

OVERBERG DISTRICT MUNICIPALITY

SEXUAL HARASSMENT POLICY



Council Resolution No A175
Date 05.12.2017
Municipal Manager <i>[Signature]</i>
Executive Mayor <i>[Signature]</i>
Reference No 9/1/B
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1. INTRODUCTION

Overberg District Municipality is committed to ensuring that employees are not subject to any form of sexual harassment. Persistent, unsolicited and unwanted sexual advances or suggestions made by one employee to another, regardless of gender and/or sexual orientation will not be tolerated. Managers at Overberg District Municipality have a responsibility to address all reports of harassment.

2. POLICY STATEMENT

- All employees, job applicants and any other persons who have dealings with Overberg District Municipality have the right to be treated with respect and dignity.
- Sexual harassment will not be permitted or condoned and will be regarded as a form of serious misconduct. Action will be taken in terms of the Disciplinary Procedure and Code Collective Agreement and the related legislation.
- Employees or any other person who have been subjected to sexual harassment have the right to lodge a grievance or lay a formal complaint with Overberg District Municipality.
- Overberg District Municipality is committed to investigate all complaints and grievances brought to its attention.
- Overberg District Municipality undertakes to inform all employees of this policy and the need to refrain from any form of sexual harassment.
- It should be noted that this policy also protects prospective employees as well as clients of Overberg District Municipality.
- Management is required to implement this policy and take disciplinary action against employees who do not comply with this policy. Incidents of sexual harassment or continued harassment are dismissible offences.
- Allegations of sexual harassment will be dealt with seriously, expeditiously, sensitively and confidentially.
- It is a disciplinary offence to victimize or retaliate against an employee who in good faith lodges a complaint of sexual harassment.
- False or vindictive accusations shall be viewed in a very serious light and will lead to disciplinary steps taken against such complainant.
- Anonymous complaints will be disregarded.

3. DEFINITION

Sexual harassment means any:

- (a) unwelcome sexual attention from a person who knows or ought reasonably to know that such attention is unwelcome;
- (b) unwelcome explicit or implicit behaviour, suggestions, messages or remarks of a sexual nature that have the effect of offending, intimidating or humiliating the

complainant or a related person in circumstances, which a reasonable person having regard to all the circumstances would have anticipated that the complainant or related person would be offended, humiliated or intimidated;

- (c) implied or expressed promise of reward for complying with a sexually oriented request; or
- (d) implied or expressed threat of reprisal or actual reprisal for refusal to comply with a sexually oriented request.

4. DIFFERENT FORMS OF SEXUAL HARASSMENT

Sexual attention becomes sexual harassment if:

- The behaviour is persistent, although a single incident of harassment can also constitute sexual harassment depending on the gravity of the incident.
- The recipient has made it clear that the behaviour is considered offensive and the perpetrator had continued with such behaviour.
- The perpetrator should have known that the behaviour is unacceptable.

Sexual harassment may include:

- Unwelcome remarks, jokes, innuendoes or taunts about a person's body, clothing or sex;
- Insulting gestures and practical jokes of a sexual nature which causes awkwardness or embarrassment;
- Displaying pornographic pictures, graffiti or other offensive material;
- Leering (suggestive staring);
- Demands for sexual favours.

The Employer will make every reasonable effort to ensure that no employee, members of the public, suppliers and job applicants is subjected to sexual harassment. In the event that sexual harassment is alleged, the disciplinary procedure must apply.

The following are examples of the various forms of sexual harassment but the list is not exhaustive:

Physical conduct of a sexual nature includes all unwanted physical contact, ranging from touching to sexual assault and includes a strip search by/or in the presence of another person.

Verbal forms of sexual harassment include unwelcome innuendoes, suggestions and hints, sexual advances, comments with sexual overtures, 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.

Non-verbal forms of sexual harassment include unwelcome gestures, indecent exposure, and the unwelcome display of sexually explicit pictures and objects.

Quid Pro Quo harassment occurs where management or co-employee, undertakes or attempts to influence the process of employment, promotion, training, discipline, dismissal, salary increment or other benefits of an employee or job applicant, in exchange for sexual favours.

5. BASIC PRINCIPLES

The Employer wishes to create and maintain a working environment which is free of sexual harassment, where all employees respect one another's integrity and dignity, privacy and their right to equity in the workplace. Sexual harassment of a fellow employee or of a non-employee is serious misconduct.

6. SPECIFIC CONDITIONS

6.1 Confidentiality

Employers and employees must ensure that grievances about sexual harassment are investigated and handled in a manner that ensures that the identities of the persons involved are kept confidential.

In cases of sexual harassment, management, employees and the parties concerned must ensure confidentiality in the disciplinary enquiry. Only appropriate members of management as well as the aggrieved person, representative, alleged perpetrator, witnesses and interpreter if required, must be present in the disciplinary enquiry.

6.2 Protection of Identity

Overberg District Municipality will as far as possible protect the identity of the complainant until such time as the investigation has been completed and decided to pursue with a disciplinary enquiry.

Care should be taken not to disadvantage or prejudice any of the parties

6.3 Assistance

Sexual harassment must be reported to the victim's immediate supervisor or any colleague or the Manager Human Resources. Cases of sexual harassment will be resolved in a sensitive, effective and efficient manner.

Where an employee's existing sick leave entitlement has been exhausted, the employer shall give due consideration to the granting of additional sick leave in cases of serious sexual harassment, where the employee on medical advice requires trauma counselling.

All employees have a role to play in contributing towards a working environment in which sexual harassment is unacceptable. They should therefore ensure that their standards of conduct do not cause offence and they should discourage unacceptable behaviour on the part of others.

7. EFFECTIVE DATE

This policy shall come into effect on the date which it was adopted by Council and shall remain in full force and effect until it is reviewed, revoked or amended by Council.

8. ROLES

The policy applies to all employees, Councillors and members of the public.

9. RELATED POLICIES/LEGISLATION

- Code of Good Practice, Schedule 8 of the LRA, 1995
- Code of Good Practice on the Handling of Sexual Harassment, sec 203 of the LRA, 1995
- Protection from Harassment Act, 17 of 2011
- Employment Equity Act, 55 of 1998
- Disciplinary Procedure and Code Collective Agreement (SALGBC)
- Main Collective Agreement (SALGBC)

EXTRACT FROM THE COUNCIL MINUTES HELD ON 5 DECEMBER 2017

Item A175. 05.12.2017

APPROVAL HUMAN RESOURCE POLICIES

(Ref: 9/1/B)

JCP Tesselaar: Director Management Services / CFO

PURPOSE

To seek Council's approval for the proposed changes to review- and new Human Resources related policies.

BACKGROUND

During a LLF meeting held on 29 February 2016 and 6 April 2016, as well as a Workshop held on 8 May 2017 with both Unions, the following policies were finalised for submission to Council for final approval.

- Substance Abuse Policy
- Sexual Harassment Policy
- Bursary and Study Aid Policy
- Financial Support for Driving Lessons

LEGAL REQUIREMENTS

- It is necessary from time to time to review and consider new Human Resources Policies

The policies are attached in the Corporate and IGR portfolio agenda from pages 82 – 111.

UNANIMOUSLY RESOLVED : (Proposed by Cllr M Opperman and seconded by Cllr H Coetzee)

The revised Human Resources related policies (2017/2018) was approved by Council.

- a) Substance Abuse Policy
- b) Sexual Harassment Policy
- c) Bursary and Study Aid Policy
- d) Financial Support for Driving Lessons