



the dr&pw

Department:
Roads and Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

DEPARTMENTAL POLICY ON SEXUAL HARASSMENT

**Version 2
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1. DEFINITIONS AND ACRONYMS

"AIDS"	Means the Acquired Immune Deficiency Syndrome.
"Allegation"	Means a statement by a complainant that he or she believes an act of sexual harassment has occurred. An allegation is handled through the informal resolution process.
"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.
"CEDAW"	Means Convention on the Elimination of All Forms of Discrimination Against Women.
"CCMA"	Means Commission for Conciliation, Mediation and Arbitration.
"Complaint"	a formal notification, either orally 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.
"Complainant"	Means any person who alleges that he or she is being subjected to harassment; an employee, applicant for employment, or intern who believes that she or he has been victim of unlawful discrimination or sexual harassment, and submits a complaint.
"Department" / "DR&PW"	Means the Department of Roads and Public Works, Northern Cape Province.
"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 women and men, irrespective of their marital status, on a basis of

	equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.
"DPSA"	Refers to the Department of Public Service and Administration.
"EHW"	Means Employee Health and Wellness.
"HRM&D"	Means Human Resource Management and Development.
"HIV"	Means Human Immunodeficiency Virus. A person who is infected with the HIV virus is referred to as being HIV-positive; but that that does not mean that the person has AIDS.
"HOD"	Means the Head of Department (HOD), according to the Public Finance Management Act (PFMA), 1999, who is also the Accounting Officer (AO). The PFMA clarifies the responsibilities of the HOD as Accounting Officer.
"MEC"	Means Member of the Executive Council, who is the Political Head of the Department (called the "Executive Authority"). The difference between the offices of the Executive Authority and that of the Accounting Officer (HOD) is that the MEC is responsible for policy choices and outcomes, while the HOD takes responsibility for implementing the policy and achieving the outcomes.
"Misconduct"	Refers to wrongful, improper, or unlawful conduct, motivated by premeditated or intentional purpose or by obstinate indifference to the consequences of one's actions. Gross misconduct can lead to immediate dismissal because it is serious enough and possibly criminal, e.g. sexual harassment.
"Non-verbal harassment"	Refer to sexual gestures, e.g. licking lips or teeth, holding or eating food provocatively, and lewd gestures such as

	hand or sign language to denote sexual activity; sexual looks such as leering and ogling with suggestive overtones; looking up and down a person's body; derogatory gestures or facial expressions of a sexual nature, following a person.
"Physical harassment"	Means sexual innuendoes; cornering, impeding or blocking movement, or any physical interference with normal work or movement; touching that is inappropriate in the workplace such as patting, pinching, stroking, or brushing up against the body, mauling, attempted or actual kissing or fondling; assault, coerced sexual intercourse, attempted rape or rape.
"PTSD"	Means Post Traumatic Stress Disorder.
"Principles of natural justice"	These are the rules about the right to a fair hearing and against bias and they are: <ul style="list-style-type: none"> • The right to a fair hearing: <i>audi alteram partem</i> rule. • The rule against bias: <i>nemo iudex in causa sua</i> rule.
"PSCBC"	Means Public Service Co-ordinating Bargaining Council.
"Respondent"	Refers to an individual or entity that answers in a complaint alleging unlawful discrimination or harassment or the person(s) accused of alleged unlawful discrimination or harassment.
"SAPS"	Means South African Police Service.
"Sexual Assault"	Sexual assault is any involuntary sexual act in which a person is coerced or physically forced to engage in, against their will, or any non-consensual sexual touching of a person. Sexual assault is a form of sexual violence, and it includes rape (such as forced vaginal, anal or oral penetration or drug facilitated sexual assault), groping, forced kissing, child sexual abuse, or the torture of the person in a sexual manner.

“Sexual Harassment”	Sexual harassment includes bullying, coercion or assault of a sexual nature, or the unwelcome or inappropriate promise of rewards in exchange for sexual favours. In the South African legal context, sexual harassment is illegal.
“SHA”	Means Sexual Harassment Adviser.
“SHC”	Means Sexual Harassment Committee.
“SMS”	Means Senior Management Service.
“Victimisation”	This concept refers to the process of being victimised or becoming a victim. It involves the unwarranted singling out by the victimiser(s) of an individual or group for subjection to crime, exploitation, torture, unfair treatment, or other wrong. Victimisers commonly suffer from sociopathic (also known as psychopathic) personality disorder, usually defined as people displaying anti-social behaviour which is mainly characterized by lack of empathy towards others that is coupled with the display of abnormal moral conduct and inability to conform with the norms of society.

2. PREAMBLE

- 2.1 In terms of common law, any employment contract between the employer and the employee gives automatic creation to rights and duties of both parties. This then implies that there is a reciprocal and tacit duty on the part of the parties to respect each other’s rights and honour the obligations in the employment relationship. The employer receives the employee into service in anticipation that the employee will efficiently promote the business interest of the organization, and be respectful and obedient at all times. Similarly, the employee enters the workplace in anticipation of a safe working environment, fair, equitable and consistent treatment.
- 2.2 The conduct of every employee in the Public Service (including that of Senior Managers) is broadly regulated by the Code of Conduct in the Public Service. The Code of Conduct is founded on the Constitutional principle of equality, respect and human dignity.

