

THEMBISILE-HANI LOCAL MUNICIPALITY



HARASSMENT POLICY 2024/25

HARASSMENT POLICY

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HARASSMENT POLICY

1. PREAMBLE

The Municipality recognises that every employee is entitled to fair labour practice and has the right to his/her dignity and his/her privacy. The Municipality is committed to ensuring that employees are not subjected to any form of harassment, such as racial and sexual harassment. Violations of this policy shall lead to disciplinary action.

2. PURPOSE

Policy purpose is to ensure that:

- 2.1 Employees are provided with practical guidelines to report incidents of harassment at the workplace.
- 2.2 Sexual harassment shall not be permitted or condoned and shall be regarded as a form of serious misconduct.
- 2.3 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 the Municipality.
- 2.4 The Municipality is committed to investigate all complaints and grievances brought to its attention.
- 2.5 Prospective employees and clients of the Municipality are protected from harassment.
- 2.6 Serious incidents of harassment or continued harassment are dismissible offences.
- 2.7 Allegations of harassment are dealt with seriously, speedily, sensitively and confidentially.
- 2.8 It is a disciplinary offence to victimise or retaliate against an employee who in good faith lodges a complaint of harassment.
- 2.9 False or vindictive accusations shall be viewed in a very serious light, and possibly attract disciplinary action for the accuser.
- 2.10 Anonymous complaints shall be disregarded.

3. SCOPE

All employees, job applicants and any other persons who have dealings with the Municipality have the right to be treated with respect and dignity, and this policy applies to them.

4. LEGISLATIVE AND POLICY FRAMEWORK

- Constitution of the Republic of South Africa Act 108 of 1996
- Municipal Systems Act 32 of 2000
- Municipal Structures Act 117 of 1998
- Municipal Finance Management Act 56 of 2003
- Labour Relations Act 66 of 1995
- Employment Equity Act 55 of 1998
- Local Government: Regulations on appointment and conditions of employment of senior managers, dated 17 January 2014
- Local Government: Municipal Staff Regulations, 2016 (issued in terms of Section 72, read with Section 120 of the Municipal Systems Act 32 of 2000)
- Local Government: Guidelines for the Implementation of the Municipal Staff Regulations, 2016 (issued in terms of Section 72, read with Section 120 of the Municipal Systems Act 32 of 2000)
- South African Local Government Bargaining Council: Collective Agreements
- NEDLAC Code of Good Practice on the Handling of Sexual Harassment Cases

5. DEFINITIONS

All terminology used in this policy shall bear the same meaning as in the applicable legislation, or as defined and / or explained in the Glossary of the Human Resources Policies Manual.

6. PROBLEM STATEMENT

To ensuring that employees are not subjected to any form of harassment, such as racial and sexual harassment.

7. POLICY PROVISIONS

7.1 Sexual attention and sexual harassment

Sexual attention becomes sexual harassment if:

7.1.1 The behaviour is persistent, although a single incident of harassment can also constitute sexual harassment depending on the gravity of the incident.

7.1.2 The recipient has made it clear that the behaviour is considered offensive and the perpetrator had continued with such behaviour.

7.1.3 The perpetrator should have known that the behaviour is unacceptable.

7.2 Nature, extent and forms of sexual harassment

Sexual harassment may take the following forms:

- 7.2.1 Unwelcome remarks, jokes, innuendoes or taunts about a person's body, clothing or sex
- 7.2.2 Insulting gestures and practical jokes of a sexual nature which cause awkwardness or embarrassment
- 7.2.3 Displaying pornographic, pin-up pictures, graffiti or other offensive material
- 7.2.4 Leering (suggestive staring)
- 7.2.5 Demands for sexual favours
- 7.2.6 Physical conduct of a sexual nature including all unwanted physical contact, ranging from touching to sexual assault and includes a strip search by or in the presence of another person.
- 7.2.7 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.
- 7.2.8 Non-verbal forms of sexual harassment include unwelcome gestures, indecent exposure, and the unwelcome display of sexually explicit pictures and objects.
- 7.2.9 *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.
- 7.2.10 Sexual harassment has nothing to do with affection, flirtation, romance or relationships, when both parties consent freely thereto. Sexual harassment is about coercion related to power. Employment threats or benefits may be expressed or implied and they are usually conditional upon the receiver of the threat or benefits submitting to the advance. The threat may relate to a loss of employment unless advances are submitted to.

7.3 Specific Considerations

7.3.1 Confidentiality

The Municipality shall endeavour to proceed with its investigation with caution and such protocol as to ensure that a case exists before proceeding. Because of the sensitivity and the nature of the issue employee confidentiality and protection shall be ensured.

7.3.2 Identity

The Municipality shall endeavour to withhold the identity of the complainant until such time as the investigation is concluded and it has been decided to pursue the enquiry route.

7.3.3 Protection

The Municipality shall investigate every complaint, whether reported or not, as the Municipality could be found liable where steps have not been taken to resolve a case of harassment. Harassed employees shall be given adequate leave and/or assistance for counselling, where appropriate.

7.3.4 Counselling

7.3.4.1 No matter the outcome of the investigation or disciplinary action, both parties shall be offered appropriate counselling to assist in normalising relationships in order to help manage any future conflict between the parties.

