



Province of the  
**EASTERN CAPE**

**COOPERATIVE GOVERNANCE  
& TRADITIONAL AFFAIRS**

# **SEXUAL HARASSMENT POLICY 2021**


**SIGN OFF**

**I. Head of Department**

This Sexual Harassment policy has been recommended by Mr. A.A. Fani in my capacity as Head of the Department for Cooperative Governance and Traditional Affairs.

I am satisfied and concur with the contents of this Policy.


The development of the Sexual Harassment policy will ensure the department is able exercise its powers in compliance with the law and guide decision- making in the Department.

Signed	
Designation	Head of Department
Date	30/03/2021

**II. Executive Authority**

The department of Cooperative Governance and Traditional Affairs has unprecedented opportunity to improve the lives of people by effectively rendering many services that it is expected to provide. We have envisaged a Department that has the required capacity to respond adequately to challenges of its people.

I therefore trust that guidance from this Sexual Harassment policy will contribute to the effective guiding the allocation of financial assistance to staff of the Department who wants to further their studies.

Signed	
Designation	MEC
Date	30/03/2021

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<b>Document Number</b>	<b>1</b>
<b>Document Name</b>	<b>Sexual Harassment Policy</b>
<b>Custodian</b>	
<b>Designation</b>	<b>Director</b>
<b>Component</b>	<b>Employee Relations and Wellness</b>
<b>Telephone No.</b>	
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<b>E-mail Address</b>	
<b>Date Completed</b>	
<b>Date of Approval</b>	
<b>Date Last Amended</b>	
<b>Date For Next Review</b>	
<b>Related Policies</b>	<b>Suspension, SHERQ, Employment Equity, Leave Management, and Exit Management policies.</b>

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Executive Authority

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Head of Department

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## 1. PREAMBLE

The Department of Cooperative Governance and Traditional Affairs commits itself in ensuring that all employees of the Department are continuously made aware of the contents contained in the Sexual Harassment Policy and further understand that Sexual Harassment in the workplace is a worldwide problem recognized as an occupational injury, violation of Human Rights and undermines equality of opportunity and treatment between women and men.

## 2. PURPOSE OF THE POLICY

- 2.1. To promote a workplace that is free of sexual harassment, sexual favors, intimidation and victimization.
- 2.2. To protect its employees against any form of sexual harassment perpetrated by any person irrespective of gender, race or rank.
- 2.3. To provide guidelines on how to handle sexual related incidents.
- 2.4. To make everyone better understand the seriousness of all acts, as well as how some minor actions may lead to some serious ones.
- 2.5. To encourage victims to speak out about sexual harassment whether intentional or unintentional.

## 3. DEFINITIONS

Terms and definitions that will be used throughout the procedure that needs clarification for the reader, this can also include any key words, technical terms and

<i>Word/Term</i>	<i>Definition (with examples if required)</i>
Sexual Harassment	Is an unwelcome, implicit behaviour, suggestions, messages or remarks of a Sexual nature that have the effect of offending, intimidating, humiliating the complainant.
Physical Intimacy	It is sensual proximity or touching, it can be an expression of feeling

Fondling	To handle, stroke or caress lovingly
Rape	It is an assault by a person involving sexual intercourse without one's consent
Explicitly	Fully and clearly expressed, leaving nothing implied
Implicitly	Implied or understood though not directly expressed
Intimidating	Intentional behaviour which would cause a person of ordinary sensibility, fear of injury or harm
Hostile	Feeling or showing enmity or ill will
Victim	A person who suffers from a destructive or injurious action or agency.
Leering	To look with a sidelong glance, indicative especially of sexual desire or sly and malicious intent
Perpetrator	To be responsible for, commit or perpetrate a crime

#### 4. APPLICATION AND SCOPE

The policy will be applicable to all the employees of the Department of Cooperative Governance and Traditional Affairs. The Department also encourages all people who work in or have dealings in the Department to uphold and respect this policy.

#### 5. LEGISLATIVE FRAMEWORK

- The Constitution of the Republic of South Africa
- Labour Relations Act, 66 of 1995

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- Public Service Act no 103 of 1994
- Public Service Laws Amendment Act, no 96 of 1998
- Public Service Regulations
- Employment Equity Act no 55 of 1998
- Chapter 2 of Bill of Rights
- Provincial Policy on Sexual Harassment
- Government Programme of Action
- Code of Good Practice on the Handling of Sexual Harassment Cases, notice 1367 of 1998
- White Paper on the Transformation of the Public Service 1995
- White Paper on Affirmative Action in the Public Service 1998
- Promotion of Equality and Prevention of unfair discrimination Act no.4 of 2000

## **6. STAKEHOLDERS CONSULTED**

- Line managers from different components,
- Organized Labour,
- Human Resource Management,
- Labour relations and other employees at all levels

## **7. POLICY PRINCIPLES INHERENT IN THE SEXUAL HARASSMENT POLICY**

- Consistency
- Fairness
- Reasonable
- Transparency
- Value System
- Accountability

## **8. POLICY STATEMENT**

This policy is intended to give surety to employer and employees, perpetrators and victims of sexual harassment which may be as follows: Managers, supervisors, co-employees, job applicants,

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clients and service providers that allegations and complaints of Sexual Harassment shall be responded to promptly and dealt with seriously, expeditiously, fairly, sensitively and confidentially.