2.3 The DR&PW has developed this policy to give effect to its affirmative action duty to create, promote and maintain a productive working environment, which is non-discriminatory and enhances the potential of all employees in maximizing their performance, irrespective of race, gender, sex, rank, belief or origin.

3. PURPOSE

3.1 To encourage and promote a strategy and procedures that will lead to the creation of a workplace that is free of sexual harassment and in which the DR&PW's employees, job applicants, and stakeholders respect one another's constitutionally enshrined right to physical integrity, dignity, privacy, equity and fairness, as well as to serve as an acknowledgment of the fact that all employees and job applicants, as well as stakeholders have the right to be treated with dignity.

3.2 To ensure that all employees are conversant with the provisions of this policy, in particular with what constitutes sexual harassment, the procedures to be followed by the victim of sexual harassment and to further protect the victims of sexual harassment.

4. REGULATORY FRAMEWORK

4.1 Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996).

4.2 Public Service Act, 1994 (Act No. 103 of 1994), as amended.

4.3 White Paper on the Transformation of the Public Service, 1995.

4.4 White Paper on Affirmative Action in the Public Service, 1998.

4.5 Code of Good Practice on the Handling of Sexual Harassment Cases, Notice 1367 of 1998.

4.6 Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000).

4.7 National Policy Framework for Women's Empowerment and Gender Equality, 2000.

4.8 Criminal Sexual Offences and Related Matters Amendment Act, 2007 (Act No. 32 of 2007).

4.9 Gender Equality Strategic Framework for the Public Service, 2008.

4.10 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1995.

4.11 Beijing Platform for Action, 1995.

- 4.12 The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 2003.
- 4.13 Protection from Harassment Act, 2011 (Act No. 17 of 2011).
- 4.14 PSCBC Resolution 7 of 2000 as amended by Resolution 5 of 2001.
- 4.15 PSCBC Resolution 14 of 2002 and Resolution 1 of 2003.
- 4.16 The Disciplinary Code and Procedures for the Public Service, 1999, as amended.
- 4.17 Disciplinary Code and Procedure for the Public Service (PSCBC Resolution 1 of 2003).
- 4.18 Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993).
- 4.19 The Employment Equity Act, 1998 (Act No. 55 of 1998).
- 4.20 The South African Human Rights Commission Act, 2013 (Act No. 40 of 2013).
- 4.21 The Labour Relations Act, 1995 (Act No. 66 of 1995), as amended.
- 4.22 Policy and Procedures on the Management of Sexual Harassment in the Public Service, 2013.
- 4.23 The Code of Good Practice on Handling of Sexual Harassment Cases, 1998.
- 4.24 The Gender Equality Strategic Framework for the Public Service, 2008.
- 4.25 The DR&PW Compilation of Policies on Fraud, Corruption and Ethics Management, called "*The Plan*".

5. OBJECTIVES

- 5.1 To eliminate sexual harassment in the DR&PW.
- 5.2 To provide appropriate procedures for dealing with problems of sexual harassment.
- 5.3 To deal with sexual harassment cases including false accusations in a very sensitive, prompt, unbiased and confidential manner.

- 5.4 To prevent employees, job applicants and fixed term employees from being requested or compelled to engage in sexual activities in exchange of employment, job security, job retention, promotion and/or other benefits.
- 5.5 To encourage and promote the development and implementation of fair labour practices and procedures that will ensure a workplace that is free of sexual harassment, and to encourage employees and stakeholders to respect one another's integrity, dignity, privacy, and their right to equity and equality in the workplace.
- 5.6 To ensure protection and prevent possible victimisation of the victim or the harasser in any way by employees, and further create a climate conducive to all employees to report incidents of sexual harassment without fear of being victimized.
- 5.7 To ensure that all employees in the DR&PW are conversant with sexual harassment related tendencies, are capacitated to deal with such matters and to report them for remedial measures or corrective actions.
- 5.8 To ensure commitment on the part of management to take prompt effective and disciplinary actions against anyone who violates this policy.
- 5.9 To create and maintain a climate in which the dignity of employees are respected and in which victims of sexual harassment will not feel that their complaints are being ignored or trivialised and that it will not cause fear of reprisal.
- 5.10 To ensure that management/employees refrain from committing acts of sexual harassment within the workplace.
- 5.11 To set out and emphasize the role that management/employees have to play in contributing towards the creation and maintenance of a work environment in which sexual harassment is unacceptable in order to ensure that employees' conduct does not cause any offense and that unacceptable conduct is being strictly discouraged.
- 5.12 To sensitize management to the role they have to play in ensuring that persons who are non-employees are not subjected to sexual harassment by the employees of the DR&PW and to ensure that such conduct never occurs.
- 5.13 To inform management of their duty to take disciplinary action in accordance with this policy when instances of sexual harassment which occur within the workplace, are brought forward.

