



Dr M. Tlhogane

Chief Director: Corporate Services

25 June 2025

Date

Recommended/ ~~not recommended~~


PP

Mr O. E. Mongale

Superintendent General

25 June 2025

Date

Approved/ not approved



HON. MEC. J. S Lehari

North West Department of Health

26/06/2025

Date