7.3.4.2 Management shall be prepared to counsel one or both parties if the behaviour is detrimentally affecting the workplace.

7.3.4.3 As it may take some time for relationships to normalise and for tensions to dissipate where harassment has affected working relationships, it may be appropriate to offer counselling to other employees.

7.4 Measures for lodging and investigating a complaint

7.4.1 If the employee feels harassed, they shall report the incident/s to their immediate supervisor or manager.

7.4.2 Where the complaint is directed against the employee's immediate supervisor or manager, the employee shall report the incident directly to another manager or the head of the business unit.

7.4.3 The supervisor or manager shall institute a prompt investigation, using

duly appointed investigator where warranted, and following the formal grievance procedure and its stipulated time-frames, and take appropriate action from there.

- 7.4.4** All actions taken to investigate and resolve any complaint shall be conducted confidentially to the extent that it is practical and appropriate.
- 7.4.5** The investigator shall gather information and interview the appropriate individuals, including the complainant, the employee allegedly subjected to the harassment (if such individual is not the complainant), the alleged offender and witnesses (where applicable).
- 7.4.6** Upon completion of the investigation, the immediate supervisor or manager shall then make a decision as to whether the complaint warrants action and if so, whether the matter should proceed by way of formal or informal disciplinary procedure, and inform the complainant and alleged offender accordingly.
- 7.4.7** The investigation shall be handled with sensitivity and with due respect to the rights of both the complainant and the alleged offender. Care should be taken to ensure that the careers and reputations of the parties are not unjustly affected.
- 7.4.8** Employees are expected to co-operate fully with investigation of harassment complaints. Co-operation includes maintaining the confidentiality of any information provided in connection with the complaint and not discussing the complaint or the investigation with other employees.

7.5 Dispute resolution

- 7.5.1** Where a harassment complaint is handled through the Municipality's formal grievance procedure, and the complaint is not resolved to the satisfaction of the aggrieved party, the party may refer the grievance to the Local Labour Forum for adjudication, provided that a dispute has been declared.
- 7.5.2** The Local Labour Forum shall follow all mechanisms in the dispute resolution provisions of collective agreements and in legislation to arrive at the final decision, which shall be binding to all parties.

7.6 Legal proceedings

- 7.6.1** The Municipality reserves the right to institute proceedings against a harasser and recover from the harasser, any amount granted in legal proceedings against the Municipality as a consequence of the harassment.

7.6.2 The Municipality believes that a harasser should be solely responsible where damages are claimed in respect of harassment.

7.7 Criminal and civil charges

A victim of sexual assault and any other form of harassment shall have the right to press 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.

7.8 Roles and responsibilities

7.8.1 The Municipal Manager or his / her delegated assignee(s) accept overall responsibility for the implementation and monitoring of the policy.

7.8.2 The financial implications related to implementing this policy shall be qualified and quantified by Human Resource Management in consultation with the Chief Financial Officer.

7.8.3 Every employee is responsible for ensuring that his/her conduct is in compliance with this policy and for avoiding any acts or statements that may constitute harassment.

7.8.4 The Municipality encourages employees to initially attempt to resolve problems of harassment informally and in private.

7.8.5 If informal and private means are difficult or embarrassing for an employee to do on his/her own behalf, the employee should seek the support and assistance of a fellow employee.

7.8.6 Should the employee prefer to institute a formal complaint as the initial response to harassment, he / she shall do so in terms of the procedure set out in this policy.

7.8.7 Managers shall act vigilantly in identifying behaviour that constitutes harassment.

7.8.8 Managers shall take steps to positively promote the Municipality's harassment policy.

7.8.9 Managers shall be responsive and supportive of any employee who complains about harassment, provide clear advice on the procedure to be adopted, and maintain confidentiality in any cases of harassment.

7.8.10 Managers shall take active steps to ensure the complaints of harassment are resolved.

7.8.11 Management shall ensure that the public, suppliers, job applicants and others who have dealings with the Municipality, are not subjected to harassment at its workplaces.

7.8.12 Management undertakes to deal with any allegations of harassment speedily and without fear or favour, and in a confidential manner.

7.8.13 Any person bringing allegations of harassment to the attention of management shall be protected against victimisation or retaliation, which may occur in ways such as unjustified disciplinary action, dismissal, demotion, transfer or any other action that adversely affects employment terms and conditions, or environment of the employee.

7.8.14 Management shall protect employees against false accusations, on balance of probabilities.

7.8.15 Subject to an investigation, management may by precaution suspend an employee on full pay, until a verdict is issued through the findings and / or disciplinary hearing.

8. POLICY MONITORING AND EVALUATION

8.1 This policy shall be implemented and effective once recommended by the Local Labour Forum and approved by Council.

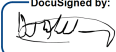
8.2 Non-compliance to the stipulations contained in this policy shall be regarded as misconduct, which shall be dealt with in terms of the Code of Conduct.

8.3 Head of Corporate Services shall carry out the monitoring and evaluation of the policy's implementation.

8.4 The policy shall be reviewed annually.

9. POLICY APPROVAL

Approved by Municipal Council on the 23rd of May 2024 and signed by the Municipal Manager

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DJD Mahlangu

6/5/2024

Date