6. SCOPE OF APPLICATION

- 6.1 This policy is applicable to all employees and appointees of the DR&PW and job applicants, casuals, interns, and fixed-term employees.
- 6.2 A non-employee of the DR&PW, who is a victim of sexual harassment by an employee of the DR&PW, may lodge a complaint with the DR&PW where the harassment has taken place in the workplace or in the course of the DR&PW employee's employment.
- 6.3 An employee of the DR&PW who is a victim of sexual harassment by a non-employee of the DR&PW may lodge a complaint with the DR&PW where the harassment has taken place in the workplace or in the course of the DR&PW employee's employment. The DR&PW will therefore assist and support the victim to lodge his/her complaint with the SAPS.
- 6.4 This policy recognise the collective agreements regulating the management of sexual harassment cases and it is not intended as a substitute for the Disciplinary Code and Procedures for the Public Service and the SMS Handbook.

7. SEXUAL HARASSMENT

- 7.1 Sexual harassment includes, but is not limited to, a sexual demand, the non-compliance of which could result in certain actions being taken by the harasser in the form of comments or conduct of a sexual nature which the harasser reasonably ought to have known would be objectionable to the harassed person; and/or comments or conduct of a sexual nature resulting in the creation of a work environment in which the dignity of a person is impaired.
- 7.2 Sexual attention does not *per se* constitute sexual harassment, whether it is between members of the opposite sex or the same sex. However, sexual attention becomes sexual harassment
- IF:**
- 7.2.1 the behaviour is persisted in, even though a single incident can also constitute sexual harassment; and/or
- 7.2.2 the recipient has made it clear that the behaviour is considered offensive; and/or
- 7.2.3 the perpetrator should have known that the behaviour is regarded as unacceptable.
- 7.3 Having regard for purposes of this policy, to the different personal interpretations and perceptions of what constitute or should constitute sexual harassment, it is accepted that this concept must as a starting point, necessarily be subjectively interpreted. This is so because it is self-evident that employees (victims) who allege that they have been harassed must subjectively have felt that the conduct in question was offensive. However, these feelings or

perceptions by the victim must be assessed against an objective standard.

- 7.4 Everyone has inherent dignity and has the right to have his/her dignity respected and protected. In terms of Annexure A of Resolution No. 1 of 2003 of the PSCBC, sexual harassment is regarded as misconduct. The DR&PW is committed to providing a work environment that is free of harassment to promote and advance sound and productive working relations and mutual respect among its employees.
- 7.5 The purpose of this particular section in this policy is to contribute to the creation and maintenance of an environment of mutual respect and professional conduct in the workplace, by ensuring a systematic and effective method of resolving the problem of sexual harassment in a manner that is consistent with the basic principles enshrined in the Constitution.
- 7.6 In cases of sexual harassment, the consequences (not the intention) are of prime importance. This means that the severity of harassment is largely determined by the impact it has on the victim and not by the intent of the perpetrator.
- 7.7 In every instance in which sexual harassment is or could be experienced, victims ought to indicate verbally that they do not approve of what is being said, done or suggested. This is important since everyone's perception of sexual harassment differs, and what constitutes sexual harassment for one person may not necessarily be experienced as such by another.
- 7.8 Sexual harassment does not refer to behaviour or occasional compliments which are acceptable to the recipient. Neither can the mutual attraction between two persons be regarded as sexual harassment, as this is a private matter between them.
- 7.9 Employees should not indulge in any form of sexual behaviour at the workplace.
- 7.10 Employees should respect and support one another. Employees must never place another employee in a position of embarrassment or disrespect due to sexual overtones. To do so would be a violation of the laws that protect human rights in the workplace.

8. TYPES OF SEXUAL HARASSMENT

8.1 Physical Contact

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 conducted by or in the presence of the opposite sex.

8.2 Verbal Harassment

- 8.2.1 Sexual innuendo's.
- 8.2.2 Comments with sexual suggestions/advances, hints and/or overtones.
- 8.2.3 Sex-related jokes or insults.
- 8.2.4 Graphic comments about a person's body.
- 8.2.5 Whistling at a person or group of persons.
- 8.2.6 Inappropriate inquiries about a person's sex life.
- 8.2.7 Unwelcome whistling directed at a person or group of persons.
- 8.2.8 Posting of sexual comments or graphics on social media platforms about an employee (taking into account the evolution of social media usage within the workplace).

8.3 Non-Verbal Harassment

- 8.3.1 Unwelcome gestures.
- 8.3.2 Indecent exposure.
- 8.3.3 The unwelcome display of sexually explicit literature, pictures (porn) or objects or posters exhibiting sexual content.
- 8.3.4 Offensive messages, either written, sent via email or posted on social media platforms.
- 8.3.5 Stalking, smacking or kissing noises etc.

8.4 Quid pro quo Harassment

- 8.4.1 This form of sexual harassment occurs where a member of management, a supervisor or a co-employee influences or undertakes or attempts to influence the process of employment, promotion, training, discipline, dismissal, salary increments or other benefits of an employee or job application in exchange for sexual favours.
- 8.4.2 In this content and for the purpose of this policy, sexual favouritism, and therefore harassment, may even exist if the employee concerned (victim) is ignored, for example, where a person who is in a position of authority rewards only those who favourably respond to his/her sexual advances, while other deserving employees who do not submit to sexual advances are denied promotions, merit rating or salary increases, etc.