#### 9. ELEMENTS OF SEXUAL HARASSMENT

9.1. Sexual Harassment is defined as an unwanted conduct where a person makes an unwelcome sexual advance and request for sexual favors.

9.2. It is a very crucial issue, and most victims are women and children more than men.

9.3. It can be physical, verbal or written (including words transmitted by phone, fax, video or email)

#### 10. WHAT CONSTITUTES SEXUAL HARASSMENT

- 10.1. Comments about person's sex life or physical appearance
- 10.2. Unnecessary physical intimacy (brushing)
- 10.3. Sexual jokes, insults, offensive telephone calls, photographs, or objects
- 10.4. Direct Sexual propositions or continued requests for dates
- 10.5. Physical contact by touching or fondling.
- 10.6. Indecent assault or rape (criminal offence)
- 10.7. Submission to sexual harassment is made a term/ condition of one's employment either explicitly or implicitly.
- 10.8. Submission to or rejection of such conduct is used as a basis for employment decisions affecting the person.
- 10.9. Such conduct has a purpose of effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive work environment
- 10.10. Persistent request for dates and sexual favors
- 10.11. Persistent dress codes of offensive nature
- 10.12. Any communication of a sexual nature

#### 11. VICTIMS OF SEXUAL HARASSMENT

11.1. The victim as well as the harasser may be a woman or a man.

11.2. The harasser can be a victim's supervisor, co-worker, or a non-employee.

11.3. The victim does not necessarily have to be the person harassed but could be anyone

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affected by the offensive conduct.

- 11.4. Unlawful harassment may occur without economic injury to or discharge of conduct

## **12. FORMS OF SEXUAL HARASSMENT**

- 12.1. Nonverbal forms
- 12.2. Verbal forms
- 12.3. Physical forms
- 12.4. Quid pro quo (Sexual Favoritism)
- 12.5. Hostile environment
- 12.6. Third Party Sexual Harassment

## **13. STEPS TO CONSIDER DURING SEXUAL HARASSMENT:**

- 13.1. Know your rights;
- 13.2. Sexual harassment is illegal.
- 13.3. SPEAK UP;
- 13.4. Be sure to say "NO" clearly, firmly without smiling.
- 13.5. It can happen that the harasser does not realize that the behavior is offensive.
- 13.6. Be firm in saying you are offended.
- 13.7. If you smile or act unsure of yourself he/she may think you are saying "YES" instead of "NO"
- 13.8. Keep records;
- 13.9. Write him/ her letter;
- 13.10. Report harassment to appropriate person;
- 13.11. Learn more about the issue;
- 13.12. Talk with appropriate authorities

## **14. IN MOST INSTANCES CASES OF SEXUAL HARASSMENT IS NOT REPORTED BY VICTIMS BECAUSE THEY:**

- 14.1. Fear for their lives;
- 14.2. Do not want to lose their jobs;

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- 14.3. Think no one will believe them;
- 14.4. There is no proof of evidence;
- 14.5. This may result in trauma and depression.

## **15. TWO OPTIONS FOR DEALING WITH SEXUAL HARASSMENT**

### **15.1. The Informal way**

Is when an employee concerned explains clearly to a person engaging in sexual conduct that the behavior is not welcomed, it offends him/her, makes her uncomfortable and it interferes with her work.

### **15.2. The formal way**

Is when an employee chooses to follow the Grievance Procedure. When an employee chooses this way, it is encouraged that counseling should take place throughout the stages. That will help in making sound decisions about the case.

## **16. EMPLOYERS LIABILITY FOR SEXUAL HARASSMENT CASES**

- 16.1. Section 60 of the Employment Equity Act (no 55 of 1998) deals with the liability of the employer. The Head of Department (HoD) will be liable for the actions of an employee, if the HoD fails to take corrective measures after an incident of sexual harassment has been reported or came to the employer's attention.
- 16.2. The HoD is liable for medical expenses, assessment and treatment of an employee who has experience sexual harassment as it is categorised as a occupational injury by the Compensation for Occupational Injuries and Disease Act (no 130 of 1993).
- 16.3. The HoD is obliged to take reasonable steps to assist the complainant of sexual harassment to claim compensation accordingly is the incident has resulted in the employee developing a medical condition e.g. post traumatic stress disorder.

## **17. TIME FRAMES**

- 17.1. Prompt reporting of sexual harassment is in the best interest of all parties and enables the HoD to address and correct unacceptable behaviour and provide support to the complainant. Complainants of sexual harassment are therefore encouraged to report the case as soon as it has occurred.

