



# Sexual Harassment Policy

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## 1 Introduction

It is the aim of the Emakhazeni Municipality to ensure that the dignity and integrity of all people associated with the Municipality is respected, protected and maintained. It is therefore the policy of the Municipality to ensure that sexual harassment in the workplace is not tolerated or condoned. To ensure that concerns raised in this regard are treated speedily and in confidence with no threat of victimization or reprisal against the recipient.

## 2 Purpose

- To provide clear guidelines to line managers in the dealing with cases of sexual harassment brought to his/her attention.
- To provide a supportive environment for victims of sexual harassment and an awareness of a procedure which should be followed in the event of such an incident/s occurring.

## 3 Scope of Application

This policy is applicable to all the Employees of Emakhazeni Municipality as well as any contractors or others associated with the Municipality.

## 4 Definitions

***The following definitions are relevant to this policy:***

### **Sexual Harassment**

Is defined as unwanted physical, verbal or non-verbal conduct of a sexual nature, and can be distinguished from behaviour that is welcome and mutual. It is usually behaviour that is persisted with, despite being advised by the recipient that it is unwanted or offensive. However, a single incident could also constitute sexual harassment, particularly if the complainant feels offended or humiliated by the conduct of the alleged offender.

Alternatively, it is behaviour where the perpetrator should have known that it would reasonably be regarded as unacceptable and unwanted.

Sexual harassment could also include the attempt by someone in authority to influence the process of employment, promotion, dismissal, discipline, training, salary or any other benefit in exchange for sexual favours.

NOTE: In the identification of sexual harassment it is the effect of the behaviour that is relevant and not the intent.

## **Others/another “associated with the Municipality”**

Is defined to include persons such as new job applicants, students, visitors, and so forth.

## **5 Sexual Harassment Policy Guidelines**

### **5.1 Policy Provisions**

The Municipality recognised that sexual harassment may include unwelcome physical, verbal, non-verbal conduct or quid pro quo (i.e. sexual harassment initiated by any person holding a position of authority over another). It therefore recognises the following as inappropriate:

#### **5.1.1 PHYSICAL CONDUCT OF A SEXUAL NATURE:**

Including any unwanted physical contact, such as:

- Touching;
- Sexual assault;
- Rape;
- Strip search not complying with the requirements of the Labour Relations Act.
- Forceful kissing;
- Brushing the body;
- Coerced sexual approach; etc.

In particular, QUID PRO QUO SEXUAL HARASSMENT, which is where a manager, supervisor, or any person who holds a position of authority undertakes or attempts to influence the process of:

- Employment;
- Promotion;
- Training;
- Discipline;
- Dismissal;
- Salary increment; and/or
- Other benefits,

In exchange for sexual favours.

#### **5.1.2 VERBAL CONDUCT OF A SEXUAL NATURE**

Verbal forms of sexual harassment include:

- Comments with sexual overtones;
- Sex-related jokes;
- Insults with sexual tones;
- Unwelcome graphic comments about a person’s body made in their presence or directed towards them;
- Unwelcome and inappropriate enquiries about a person’s personal/sex life;
- Unwelcome whistling directed at a person or group of persons;

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- Unwelcome sexual innuendoes or greetings;
  - Repeated requests for dates,
  - The use of endearments that undermine a women's authority and her ability to deal with men on an equal footing;
  - Offensive written, telephonic or electronic communication; etc.

### **5.1.3 NON-VERBAL CONDUCT**

Non-verbal forms of sexual harassment include:

- Unwelcome gestures;
- Indecent exposure;
- Unwelcome display of sexually explicit pictures and objects;
- Cat calls;
- Smacking or kissing noises;
- Stalking and/or leering.

## **5.2 SEXUAL FAVOURITISM**

Sexual favouritism exists where a person who is in a position of authority regards only those who respond to his sexual advances, whilst other deserving employees who do not submit themselves to any sexual advances, are denied promotion, merit ratings, increases, etc.

## **5.3. REPORTING PROCEDURE**

Wherever possible, harassment (that is not a direct physical attack warranting immediate disciplinary action) should be objected to as soon after the incident as possible, particularly if offensive behaviour is repeated. Objections can be delivered verbally on the spot, later in writing or – where necessary – ask for a mediator to intervene if personal confrontation with the harasser is difficult. Thereafter, if such behaviour persists:

- 5.3.1 Any person directly associated with the Company and who is the recipient of such alleged inappropriate behaviour should follow the Grievance Procedure to resolve the matter.
- 5.3.2 Once notified, the employer is liable for any inaction or ineffective action to correct the situation. The employer is to react quickly to such a complaint.
- 5.3.3 In the event of an employee being the recipient of such alleged inappropriate behaviour from someone not employed by, but associated with, the Municipality, then management with HR should approach the relevant person's manager/supervisor. They are to ensure that the appropriate investigations and actions (if necessary) are taken by them to address the matter. It would also be the responsibility of HR to ensure that the matter has been dealt with appropriately and conclusively.
- 5.3.4 Cases of persistent harassment or single incidents of serious Misconduct, procedures set out in the Code of Good Practice contained in Schedule 8 of the Labour Relations Act of 1995, as amended, shall be followed.



- 5.3.5 If the subsequent investigation indicates that sexual harassment has in fact taken place, appropriate corrective action could range from, but not be limited to, counseling of the offender to termination of service.
- 5.3.6 An employee found to have purposefully and intentionally brought allegations which he/she knows to be untrue, would be deemed to have made false accusations and will be subject to immediate disciplinary action, which might result in the termination of his/her service.
- 5.3.7 Complaints in this regard received from people associated with the Municipality against employees of the Municipality must be investigated and dealt with by the manager of that employee with the support of the relevant HR officer.

#### **5.4 CRIMINAL AND CIVIL CHARGES**

A victim of sexual assault has the right to lay separate criminal and/or civil charges against an alleged perpetrator, and the legal rights of the victim are in no way limited by this policy.

## **6 Roles and Responsibilities**

### **6.1 The Role of the Human Resource Function:**

- ❑ To offer emotional support to an employee who feels offended and to guide them through the process outlined in the Code of Good Practice contained in Schedule 8 of the Labour Relations Act of 1995.
- ❑ Similarly to provide an environment of support for the accused person during the investigation of such a sexual harassment grievance.
- ❑ To ensure professional handling of the case so that the aggrieved person is not disadvantaged and that the position of other parties is not prejudiced if the grievance is found to be groundless.
- ❑ Make it clear too that disciplinary action may also be taken against an employee who lodges a grievance of sexual harassment which is found to be unfounded and based on ulterior motives.
- ❑ To ensure that the appropriate investigations and actions (if necessary) are taken by them to address the matter appropriately and conclusively.

### **6.2 The Role of the Line Manager**

- ❑ Where possible serve as a mediator between the two parties to peacefully stop the offensive behaviour from reoccurring.
- ❑ Assist an aggrieved subordinate in approaching the Human Resources section and in completing a grievance form and monitor the process to its conclusion.
- ❑ Assist an accused subordinate by maintaining an approach whereby his/her guilt is not pre-determined and remaining unprejudiced until so proven.



### **6.3 The employee**

#### **It is the responsibility of employees to:**

- Lodge only sexual harassment grievances that are based on the truth, and in no circumstances are *mala fides* (with ulterior motives).

## **7 Monitoring, Evaluation and Reporting**

Emakhazeni Municipality's Human Resources section will monitor and evaluate the implementation and the efficacy of the Sexual Harassment Policy.