9. PROHIBITION ON COMMITTING ACTS OF SEXUAL HARASSMENT

- 9.1 It is important to point out, for purposes of this policy, that section 6(3) of the Employment Equity Act clearly defines as follows: **"harassment of an employee is a form of unfair discrimination and is prohibited on anyone, or a combination of grounds of unfair discrimination listed in**

sub section (1)."

- 9.2 Therefore, and in order to create and maintain a working environment in which the (physical) integrity and privacy of employees are respected, employees of the DR&PW are in terms of this policy, prohibited to commit any act of sexual harassment in their workplace.
- 9.3 As a result of the aforesaid, sexual harassment in the workplace will, as a matter of principle and to pro-actively avoid any possible vicarious liability for any damages suffered by a victim on account of an act of sexual harassment committed by one or more of its employees, not be allowed and/or condoned, either directly as by inaction, or indirectly by the DR&PW.

10. EMPLOYER'S LIABILITY FOR SEXUAL HARASSMENT CASES

- 10.1 Section 60 of the Employment Equity Act (Act No. 55 of 1998) deals with the liability of the employee. The 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.
- 10.2 The HOD is liable for medical expenses, assessment and treatment 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 (No. 130 of 1993).
- 10.3 The HOD is obliged to take reasonable steps to assist a complainant of sexual harassment/assault to claim compensation accordingly if the incident has resulted in the employee developing a medical condition, e.g. a PTSD or the contraction of HIV or AIDS.

11. TIME FRAMES FOR REPORTING OF SEXUAL HARASSMENT

- 11.1 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, within twenty four (24) hours of the incident having occurred, particularly where a rape has occurred as a result of the sexual harassment. In such a case a sexual assault has taken place, which is a serious criminal offense in South Africa.

11.2 The HOD has 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 and Diseases Act no 130 of 1993, sec 38).

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

11.4 In the event that thirty (30) days expire before the investigation of the sexual harassment case is concluded, the HOD shall consult the complainant with a written request for an extension of up to a maximum of 14 days to conclude the case. Consent should not be unreasonably withheld and should be in writing.

12. ROLES AND RESPONSIBILITIES

12.1 The Head of Department (HOD)

12.1.1 The HOD is responsible for the management of all sexual harassment cases.

12.1.2 The appointment of a Sexual Harassment Adviser (SHA):

- a. The HOD shall appoint a SHA to deal with sexual harassment complaints in the Department. This appointment may be per case or for a fixed period.
- b. The HOD shall be guided by the following criteria in the appointment of a SHA:
 - i. Knowledge and understanding of general policy development and its implementation and knowledge of departmental policies.
 - ii. Psychological and emotional stability.
 - iii. Integrity.
 - iv. Compassion.
 - v. Ability to maintain confidentiality.
 - vi. Objectivity.
 - vii. Good communication skills (verbal and writing).
 - viii. Good listening skills.
 - ix. Investigative skills.

12.1.3 Other responsibilities of the HOD are to:

- a. Communicate this policy to all employees, through regular awareness raising, training and education programmes.
- b. Appoint a SHA and announce this to the Department through all communication channels.
- c. Ensure the training of managers, employees and specific staff that are nominated and those appointed to handle sexual harassment cases.

- d. Submit a report on sexual harassment cases dealt with to the DPSA on a half yearly basis, using the template attached to this policy.
- e. Encourage staff to report violations of the policy.
- f. Allocate resources (human and financial) to ensure that awareness raising and training programs for employees on sexual harassment are implemented.
- g. Ensure that disciplinary measures applied are in accordance with the Disciplinary Code and Procedures (PSCBC Resolution 1 of 2003) in the Public Service.
- h. Ensure implementation of recommendations within five (5) working days after conclusion of investigations of sexual harassment complaints.
- i. Treat all complaints as confidential.
- j. Continuously monitor compliance with the policy.
- k. Encourage all Trade Unions within the employ of the Department to include sexual harassment in their education and training programmes of members and shop stewards.
- l. Report cases of sexual harassment to the Compensation Commission in terms of the Compensation for Occupational Injuries and Diseases Act (Act No. 130 of 1993).

12.2 The Sexual Harassment Adviser (SHA)

The SHA serves as the first line of contact to complainants of alleged sexual harassment. Her/his role is to:

- 12.2.1 Explain the disciplinary procedure and time frames to complainants and respondents in both formal and informal procedures.
- 12.2.2 Advise the complainant on the appropriate course(s) of action and support available.
- 12.2.3 Advise the complainant on the two procedures available to follow, namely the informal and formal route.
- 12.2.4 Provide guidance (if necessary) on how to complete the appropriate grievance form.
- 12.2.5 Issue a written notice of the complaint to the respondent and explain the protective measures available to the complainant.
- 12.2.6 Provide the respondent with a copy of this policy and any relevant document on disciplinary rules and procedures of the Public Service and the DR&PW.
- 12.2.7 Once appointed, investigate the complaint and bring to the attention of the HOD.