17.2. The HoD shall ensure that a reported sexual harassment complaint is investigated and resolved within thirty (30) working day i.e from reporting to conclusion of investigation and feedback.

17.3. In the event that thirty (30) expires before the investigation of sexual harassment case is concluded, the HoD shall consult the complainant with a written request for an extension of u to a maximum of fourteen (14) days to conclude the case. Consent should not be unreasonable withheld and should be in writing.

## **18. ROLES AND RESPONSIBILITIES**

### **18.1. Head of Department:**

18.1.1. Communicate this policy to all employees, through regular awareness raising, training and education programmes.

18.1.2. Appoint a sexual harassment advisor and announce this to the Department through all communication channels.

18.1.3. Ensure training of managers, specific staff that are nominated and those appointed to handle sexual harassment cases.

18.1.4. Submit a report on sexual harassment dealt with to the Office of the Premier.

18.1.5. Encourage staff to report violations of the policy.

18.1.6. Allocate the resources (Human and Financial) to ensure that awareness raising and training programmes for employees on sexual harassment are implemented.

18.1.7. Ensure that disciplinary measures applied are in accordance with the Disciplinary Code and Procedures (PSCBC Resolution 1 of 2003) in the Public Service.

18.1.8. Ensure implementation of recommendations within five (5) working days after conclusion of investigation of sexual harassment complaints.

18.1.9. Treat all complaints as confidential.

18.1.10. Continuous monitor compliance with the policy

18.1.11. Encourage organized Labour within the Department to include sexual harassment in their education and training programmes of members and shop stewards.

### **18.2 Line managers / Supervisors**

18.2.1. Refrain from sexual harassment in the workplace

18.2.2. Take all reasonable steps to create and maintain an environment that is free from sexual harassment.

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- 18.2.3. Know and understand this policy, and assume responsibility for its implementation.
- 18.2.4. Communicate the policy to all employees, including newly appointed employees.
- 18.2.5. Undergo training on sexual harassment policy and related topics.
- 18.2.6. Respond appropriately to a complaint of sexual harassment from employees.
- 18.2.7. Take appropriate action when instances of sexual harassment occur and act in accordance with the reporting and disciplinary procedures of this policy.
- 18.2.8. Prevent retaliation against any employee making a sexual harassment complaint.
- 18.2.9. Treat all complaints seriously, impartially and with confidentiality.
- 18.2.10. Responsible for making sure that Sexual Harassment Policy is managed in accordance with the principles of Code of Good Practice on the Handling of Sexual Harassment, Chapter 2 of the Bill of Rights as well as fairness.

### 18.3 Employees:

- 18.3.1. All employees should refrain from sexual harassment of others in the workplace
- 18.3.2. Treat fellow employees with respect and dignity
- 18.3.3. Know and understand this policy
- 18.3.4. Ensure that a climate is created in which sexual harassment is unacceptable. Ensure that their standards of conduct are not offensive that they discourage unacceptable behavior on the part others.

## 19. DISCIPLINARY SANCTIONS

The sanction that may be imposed in respect of sexual harassment cases is dependent on the seriousness of the sexual harassment in question. Written warning may be issued for minor instances, however repeated acts of sexual harassment may justify imposition of a sanction of dismissal. In appropriate circumstances and in instances of serious act of sexual harassment, imposition of a sanction of dismissal may be justified even if the affected employee is the first offender.

## **20. MONITORING AND EVALUATION**

The Employee Relations & Wellness will vigorously monitor the implementation of this policy and will submit quarterly report to the Chief Director: Corporate Services for submission to the Head of the Department. Employee Relations & Wellness Directorate will share monthly reports with HR Organisational Transformation & Planning for statistical analysis report.

## **21. COMMUNUCATION/EDUCATION OF THE POLICY**

The Sexual Harassment Policy will be communicated throughout the Department to all its employees using workshops, intranet and workgroups.

## **22. DISPUTE RESOLUTION MECHANISM**

In the event of disputes arising out of Sexual Harassment Policy processes, such disputes will be dealt with as per the Public Service Commission Act 2002: Rules for dealing with Grievances of Employees in the Public Service.

## **23. APPROVAL OF THE POLICY**

The policy will be recommended by the Head of Department (HOD) and approved by the Member of Executive Council (MEC) as per the updated departmental Delegations and the policy will become official on the date it is signed by the Executing Authority (MEC for Cooperative Governance and Traditional Affairs).

## **24. REVIEW OF THE POLICY**

This policy will be reviewed on every second year from the date of approval and when there are material changes in the enabling legislation.

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**25. VERSION CONTROL AND CHANGE HISTORY**

<b>Version Control</b>	<b>Date Effective</b>	<b>Approved By</b>	<b>Amendment</b>
Start from	YYMMDD  (the date the policy takes effect)	Contact person – full name & title.	Include any superseded procedures and what the amendment is to the document.
2010	2010.03.19	Sicelo Gqobana (MEC)	
2011			
2012			