- 12.2.8 Maintain confidential statistics and narrative reports on all sexual harassment cases reported and handled.
- 12.2.9 Avoid unreasonable delays during the investigation and conclusion of any sexual harassment complaint.
- 12.2.10 Provide a neutral, confidential and supportive environment for employees who report to have been sexually harassed.
- 12.2.11 Protect the complainant from victimization as a result of reporting the matter.
- 12.2.13 Monitor and submit quarterly reports on all cases reported, resolved and pending to the HOD. Such reports should use non-identifying statistical information to maintain confidentiality.
- 12.2.12 Contribute to the development, coordination and implementation of educational programs and awareness raising activities for the prevention and management of sexual harassment in the Department.
- 12.2.13 Advocate for research and other resources on sexual harassment to improve expertise on this issue.

12.3 The Sexual Harassment Committee (SHC)

- 12.3.1 Members of the SHC are nominated by the HOD.
- 12.3.2 This Committee is a support structure and is not mandatory.
- 12.3.3 The Committee is bound by the same rules of confidentiality as the SHA.
- 12.3.4 The Committee should be equitably reflective of the demography of the Department.
- 12.3.5 Role of the SHC:
- a. Promote a safe work environment that is free of sexual harassment.
 - b. Advocate for protection of the rights of sexual harassment complainants.
 - c. Create an atmosphere that promotes equality and gender justice.
 - d. Work with the gender directorate to ensure that programmes for gender sensitisation and sexual harassment are implemented.
 - e. Support the SHA where necessary, with the investigation of complaints.
 - f. Design/develop, in conjunction with the SHA, mechanisms for registering complaints that

are safe and accessible to all employees.

- g. Develop programmes that educate all employees about sexual harassment and its consequences in the workplace.
- h. Together with the SHA, actively promote the provisions of this policy through the development and distribution of multimedia education materials.

12.4 Role of Managers/Supervisors

- 12.4.1 Refrain from sexual harassment in the workplace.
- 12.4.2 Take all reasonable steps to create and maintain an environment that is free from sexual harassment.
- 12.4.3 Know and understand this policy, and assume responsibility for its implementation.
- 12.4.4 Communicate the policy to all employees, including newly appointed employees.
- 12.4.5 Undergo training on sexual harassment policy and related topics.
- 12.4.6 Respond appropriately to a complaint of sexual harassment from employees.
- 12.4.7 Take appropriate action when instances of sexual harassment occur and act in accordance with the reporting and disciplinary procedures of this policy.
- 12.4.8 Prevent retaliation against any employee making a sexual harassment complaint.
- 12.4.9 Treat all complaints seriously, impartially and with confidentiality.

12.5 Role of the Employee Health and Wellness (EHW) Unit

- 12.5.1 Provide relevant counselling and support when required.
- 12.5.2 Encourage employees who may make the unit aware of incidents of sexual harassment, to report such complaints immediately, either verbally or in writing.
- 12.5.3 Maintain confidentiality for all sexual harassment matters reported to them.

12.6 Role of Employees

- 12.6.1 All employees should refrain from sexual harassment of others in the workplace.
- 12.6.2 If you are sexually harassed, say NO to the harasser and tell him/her that their attention is unwanted and the behaviour is offensive. If able to, also do so in writing and keep a record of this correspondence. If the behaviour persists, report the harassment immediately.
- 12.6.3 Treat fellow employees with respect and dignity.
- 12.6.4 Know and understand this policy.

13. SEXUAL HARASSMENT EDUCATION AND TRAINING

- 13.1 Continuous education and training is necessary to ensure that employees and third parties know and understand this policy and are able to prevent and report sexual harassment when it occurs.
- 13.2 The SHA and the members of the SHC 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.

14. COMMUNICATION OF THIS POLICY

- 14.1 The HOD shall take all reasonable steps to communicate this policy to all employees and other persons who have dealings with the public service on a regular basis. This is to raise awareness and to prevent sexual harassment.
- 14.2 The names and contact details of the SHA and the members of the SHC must be widely publicised in the DR&PW.
- 14.3 This policy must be distributed to all employees within the DR&PW and to new staff members during induction.

15. GUIDELINES FOR THE MANAGEMENT OF SEXUAL HARASSMENT

- 15.1 The DR&PW will endeavour to address and remedy instances of sexual harassment in a correct and efficient manner and to create a climate that is conducive to employees for the reporting of any incident of sexual harassment without fear of being victimised. Every

complaint of sexual harassment will be viewed in a serious light.

- 15.2 As sexual harassment is regarded as misconduct, it is the duty of management to take appropriate steps to ensure that employees are not subjected to this form of degradation in the workplace.
- 15.3 Protection against acts of harassment extends to incidents occurring in or away from the workplace, during or outside of the usual working hours, provided that these acts are committed within the course of employment.
- 15.4 In the case of any allegation of sexual harassment, irrespective of whether it is found to be an incident of sexual harassment, management must ensure that any victimisation that may later occur as a result of lodging the complaint is dealt with thoroughly. Disciplinary steps will be taken against employees who victimise or intimidate a complainant.
- 15.5 Disciplinary steps will be taken against employees who lodge false complaints.
- 15.6 If the alleged harasser is found not to have committed an act of misconduct as contained in this policy, no disciplinary action shall be taken against an employee who has filed a complaint in good faith.
- 15.7 All information must be treated in strict confidence. Parties in an allegation of sexual harassment are, for their own interest, advised not to discuss the matter with colleagues who are not involved and who are not representing them in the matter.
- 15.8 Since sexual harassment constitutes a violation of some of the victim's fundamental constitutional rights, and because it may be detrimental to all concerned parties, i.e. the victim, the perpetrator and the Department, it may be advisable to refer to the following ways to prevent its occurrence in the workplace or in the DR&PW:
 - 15.8.1 The first principle is the removal of all inequalities between men and women in the workplace and the DR&PW, as employer, has a responsibility to make sure that this is properly in place and implemented.
 - 15.8.2 All employees should be informed and made aware of their rights in terms of this policy.
 - 15.8.3 Victims should, where appropriate, tell an offender that he/she does not like the offender's conduct and how it makes the victim feel.

- 15.8.4 Use non-verbal gestures such as shrugging off contact or holding up your hand to distance yourself and the wrongdoer if the behaviour occurs only once.
- 15.8.5 Avoid direct confrontation with the harasser by turning a deaf ear to offensive suggestions or discussions and move away from the harasser if the behaviour occurs only once.
- 15.8.6 Set the tone for your interactions with others by your own behaviour.
- 15.8.7 Be supportive of other people who have been harassed.
- 15.8.8 Protest immediately if offensive behaviour is repeated. Your silence may in the eyes of the harasser be viewed as tantamount to consent.
- 15.8.9 Address a written complaint to the harasser or ask a mediator to intervene if you do not feel confident about face to face confrontation with the harasser.
- 15.8.10 A victim should bring the sexual harassment to which he or she has been subjected, to the attention of the HOD.
- 15.8.11 The DR&PW has zero tolerance on sexual harassment as such. Employees/Senior Managers are expected to avoid any unwelcome behaviour or conduct towards any other employee/Senior Managers which could be interpreted as sexual harassment.

16. PROCEDURES TO LODGE A COMPLAINT

- 16.1 An employee who experiences sexual harassment must immediately report this to the HOD either in writing or verbally.
- 16.2 The HOD shall then appoint a SHA to conduct an investigation into the complaint. On appointment, the SHA shall commence with the investigation and report back within the set time frames.
- 16.3 It might be advisable to separate the respondent and complainant to reduce the risk of tension, unpleasantness or victimization.
- 16.4 If a false allegation is established, the HOD should immediately institute disciplinary processes against the accuser.

16.5 Informal Procedure

- 16.5.1 The informal procedure involves discussion and/or mediation after the matter has been brought to the attention of the SHA.
- 16.5.2 If the complaint cannot be resolved and/or it is found through discussion that the incident warrants more serious action, formal disciplinary procedures may be instituted against the respondent.
- 16.5.3 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.
- 16.5.4 If the complainant is not satisfied with the outcomes of the informal approach, he/she may then follow a formal procedure.

16.6 Formal Procedure

- 16.6.1 The 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.
- 16.6.2 The complainant can also choose to resolve the complaint through this process without firstly using the informal route.
- 16.6.3 In dealing with the matter, the complainant must first lodge a formal grievance according to the Disciplinary Code and Procedures in the Public Service (PSCBC Resolution 1 of 2003).
- 16.6.4 The complainant must ensure that the provisions of the grievance procedure are exhausted before triggering the next process.

16.6.5 Lodging a Formal Grievance

- a. The sexual harassment complaint must be reported to the HOD or SHA in writing, and the statement must include:
- i. The name of the respondent.
 - ii. Date when incident occurred.
 - iii. Place where incident occurred.
 - iv. Details of how the actual sexual harassment occurred.
 - v. Time where incident occurred.

- b. In the event where the grievance procedure has been finalized, and management is of the view that there is a *prima facie* case against the respondent, disciplinary steps must be instituted as per the provisions of the Disciplinary Code and Procedures in the Public Service (PSCBC Resolution 1 of 2003).
- c. Should the respondent be found guilty of the offence, the HOD will impose a disciplinary sanction which may include any of the following or a combination of them:
- i. Counselling.
 - ii. Verbal warning.
 - iii. Written warning.
 - iv. Final written warning.
 - v. Suspension/fine.
 - vi. Demotion (as an alternative to dismissal).
 - vii. Dismissal.

16.7 The HOD is an Alleged Perpetrator

16.7.1 Where the HOD is the alleged perpetrator, the MEC (Executive Authority) becomes the authority that appoints the SHA and makes decisions on the case.

16.7.2 Once the SHA has been appointed, all terms and procedures set out in this policy for subsequent action shall apply without exception, read with the necessary changes as applicable in this instance.

16.7 Criminal Charges and/or Civil Claims

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.

16.8 Dispute Resolution

Should a complaint of alleged sexual harassment not be resolved through the departmental internal procedures, the complainant may, within 30 (thirty) days of the dispute having arisen, refer the matter to the CCMA for conciliation in accordance with the provisions of the Labour Relations Act (Act No. 66 of 1995).

16.9 Leave of Absence

The DR&PW 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.

17. MONITORING AND EVALUATION

The monitoring and evaluation for the effective implementation of this policy will be carried out by the departmental Monitoring and Evaluation (M&E) Unit, in conjunction with the Directorate Human Resource Management and Development (HRM&D), on an ongoing basis.

18. POLICY REVIEW

18.1 The assessment to determine the effectiveness and appropriateness of this policy will be done five (5) years after its effective date. The assessment could be performed earlier than five (5) years to accommodate any substantial structural or other organizational changes at the Department or any change required by law.

18.2 The policy shall be reviewed to specifically factor in changes in legal frameworks, organisational development, political and economic trends, as well as the outcomes of monitoring and evaluation processes.

18.3 Deviations from this policy must be approved by the HOD.

19. APPROVAL OF THE POLICY AND DATE OF EFFECT

This Policy is Approved / Not Approved

Comments:

.....
.....
.....
.....



HEAD OF DEPARTMENT

30-03-21
DATE

ANNEXURE A

TEMPLATE FOR REPORTING SEXUAL HARASSMENT CASES TO THE DPSA - DUE ON OR BEFORE 30 APRIL ANNUALLY.

PART 1: ADMINISTRATIVE DETAILS OF DEPARTMENT

Name of the Department	
Please state name of the Province if it is a Provincial Department	
Name of Person who Completed the Report	
Position of the Person who Completed the Report	
Contact Details of the Person who Completed the Report	Tel: Email:
Signature of the Director-General/HOD.....	
Date:	

PART 2: INSTITUTIONAL MECHANISMS

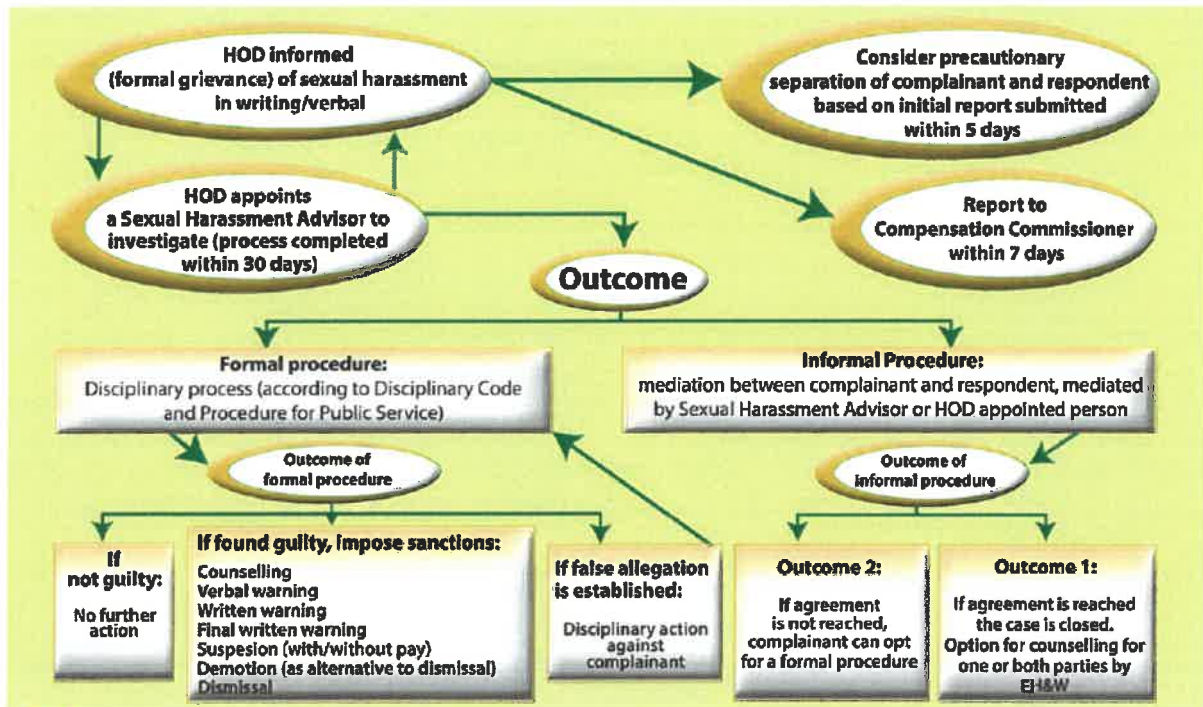
Is there a Sexual Harassment policy in the department?	Yes	No	Draft					
When was it approved?								
Is the policy aligned to the Public Service Policy?	Yes			No				
If not aligned, when will the review be done?								
How was the policy communicated to employees?								
Has there been any sensitivity awareness session conducted on the policy?	Yes	No	If yes, how many people were sensitized?					
			F	M	AF	C	AS	W
	Levels		1-8		9-12		13-16	

PART 3: INFORMATION ON SEXUAL HARASSMENT CASES IN THE DEPARTMENT

Number of employees in the department	Total			Male				Female						
				AF	C	AS	W	AF	C	AS	W			
Number of cases reported	April-June			July-September				October-December				January-March		
Disaggregation of complainants	Age			Gender		Disability		Race				Levels		
	20 - 35	36 - 49	50 +	F	M	Yes	No	AF	C	AS	W	1-8	9-12	13-16
Disaggregation of perpetrators	Age			Gender		Disability		Race				Levels		
	20 - 35	36 - 49	50 +	F	M	Yes	No	AF	C	AS	W	1-8	9-12	13-16
Number of cases resolved	Number of cases not yet resolved			What are the problems that hinder the conclusion of cases?				On average, how long does it take to resolve a case?				Sanctions that were taken		

ANNEXURE B

PROCEDURE: MANAGING A SEXUAL HARASSMENT COMPLAINT IN THE PUBLIC SERVICE





the dr&pw

Department:
Roads and Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

INTERNAL MEMO

DATE:	18 MARCH 2021	REF. NO.	
TO:	THE DIRECTOR: STRATEGIC PLANNING MANAGEMENT		
FROM:	THE DEPUTY DIRECTOR: POLICY AND RESEARCH MANAGEMENT SERVICES		
SUBJECT:	SUBMISSION FOR APPROVAL OF REVIEWED DEPARTMENTAL POLICY DOCUMENTS		

Dear Ms. Bekebeke

Please find attached the final drafts of the reviewed departmental policy documents on Moveable Asset Management; Staff Retention and Critical Skills Management; Sexual Harassment; Redeployment ; and the Emergency Evacuation Plan, for your perusal and consideration. The above mentioned policy documents has been circulated departmentally for consultation and inputs for review, and it is hereby submitted for approval by the Acting Head of Department (HOD).

Regards,

Mr. T. Ferreira
Manager: Policy and Research Management Services



the dr&pw

Department:
Roads and Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

INTERNAL MEMO

DATE:	18 MARCH 2021	REF. NO.	
TO:	THE HEAD OF DEPARTMENT (HOD)		
FROM:	THE DIRECTOR: STRATEGIC PLANNING MANAGEMENT		
COPY:	THE CHIEF DIRECTOR: CORPORATE AND MANAGEMENT SERVICES		
SUBJECT:	SUBMISSION FOR APPROVAL OF REVIEWED POLICIES		

Purpose

1. The purpose of this submission is to obtain approval from the Head of Department (HOD) for the operationalization within the Department of the following reviewed departmental policy documents:

- 📄 Policy on Moveable Asset Management;
- 📄 Policy on Staff Retention and Critical Skills Management;
- 📄 Policy on Sexual Harassment;
- 📄 Policy on Redeployment; and
- 📄 Emergency Evacuation Plan;

Recommendations

1. The above mentioned reviewed policy documents have been circulated departmentally by the Communication and Marketing Unit to consult the staff members in order to provide an opportunity for inputs toward the review of said policy documents.

**SUBMISSION FOR APPROVAL OF REVIEWED DEPARTMENTAL
POLICY DOCUMENTS**

- 2. It is therefore recommended that the Acting HOD approve these reviewed versions of these policy documents as Departmental policy.

- 3. Please see e-mails attached of the Evidence of Departmental Consultation.



MS. B. BEKEBEKE
DIRECTOR: STRATEGIC PLANNING MANAGEMENT
Recommended / Not Recommended

23/03/2021

DATE



MS. A. MFOTSANG
CHIEF DIRECTOR: CORPORATE AND MANAGEMENT SERVICES
Recommended / Not Recommended

2021-03-26

DATE

MS. R. GREWAN
ACTING HEAD OF DEPARTMENT
Policies Approved / Policies Not Approved

DATE



the dr&pw

Department:
Roads and Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

**EVIDENCE OF CONSULTATION WITH
DEPARTMENTAL STAKEHOLDERS**

**REVIEWED DEPARTMENTAL POLICIES
ON:**

- 🚧 MOVEABLE ASSET MANAGEMENT;**
- 🚧 STAFF RETENTION AND CRITICAL SKILLS
MANAGEMENT;**
- 🚧 SEXUAL HARASSMENT;**
- 🚧 EMERGENCY EVACUATION; AND**
- 🚧 REDEPLOYMENT**

**SUBMISSION FOR APPROVAL
18 MARCH 2021**

From: DRPW-Info
To: A AMokwadi; A Maina; A van Staden; ABrand; AFembers; AKula; ALesot...
Date: 2/10/2021 11:47 AM
Subject: POLICY REVIEW: SEXUAL HARASSMENT
Attachments: DR&PW SEXUAL HARASSMENT POLICY Ver 1 MAY 2016.doc

Good day Colleagues,

Kindly find attached the Compressed (Zip File) copy of the departmental Policy on Sexual Harassment. The new due date for inputs for this policy is Monday, 15 February 2021

Inputs can be sent to tferreira@ncpg.gov.za

Thank you